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TRADE POLICY REVIEW

CHINA

MINUTES OF THE MEETING

Addendum

Chairperson: H.E. Mrs. Athaliah Lesiba MOLOKOMME (Botswana)

This document contains the advance written questions and additional questions by WTO Members, and replies provided by China.¹

**Organe d'examen des politiques commerciales
20 et 22 octobre 2021**

EXAMEN DES POLITIQUES COMMERCIALES

LA CHINE

COMPTE RENDU DE LA REUNION

Addendum

Présidente: S.E. Mme Athaliah Lesiba MOLOKOMME (Botswana)

Le présent document contient les questions écrites communiquées à l'avance par les Membres de l'OMC, leurs questions additionnelles, et les réponses fournies par la Chine.¹

**Órgano de Examen de las Políticas Comerciales
20 y 22 de octubre de 2021**

EXAMEN DE LAS POLÍTICAS COMERCIALES

CHINA

ACTA DE LA REUNIÓN

Addendum

Presidenta: Excm. Sra. Athaliah Lesiba MOLOKOMME (Botswana)

En el presente documento figuran las preguntas presentadas anticipadamente por escrito y las preguntas adicionales de los Miembros de la OMC, así como las respuestas facilitadas por China.¹

¹ In English and Spanish only./En anglais et espagnol seulement./En inglés y español solamente.

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VIET NAM**I. Relating to Section 3.3.3.2 (SPS Measures) of WTO Document No. WT/TPR/S/415 (in general)****Background:**

In March 2021, China's General Administration of Customs approved of 2 following regulations, both of which will be effective from 1 Jan 2022:

- Order No. 248 (Decree on the issuance of the Regulations on the Registration and Administration of Imported Food Overseas Production Enterprises)
- Order No. 249 (Decree on the issuance of the Measures for the Administration of Import and Export Food Safety of the People's Republic of China).

Order No. 248 has expanded the scope of application of business registration regulations and classified enterprises based on risk levels. Meanwhile, Order No. 249 introduces a number of outstanding changes, such as changes in import management principles for foods that do not have China's national standards and foods produced with new food ingredients, changes in labeling requirements, and changes in business registration information. Such major changes will increase procedures and costs for businesses. It also requires businesses to study carefully and take time to adjust accordingly.

Question:

Please provide specific resources/links to obtain detailed instructions, documents, procedures, and remarks for such new regulations, especially:

- Registration of foreign food production enterprises;
- Contents of the provisional set of standards issued by the Health Administration of the State Council (Government) of China related to foods that do not have China's national standards and foods produced by new food ingredients;
- Detailed instructions, including visual images on the new labeling requirements for imported products; and
- Detailed instructions on procedures when there are changes in the enterprise's registration documents.

Reply: In order to standardize the review of relevant standards for imported foods without national food safety standards (hereinafter referred to as imported food without national standards), through consultation with relevant departments, the National Health Commission (formerly known as the National Health and Family Planning Commission) issued the Notice for Regulating the Standard Review of Imported Foods without National Food Safety Standard (Guo Wei Ban Shi Pin Fa [2017] No. 14) in April 2017. The Notice stipulates the scope of imported food without national standards and duties and procedures for the review of relevant standards for imported food without national standards. For details, please refer to:

<http://www.nhc.gov.cn/sps/s3593/201704/15031a65db34492eab8fb5819e9cb466.shtml>

Article 93 of the Food Safety Law stipulates that the importation of food made of new food raw materials does not belong to imported food without national standards. In order to standardize the safety review and licensing of new food raw materials, in accordance with the Food Safety Law of the People's Republic of China and the Administrative Measures for the Safety Review of New Food Raw Materials, the National Health Commission (formerly known as the National Health and Family Planning Commission) formulated the Provisions on Application and Acceptance of New Food Raw Materials and the Directive Rules for the Safety Review of New Food Raw Materials. For details, please refer to:

<http://www.nhc.gov.cn/cms-search/xxgk/getManuscriptXxgk.htm?id=e8dc7f4ec58444f8bbf32ec079d7e905>

According to relevant laws and regulations including the Food Safety Law, labeling and nutrition labeling for imported pre-packaging food shall meet the National Food Safety Standard: General Rules for the Labeling of Prepackaged Foods (GB 7718-2011) and the National Food Safety Standard: Nutrition Labeling of Prepackaged Foods (GB 28050-2011). The original texts of the above two standards can be accessed on the Platform of Data Retrieval for National Standards on Food Safety: <https://sppt.cfsa.net.cn:8086/db>

The Decree on the Issuance of the Measures for the Administration of Import and Export Food Safety of the People's Republic of China (Order No. 249) highlights the requirements for the labeling of imported dietary supplements and food for special dietary uses. Labeling the product in Chinese is conducive to gaining recognition among Chinese consumers. Efforts are made on a coordinated basis to study and discuss some issues regarding the measures for the supervision and administration of food labeling. The legislation procedure will be sped up when an agreement is reached.

Overseas manufacturers of imported food in validity period whose registration information have changed shall handle the situation according the Article 19 of Decree on the Issuance of the Regulations on the Registration and Administration of Imported Food Overseas Production Enterprises (Order No. 248).

II. Relating to Section 3.3.3.2 (SPS Measures), Para 3.165 of WTO Document No. WT/TPR/S/415

Background: On 21 September 2020, China sent a notification to the WTO (Document G/SPS/N/CHN/1173) on measures with respect to imported cold-chain food to prevent the transmission of COVID-19. The notification was based on Notice No. 103(2020) issued by the China's General Administration of Customs on 11 September 2020.

According to this measure, after two positive results from SARS-CoV-2 virus test samples on products or packages of imported frozen products, the Chinese Customs will suspend the import of products of that enterprise for a week. After one week, customs clearance will automatically be granted. In case the virus is detected for the third time, the Chinese Customs will suspend receiving the enterprise's product import dossiers within 04 (four) weeks. After 04 (four) weeks, customs clearance will automatically be granted.

Issue at stake:

Since 18 July 2021 until now, however, Yunnan province of China has been suspending imports for all dragon fruit products of Viet Nam, regardless of production enterprises. In addition, Yunnan Province authorities have suspended imports of many other Vietnamese fruits, which have been neither tested nor reported positive results for SARS-CoV-2 virus.

In the notification sent to the WTO, China did not provide any basis for relevant international standards. Currently, there are no scientific studies in the world confirming that the SARS-CoV-2 virus can be transmitted from food to humans.

Question:

Please provide specific scientific basis for the above-mentioned measure China is imposing on Vietnamese foods and agricultural export products, especially dragon fruits.

Reply: Viet Nam is one of the important exporters of dragon fruit to China. According to statistics, in 2020, China imported about 618 million kilograms of fresh dragon fruit from Viet Nam, worth about RMB 3.8 billion yuan. The measure China has taken in response to the pandemic is based on scientific evidence and risk assessment, and is in alignment with relevant provisions of the WTO SPS Agreement, as well as relevant requirements of the WHO/FAO. It has been proved that the measure has achieved good results. China looks forward to working together with Viet Nam and other WTO members to win the fight against the pandemic.

AUSTRALIA**PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT****2.1 GENERAL FRAMEWORK****Page 31 (Para 2.6)**

The Secretariat's report states that: In principle, all trade-related rules formulated by the authorities at all levels must comply with international trade agreements to which China is a party, including the Marrakesh Agreement Establishing the World Trade Organization and its follow-up agreements, China's accession protocol and China's Working Party Report.

Question 1

a) Article 6.1 of China's Protocol of Accession provides that: China shall ensure that import purchasing procedures of state trading enterprises are fully transparent, and in compliance with the WTO Agreement, and shall refrain from taking any measures to influence or direct state trade enterprises as to the quantity, value, or country of origin of goods purchased or sold, except in accordance with the WTO Agreement.

b) Paragraph 46 of the Report of the Working Party on the Accession of China provides that: China would ensure that all state-owned and state-invested enterprises would make purchases and sales based solely on commercial considerations, e.g. price, quality, marketability, and availability, and that the enterprises of other WTO Members would have an adequate opportunity to compete for sales to and purchases from these enterprises on non-discriminatory terms and conditions. In addition, the Government of China would not influence, directly or indirectly, commercial decisions on the part of state-owned or state-invested enterprises, including on the quantity, value or country of origin of any goods purchased or sold, except in a manner consistent with the WTO Agreement.

Since the second half of 2020 there have been consistent media reports that Chinese authorities "unofficially" directed state trading enterprises to cease or limit purchases and imports of Australian coal, cotton and other products. Australia has drawn these reports to China's attention on multiple occasions since they first appeared. In line with China's commitment under Article 6.1 of China's Protocol of Accession and Paragraph 46 of the Report of the Working Party, what controls does China have in place to ensure no such "unofficial" directions are given, and what steps has it taken to investigate these allegations?

Reply: It is normal for Chinese importers to make decisions on whether and where to purchase based on market conditions and their own needs, with various factors being taken into consideration. This is of common business practices and conform to laws of the market.

c) Australia notes Paragraph 75 of the Report of the Working Party on the Accession of China provides that: All individuals and entities could bring to the attention of central government authorities cases of non-uniform application of China's trade regime, including its commitments under the WTO Agreement and the Draft Protocol. Such cases would be referred promptly to the responsible government agency, and when non-application was established, the authorities would act promptly to address the situation utilizing the remedies available under China's laws, taking into consideration China's international obligations and the need to provide a meaningful remedy. In relation to notifications and enquiries made by Australia into reported trade actions against Australian imports, can China outline the steps it took to comply with its commitments under Paragraph 75?

Reply: China has always kept and actively fulfilled its WTO commitments. Recently, in response to Australia's concerns on parts of exports to China, the relevant measures taken by the Chinese authorities conform to the international practices of law and WTO rules, and China has informed Australia in due course.

2.1 GENERAL FRAMEWORK**Page 31-32 (Para 2.6)**

The Secretariat's report states that China publishes all "trade-related laws, regulations, and rules" on MOFCOM's website.

Question 2

- a) How does China determine which laws, regulations, and rules are trade-related? What overall percentage of China's laws, regulations, and rules get published on MOFCOM's website?
- b) Does China also publicly report administrative guidance issued by the Chinese Government to SOEs and private importers? If so, where?

Reply to a), b) and c): China publicly reports laws, regulations and other measures relating to or affecting trade in goods and services, TRIPS or foreign exchange control in accordance with the commitments relevant to its accession to the WTO in due course.

2.3.1 WTO**Page 34 (Para 2.22)**

The Secretariat's report states that "During the review period, China submitted various notifications to the WTO. Nevertheless, some notifications, including those on state trading enterprises and domestic support, remain outstanding."

3.3.1 INCENTIVES**Page 76 (Para 3.120, 3.122 and 3.131)**

The Secretariat's report states that: The authorities indicate that a notification on subsidies covering the years 2019 and 2020 will be submitted to the WTO in due course. It also states that: The notifications submitted to the WTO and the replies provided by China to questions asked by other Members do not enable the Secretariat to have a clear overall picture of China's support programmes. In particular, the notifications do not contain information on expenditure levels in certain sectors such as aluminium, electric vehicles, glass, shipbuilding, semiconductors, or steel. It also states that: No notification on domestic support has been submitted to the WTO since the previous Review in 2019. The authorities indicate that a new notification would be submitted before mid-July 2021.

3.3.5 STATE TRADING, STATE-OWNED ENTERPRISES, AND PRIVATIZATION**Page 97 (Para 3.196)**

The Secretariat's report states that: China provided its last full notification on state trading enterprises (STEs) in 2018. The authorities indicate that a new notification would be submitted before mid-July 2021.

In reviewing these sections of the Secretariat Report, Australia also gave consideration to the following section of the Chinese Government report (WT/TPR/G/415):

4.2.2 DEEPLY AND FULLY PARTICIPATING IN MULTILATERAL NEGOTIATIONS AND DISCUSSIONS, AND EARNESTLY FULFILLING THE OBLIGATIONS AS A WTO MEMBER**Page 15 (Para 4.24)**

China's report states that: China has fully fulfilled its obligations of notification under all WTO agreements.

Question 3

- a) When does China propose to submit its outstanding notifications, including those outlined in G/AG/GEN/86/Rev.43?

Reply: China has submitted its latest notifications on state trading enterprises (STEs) and STEs quantity limitation, and will soon submit a notification on domestic support to the agriculture sector.

- b) Can China explain why it believes it is "fully fulfilling" its transparency commitments, if the WTO Secretariat is unable to "have a clear overall picture" of China's support programmes?

- c) Can China advise how it intends to improve its adherence to its WTO notification and transparency obligations and address the information shortfalls and concerns expressed by Members and the Secretariat?

Reply to b) and c): China believes that it has fully fulfilled its obligations of notification under all WTO agreements. In recent years, China has been committed to enhancing the transparency of its subsidy policies and has submitted notifications in due course on subsidies at the central and local government levels, covering all provincial-level administrative regions and also containing many subsidy policies to counties, with a special chapter on fishery subsidies being notified. China's latest notification on subsidies for 2019-2020 includes 71 subsidy policies at the central level, and 374 subsidies at the local level in 31 provinces, autonomous regions and municipalities, as well as

five cities with separate state plans. China's efforts and achievements in the transparency of its subsidy policies have received positive comments from many members

3.1.1.3 TRADE FACILITATION

Page 49 (Box 3.1 GACC trade facilitation measures, 3. Import facilitation of food and agricultural product imports)

The Secretariat's report states that China has introduced an "Expedited process to grant market access to more categories of agri-food products from more countries and to register more establishments. Shortening of quarantine approval process. Green lanes to be established at key ports to provide around-the-clock clearance for foreign agri-food products on a reservation basis. Priority inspection of imported food and agricultural products over other goods and priority testing of products suspected to contain pests or disease."

Question 4

a) Could China explain why imports from Australia across a range of sectors (including coal, hay, wine and lobsters) are, unlike exporters of like products from other Members, experiencing sudden lengthy inspection and processing delays, without providing any prior notification or justification, and increased costs associated with storage and spoilage of perishable products (in contrast to the apparent intended effects of the trade facilitative measures highlighted in the report), noting these goods do not face discriminatory treatment in any other market and trade is underpinned by Australia's strong biosecurity systems?

b) Could China explain why it has not responded to Australia's efforts to facilitate the reinstatement of trade, noting that China has not provided evidence that the suspensions are proportionate to the risk and that Australia has already provided China with proposals for enhanced measures and details of investigations as requested by China?

Reply to a) and b): Regarding coal: In recent years, the Chinese Customs has conducted risk testing and analysis on the safety and quality of imported coal, and found that there are many cases concerning unqualified imported coal. Therefore, the Chinese Customs has strengthened quality and safety inspection of imported coal and testing of environmental protection items in accordance with relevant laws and regulations for better protection on the environmental safety as well as legitimate rights and interests of Chinese enterprises.

As for lobsters: Chinese Customs carries out inspection and quarantine on lobsters imported from Australia at import ports in accordance with the law, and release them after passing the inspection. This is not only to implement the requirements of relevant national laws and regulations, but also to ensure the imported food safety of Chinese consumers.

As for wine: Based on the reflections from this industry, from 2015 to 2019, the volume of wine imported by China from Australia increased from 57 million liters to 121 million liters, a cumulative increase of 113%, while the prices dropped significantly. In addition, the Australian Federal government and state governments provide a large number of subsidies to the Australian wine industry, causing a huge impact on the Chinese wine market and enterprises. Under this circumstance, the wine industry in China filed an application for "Anti-dumping and anti-subsidy" in accordance with the law, and the authorities accepted and investigated the application in accordance with the WTO rules and relevant provisions of Chinese law.

3.1.5 IMPORT PROHIBITIONS, RESTRICTIONS AND LICENSING

Page 58 (Para 3.43)

The Secretariat's report notes that licenses and import quotas on restricted goods were "not applied during the review period".

Question 5

Could China explain its delay in renewing import licenses for Australian exporters of various agricultural goods (e.g. hay, lobsters and table grapes), despite Australian traders having submitted renewal requests to China in accordance with China's requirements well ahead of time?

Reply: On the issue of hay. According to that requirements of relevant law and regulations on imported plant-derived feed in China, all enterprises exported to China can engage in relevant trade within the validity period after being registered by the Chinese side. Before the expiration of the validity period, if the relevant enterprises apply for extension of registration, the official competent department of the exporting country shall check and confirm to ensure that they meet the requirements of the Protocol and China's entry animal and plant quarantine, and recommend

extension of registration to the Chinese side. China will conduct a retrospective inspection to decide whether to accept the application for registration extension submitted by enterprises. This measure shall be applicable to all plant-derived feeds exported to China, and there is no differential treatment or discriminatory treatment.

As for lobsters: Chinese Customs carries out inspection and quarantine on lobsters imported from Australia at import ports in accordance with the law, and release them after passing the inspection. This is not only to implement the requirements of relevant national laws and regulations, but also to ensure the imported food safety of Chinese consumers.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORT

4.2 FIRMLY SUPPORTING THE MULTILATERAL TRADING SYSTEM WITH THE WTO AT ITS CORE

Page 14 (Para 4.14)

China's report states that: China has always been a staunch supporter, active participant and major contributor to the multilateral trading system. China calls on the WTO members to maintain a rules-based, transparent, non-discriminatory, open and inclusive multilateral trading system, and to oppose unilateralism and protectionism. China also calls on the WTO members to discard discriminatory or exclusionary standards, rules or regimes, and to take down barriers to trade, investment and technological exchanges. China has fully participated in the various work of the WTO, actively participated in reform of the WTO, and committed itself to supporting the WTO's greater role in further opening up and enhancing development, and strengthening the authority and efficacy of the multilateral trading system.

4.2.1 ACTIVELY PARTICIPATING IN REFORM OF THE WTO, AND OPPOSING UNILATERALISM AND PROTECTIONISM

Page 15 (Para 4.19)

China's report states that: China expressed its serious concern and strong opposition to the unilateral and protectionist actions that specific members have taken, which are in serious violation of the fundamental rules and spirit of the WTO ... China calls on all members to maintain open markets, and promote trade liberalization and facilitation. Trade frictions between members should be resolved in the framework of the WTO according to multilateral trade rules, and based on mutual respect.

Question 6

On 6 July 2021, China News Service asked a spokesperson for China's Foreign Ministry a question on Australia's loss of agricultural product market share in China. In response, China's Foreign Ministry spokesperson, Zhao Lijian, said: We will not allow any country to reap benefits from doing business with China while groundlessly accusing and smearing China and undermining China's core interests based on ideology. When a certain country acts as a cat's paw for others, it is the people that pay for misguided government policies. From what you mention in your questions, we can see how such a practice has served the country concerned.

- a) Can China explain how its recent trade actions against Australia are consistent with its commitment to conduct trade in a "transparent" and "non-discriminatory" manner?
- b) Does China agree that predictability of trade is a central tenet of the multilateral trading system?
- c) Can China explain how its recent trade actions against Australia are consistent with its "serious concern and strong opposition to the unilateral and protectionist actions" which are "in serious violation of the fundamental rules and spirit of the WTO"?
- d) Can China explain how its failure to provide detailed responses to Australia's concerns is consistent with its belief that "trade frictions between members should be resolved in the framework of the WTO"?
- e) Can China explain why it has not provided substantive responses to Australia's concerns? Does China believe WTO Members should respond to specific trade concerns raised by other WTO Members and seek to resolve through direct dialogue?
- f) Does China consider a WTO member's assessment of the state of a bilateral relationship should have an impact on its obligation to comply with its WTO commitments? Does China consider the WTO Agreements permit the state of a bilateral relationship with another member can allow it to amend or not comply with its WTO commitments?

Reply to questions from a) to f): China has repeatedly stated its position on China-Australia trade cases. The measures taken by Chinese authorities against Australian exports to China in accordance

with laws and regulations are aimed at protecting the legitimate rights and interests of domestic industries and the safety of consumers, which conform to Chinese laws and regulations as well as WTO rules rather than take Australia as a target deliberately.

China firmly upholds the rules-based multilateral trading system, respects WTO rules and handles foreign trade-related issues in a manner consistent with WTO rules. The Australia's claim that "China has not provided substantive responses to Australia's concerns" is not comport with the facts. The communication between the competent authorities of China and Australia has been open and smooth.

The 50 years of diplomatic relations between China and Australia shows that economic and trade cooperation has always been the most dynamic driving force for China-Australia relations. China has been Australia's largest trading partner in goods, largest export market and largest source of imports for 12 consecutive years. Australia enjoys a surplus in bilateral trade in goods and services as well as two-way investment, making huge profits. According to Australian statistics, due to the impact of the epidemic, Australia's foreign trade decreased by nearly 7% year on year in 2020. However, Australia-China trade is on the rise against all odds, up 0.7% year on year. Australia's exports to the world dropped by 7.4%, but only a 1.8% decrease in its exports to China. In particular, Australia's trade surplus with the world was 38.8 billion US dollars, all of which came from China. In 2021, China-Australia trade continued to maintain strong growth, and from January to August, China-Australia trade in goods reached USD 151.13 billion, up 38.4% year on year.

The hard-won achievements in China-Australia economic and trade cooperation need to be cherished by both sides and upheld for mutual benefit. Regrettably, for a period of time, Australia has politicized trade and investment issues, violated the principles of market economy, China-Australia Free Trade Agreement and the spirit of WTO rules, and continuously discriminated against Chinese companies. Since 2018, more than a dozen Chinese investment projects in Australia have been rejected by the Australian side on the grounds of "national security". Without any concrete evidence, Australia has banned Chinese companies from participating in the construction of Australia's 5G network on the grounds of "national security". Australia has continuously revised its foreign investment law and significantly tightened its so-called "national security review" on foreign investment. Australia has initiated 106 anti-dumping and anti-subsidy investigations against Chinese products, which is 26 times the number of investigations initiated by China in Australia. This not only interferes with the sound development momentum of China-Australia pragmatic cooperation, undermines Australia's own image and credibility, but also runs counter to the fundamental interests of the two peoples.

China urges Australian to fully implement the principle of open market and fair competition, provide a fair, transparent and non-discriminatory business environment for companies from Chinese and other countries, and take concrete actions to create favorable conditions for practical cooperation between the two sides in various fields. It is hoped that the Australian side will demonstrate sincerity and take concrete actions to create favorable conditions for the sound and steady development of bilateral economic and trade relations and bring more benefits to the two peoples.

5. DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM

Page 20 (Para 5.1)

China's report states that: China firmly commits itself to comprehensively deepening reform, fully leverages the decisive role of the market in allocating resources and gives better play to the role of government to ensure better alignment between an efficient market and a well-functioning government.

In reviewing this section of the Chinese Government Report, Australia also gave consideration to the following sections of the WTO Secretariat's report (WT/TPR/S/415):

3.3.1 INCENTIVES

Page 76 (Para 3.123)

The Secretariat's report states that: According to the authorities, the Government does not intervene in SOEs' financing, operation, and management

3.3.1 INCENTIVES**Page 78 (Para 3.127)**

The Secretariat's report states that: Given the importance of the Chinese economy and the size of government support accorded to individual companies, China's support measures are reported to be susceptible to affect global markets, downstream industries, and individual value chains.

3.3.5 STATE TRADING, STATE-OWNED ENTERPRISES, AND PRIVATIZATION**Page 97 (Para 3.206)**

The Secretariat's report states that: The importance of SOEs in China's economy, coupled with high amounts of financial support, may affect the functioning of market-oriented policies and practices.

Question 7

Given the importance of SOEs in China's economy, can China explain how it is ensuring "the decisive role of the market in allocating resources" and explain how its SOEs are not in fact distorting "global markets, downstream industries, and individual value chains"?

Reply: Since the reform and opening up, China has made historic achievements and undergone historic changes in building a market economy. The Chinese government has committed to giving full play to the decisive role of the market in resource allocation, give better play to the role of the government. For detailed information in respect of China's opening and reform measures, please refer to our government report.

The Chinese Government attaches great importance to the fair and just participation of SOEs in market competition. SOEs have been integrated with the market economy, become the main entities participating in market competition independently, and purchase and sell according to commercial considerations. They are subject to the same laws and rules as other enterprises in terms of access to funds, bankruptcy and competition legislation, and do not any enjoy privilege.

China has fully implemented the negative list mechanism for market access, and no additional access restrictions will be taken outside the list. We will fully implement the fair competition review system, and remove and abolish various regulations and practices that hinder the unified market and fair competition, strengthen anti-monopoly and anti-unfair competition law enforcement, promote the market-oriented allocation reform of land, labor, capital, technology, data and other factors, and give full play to the decisive role of the market in resource allocation, implement the three-year action plan for SOE reform, and promote the market-oriented reform of competitive links in key industries such as energy and railways. All these will create a fair competition environment for all kinds of market entities.

PART III: OTHER QUESTIONS**Question 8**

On 24 February 2021, Bloomberg News asked the following question at a State Council Information Office press conference: What has to happen for China to end the ban or the block on the importation of Australian coal, and for the removal of other impediments to exports from Australia to China?

In response, China's Vice Minister of Commerce and Deputy China International Trade Representative, Wang Shouwen, said: We hope that Australia can take more actions that are conducive to increasing trust and cooperation and that are more in line with the spirit of the comprehensive strategic partnership between the two countries. This in turn will promote the healthy and stable development of bilateral economic and trade relations.

While Australia supplied around 50% of China's coal imports by value in 2020, China's imports of coal from Australia fell to zero in January 2021, and have remained at zero since. In the meantime, China increasingly sourced coal from Russia, Indonesia, South Africa, the US, Colombia and Canada. Is there any basis in the WTO Agreements that China can point to for a cessation of imports of Australian coal, or any other measure that would cause only Australian exports of coal to China to fall to zero?

Reply (to the above two questions): In recent years, the Chinese Customs has conducted risk testing and analysis on the safety and quality of imported coal, and found that there are many cases concerning unqualified imported coal. Therefore, the Chinese Customs has strengthened quality and safety inspection of imported coal and testing of environmental protection items in accordance with relevant laws and regulations for better protection on the environmental safety as well as legitimate rights and interests of Chinese enterprises.

AUSTRALIA - ADDITIONAL QUESTIONS

PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT

2.4.1 REGULATORY FRAMEWORK AND MARKET ACCESS

Page 37 (Para 2.45)

The Secretariat's report states that: *On 23 June 2020, the current version of the National Negative List was issued by the NDRC and MOFCOM to replace the 2019 version.*

Question 1

Can China confirm what activities remain restricted or prohibited under the 2020 version of the National Negative List?

Reply: For the 2020 version of the National Negative List, please refer to:

http://www.gov.cn/zhengce/zhengceku/2020-12/16/content_5569975.htm.

On 8 October 2021, the NDRC issued the 2021 version of the National Negative List (Draft) to solicit public opinions. For the draft 2021 version, please refer to:

https://hd.ndrc.gov.cn/yjzx/yjzx_add.jsp?SiteId=371

3.1.6.1 ANTI-DUMPING MEASURES

Page 62 (Paras 3.53-3.54)

The Secretariat's report states that: *The legal framework for the conduct of anti-dumping investigations and the application of anti-dumping measures remains the Foreign Trade Law, the Regulations on Anti-Dumping, and a number of published Rules, some of them provisional. During the review period, three of these Rules were amended (see below); there have been no other changes to the anti-dumping procedures that are covered in detail in China's previous Reviews. The authorities indicate that China is preparing notification to the WTO regarding these amended rules. In 2018, China notified to the WTO its Interim Rules on Implementation of the World Trade Organization Ruling in Disputes Concerning Trade Remedy Measures, which entered into force on 29 July 2013.*

The Secretariat's report states that: *On 4 April 2018, MOFCOM promulgated the Rules on Interim Review of Dumping and Dumping Margins (Interim Review Rules), which replace the Interim Rules for the Mid-Term Review of Dumping and Dumping Margins that have been in place since 2002. They introduced various changes. First, they refined and clarified provisions relating to the rights and obligations of the investigating agency and interested parties, including in relation to: (i) clarifying the timing for filing a periodical review application to provide an opportunity for a periodical review application under special circumstances; (ii) clarifying that exporters and manufacturers must submit evidence that proves the necessity of a review; (iii) clarifying the period for domestic industry to request evidence materials to be submitted during the review; (iv) clarifying that the exporter/producer can submit an application for an interim review; and (v) cancelling the provision that the periodical review is not completed as an automatic end-of-term review. Second, they adopted clearer and stricter periodical review procedures and time requirements to ensure investigation efficiency. Third, they incorporated provisions to be consistent with WTO rules (e.g. improving the description of the sampling survey and the disclosure before final ruling).*

Question 2

a) How does China ensure its investigating authority conducts investigations consistently with WTO Rules?

Reply: When drawing up and implementing investigation-related rules, China strictly follows WTO rules to ensure fairness, justice and transparency.

b) Can China clarify which of its amended rules referenced in paragraph 3.53 of the Report by the Secretariat relating to its anti-dumping system remain provisional, and clarify why they are provisional? Paragraph 3.54 states *inter alia* that the *Rules on Interim Review of Dumping and Dumping Margins (Interim Review Rules)* promulgated on 4 April 2018 (and replacing provisional measures from 2002) incorporated provisions **to be consistent with WTO rules**. Are further changes required to ensure China's measures more fully conform with WTO rules?

Reply: Amended rules referenced in paragraph 3.53 of the Report by the Secretariat relating to anti-dumping system are no longer provisional rules. The anti-dumping investigation legislation and amendments that China has already made or will make in the future are conducted in accordance with the WTO rules, aiming to continuously improve relevant rules.

c) Given the previous 5-year delay in China's notifications of changes to its laws and regulations affecting the conduct of anti-dumping investigations and the application of anti-dumping measures identified in the report, when can Members expect China to make notifications to the WTO regarding these amended rules?

Reply: China is making preparations for related notifications.

3.3.3.2 SPS MEASURES

Page 86 (Para 3.168)

The Secretariat's report states that: *"In order to prevent the reintroduction of the COVID-19 virus through imported cold-chain food and to protect the health and safety of consumers, the GACC implemented emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid results. In response to the pandemic, China has also taken measures to facilitate the imports of food and agricultural products"*.

The SPS Agreement states that Members must base their measures on an assessment of the risks, taking into account the available scientific evidence. In cases where relevant scientific evidence is insufficient (as was the case with COVID-19), a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information. Further, in such circumstances, the SPS obliges Members to seek to obtain the additional information necessary for a more objective assessment of risk and to review the sanitary or phytosanitary measure accordingly, within a reasonable period of time.

Question 3

a) How has China taken into account the information in the updated Food and Agriculture Organisation (FAO) of the United Nations and World Health Organisation's (WHO) publication: *COVID-19 and Food Safety: guidance for food businesses* that indicates that it *"is highly unlikely that people can contract COVID-19 from food or food packaging"* and that *"There is no evidence to date of viruses that cause respiratory illnesses being transmitted via food or food packaging. Coronaviruses cannot multiply in food; they need an animal or human host to multiply."*?

b) Could China indicate when it will notify the SPS Committee with an update?

c) Could China provide details of the criteria, approval procedures and time frames for assessing and lifting voluntary suspensions of export establishments following the resolution of on-site COVID-19 cases among workers?

Reply to a-c: In order to prevent the risk of the COVID-19 being imported through imported cold-chain food, effectively guarantee food safety and people's lives and health, and maintain the safety of international trade supply chains, China has implemented measures for imported cold-chain food under the premise of following international standards and rules - risk monitoring, suspension of the import of products from companies that have a cluster of infections, and implementation of emergency preventive measures for overseas manufacturers of imported cold chain foods that have detected positive nucleic acid for the COVID-19. In this regard, some WTO members have expressed their concerns to China through several channels, and China is willing to share and exchange relevant information with the members concerned.

The Covid-19 pandemic has seriously jeopardized the safety and health of human lives, and has had a grave impact on the economic and social order and production of countries around the world. China has made great efforts to effectively control the pandemic in its territory, but still is exposed to significant risk of reintroduction of Covid-19 through importation. Since last year, some countries have lifted the lockdown despite the increased new cases, and people started working while still suffering from illness. As a result, many overseas manufacturing companies have reported clusters of infections among their employees. Chinese customs and local authorities have repeatedly detected positive nucleic acid for Covid-19 virus on the inner and outer packaging of imported cold-chain food products or on the product itself, which indicates deficiencies in the food safety management systems of some overseas food companies that export to China. In this context, the General Administration of Customs (GAC), in order to protect food safety and consumer health, has deployed emergency preventive measures to monitor the risk of imported cold chain foods, suspend the import of products from companies reported with clusters of infections, and apply a 1-week or 4-week suspension to overseas producers of imported cold chain foods that have tested positive for nucleic acid of the Covid-19. These measures have received proactive support and cooperation from many countries and establishments, and many of the exporters that experienced clusters of infections have suspended their exports to China voluntarily. Certainly, the establishments involved can resume their exports to China after taking measures to effectively eliminate the relevant risks and

ensure food safety for their exports to China. China has notified the WTO of the above circumstances in an appropriate form.

COVID-19 is a new virus, and many of its epidemiological characteristics remain uncertain. Considering the global prevalence, high contagiousness, and high pathogenicity of Covid-19, China has taken corresponding emergency responses, which are important to prevent the risk of importation of Covid-19 virus through imported cold chain foods. On 17 October 2020, the Chinese Center for Disease Control and Prevention (China CDC) announced to the public that the live virus was detected on the outer packaging of imported cold-chain foods, which is the first time to confirm out of laboratory that COVID-19 can survive for a longer period of time on the outer packaging of items under special conditions of cold-chain transportation, suggesting that the virus has the possibility of cross-border importation over long distances with cold-chain items as the carrier. Given this situation, China has tightened the regulation of cold chain foods based on risk assessment, and the relevant practices conform to the WTO rules. As a necessary measure to protect people's health, it does not undermine the normal operations of international trade.

China welcomes the entry of high-quality and safe food from all members and strictly abides by the rules of the World Trade Organization. At present, the global pandemic prevention and control is still in a critical period. China calls on relevant members to follow the guidelines issued by the FAO and the WHO to establish an effective food safety management system and take various preventive measures to prevent exported food from being infected by COVID-19. China is willing to maintain communication with members on related matters to ensure food safety from the source and enhance consumer confidence, and ensure the safety of the international food supply chain together with other members.

3.3.6 GOVERNMENT PROCUREMENT

3.3.6.4 OTHER POLICY CONSIDERATIONS IN GOVERNMENT PROCUREMENT

Page 104 (Paras 3.221-3.222)

The Secretariat's report states that: *China maintains buy-national policies in government procurement... It is also noted that the buy-national requirement does not apply to procurements by SOEs, as they are not considered as government procurement in China and are not bound by the Government Procurement Law. Therefore, the authorities state that there is no differential treatment of foreign goods, services, and suppliers in SOEs' procurements, including those in the areas of infrastructure and public utilities.*

Question 4

- a) Can China confirm whether there are any buy-national style domestic procurement or local content targets set for certain SOEs, government entities and/or product categories that have not been made publicly available, including to China's trading partners?
- b) If so, noting China's ongoing accession process to the WTO GPA, how would such targets/requirements align with the WTO GPA's core principles and obligations around transparency, national treatment and non-discrimination? Does China intend to make any such targets/requirements public?
- c) Can China explain how its buy-national requirements, including those in its draft revised Government Procurement Law, are consistent with (or will be made consistent with) the WTO GPA's core principles and obligations around national treatment and non-discrimination against foreign goods, services and suppliers – noting China's ongoing accession process to the WTO GPA?

Reply to a-c: China fulfills its commitments when it accessed the WTO to ensure that government procurement only complies with published and publicly available laws, regulations, generally applicable judicial decisions, administrative decisions and procedures (standard contract clauses). After completes the negotiation of joining the GPA, China will amend the Government Procurement Law to provide GPA participants non-discriminatory treatment for goods, services and suppliers.

3.3.7 INTELLECTUAL PROPERTY RIGHTS

3.3.7.5.8 UNDISCLOSED INFORMATION AND TRADE SECRETS

Pages 115-116 (Paras 3.284-3.289)

3.3.7.6 ENFORCEMENT

Pages 116-117 (Para 3.290 and Table 3.32)

The Secretariat's report provides an overview of developments in China's laws protecting undisclosed information and trade secrets, including adding new types of trade secrets infringements to the Anti-Unfair Competition Law. The report also provides an overview of China's enforcement actions

against trademark infringements, counterfeit patents and other illegal activities during the review period.

Question 5

- a) Can China provide an overview of the types of trade secrets infringements its authorities have taken action against during the review period?
- b) Can China provide further information on any trends in intellectual property infringement its authorities have observed through its enforcement actions during the review period?

Reply to a and b: Administrative law enforcement against unfair competition was intensified during the review period. Special enforcement actions were carried out to combat unfair competition in key fields such as those involving people's livelihoods. Regulatory and law enforcement efforts were strengthened against unfair competition conducts such as counterfeiting, market confusion, false advertising and infringement of trade secrets in the Internet and other key fields so as to safeguard the market order marked by fair competition and protect the legitimate rights and interests of business operators and consumers according to the relevant laws and regulations. During the special action period in 2020, a total of 7,371 unfair competition cases were investigated, involving a total value of 2.76 billion RMB and fines in the amount of 416 million RMB.

The IPR protection departments of Chinese government performed their duties in accordance with relevant laws and regulations, intensified judicial protection of IPR and administrative law enforcement, continued to promote the special governance in key fields, and improved working mechanisms, comprehensively stepped up IPR protection.

For more information, please refer to 2020 Intellectual Property Rights Protection in China.
http://www.gov.cn/xinwen/2021-04/25/content_5602104.htm

4.1.2 AGRICULTURE

Page 126 (Para 4.14-4.16)

The Secretariat's report states that: *the fill rates for China's tariff rate quotas (TRQ) have fluctuated over the review period, with fill rates for wheat, corn, rice and wool tops relatively low in 2018 and 2019. A number of these TRQs were the subject of WTO dispute settlement action under DS517, which resulted in adverse findings against China. Australia acknowledges that China has notified TRQ fill rates for calendar year 2020, which includes significant improvements for wheat and corn (a fill rate of 84.6% and 100% respectively). Australia also notes that the report states: China's NDRC and MOFCOM are responsible for TRQ allocations and the importation of grain (wheat, maize, and rice), sugar, tobacco, and cotton is subject to state trading, whereby one part of the quota is allocated to state trade enterprises and the other part to other enterprises.*

Question 6

- a) What measures has China implemented to increase the TRQ fill rates since the last review, including efforts to address underfill and reach a fill rate of at least 65%, in line with the WTO Bali Decision on Tariff Quota Administration?
- b) Can China explain what resulted in the significant improvement in fill-rates for wheat and corn in calendar year 2020? Will China commit to maintaining these changes to ensure on-going high fill rates in future years?
- c) What reforms has China made to TRQ administration in response to the outcomes of DS517 and how have fill rates subsequently improved, including preliminary year-to date fill rates for 2021?
- d) Can China confirm that the NRDC and MOFCOM have been and will continue to administer the TRQs in a fair, transparent and non-discriminatory manner, including not discriminating against a particular Member and allocating import licences on the same basis for all Members?
- e) Given the roles of state trading enterprises (STE) in China's TRQs, including specific quota allocations for particular commodities, how is China ensuring STEs are importing products under the TRQs in line with market-based principles that underpin the WTO?

Reply to a)-e): In accordance with China's WTO commitments and the Foreign Trade Law, China has formulated the Interim Measures for the Administration of Import Tariff Quotas for Agricultural Products (Order No. 4 of 2003 of the Ministry of Commerce and the Development and Reform Commission) to implement import tariff quota management for wheat, corn, rice, cotton, sugar, wool and woolen bars. China has established a unified, fair, just, transparent, predictable and non-discriminatory agricultural import tariff quota management system, and releases the annual tariff quota implementation rules accordingly. China allocates tariff quotas in accordance with

the WTO rules and fulfill its accession commitments. After obtaining the quotas, enterprises independently decide whether to import in accordance with market conditions. China's agricultural product tariff quota management measures are made to the public and transparent. Members can check these measures on the websites of the Ministry of Commerce and the National Development and Reform Commission. As for state trading, please refer to China's latest notification.

4.1.2 AGRICULTURE

Page 129 (Para 4.25); Page 130 (Para 4.29)

The Secretariat's report states that: *China implements a minimum purchase price policy for rice and wheat*, including minimum procurement prices and a limited total purchase volume set each year by the NRDC. These commodities were the subject of WTO dispute settlement action under DS511, which resulted in adverse findings against China. The report further noted that China's last domestic support notification was in December 2018 covering years 2011 to 2016, which saw the introduction of Blue Box spending in 2016, and pending China's new notification, information on China's new agriculture support programmes introduced during the review period was not available. Australia notes that as part of the 2016 notification, China notified domestic support in excess of *de minimis* entitlements for corn, cotton and soybeans.

Australia also notes that China now has the largest domestic support entitlement due to its growing value of agricultural production, providing China with the greatest potential to impact the global agricultural market through the cumulative volume of its agricultural support measures. Of particular concern is China's lack of transparency around these measures with outstanding notifications for calendar year 2017 onwards.

Question 7

a) What steps has China taken to ensure its minimum purchase price policy for rice and wheat is within China's *de minimis* domestic support entitlement of 8.5% of the value of production under the WTO Agreement on Agriculture?

Reply: By setting reasonable minimum purchase price levels for rice and wheat and limiting the total amount of purchases, the "Amber Box" support provided by the minimum purchase price policy has fallen far below the *de minimis* domestic support entitlement for Chinese agriculture.

b) What domestic reforms has China undertaken for domestic support provided to corn, cotton and soybeans to rectify the breach of China's *de minimis* domestic support entitlement of 8.5% of the value of production for each commodity under the WTO Agreement on Agriculture?

Reply: China has been improving its cotton target price policy, and the existing policy falls into the category of "Blue Box". Relevant policies regarding corn and soybeans are not "Amber Box".

c) Can China provide an update on the domestic reforms it has undertaken in response to the outcomes of DS511 and how these will be notified in the future?

Reply: In accordance with the DS511 ruling, China has further improved the minimum purchase price policy for wheat and rice by setting and announcing the total purchase quantity in advance. The relevant measures are in full compliance with the WTO rules and released on time. Reform measures of the minimum purchase price policy for wheat and rice include setting the reasonable minimum purchase price levels for rice and wheat and limiting the total purchasing amount, which has been notified as Amber Box.

d) Has China continued to move agricultural support measure expenditure towards the Blue Box (production limiting schemes) and away from the Amber Box (trade and production distorting support)? If so, how?

Reply: China's domestic agricultural support policies are mainly "Green Box" policies. In recent years, the level of "Blue Box" support has increased, while the level of "Amber Box" support has decreased significantly. For example, China has improved the minimum purchase price policy for rice and wheat, which has greatly reduced the "Amber Box" support.

e) Why has China not met its domestic support notification obligations for calendar years 2017 and onwards, and when will it submit these overdue notifications?

Reply: In recent years, China has gradually established a green and ecologically oriented agricultural subsidy system based on the "Green Box" to ensure national food security and accelerate the structural reform of the agricultural supply side, which has laid a solid foundation for ensuring national food security and promoting sustainable agricultural development. China has not only ensured domestic food security, but also increased imports of land-intensive products such as soybeans, making substantial contribution to global food security and the development of agricultural trade.

f) What steps has China taken to minimise the possible harmful impacts on global agricultural markets from its agricultural support, including for developing Members?

Reply: According to the principles of the WTO Agriculture Agreement, China draws up relevant policies in consideration of minimizing distorting effects on production and prices.

g) Does China believe it has a responsibility, given the size of its agricultural production and domestic support entitlements, to take a greater leadership role in agricultural trade reform in the WTO? If so, how?

Reply: China has repeatedly stated in recent agricultural negotiations that per capita support for farmers reflects the inherent differences in agricultural development conditions between developed members with commercial-oriented agriculture and developing members with subsistence-oriented agriculture. China insists that priority shall be given to address the deficit in domestic support rules and correct the unfair and unbalanced agricultural trade rules developed in the Uruguay Round.

4.4.1.3.2.1 DEVELOPMENTS IN LICENSING OF FOREIGN BANKS

Page 158 (Paras 4.146-4.148)

The Secretariat's report describes several measures to open the banking sector to foreign participation. These measures included lifting caps on foreign ownership of Chinese commercial banks, abolishing requirements for obliged foreign shareholders to hold a minimum level of assets, allowing foreign investors to establish and operate more freely in the sector.

Question 8

a) Since the reforms were introduced, has there been an increase in foreign participation in the banking sector as shareholders in Chinese banks?

Reply: Since the reforms were introduced, several foreign investors have taken stakes in Chinese banks. For example, Singapore's United Overseas Bank invested in China's Hengfeng Bank and Canada Pension Plan Investment Board (CPPIB) held stakes in Aibank, an Internet bank set up by CITIC Bank and Baidu.

b) Have any foreign-owned banks established in China since the reforms?

Reply: After the announcement of the measures, a number of foreign banks have opened businesses in China, including Cathay United Bank (China) Limited, Arab Bank Shanghai Representative Office, First Abu Dhabi Bank (FAB) Shanghai Branch, Morocco Bank of Foreign Trade Shanghai Branch, HBL Beijing Branch, SPD Silicon Valley Bank Shenzhen Branch, BNK Busan Bank, Nanjing Branch, etc.

c) What further reforms are authorities considering to encourage greater foreign participation in the banking sector?

Reply: China will optimize the business environment for foreign investors, encourage fair competition and innovation, create a market-oriented, rule-based, and international business environment, and continuously stimulate market vitality, so as to encourage further participation of foreign investors in China's financial market.

4.4.1.3.4.3 FOREIGN ACTIVITIES OF CHINESE COMPANIES

Page 164 (Para 4.181)

The Secretariat's report explains that in September 2018, the CSRC issued the *Administrative Measures for the Overseas Establishment, Acquisition, and Shareholding of Financial Institutions of Securities Companies and Securities Investment Fund Management Companies* to further clarify the

conditions for Chinese companies going abroad and to strengthen the parent company's control over its overseas subsidiaries.

Question 9

- a) Can China outline the intent of the measure?
- b) What conditions apply to Chinese companies going abroad?

Reply to a and b: To effectively strengthen the management of overseas institutions by securities and fund operating institutions, the China Securities Regulatory Commission officially issued the Administrative Measures for the Overseas Establishment, Acquisition, and Shareholding of Financial Institutions of Securities Companies and Securities Investment Fund Management Companies. For detailed conditions and requirements on overseas establishment, acquisition and shareholding of financial institutions, please refer to Article 8 of the Measures. For the whole text of the Measures, please refer to:

http://www.csrc.gov.cn/pub/zjhpublic/zjh/201809/t20180928_344730.htm.

4.4.2.2.6 CYBERSECURITY

Pages 170-172 (Paras 4.214-4.219)

The Secretariat's report states that the Cybersecurity Law, which entered into force on 1 June 2017, remains in force. During the review period, in order to implement the Law, several regulations, administrative measures, and technical specifications were adopted or published for public comment. The report states that on the specific legislation concerning personal information protection, on 21 October 2020, China published for comment the first draft of the Personal Information Protection Law, the country's first comprehensive law regulating the processing of personal information.

Question 10

- a) On 28 May 2021 Australia made a submission to the consultation of the second draft of the Personal Information Protection Law welcoming a number of revisions to the draft law. However, it also raised concerns with the draft law particularly around extra-territoriality, trade retaliation measures, compliance costs for firms and the overall scope of the legislation. How were the concerns raised by Australia addressed in the final legislation passed on 20 August 2021?

Reply: The Personal Information Protection Law draws on the practices of relevant countries and regions, and the Law clarifies the necessary extraterritorial effects to fully protect the rights and interests of individuals in China. Article 3(ii) of the Law is mainly applicable to cross-border transactions targeting individuals in China, and personal information processing behavior in activities such as recording and tracking personal information of natural persons in China so as to analyze and evaluate the behavior of such natural persons. China has the right to take measures to safeguard the legitimate rights and interests of Chinese enterprises and maintain the normal international economic and trade order. The provisions of the Law are consistent with the Foreign Investment Law and the Foreign Trade Law.

- b) On 28 May 2021 Australia also made a submission to the consultation of the second draft of the Data Security Law welcoming a number of revisions to the draft law. However, it also raised concerns with the draft law particularly around extra-territoriality, trade retaliation measures, compliance costs for firms and the overall scope of the legislation. How were the concerns raised by Australia addressed in the final legislation passed on 10 June 2021?

Reply: The second paragraph of Article 2 of the Data Security Law stipulates that "When data handling activities outside the territory of the PRC harm the national security, the public interest, or the lawful rights and interests of citizens or organizations of the PRC, legal liability is to be pursued according to the Law". The above-mentioned provision of the Law is formulated in accordance with the internationally accepted principle of protective jurisdiction. Anyone who commits the above acts shall be punished in accordance with China's Criminal Law, the Law of the Application of Law for Foreign-related Civil Relations, etc. China has the right to take measures to safeguard the legitimate rights and interests of Chinese enterprises and maintain the normal international economic and trade order. The provisions of the Law are consistent with the Foreign Investment Law and the Foreign Trade Law.

- c) In its submission of 28 May 2021, Australia sought further clarification on the application of specific Articles in the Personal Information Protection Law and the Data Security Law. When will China provide a response to these requests for further clarification?

Reply: In the process of formulating the Personal Information Protection Law and the Data Security Law, the Chinese legislature authority has extensively solicited opinions in accordance with legislative procedures by publishing drafts on the China National People's Congress website, and explained and gave feedback to the opinions and amendments through various methods such as the reports of the Constitution and Law Committee of the National People's Congress and other statutory documents, as well as the press conferences of the Legislative Affairs Committee of the Standing Committee of the National People's Congress.

PAKISTAN**Document - WT/TPR/S/415****SUMMARY**

2. The outbreak of the COVID-19 pandemic in early 2020 had a major impact on output and employment. Virtually all sectors were severely hit by the pandemic, with the notable exceptions of financial services and information technology. Starting in mid-2020, the economy began to recover, mainly driven by public investment and international trade. Swift fiscal and monetary policy reactions helped mitigate the economic impact of the COVID-19 pandemic, but as a result of the Government's stabilizing measures, financial stability risks may have increased.

1. Pakistan would appreciate if China would elaborate what has been China's experience in overcoming the COVID-19 pandemic since its outbreak in early 2020; and what contributions has China made to global cooperation on combating COVID-19?

Reply: During the COVID-19 outbreak when people's safety and health were seriously endangered, China mobilized maximum efforts and resources within the shortest period of time to contain the spreading of the pandemic. With arduous efforts, China made major strategic achievements in fighting against the pandemic and took the lead in resuming work and production. The complete industrial chains and strong support systems in China play a positive role in boosting the recovery of the world economy. As combating the pandemic is the most urgent task facing the international community, President Xi Jinping is promoting international cooperation and calling for building a global health community for mankind, strengthening bilateral and multilateral cooperation, and jointly addressing the challenges posed by the pandemic. China has been actively fulfilling its international obligations and made significant contribution to the global cooperation on combating COVID-19.

China is sharing information and experience in fighting against the pandemic with the international community. After the outbreak, China immediately took the initiative to share the information on pandemic with the WHO, as well as other countries and regional organizations including the whole coronavirus genome sequence and the specific primers and probes for detecting the coronavirus. China regularly notified the WHO and relevant countries of information of the pandemic. China compiled the documents of COVID-19 prevention and control plans and treatments, which were translated into three languages, and shared with more than 180 countries, as well as over 10 international and regional organizations.

China is providing humanitarian assistance to the international community. China launched the largest global emergency humanitarian operation since the founding of the People's Republic of China. China has been actively sending medical assistance overseas, donating medical supplies to 150 countries and regions and 12 international organizations, and sending 36 medical teams to 34 countries. China provided the WHO with two donations totaling USD 50 million in cash for fighting the pandemic. In May 2020, President Xi Jinping announced at the opening ceremony of the 73rd World Health On-line Assembly that China would donate USD 2 billion in the coming two years supporting the international community to combat COVID-19.

China is making every effort to improve the accessibility of vaccines. China firmly believes that COVID-19 vaccines are first and foremost a global public good, and has taken the lead in committing that all vaccines developed shall be considered as public goods. China has been working hard to improve the accessibility and affordability of vaccines to developing members. China is working with over 10 countries in vaccine R&D and production. China has participated in the WHO-initiated COVAX and committed to donating a first batch of 10 million vaccine doses to developing countries in urgent need. China is now donating vaccines to 85 developing members and 4 international organizations, and exporting vaccines to more than 40 countries. In May 2021, President Xi Jinping announced at the Global Health Summit that China would provide an additional USD 3 billion in international aid over the next three years to support combating COVID-19 as well as economic and social recovery in other developing countries. Up to now, China has supplied 350 million doses of vaccines to the whole world. And China supports for waiving intellectual property rights on COVID-19 vaccines, and hopes to see a consensus on this issue be reached in the WTO and other international organizations soonest possible.

China is promoting the export of pandemic control supplies in an orderly manner. As the largest manufacturer of anti-pandemic supplies, China spares no effort in providing supplies to the rest of the world, while meeting the domestic needs. By May 2021, China had provided over 280 billion masks, over 3 billion protective suits and 4 billion testing kits to more than 200 countries and regions, providing strong support to other countries in their fight against COVID-19.

China is taking trade facilitation measures during the pandemic. In order to facilitate the compulsory product certification process, China encourages and advises certification bodies to provide online training for enterprises, carries out virtual inspections on manufacturers, opens fast tracks and green lanes, and issues electronic certificates. In 2020, a total number of 142,000 expired CCC certificates at home and abroad were renewed. In so doing, China recognized and accepted the conformity assessment results of the mutual recognition systems established through multilateral or bilateral channels.

14. China has taken various trade-facilitating measures with respect to import registration, documentation, and inspection requirements, as well as in response to the COVID-19 pandemic. Its national single window for international trade was extended and, reportedly, the overall customs clearance time for imports nationwide was reduced.

2. Pakistan appreciates if China can specify the trade-facilitating measures taken during the review period and their effectiveness.

Reply: In January 2020, China notified measures implementing the Trade Facilitation Agreement (TFA) to the WTO ahead of schedule, including measures like "Exchange of Information", "Provision of Information" and "Establishment and Publication of Average Release Times". So far, China has fully implemented the measures stipulated in the TFA.

Since the last review, China has continued vigorously promoting paperless application for import and export licences and customs clearance. Since 15 October 2018, paperless application for import licences and customs clearance has been implemented nationwide for goods subject to automatic import licence administration and goods subject to import licence administration (except for ozone-depleting substances). Since 1 January 2020, paperless application for export licences and customs clearance has been implemented nationwide for goods under export restriction administration nationwide.

Since 2018, China Customs has integrated the enterprises' qualifications for customs declaration and inspection, and removed the validity period of the registration of customs declaration enterprises and their branches. Meanwhile, the inspection and quarantine operations have been integrated into the overall framework and procedures of national customs clearance integration, realizing the "five unifications" (namely, unified declaration documents, unified operation system, unified risk assessment, unified issuing of instructions, and unified on-site law enforcement). By the end of 2018, China Customs had successfully completed full integration of national customs declaration and inspection. In March 2021, the overall customs clearance time for imports nationwide was 37.12 hours, reduced by 61.9% compared with that of 2017; and the overall customs clearance time for exports nationwide was 1.67 hours, reduced by 86.4% compared with that of 2017.

In addition, China has continuously deepened the reform of China Compulsory Certificate (CCC) scheme. 62 products with relatively standardized industry development and lower risks were removed from the CCC catalogue. Enterprises self-declaration assessment mechanism was introduced to the CCC scheme, applying to 19 products. Certification process was optimized and the certification period was reduced by more than 30%.

33. China continues to reduce its proportion of coal consumption, in line with objectives set for green and low-carbon energy development in the 13th Five-Year Plan for Energy Development. Other measures regarding the promotion of clean energy included the authorities' efforts to fully operationalize China's carbon emission trading framework, set renewable electricity consumption quotas as a share of total power consumption in each province, and implement a new environmental tax policy. The energy sector was further opened to foreign investments during the review period, through several liberalization measures, such as the removal of the restrictions on the exploration and development of oil and natural gas (except for oil shale, oil sands, and shale gas).

3. Pakistan appreciates if China can provide further details and specify its carbon emission trading market system: its functioning and how China sees it fit into its objective to address climate change.

Reply: In December 2020, China released Measures for the Administration of Carbon Emissions Trading (for Trial Implementation) and Implementation Plan for the 2019-2020 national carbon emission trading quota setting and allocation (power generation industry). The Plan provided a list of key emission units that were included in the quota management of the power generation industry and clarified the specific requirements for quota allocation and fulfilment. In addition, it officially started the first quota fulfilment cycle of the carbon market in China.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.8. Poverty rates fell during the review period. According to the authorities, the incidence of poverty dropped from 3.1% in 2017 to 1.7% in 2018 and to 0.6% in 2019, using the 2011 poverty line.¹² At the same time, income levels of those over the poverty line or living in poor regions rose significantly. The authorities also underline the results that were achieved regarding access to basic education, electricity, healthcare, and improved infrastructure. The authorities further indicate China's aim to completely eradicate poverty by 2020.

4. Pakistan notices that China has made tremendous progress on eliminating absolute poverty across the country in a relatively short time; and has achieved the building of a society with moderate prosperity in all aspects. Pakistan appreciates if China could outline its progress in poverty alleviation during the review period and share its experience on how it managed this significant achievement.

Reply: China has won a complete victory in the fight against poverty. By the end of 2020, 98.99 million rural residents living below the current poverty line had all been lifted out of poverty, and 832 registered poor counties and 128,000 villages had been removed from the poverty list. China has eliminated regional poverty and completed the arduous task of eradicating extreme poverty. According to the World Bank's poverty standard, the number of Chinese population lifted out of poverty accounted for more than 70% of that of the world's total for the same period. China has met the target of eradicating poverty set by the UN 2030 Agenda for Sustainable Development 10 years ahead of schedule, which highlights China's contribution to the community with a shared future for mankind. Guided by the strategy of targeted poverty alleviation, China has taken development as the fundamental way of poverty alleviation, and changed its approach from "blood transfusion" to "blood regeneration".

2. Trade and Investment Regimes

2.2.2 Trade policy formulation and objectives

2.12. China's trade policy objectives have remained largely unchanged since the previous Review; China seeks to further liberalize its trade and investment regime to reshape its economy. The 13th Five-Year Plan for Economic and Social Development (2016-20), which was issued in December 2016, lays out objectives to expand trade and increase outbound and inbound investment.¹¹ Reflecting China's broader industrial and economic goals, the Plan aims to widen market access for foreign investment by, *inter alia*, loosening foreign investment restrictions in various sectors such as manufacturing and finance, as recently reflected in the negative lists for foreign investments (Section 2.4). The 14th Five-Year Plan for Economic and Social Development (2021-25) was adopted by the National People's Congress on 11 March 2021.

5. Pakistan appreciates if China can indicate the measures China is taking to widen the market access for Foreign Investment.

Reply: China unswervingly promotes opening up, improves the legal system for foreign investment, continuously liberalizes foreign investment market access, and expands the encouraged categories for foreign investment. It improves the service system of foreign investment, steps up to protect the legitimate rights and interests of foreign investment, and constantly optimizes the foreign investment environment. Since the last review, China has promulgated the Foreign Investment Law and its implementing regulations. China has also issued the Circular on Certain Measures for Actively and Effectively Utilizing Foreign Investment to Promote Quality Economic Development, the Opinions of the State Council on Further Effectively Utilizing Foreign Investment and the Opinions of the General Office of the State Council on Further Stabilizing Foreign Trade and Foreign Investment,

building a policy system for foreign investment in the new era and effectively improving quality and level of foreign investment in China.

2.19. During the review period, as reflected in several measures, China attached great importance to addressing climate change issues. The authorities indicate that the country implements an active national strategy on climate change and has achieved positive results through a series of measures, such as industrial restructuring, energy structure optimization, energy conservation and efficiency improvement, the establishment of a carbon emissions trading market, and expanding the forest carbon sink. They also expect that China will reach a peak in carbon dioxide emissions before 2030 and carbon neutrality before 2060.

6. Pakistan appreciates if China can provide further details on its national strategy to address climate change, what are the measures taken and implemented and what are the results.

Reply: In the review, China highlights the importance of addressing climate change issues. It actively implemented its national strategy in response to climate change, which had yielded fruits by adjusting industrial structure, optimizing resource structure, saving energy and improving efficiency, establishing carbon emission trading market and promoting carbon sink of forests. China has taken active measures to implement *United Nations Framework Convention on Climate Change* and *Paris Agreement*, and is doing its best to reduce its carbon dioxide emission so that the carbon dioxide emission of China will reach its peak before 2030. China also strives to achieve carbon neutrality before 2060 in order to promote sustainable development.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1.4.4 Port construction fees

3.42. Until 1 March 2020, China levied port construction fees on imported and exported goods.⁵² For domestic export containers and inland containers, the fees were CNY 32 per 20-foot container and CNY 48 per 40-foot container. For foreign import and export containers, the fees were CNY 64 per 20-foot container and CNY 96 per 40-foot container. The fee for other non-standard containers, except 20-foot and 40-foot containers, was levied according to that of similar types of containers (for non-standard containers less than 30 feet, the fee was levied according to that of 20-foot containers; for non-standard containers of 30 feet and above, the fee was levied according to that of 40-foot containers). The authorities indicate that a temporary decision was taken not to collect these fees from 1 March to 31 December 2020, followed by a permanent decision to abolish fees from 1 January 2021.

7. Pakistan appreciates if China can indicate whether the port construction fees were abolished permanently since January 2021?

Reply: Yes.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.3.4.1.1 Legislative and institutional framework

3.175. The AML is currently under amendment. The main purpose of the amendment is to further improve the anti-monopoly system and rules and enhance the enforcement of the Law. The SAMR published a draft of the amended Law for public comments on 2 January 2020.¹⁵⁸ According to the authorities, 265 comments were received from 75 organizations and citizens. These comments concern almost all aspects of competition policy, including monopoly agreements, abuse of dominant market position, abuse of administrative power, notification of concentration of undertakings, investigation, and legal liability. The draft of the Law was completed and submitted to the State Council in December 2020.

8. Pakistan appreciates if China could indicate whether the comments received were taken into account and when the AML will be finalized.

Reply: The AML is currently under amendments and has now been submitted to the Standing Committee of the National People's Congress for review. The 31st Session of the Standing Committee of the 13th National People's Congress will review the State Council's proposal for reviewing the draft amendment to the AML.

RUSSIAN FEDERATION

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core

4.2.3. Supporting a bigger role of the WTO

Page 16, para 4.28

China actively participates in the WTO's "Aid for Trade" initiative, fully supports the integration of developing Members into the multilateral trading system, and advocates a bigger role of the WTO. China's LDCs and Accessions Programme (the "China Programme") was set up to help the LDCs join the WTO. By the end of 2020, China had contributed a total of USD 4.2 million to the "China Programme". This Programme provides technical assistance and capacity-building to the acceding parties, supports the accession work of the WTO, and enhances the representativeness of WTO membership, contributing to strengthening the multilateral trading system. In September 2018 and December 2019, the 7th and 8th China Round Table meetings took place in Kazakhstan and Russian Federation respectively. In December 2020, the 9th China Round Table meeting was held virtually as one of the events to celebrate the 25th anniversary of the WTO. In March 2021, China shared its experience in joining the WTO with other acceding parties online.

Question № 1:

Could China please provide information, if possible, on the perspective areas of future work under the "China Programme", in particular in respect to the possible new elements of respective work?

Reply: The "China Programme" aims to help the LDCs join the WTO and integrate into the multilateral trading system, focusing on supporting activities under the five pillars, including Annual China Round Table on WTO Accessions (CRTs), China WTO Accession Internship Programme, Increasing participation of LDCs in WTO meetings, South-South dialogue on LDCs and development, and LDCs' Trade Policy Review follow-up workshops. In the future, the "China programme" will continue to explore the innovative activity patterns and contents around the new problems and new needs encountered by the LDCs in the process of accession to the WTO, to better meet the actual needs of the LDCs.

REPORT BY THE SECRETARIAT

SUMMARY

Page 11, para 11

A new Foreign Investment Law was adopted, with the aim of, inter alia, improving China's business environment for foreign investors and ensuring that they participate in market competition on an equal basis. The legislation stipulates that investors are protected against expropriation, restrictions on cross-border remittances, IPR infringement, and forced transfer of technology.

Question № 2:

Could China, please, further elaborate on the provisions aimed to protect investors against expropriation, restrictions on cross-border remittances, IPR infringement, and forced transfer of technology? Could China please further elaborate on the future plans for further investment liberalization (please, specify sectors, if possible).

Reply: Articles 20-22 of the *Foreign Investment Law* and Articles 21-24 of the *Regulations on the Implementation of the Foreign Investment Law* have made provisions on expropriation, restrictions on cross-border remittances, IPR infringement, and forced transfer of technology. See http://www.gov.cn/xinwen/2019-03/20/content_5375360.htm for details.

In June 2021, the amended *Patent Law* came into effect, strengthening the protection of the lawful rights and interests of patentees including foreign investors. For examples, it introduces punitive damages for willful infringements, increases statutory damages, increases the amount of penalty against counterfeiting patents, and further regulates the burden of proof.

China will implement the "14th Five-Year Plan", further shorten the negative list for foreign investment, relax controls over foreign investment, and promote investment liberalization.

1 ECONOMIC ENVIRONMENT

1.2 Recent Economic Developments

1.2.1 Growth and impact of COVID-19

Page 18, para 1.6

The COVID-19 pandemic has posed an unprecedented shock to China's economy. Besides inflicting human costs, it has had a major impact on output, trade, and employment. At the beginning of 2020, economic growth fell to its lowest level in 40 years: between the last quarter of 2019 and the first quarter of 2020, growth fell by almost 13 percentage points, from 5.8% to -6.8%. Apart from financial services and information technology, all sectors were severely hit. Over 100 million workers were directly affected by the pandemic, by being put on unpaid leave in retention schemes or reduced-work programmes, exiting the labour market, or becoming unemployed. In May 2020, the Government abandoned the announcement of the annual GDP target for the first time in more than 25 years due to factors that are difficult to predict, such as the coronavirus pandemic and uncertainties around trade.

Question №3:

Could China please clarify what is the GDP target for 2022, 2023 and 2024 years?

Reply: During the "14th Five-Year Plan" period (2021-2025), China will adopt a new vision for development, focus on enhancing the quality and returns of development, maintain sustained and sound economic development, and give full play to its growth potential. China will strive to ensure that its economic performance stays within the proper range, put forward appropriate annual target growth rate, and achieve development that has higher quality and efficiency and is fairer, safer and more sustainable.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1.3 Tariffs

3.1.3.1 Applied MFN tariffs

Page 51, para 3.25

The simple average applied MFN rate in 2021 was 7.1%, compared with 9.3% in 2017, with tariff-rate reductions in nearly all product categories. The tariff was higher for agricultural products (WTO definition), at 12.7%, showing a notable decrease compared with 2017 and 2015 (Table 3.2). The average applied tariff on non-agricultural products fell to 6.2% (from 8.5% in 2017 and 8.6% in 2015). The percentage of tariffs that exceeded 15% (international tariff peaks) was 4.5% (significantly lower than the 13.9% in 2017). The percentage of tariffs subject to domestic tariff peaks was 1.9% (compared with 1.8% in 2017).

Question №4: Could China, please, elaborate on the publication of changes in applied tariff rates? Is there any specific mechanism of early announcement of the import tariff changes?

Reply: China issues its plan on provisional import tariff rates every year to adjust the MFN tariff rate and provisional tariff rate for some import goods. The above specific plans on the adjustment of tariff rates are available at the "policy release" module of the official website of the Tariff Department of Ministry of Finance of China.

4 TRADE POLICIES BY SECTOR

4.2 Mining and Energy

4.2.2 Energy

4.2.2.5 Electricity

Page 148, para 4.87

Private investment, including foreign investment, is encouraged in the development of the renewable energy sector. In the new 36-Clause on Private Investment (State Council Circular 2010/13), domestic private capital is "encouraged" to build new energy sectors such as wind, solar, geothermal, and biomass power. Electricity generation from wind, solar, or biomass power is also listed in the "encouraged" section of the Catalogue of Encouraged Industries for Foreign Investment (2020 edition). China also promotes electricity generation with nuclear energy; as in the case of renewable energy, FDI is encouraged.

Question №5:

Could China, please, describe the specific requirements in respect to the establishment and operations of foreign business entities in wind, solar, geothermal, and biomass power sectors?

Reply: China has lifted restrictions on market access to wind, solar, geothermal and biomass energy development. Market regulators will create a level playing field for domestic and foreign businesses. Investment in fixed assets, industry license, etc. shall comply with relevant laws, regulations and rules.

4.4 Services

Question №6:

Could China, please, provide information on the key laws and regulations regulating pre- and post-establishment of entities (including foreign ones) in advertising services, as well as translation services sectors?

Reply: Foreign investors in China shall observe relevant provisions in the Foreign Investment Law and the *Regulations on the Implementation of the Foreign Investment Law*. In accordance with the current negative list for foreign investment, advertising services and translation services sectors do not belong to the field of investments that are prohibited or restricted, that is, foreign investors investing in the above sectors enjoy the same treatment as that of domestic enterprises. It involves fixed asset investments and business license, and shall comply with relevant laws, regulations, and rules. Entities in advertising services and translation services sectors shall be incorporated in accordance with relevant laws and regulations such as the *Company Law* and the *Partnership Law* and comply with relevant laws and regulations of the advertising and translation services sectors.

SWITZERLAND

Secretariat Report (WT/TPR/S/415)

Chapter 1 Economic Environment

1. Para. 1.9 of the secretariat report states that the contribution of agriculture to GDP climbed slightly during the pandemic after continuously falling. What are the reasons for this increase during the pandemic?

Reply: This can be attributed to changes in market demand and the overall development of different sectors of the national economy. It should not be understood simply as a change in the contribution of agriculture to GDP.

Chapter 2.1 General Framework

2. Para. 2.3: The judicial specialization for issues related to e-commerce has been modernized. Three Internet Courts have been established. They handle different types of Internet-related cases. Are they also competent for cross-border cases? Are decisions of these courts published online?

Reply: Internet courts are grass-roots people's courts with centralized jurisdiction over specific types of Internet-related cases within their jurisdiction. They have jurisdiction over cross-border Internet-related cases in accordance with the Civil Procedure Law of the People's Republic of China, the Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Cases by Internet Courts (Fa Shi [2018] No. 16), the Provisions of the Supreme People's Court on Some Issues Concerning the Jurisdiction of Civil and Commercial Cases Involving Foreign Elements (Fa Shi [2020] No. 20), and the Notice of the Supreme People's Court on Clarifying Relevant Matters Concerning the Standards for Hierarchical Jurisdiction over and Centralized Handling of Foreign-related Civil and Commercial Cases of First Instance (Fa [2017] No. 359). Decisions and judgments of Internet courts are made public on the Internet in accordance with the Provisions of the Supreme People's Court on the Issuance of Judgments on the Internet by the People's Courts (Fa Shi [2016] No. 19).

3. Para. 2.5: On 1 June 2016, China established a review system to restrain regional authorities from adopting policies and practices that may impede competition. According to the authorities, since the establishment of the system, all regions and departments have reviewed new policy measures concerning the economic activities of market entities in accordance with the requirements. Which sort of economic activities have been reviewed and what are the results of the review?

Reply: In June 2016, China established and implemented a fair competition review system, which made it clear that administrative organs and organizations legally authorized with the function of managing public affairs should conduct a fair competition review when formulating regulations and normative documents concerning the economic activities of market entities, assess the impact on market competition, and prevent exclusion or restriction of market competition. The establishment and implementation of fair competition review system has effectively maintained the fair competition order in the market and effectively improved the market-oriented and legalized international business environment.

Chapter 3.1.2 Rules of origin

4. Para 3.21: According to para 3.21 "Non-preferential rules of origin are used to apply the most-favoured nation (MFN) tariff rate; ensure the origin of goods subject to anti-dumping, countervailing, and safeguard measures; ensure that import quotas and tariff quota limits are imposed on specific countries; and determine the origin of imported goods purchased by the Government." Is there a single set of non-preferential rules of origin (NPRO) that apply to all trade policy instruments (MFN tariff rate, anti-dumping, safeguard, etc.) or are there different sets of NPRO that apply to different trade policy instruments?

Reply: China has a unified set of non-preferential rules of origin. At present, there are no special rules of origin applicable to trade remedies.

5. Para 3.21: Do certificates of non-preferential origin apply on imports or on exports? Are certificates of non-preferential origin voluntary or mandatory?

Reply: The non-preferential certificate of origin is applicable to import and export and is voluntarily applied for by enterprises.

Chapter 3.1.3 Tariffs

6. Para. 3.23. What is the difference between MFN tariff rates and general tariff rates? In which cases do either of these tariff rates apply?

Reply: According to the Regulations of the People's Republic of China on Import and Export Duties, the most-favoured-nation tariff rate shall be applicable to the imported goods whose place of origin is a member of the WTO, to whom the clause of the most-favoured-nation is commonly applicable, and the imported goods whose place of origin is a country or region that has concluded with the People's Republic of China a bilateral trade agreement that contains clauses of reciprocal most-favoured-nation treatment, and the imported goods whose place of origin is within the People's Republic of China. For imported goods originating from countries or regions other than those subject to MFN tariff rate, conventional tariff rate or preferential tariff rate, as well as imported goods of unknown origin, the general tariff rate shall apply. So, there is no case where two tariff rates are applied at the same time.

Chapter 3.1.4 Other charges affecting imports

7. Para 3.39: According to paragraph 3.39 China has preferential VAT policies for several sectors. As the new WTO notification on subsidies and countervailing measures is still outstanding, could China indicate whether all or only some of the preferential VAT policies remain in place and which ones?

Reply: Please refer to the latest notification of central and local subsidies for 2019-2020 submitted by the Chinese side (G/SCM/N/372/CHN).

8. Para 3.40: Paragraph 3.40 indicates that China levies a consumption tax on a range of products. As the new WTO notification on subsidies and countervailing measures is still outstanding, could China indicate updated information regarding new preferential consumption tax rates or exemptions introduced since 2019?

Reply: Please refer to the latest notification of central and local subsidies for 2019-2020 submitted by the Chinese side (G/SCM/N/372/CHN).

Chapter 3.2.3 Export prohibitions, restrictions, and licensing

9. Para 3.80: According to paragraph 3.80 and footnote 96, China's latest WTO notification on quantitative restrictions dates back to 15 February 2019 and covers the period 2018-2020. As the Decision on notification procedures for quantitative restrictions (G/L/59/Rev.1) requires WTO members to make complete notifications of all their quantitative restrictions at two yearly intervals, could China indicate when it intends to comply with this obligation?

Reply: China has submitted an updated notification of quantitative restrictions.

Chapter 3.2.5, "Export finance, insurance and guarantees"

10. What are the reasons, from the Chinese point of view, that the International Working Group on Export Credits (IWG) was suspended? Would China agree that a resumption of the IWG negotiations would be desirable?

Reply: China has been actively participating in the consultation process of the IWG since its establishment in 2012. At the vice-ministerial meeting held in July 2020, China put forward constructive proposals on important issues such as transparency and sustainable financing proposed by other members, and made it clear that consultations on related issues could continue. Regrettably, some members have suspended the IWG's technical consultations with a "take it or leave it" attitude, ignoring the fact that consultations are a mutually supportive process. China has always firmly supported and practiced multilateralism and believes that differences between parties can be properly resolved through multilateral consultations.

"What is China's stance with regard to transparency into the terms offered in export finance transactions, a scope of coverage that would apply to both goods and services and the question of international standards for debt sustainability?"

Reply: For the three issues of transparency, the applicable scope of the rules, and debt sustainability, our stance was made clear at the vice ministerial-level meeting of the IWG convened on 10 July 2020.

In absence of a solution within the IWG, how does China intend to comply with WTO regulations in this field (the current OECD arrangement provides a safe harbor and WTO protection)?

Reply: As a WTO member, China complies with WTO rules in its export financing business, and the Export-Import Bank of China refers to the relevant provisions of the OECD "Gentlemen's Agreement" in pricing its loans.

11. Para 3.110: Quote "The authorities note that all projects operate according to market principles": what are the benchmarks used to assure that all projects operate according to market principles (e.g. benchmarking of market conditions)?

Reply: (1) The Measures for the Supervision and Administration of the Export-Import Bank of China (Order No. 3 of 2017 by CBRC) stipulates that the Export-Import Bank of China is obliged to establish market-driven operation and disciplinary mechanisms, and is set to develop into a policy financial institution with specific positioning, explicit business, conspicuous functionality, sufficient capital, standardized governance, strict internal control, secure operation, and good services. In practice, the Export-Import Bank of China implements the development requirements of modernized finance, and its operation, management and types of business are all carried out pursuant to the bank operational regularity. (2) The loan conditions will be determined for specific projects based on the market benchmark: on the basis of cost actuarial and risk quantification, with the goal of sustainable business development, linked to the market interest rate level, by comprehensively considering the comprehensive contribution of customers and various costs such as capital, risks, taxation and management expenses, etc. and predicting the trend of the interest rate and market competition, it shall be determined according to the principle of risk-return matching. (3) A loan contract is a legal document signed between a bank and its client, and it can be disclosed only with mutual consent by the two parties under the contract. For the business performance of the Export-Import Bank of China, it is advisable to refer to the annual report published on its official website.

Chapter 3.3.4.1 Competition Policy

12. Para 3.173: In 2018, the SAMR (State Administration for Market Regulation) was established as the national administrative body for regulating market-related issues, including competition. The previous functions and personnel of the NDRC, the SAIC, and MOFCOM in their respective fields of competition policy merged into the SAMR. Thus, the fragmentation of the administrative enforcement of competition policy came to an end. An Anti-Monopoly Committee was also created to organize, coordinate, and guide the anti-monopoly work across the country. The SAMR now serves as the General Office of the Committee and is responsible for its day-to-day work. What is the role of the Anti-Monopoly Committee in the daily activity of the SAMR? Does it participate to the elaboration of the SAMR's decisions? Can the decisions of the SAMR be appealed to independent administrative or judicial authorities?

Reply: According to China's Anti-monopoly Law, the Anti-Monopoly Committee of the State Council (AMCSC) is responsible for organizing, coordinating and guiding anti-monopoly work. The main duties of the AMCSC are: first, to study and formulate relevant competition policies; second, to organize investigations and assessments of the overall market competition situation and issue assessment reports; third, to formulate and issue anti-monopoly guidelines; fourth, to coordinate anti-monopoly administrative enforcement; and fifth, to perform other duties as prescribed by the State Council. The AMCSC office is set up at the State Administration for Market Regulation. According to China's Anti-monopoly Law, Administrative Litigation Law and Administrative Punishment Law, administrative counterparties who are dissatisfied with the administrative punishment imposed by the anti-monopoly enforcement agency may file administrative lawsuits against the anti-monopoly enforcement agency in court, and the AMCSC has no duty to file lawsuits.

Para 3.188: China has been active in international cooperation in the area of competition policy. Since 2018, the SAMR has signed bilateral memoranda of understanding (MOUs) on anti-monopoly cooperation with foreign competition authorities. What is the scope of these MOUs?

Reply: Since its establishment in 2018, SAMR has signed 14 cooperation documents with the EU, Russia, Belarus, Japan, Korea, Serbia and the Philippines to establish bilateral antimonopoly cooperation mechanisms. The cooperation documents mainly include: content of cooperation, method of cooperation and exchange of information. Case exchange and cooperation procedures are also specified in the special case enforcement cooperation documents.

Chapter 3.3.5 State trading, state-owned enterprises, and privatization

Para 3.123: Switzerland regrets the lack of information on subsidies and other support provided to state-owned enterprises. Due to the size of the Chinese market and the presence of large SOEs in various sectors, even small support to SOEs may have distortive effects on markets. How does China intend to improve the transparency of SOEs and potential support to SOEs?

Reply: China has no subsidy specifically for SOEs. Please refer to the subsidy notification submitted by China for its subsidy policy.

Para 3.124: We note incomplete information on so-called Government Guidance Funds. More than a dozen such funds were set up in the last few years. What is the purpose of these funds? What sort of incentives do they provide? How does China ensure these funds do not provide market-distorting subsidies?

Reply: The investment management and decision making of Government Guidance Funds (GGFs) is completely market-oriented. The government does not interfere or participate in the decision making of any investment projects of GGFs. They are established in accordance with China's Company Law and other laws, and have their own governance structure for market-oriented operation. The Chinese government does not provide subsidies to any industry through GGFs.

Para 3.196: Para 3.196 of the Secretariat's Report, indicates that China provided its last full notification on state trading enterprises in 2018, and that a new notification would be submitted before mid-July 2021. Since the new notification has not been submitted yet, could China indicate when it plans to submit it?

Reply: China has submitted the latest notification on state trading enterprises.

Para 3.196: The Chinese authorities mention that SOEs in China operate under market conditions, with no privileges granted by the government. How does China ensure that this is indeed the case? What sort of corporate governance are SOEs required to follow? How does China ensure competitive neutrality?

Reply: China has always insisted on the market-oriented reform of SOEs. The goal of the reform is to make SOEs independent market entities that operate independently, bear their own profits and losses, bear their own risks, exercise self-restraint and develop themselves. In accordance with the Company Law and other laws and regulations, SOEs have established a sound corporate governance mechanism with statutory powers and responsibilities, transparent powers and responsibilities, coordinated operation and effective checks and balances. China has fully implemented the negative list system for market access, and no additional access restrictions will be taken outside the list. The Chinese government has fully implemented the fair competition review system and cleaned up and abolished various regulations and practices that hinder the unified market and fair competition. Efforts have been made to strengthen anti-monopoly and anti-unfair competition enforcement, promote market-based allocation of land, labor, capital, technology, data and other factors, and give full play to the decisive role of the market in resource allocation. The country has implemented the three-year action plan for SOEs reform, and promoted the market-oriented reform of competitive links in key industries such as energy and railways. All these will create a fair competition environment for all types of market players.

Para. 3.200 of the Secretariat's Report: Could China provide more details on the progress that has been achieved in mixed-ownership reform?

Reply: In recent years, China has actively and steadily promoted mixed-ownership reform, carried out pilot mixed-ownership reform in important areas, and encouraged relevant enterprises to introduce private capital to optimize their shareholding structure and corporate governance structure, establish flexible, efficient, market-oriented operation mechanisms and effective incentive and restraint mechanisms, through which state capital and private capital complement each other and develop together. Up to now, more than 70% of the central SOEs have completed the mixed-ownership reform.

Para 3.200: According to the Report of the Secretariat, the Central Commission for Comprehensive Reforms approved a new proposal for "a structural plan of China's SOEs". What is the scope of and results available based on this measure?

Reply: The *Opinions on Optimizing the Layout and Restructuring of the State-owned Economy in the New Era* (hereinafter referred to as "Opinions") were issued mainly to enable the state-owned economy to better serve the national strategic goals and better adapt to the requirements of high-quality development and the new development pattern. The content of the Opinions mainly includes overall requirements, specific directions, system construction, organization and implementation of the layout optimization and restructuring of the state-owned economy. Guided by the Opinions, we have focused on promoting the strategic restructuring and integration of central SOEs and other related work. In recent years, we have completed a number of restructuring projects with large assets and far-reaching impact, involving a total of 12 central SOEs in 6 groups, such as CSSC and CSIC, Sinochem and ChemChina, etc. At the same time, China has taken the industry system reform in related fields as an opportunity to promote professional integration through asset reorganization and equity cooperation, and has reorganized large central SOEs such as PipeChina and China Satellite Communications Co. Ltd.

Para 3.201: Where do you see the reasons for the strong decrease of industrial SOEs' profits in 2019 (as stated in para. 3.201), whereas private enterprises' profits increased (as seen in Table 2.23)?

Reply: Due to weak market demand, falling prices of industrial products, rising costs and other factors, the profits of industrial enterprises declined. On the other hand, in recent years, China has gradually increased various policy preferences for small and medium-sized private enterprises, actively solved their difficulties and problems, and created a better environment for their development, so the profits of private enterprises have increased significantly.

Para 3.204: Para. 3.204 of the secretariat report states that 3 out of the 10 largest SOEs are under SASAC's supervision. What are the criteria to be supervised by SASAC? Is there any other body supervising the other 7 largest SOEs?

Reply: In accordance with the Law of the People's Republic of China on the State-Owned Assets of Enterprises, the state-owned assets supervision and administration body under the State Council and the state-owned assets supervision and administration bodies established by the local people's governments according to the provisions of the State Council shall perform the contributor's functions for state-invested enterprises on behalf of and upon the authorization of the corresponding people's government. The State Council and the local people's governments may, when necessary, authorize other departments or bodies to perform the contributor's functions for state-invested enterprises on behalf of the corresponding people's government.

3.3.6 Government Procurement

Para. 3.221: Par 3.221 states that China maintains buy-national policies according to Article 10 of the Government Procurement Law. At the same time, paragraph 3.212 indicates that the Government Procurement Law is currently under amendment and paragraph 3.229 that China and GPA Parties are engaged in the GPA accession process. Switzerland would appreciate if China could clarify how the revision of the Government Procurement Law intends to address the question of buy-national policies to make sure that the government procurement legal framework is fully aligned with the WTO GPA standards.

Reply: China will amend its government procurement law to grant non-discriminatory treatment to goods, services and suppliers of GPA participants after it completes negotiations on legal adjustments for joining the GPA.

3.3.7 Intellectual Property Rights

Switzerland wishes to congratulate China for the substantive reforms undertaken regarding intellectual property during the reporting period. We welcome in particular the strengthening of patent protection and enforcement through the introduction of instruments such as patent term extension and patent linkage, amendments of the legal framework to enhance the protection of trade secrets, as well as the revision regarding trademarks in an effort to curb bad-faith registrations, just to mention a few.

Paras 3.264 and 3.271: Paragraph 3.264 of the Secretariat report states that the amended Patent Law was expected to enter into force on 1 June 2021. Paragraph 3.271 of the same report refers to the new mechanism for the early resolution of potential pharmaceutical patent disputes. We welcome that China has decided to introduce such a linkage system, which we understand is now operational. In this context, we would kindly ask China to confirm whether the linkage system

contained in article 76 of the revised Patent Law applies from the date of entry into force of the revised Patent Law, that is, from 1 June 2021.

Reply: According to the patent law, from 1 June 2021, when a dispute arises during the process of drug market review, the parties concerned may file a lawsuit in the people's court or request an administrative ruling from the patent administration department of the State Council.

Chapter 4. Trade policies by sector

Chapter 4.1.2 Agriculture

Para 4.20: According to paragraph 4.20 and China's notification to the Market Access Committee on Quantitative Restrictions (G/MA/QR/N/CHN/5/Rev.1), a range of agricultural products, such as rice, maize, and wheat are subject to export quotas and exports of some of these products are also subject to state trading. How does China ensure that those measures do not affect the food security of importing countries?

Reply: China is a net importer of food, so the adoption of export restrictions on some agricultural products will not affect the food security of other countries.

Table 4.7: Table 4.7 shows a significant decrease in export quotas for maize, rice, and wheat flour from 2018 to 2019. What are the reasons behind this decrease and how does China ensure that this decrease does not have a negative impact on the food security of importing countries?

Reply: China is a net importer of food, so the adoption of export restrictions on some agricultural products will not affect the food security of other countries.

Chapter 4.2.2 Energy

13. Para 4.62: According to para. 4.62 China is committed to reaching the proportion of non-fossil energy consumption about 25% by 2060. In light of the August 2021 report of the Intergovernmental panel on climate change, and given China is the world's largest energy producer and consumer (para 4.56), will China review its targets and accelerate the path of the transition to renewable energy sources?

Reply: China is the largest developing member in the world, with obviously unbalanced and insufficient development. For example, its energy structure is biased towards coal, its industrial structure is biased toward heavy industries, and its level of science and technology needs to be improved. China's carbon peak and carbon neutral targets are nationally determined contributions put forward in accordance with the Paris Agreement. The targets are set after thorough research and demonstration, reflecting great ambition and requiring strenuous efforts to achieve. China will undertake extensive and profound economic and social changes to fulfill its commitments in a gradual and determined manner.

China has committed to a highly ambitious renewable energy development goal of developing more than 1.2 billion kilowatts of wind and photovoltaic power generation capacity by 2030, a figure that already exceeds the present total installed generating capacity in some countries. Currently, China ranks first in the world in total installed wind power and PV capacity, and in new installations. At the same time, China's new energy industry chain is the biggest contributor to the world's clean energy transformation. In 2020, for example, China provided more than 76% of the world's solar cells and modules, and produced 41% of the world's wind turbines.

4.3.2 Selected sectors

4.3.2.3. Iron and steel

14. Para 4.119: Paragraph 4.119 indicates that the NDRC, the MIIT and the National Bureau of Statistics have jointly asked the steel companies to submit a report on their capacity status and production changes in their facilities over the last three years. Could China indicate whether the steel industry has provided the requested information? Could China provide some information regarding the conclusions of the analysis conducted based on the data provided by the steel industry? What are the main conclusions?

Reply: The NDRC has not issued a notice requiring steel companies to provide reports on their production capacity.

According to reports of the OECD, the nominal crude steelmaking capacity of China has been increasing in the recent year. How does this capacity increase relate to China's efforts to address excess capacity in the steel industry?

Reply: During the "Thirteenth Five-Year Plan" period, China cut crude steelmaking capacity by more than 150 million tons. The capacity of new smelting projects in the steel industry must be less than or equal to that of the old facilities, and the crude steelmaking capacity in the steel industry has been effectively controlled.

Chapter 4.4.2.2.6 Cybersecurity

15. Para 4.215: "There are five levels of network security protection, escalating from Level 1 to Level 5. A network at Level 2 or above shall be filed with a public security authority at or above the prefectural level." Can any data be provided on a) the number of networks deemed to be classified on the different levels of protection, in particular level 1 as compared to levels 2-5?, and b) could some examples be provided for networks classified on different levels?

Reply: Regarding the graded information security protection system, I would like to make the following points: As information technology develops, cybersecurity situations have become more challenging and complex, so the graded information security protection system will be improved accordingly. The Cybersecurity Law of the People's Republic of China stipulates that "the state shall implement the rules for graded protection of cybersecurity." This was proposed on the basis of years of experience in graded information security protection work and in accordance with the new cybersecurity situations today. Graded protection of cybersecurity represents an improvement of graded information security protection and the former is a continuation of the latter. To implement the Cybersecurity Law of the People's Republic of China, the Ministry of Public Security, together with other relevant authorities, are now working on the Regulation of Graded Cybersecurity Protection, with a draft for comment already released. This Regulation will replace the Administrative Measures for the Graded Protection of Information Security.

Para 4.218: According to the report, "it would appear that companies in China can still apply to the Government to offer VPNs for commercial purposes." Does this possibility include the use of foreign VPN-clients or is the use of VPN limited to Chinese, government-issued VPN-clients? What "commercial purposes" are deemed eligible for the use of such VPN-clients? Does the prohibition of VPN-clients extend to private users?

Reply: Virtual private network (VPN) is a generic network communication technology. To ensure fairness and a sound market order and promote healthy development of the relevant industry, China has formulated rules for cross-border telecommunication operations mainly based on Regulation on Telecommunications of the People's Republic of China (Decree of the State Council of the People's Republic of China No. 291) and Measures on the Administration of International Communications Gateway Exchanges Procedures (Decree of the former Ministry of Information Technology No. 22). It is mainly targeted at enterprises or individuals that rent international dedicated cables or VPNs without approval from the telecommunication authorities or qualification for international communication business operation to carry out cross-border telecommunication businesses against relevant laws and regulations. Rules in this regard will not have any impact on the normal cross-border internet access of Chinese and foreign enterprises or other users for various kinds of lawful business activities. Foreign trade enterprises and transnational companies, when finding it necessary to use a dedicated cable or any other means to gain cross-border network access, shall, after obtaining approval from telecommunication authorities, rent such connections from telecommunication operators qualified for international business operation.

Report by the Chinese authorities (WT/TPR/G/415):

Para 5.11: Regarding paragraph 5.11 of the Government report, specifically patent term extension, we understand that draft documents currently under consideration envisage that imported pharmaceutical products would not be eligible to benefit from an extension of the patent term. We are aware that the framework for patent term extension has not been finalised yet, but wish to enquire how such a criterion would be compatible with TRIPS article 27 paragraph 1 that stipulates that patent rights shall be enjoyable without discrimination as to whether products are imported or locally produced. We would also kindly invite China to consider this aspect in the finalisation of this very welcome reform.

Reply: The Patent Law provides that patents for inventions related to new drugs may request a patent term extension. Since this provision is mainly to compensate for the time occupied by the marketing review and approval of new drugs, the definition of new drugs is consistent with the system of laws and regulations on drug supervision and with the practice of drug supervision and administration departments, so as to maintain the harmonization between the patent law and the drug supervision law.

Para 5.35: Para 5.35 mentions that "in 2020, China officially launched three-year action plan of SOE reform, starting a new boom in SOE reform". Could China provide some more details on the priorities set out in the three-year action plan?

Reply: The three-year action of SOE reform focuses on several key tasks: first, to improve the modern enterprise system with Chinese characteristics and form a scientific and effective corporate governance mechanism; second, to promote the optimization of the layout and restructuring of state-owned capital and improve the efficiency of state-owned capital allocation; third, to actively and steadily promote the mixed-ownership reform, and enable enterprises of all types of ownership complement each other and develop together; fourth, to stimulate the vitality of SOEs, improve their market-oriented operating mechanism and thus efficiency; fifth, to form a state-owned assets supervision system focusing on capital management, and make state-owned assets supervision more systemic, targeted and effective.

NORTH MACEDONIA

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2. Trade and Investment regime

2.3 Trade Agreements and Arrangements

Page 34, point 2.20:

The report provides: "China has been a WTO Member since 11 December 2001. At the Trade Policy Review Body, its trade policies have been reviewed seven times; the previous Review took place in July 2018. China is an observer to the Committee on Government Procurement and has been negotiating its accession to the Plurilateral Agreement on Government Procurement (GPA) since 2007. On 21 October 2019, China introduced to the parties to the Agreement its sixth revised market access offer in the context of its negotiations to join the GPA (Section 3.3.6). China is an observer to the Plurilateral Agreement on Trade in Civil Aircraft. China is also a participant in the Information Technology Agreement."

North Macedonia Question 1: What are the plans of China to apply for signatory to the Plurilateral Agreement on Trade in Civil Aircraft?

Reply: China supports the process of multilateral trade liberalization and is willing to conduct dialogues and discussions with interested WTO members under the WTO framework.

Page 34, point 2.22:

The report provides: "During the review period, China submitted various notifications to the WTO (Table A2.1). Nevertheless, some notifications, including those on state trading enterprises and domestic support, remain outstanding. According to the authorities, China is preparing new notifications."

North Macedonia Question 2: What were the main reasons for the outstanding and what is the time plan to submit the remaining and new notifications?

Reply: China has already submitted the notification on state trading. We are now trying our best to prepare for the notification on agricultural domestic support, and will submit it as soon as possible.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 75, point 3.115.

The report provides: "During the review period, China continued to provide incentives and financial support to different sectors and industries. The authorities indicate that these measures are in place to accelerate transformation and upgrading of traditional industries, foster infant industries, stimulate innovation, promote development in remote areas, enhance competitiveness of SMEs, and attract FDI. Furthermore, support was also granted with a view to protecting the environment, reducing emissions, and conserving energy. Generally, support is granted by the Central Government or local governments in the form of direct transfers and tax preferences. The authorities indicate that no incentives are granted in the form of access to credit."

North Macedonia Question 3: Is there any quantitative analysis that calculates the impact of provided incentives in different sectors and industries, especially to attract FDI? If yes, could China kindly provide further information about these analyses?

Reply: In recent years, China has made such efforts as actively promoting the policy of high-level investment liberalization and facilitation, implementing across the board *the Foreign Investment Law* and its implementation regulations, continuously lowering the threshold for foreign investors to access the market, extending the coverage of encouraged foreign investment, establishing special task forces to provide services for foreign-invested enterprises and major foreign-invested programmes, and improving the reporting mechanism for foreign-invested enterprises. In the first eight months of 2021, the foreign investment in actual use in China was USD 113.78 billion, a year-on-year increase of 27.8%. Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

3.3.6 Government Procurement

3.3.6.1 Overview

Page 99, point 3.210.

The report provides "According to data provided by the authorities, the total value of government procurement in China was CNY 3.3 trillion in 2019 (the latest year for which data were made available), accounting for 3.3% of GDP (Table 3.25). The majority of procurement takes place at the sub-Central Government level. Procurement by local entities accounted for 91.9% of China's total value of government procurement in 2019; in the same year, procurement by the Central Government accounted for 8.1%."

North Macedonia Question 4: Does data provided by the authorities on the total value of government procurement in China cover procurement conducted by SOEs under the Tendering Law?

Reply: Article 2 of the Government Procurement Law stipulates that: The term "government procurement" as mentioned in the present law refers to the procurement of goods, projects and services within the lawfully made centralized procurement lists or above the procurement limits by the state organs, public institutions and bodies with public fiscal funds. At present, SOEs are not subject to the Government Procurement Law. The data on the total value of government procurement in China does not cover procurement conducted by SOEs under the Tendering Law.

3.3.6.2 Legal and institutional framework

Page 100, point 3.211.

The report provides "There have been no major changes to China's legislative and regulatory regime concerning government procurement since the previous Review. The Government Procurement Law remains the primary legislation regulating government procurement activities.¹⁷¹ It applies to procurements of goods, services, and construction works by state organs, public institutions, and social organizations.¹⁷² The Government Procurement Law does not apply to SOEs; a large number of infrastructure projects and public utility works carried out by SOEs are therefore excluded from the scope of application of the Government Procurement Law. Furthermore, Article 4 of the Government Procurement Law provides that the construction works that fall within its definition of government procurement, i.e. those works procured by state organs, public institutions, and social organizations (and not SOEs), must follow the tendering procedures set out by the Tendering Law when tendering is used as the procurement method. In all events, such construction works must still follow other policy requirements set out by the Government Procurement Law. The Tendering Law regulates tendering procedures regardless of whether the tendering concerns a project of a government agency or an SOE. Furthermore, according to the Government Procurement Law, the Central Military Commission issues separate regulations concerning military procurement and administers their enforcement."

North Macedonia Question 5: Does China plan to integrate procurement rules in a single Procurement Law that would cover both contracting entities now covered by the Government Procurement Law and SOEs covered by the Tendering Law?

Reply: China is working to amend *the Government Procurement Law* and *the Tendering Law*, during which the coordination between the two laws will be taken into consideration according to opinions from all parties.

ISRAEL**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.1 Measures Directly Affecting Imports****3.1.5 Import prohibitions, restrictions, and licensing****3.1.5.2 Import licensing requirements****3.1.5.2.2 Non-automatic import licensing requirements**

3.51.

"In 2020, the Catalogue of Import Goods Subject to Licensing listed 118 tariff lines at the HS 10-digit level that were subject to non-automatic import licensing (compared with 139 tariff lines at the HS 10-digit level in 2017). During the review period, some used mechanical and electrical products, such as engineering machinery, electric power and electrical equipment, and textile machinery, were deleted from the Catalogue. As noted in previous Reviews, imports subject to non-automatic licences mainly include used mechanical and electronic equipment, and substances that deplete the ozone layer. The purpose of non-automatic import licensing for ozone-depleting substances is to fulfil China's obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer, and the licensing requirements with respect to used machinery are to serve social interests and to protect the environment and consumer health and security. The procedures to obtain a non-automatic import licence have remained unchanged since the previous Review.

Question 1: Please provide a list of the products which are subject to non-automatic import license requirement in order to be imported to China or provide a link to any publication in English of the abovementioned list on an official website. Reply: Please refer to the latest circular of quantitative restrictions submitted by China.

3 TRADE POLICIES AND PRACTICES BY MEASURE**3.3 Measures Affecting Production and Trade****3.3.2 Standards and other technical requirements****3.3.2.1 Overview**

3.135.

"The Plan for Deepening Standardization Reform issued by the State Council proposes that the current mandatory national, sector, and local standards will be gradually integrated into mandatory national standards; the three-level system of mandatory national, sector, and local standards concerning environmental protection, engineering, construction, and medicine and healthcare will be retained."

Question 2: it would be appreciated if China could elaborate regarding the China Standards 2035 Plan:

- a) What are the main elements of the plan?
- b) Are there any short-term measures which will be implemented prior to the launch of the plan?
- c) Will the plan include any standards which will be canceled or replaced by international standards / new set of domestic standards?
- d) When is China expected to report the measures included in the plan to the WTO TBT Committee?

Reply for a)–d): The China Standards 2035 Plan is a research programme on standardization carried out by the Chinese Academy of Engineering. It aims to evaluate the effectiveness of China's recent efforts in building the system and structure of standards, enhancing the efficacy of standardization administration, and facilitating the alignment with international standards; analyze existing deficiencies and issues; and provide, from the perspective of a research institute, comments and suggestions for informing future standardized development in China. Building on the experience of international and foreign standardization institutes, the programme strengthened communication and exchange throughout the research. The State Administration for Market Regulation (Standardization Administration) will follow WTO requirements when developing standardization policies based on relevant research results.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.6 Government procurement

3.3.6.5 COVID-19-related government procurement measures

3.227.

"To address the COVID-19 pandemic, China established "green channels" for government procurement in relation to the prevention and control of the pandemic. On 26 January 2020, the MOF circulated the Notice on Facilitating Procurement for Pandemic Prevention and Control (Cai Ban Ku No. 23, 2020) which requires that state organs, public institutions, and social groups at all levels should open "green channels" for the procurement of goods, services, and construction works for pandemic prevention and control.¹⁸⁹ The Notice also requires that sound internal control mechanisms be established and maintained for emergency procurement. On 6 February 2020, the MOF circulated the Notice on Government Procurement-related Matters during the Period of Pandemic Prevention and Control (Cai Ban Ku No. 29, 2020).¹⁹⁰ This Notice focuses on the protection of the health and safety of procurement professionals and suppliers during the pandemic and encourages the use of electronic means in government procurement.

Question 3:

- a) Israel would appreciate if China could elaborate more regarding the "green channels" for government procurement which were established to address the COVID-19 pandemic outbreak, i.e. does these channels allow for a different process of procurement? In which way? Does this apply to both domestic and imported products?
- b) Is there a list of products to which the "green channels" apply? Was the list published?
- c) Are these measures still in force?

Reply for a)–c): To address the COVID-19 pandemic, the Ministry of Finance issued the Notice on Facilitating Procurement for Pandemic Prevention and Control, establishing the "green channels" for government procurement in relation to the prevention and control of the pandemic. State institutions, public institutions, and social organizations at all levels that apply government budgetary funds to procure commodities, engineering projects, and services for pandemic prevention and control are allowed to be free from the methods and procedures stipulated in the Government Procurement Law and procure imported supplies without government approval. There is no list of products to which the "green channels" apply. The Notice on Facilitating Procurement for Pandemic Prevention and Control is still in force. Buyers who are conducting procurement activities in response to emergency needs of pandemic prevention and control shall implement the provisions of the Notice.

THAILAND**Documents Questions****WT/TPR/S/415****Para 1.42****Page 26**

Does China have any plans to spur growth in its declining services exports, such as manufacturing services and travel? If so, please elaborate those plans.

Reply: China has always supported the development of service trade. The decline in exports of traditional services such as tourism is caused by the impact of the COVID-19 pandemic and structural factors. China has formulated a series of plans to stimulate the growth of service exports. For example, it has rolled out the Asian Tourism Promotion Plan, and launched 50 best tourist city brands and 20 international tourism cooperation demonstration zone brands. It has been strengthening brand building in the tourism sector and increase market participation in the "Beautiful China" campaign.

WT/TPR/S/415**Para 2.41****Page 37**

Does China have technology transfer requirements for the receiving of investment incentives?

Reply: China's current laws and regulations do not require mandatory technology transfer for the receiving of investment incentives. We encourage Chinese companies to strengthen technological cooperation with foreign companies. It's normal for the foreign and Chinese parties to negotiate terms and conditions for cooperation. It should not be confused with mandatory technology transfer requirements.

WT/TPR/S/415**Para 3.73****Page 68**

Please provide further details on the relevant procedures and criteria used in the implementation of China's risk management system, including how enterprise's ratings are calculated, to ensure that the system works in a transparent and fair manner.

Reply: According to the risk management requirements in the Revised Kyoto Convention and the WCO Risk Management Compendium, the risk management center is the platform through which the risk management requirements of functional departments are implemented on the scene. It supports functional managements by issuing parameters, rules, and instructions to personnel on the site. It is responsible for implementing decision-making and directing on-site operations through parameters, rules, and instructions within the selection-investigation-punishment framework, and improving the integrated rapid response and emergency management mechanism of the customs. A closed-loop risk management model with information collection, risk analysis, early warning, risk disposal, and instruction evaluation as the main functions have taken shape. The model starts from collecting and integrating internal and external risk information, utilizes big data analytics, timely issues early warning based on the results of data analysis, handles risks (by issuing risk instructions and adopting differentiated disposal methods such as inspection by the on-site unit, initiation of inspection, and handing over to the anti-smuggling authority), evaluates instructions based on feedbacks from law enforcement agencies, and incorporates feedbacks and evaluation results into the risk information system to continuously improve the efficiency of risk management.

WT/TPR/S/415**Para 3.74****Page 68**

As stated in one of the GACC's measures to facilitate the import of food and agricultural products by setting up green lanes at key ports in China to provide around-the-clock clearance for foreign agri-food products on the reservation basis, please explain in detail whether there are any differences in the process and the cost between green lanes and regular lanes. In addition, please provide details of the ports in which green lanes have been set up and the procedures required to make a reservation for around-the-clock clearance.

Reply: China has opened agricultural product green lanes after consulting with relevant countries. Fresh and perishable agricultural products of which the customs requires higher levels of clearance can use the green lane. The customs (including the inspection and quarantine departments) of the two countries jointly confirm the list of commodities (HS code) eligible for green lanes. The two countries will paste the "Agricultural Product Green Lane" logo in the languages of the two countries on vehicles transporting agricultural products cross the border in accordance with the relevant requirements.

WT/TPR/S/415

Para 3.82

Page 69

China is one of the most important countries in the global supply chain and the restrictions of export of important raw materials such as rare earth can impact the world's economy. In this regard, please provide details regarding procedures and quantitative criteria used in consideration of imposing export quotas.

Reply: Since 2015, China has cancelled the export quota of raw materials such as rare earths. We recommend Thailand further verify the relevant issues.

WT/TPR/S/415

Para 3.150

Page 83

Will China be introducing more products eligible for the self-declaration assessment mechanism? If so, what are some of the products being considered?

Reply: China's latest compulsory product certification (CCC) catalogue contains a total of 17 categories and 103 products, 19 of which are eligible for self-declaration assessment mechanism. China will continue to evaluate the effectiveness of the self-declaration assessment mechanism, and adjust the scope of self-declaration assessment based on product risks.

WT/TPR/S/415

Para 3.3.3.1

Page 84

Concerning China's SPS-related laws and regulations, specifically on the Decree 248 regarding the regulation on the registration and administration of overseas producers of Imported food: 1) May China clarify the detail of the Decree? 2) Has China notified the Decree to the WTO? And 3) When the Decree will enter into force? Thailand is concerned that the adjustment of our domestic procedures may be required to comply with China's new Decree and we also need to ensure that the obligations would be adequately communicated to all private sectors so that they could prepare in advance. Therefore, Thailand would like to know if China is considering to provide a sufficient transitional period for exporting countries to prepare properly.

Reply: The safety of imported food concerns the health and life safety of citizens and is a major livelihood issue. In accordance with laws and administrative regulations, such as, *the Food Safety Law of the People's Republic of China* and *the Regulation on the Implementation of the Food Safety Law of the People's Republic of China*, China has organized the revision of regulations on the administration of safety of imported and exported food and the administration of registration of overseas imported food production enterprises. the *Measures for the Administration of Import and Export Food Safety of the People's Republic of China (Decree 249 of the General Administration of Customs)* and the *Regulations on the Registration and Administration of Overseas Producers of Imported Food (Degree 248 of the General Administration of Customs)* promulgated on 12 April 2021 will come into force on 1 January 2022. Before the promulgation, China notified the WTO in accordance with the relevant rules, accepted comments of WTO members and adopted reasonable opinions and suggestions, so it conform to relevant WTO rules. General Administration of Customs No. 248 and No.249 have been published on the official website of General Administration of Customs. Enquiries are welcome. In the near future, China will publish interpretations of the *Measures for the Administration of Import and Export Food Safety of the People's Republic of China (Decree 249 of the General Administration of Customs)* and the *Regulations on the Registration and Administration of Overseas Producers of Imported Food (Degree 248 of the General Administration of Customs)* in appropriate forms. Please keep track of our information. Decree 248 of the General Administration of Customs will not affect the

implementation of the bilateral protocol. If the relevant country (region) and China have agreed otherwise on the registration method and application materials, the agreement shall prevail.

WT/TPR/S/415**Para 3.167****Page 86**

When GACC which is responsible for inspection and quarantine as well as supervision and administration of food and cosmetics imports issued the announcement on adjusting the supervision requirements for certain imports and exports, would there be advanced notice and/or transitional period for exporting countries to go through their domestic administrative procedures?

Reply: For information on the Announcement on Adjusting the Supervision Requirements for Certain Imports and Exports, please refer to the website of the General Administration of Customs of the People's Republic of China. Thailand may access updates by visiting the website of the General Administration of Customs and following the official Weibo account "Customs Release".

WT/TPR/S/415**Para 3.169****Page 87**

Regarding China's SPS measures, notified to the SPS Committee, eight new STCs were raised in the Committee, including the STC on administrative measures for registration of overseas manufacturers of imported food. How did China respond on those STCs? Did China commit to terminate or postpone entry into force date of those measures?

Reply: The safety of imported food concerns the health and life safety of citizens and is a major livelihood issue. In accordance with laws and administrative regulations, such as, *the Food Safety Law of the People's Republic of China* and *the Regulation on the Implementation of the Food Safety Law of the People's Republic of China*, China has organized the revision of regulations on the administration of safety of imported and exported food and the administration of registration of overseas imported food production enterprises. the *Measures for the Administration of Import and Export Food Safety of the People's Republic of China (Decree 249 of the General Administration of Customs)* and the *Regulations on the Registration and Administration of Overseas Producers of Imported Food (Degree 248 of the General Administration of Customs)* promulgated on 12 April 2021 will come into force on 1 January 2022. Before the promulgation, China notified the WTO in accordance with the relevant rules, accepted comments of WTO members and adopted reasonable opinions and suggestions, so it conform to relevant WTO rules. General Administration of Customs No. 248 and No.249 have been published on the official website of General Administration of Customs. Enquiries are welcome. In the near future, China will publish interpretations of the *Measures for the Administration of Import and Export Food Safety of the People's Republic of China (Decree 249 of the General Administration of Customs)* and the *Regulations on the Registration and Administration of Overseas Producers of Imported Food (Degree 248 of the General Administration of Customs)* in appropriate forms. Please keep track of our information. Decree 248 of the General Administration of Customs will not affect the implementation of the bilateral protocol. If the relevant country (region) and China have agreed otherwise on the registration method and application materials, the agreement shall prevail.

WT/TPR/S/415**Para 3.181****Page 92**

According to the information provided that the mergers which have higher value than the threshold standard need to ask for permission from SAMR, please clarify if the AML laws mention specific timeframe for considering the approval of the mergers, and how much time the laws allow for consideration.

Reply: According to the provisions of China's Anti-Monopoly Law, the anti-monopoly law enforcement agency shall conduct a preliminary review of the declared market concentration within 30 days from the date of receipt of the relevant documents and materials submitted by the parties in compliance with the law, and notify the parties in writing of its decision regarding whether to further review them. If the law enforcement agency decides the concentration merits a further review, it shall, within 90 days from the date of the decision, complete the review and notify the merging companies in writing of its decision on whether to approval the concentration. Under any of the following circumstances, the law enforcement agency may extend the review period upon

written notification to the parties, but the maximum period shall not exceed 60 days: (i) where the parties agree to extend the review period; (ii) where any information submitted by the parties are inaccurate and need to be further verified; or (iii) significant changes have occurred to the parties after the declaration. If the law enforcement agency fails to make a decision within the time limit, the parties may carry out the concentration.

WT/TPR/S/415

Para 3.183

Page 92-93

According to the information provided that once the "simple cases" have completed the approval process, they would be published on SAMR's website for 10 days for public comment. Please clarify if the public opinions will affect the commission's consideration for the mergers.

Reply: According to the provisions of China's Interim Provisions on the Standards That Apply to Simplified Cases of Concentrations of Undertakings and Guiding Opinions on the Declaration of Concentration of Undertakings in Simple Cases, the parties can apply for a simple case for a concentration that meets the relevant criteria. The parties shall fill in the Public Disclosure of Simple Case of Undertaking Concentration ("Public Disclosure"). After the simple case is filed, the anti-monopoly law enforcement agency will publish the Public Disclosure on the website of the SAMR for a period of 10 days. During the public disclosure period, any entity or individual (third party) can submit a written opinion to the anti-monopoly authority on whether the case should be deemed a simple case. The anti-monopoly authority shall verify the opinion and evidence of third parties. If the anti-monopoly authority decides that it should not be considered as a simple case, it shall revoke the simple case identification and require the parties to re-declare the case as a non-simple case.

WT/TPR/S/415

Para 3.185

Page 93

Please elaborate and give some illustrative examples on anti-competitive measures aiming to protect locally manufactured products and other preferential measures inconsistent with the competition law.

Reply: The fair competition review system aims to maintain a unified, competitive market where economic entities of different ownership structure use production factors in accordance with the law and participate in competition on an equal footing, and are equally protected by law, and to prevent excessive and inappropriate government intervention in market such as introducing unreasonable market access restrictions. Since the implementation of the system, a total of 1.89 million policies have been abolished. Nearly 30,000 policies that violated the review standards have been revised and abolished. 857,000 new policies have been reviewed, and 4,100 policies that violated the review standards have been revised or abolished in a timely manner. These efforts have effectively promoted the development of a unified, open, effectively regulated market where market players participate in competition on an equal footing, laying a solid foundation for higher-level opening up.

WT/TPR/S/415

Para 3.185

Page 93

Could you please provide specific examples of exceptions as prescribed by the State Council Opinions on Administrative Monopoly?

Reply: The regulations and normative documents related to economic activities of market entities formulated by administrative agencies authorized by Chinese laws and regulations to manage public affairs shall be subject to fair competition review in accordance with the principle of "prohibitions + exceptions". Currently, no policies that violate the exceptions have been found.

WT/TPR/S/415

Para 3.206

Page 97

China objects to the statement contained in the Secretariat's report, stating that State-owned Enterprises (SOEs) in China operate under market conditions, with no privileges granted by the Government. Please elaborate more on this point i.e., how SOEs in China operate under market conditions and receive no privileges from the Government?

Reply: The Constitution of the PRC stipulates that SOEs have the right to operate independently within the scope provided by the law; the Company Law and the Law on the State-Owned Assets of Enterprises also stipulate that SOEs have independent legal personality and enjoy property rights as legal person. As independent market entities, Chinese SOEs follow the same legal system and have the same legal status as other enterprises. In practice, establishing the legal status of SOEs as independent market entities is an important part of China's SOE reform. After nearly 40 years of reform, Chinese SOEs have become qualified market entities that manage themselves independently and assume responsibility for their own profitability.

WT/TPR/S/415

Para 3.203 Table 3.23

Page 98

Table 3.23 contains information such as the number of enterprises, the number of SOEs and the total assets of SOEs in industrial and construction sectors, could China kindly provide this kind of information for SOEs in financial and telecommunications services sectors?

Reply: Please refer to the official websites of the relevant enterprises.

WT/TPR/S/415

Para 3.252

Page 109

What is the result of not filing a request for trademark renewal within the 12-months period before the date of expiration?

Reply: According to Article 40 of the Trademark Law, if the owner of a mark intends to continue to use the mark after the expiration of registration, it shall go through the renewal procedure in accordance with the law within twelve months before the expiration; if it fails to complete the procedure in time, a six-month grace period can be given. The validity period for each renewal of registration is ten years, calculated from the day after the expiration of the previous validity period of the trademark. If the 6-month grace period expires and the renewal procedure has not been completed, the trademark shall become invalid.

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Para 3.295

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Could China share the results after the implementation of the said IPR enforcement measures, campaigns and action plans? Do they result in the decrease of IPR infringement? If so, please provide the statistical data (if any).

Reply: In June 2020, the National Copyright Administration, the Cyberspace Administration, the Ministry of Industry and Information Technology, and the Ministry of Public Security of China jointly launched "Jianwang 2020" Campaign to step up crackdown on infringement and piracy on online audiovisual, e-commerce, social media, education and other platforms, and strengthen IPR enforcement on online literature, games, music, knowledge sharing, and other platforms. During the "Jianwang 2020" Campaign, a total of 3,329,400 infringing links were deleted, 2,884 infringing websites (APP) were closed, 724 online infringement and piracy cases were investigated, including 177 criminal cases, the amount involved of which reached 301 million yuan, and 925 online IP disputes were settled. The campaign has effectively strengthened IPR protection and enforcement on the Internet. The campaign was launched in June this year, and relevant data will be released by the end of the year.

In the "Iron Fist" Campaign in 2020, the market supervision authorities at all levels investigated 39,000 IP infringement cases. On the whole, the effectiveness of China's IP protection has been widely recognized by innovation entities across the world and the international community. In 2020, social satisfaction with IP protection continued to increase, with the satisfaction score exceeding 80 points for the first time, reaching 80.05 points. According to the 2020 Business Climate Survey released by AmCham China, 69% of the interviewed US companies in China believed that China's IP protection had improved, which was a record high. According to the Business Confidence Survey 2020 published by European Union Chamber of Commerce in China, 67% of the surveyed EU companies in China rated the effectiveness of China's IP protection laws and regulations as "excellent" or "sufficient".

China has always attached importance to intellectual property cooperation with relevant countries (regions) and international organizations, and established and expanded intellectual property information sharing mechanisms with relevant countries(regions) and international organizations. Strengthening intellectual property cooperation and exchanges is of positive significance for enhancing understanding, expanding consensus, and learning from each other.

WT/TPR/S/415**Para 4.14****Page 125-126**

According to information provided in Table 4.5, China bound rice flour as a Tariff Rate Quota under the WTO by sharing the annual in-quota quantity of this product with the short and medium grain rice and long grain rice products at 5,320,000 Tonnes. Does China have a plan to consider separating amount of rice flour quota quantities from the other rice products?

Reply: China will continue to reform and improve its tariff rate quota management measures in accordance with the relevant commitments made by China when it joined the WTO. It will also take the needs of domestic and foreign enterprises into consideration.

WT/TPR/S/415**Para 4.209****Page 169**

What are the five public service platforms? Please clarify.

Reply: According to the "5G+Industrial Internet" 512 Project Promotion Plan, relevant Chinese authorities will grasp the opportunity provided by the industrial Internet innovation and development projects to build 5G network transformation and promotion platforms within 5 industrial Internet companies, and build a 5G network test environment that meets the needs of industrial enterprises. They will provide SMEs with "5G+Industrial Internet" intranet templates, application consulting services, and R&D skill training programs, and improve their own public service capabilities.

WT/TPR/S/415**Para 4.210****Page 169-170**

What are the requirements for operators who would like to share basic telecommunications facilities? Please clarify.

Reply: Please refer to related stipulations in the Implementation Opinions on Advancing joint construction and sharing of telecommunication infrastructure 2019, issued by the Ministry of Industry and Information Technology and the State-owned Assets Supervision and Administration Commission of the State Council (correspondence between the MIIT and China Unicom [2019] No. 123).

WT/TPR/S/415**Para 4.213****Page 170**

Is there any restriction of foreign ownership in a joint venture with Chinese counterparts in China's market for cloud services. If so, please elaborate.

Reply: To provide cloud computing services requires an internet data center license, which is not yet made available to foreign companies.

WT/TPR/S/415**Para 4.225****Page 173**

Are there any different requirements between foreign e-commerce operators and Chinese e-commerce operators in order to obtain a business license?

Reply: China welcomes overseas cross-border e-commerce companies and domestic companies to take advantage of the opportunities brought by the development of the Chinese market. According to the Announcement on Matters Concerning the Supervision of Retail Imports and Exports in Cross-Border E-commerce (GACC Announcement No. 194, 2018), cross-border e-commerce

platform companies, logistics companies, payment companies, etc. who engage in cross-border e-commerce retail import shall register with the local customs in accordance with the relevant regulations of customs declaration authorities on the registration and management; and overseas cross-border e-commerce enterprises shall entrust a domestic agent to register with the customs of the agent's locality. For more information, please visit: <http://www.customs.gov.cn/customs/302249/302266/302267/2141321/index.html>

WT/TPR/S/415**Para 4.230****Page 173**

Please elaborate if the same List of Goods under Cross-Border E-Commerce (CBEC) Retail Importation is applied to all 105 CBEC pilot zones. If not, please provide specific examples. In addition, please provide details regarding criteria for the consideration of including products to the List of Goods under CBEC Retail Importation and the procedures to register for additional items to be delivered to Chinese consumers through the CBEC Retail Importation Programme.

Reply: In 2021, China extends the pilot project of CBEC retail imports to all CBEC pilot zones. According to the Notice on Cross-border E-commerce Retail Import Tax Policy, the cross-border e-commerce retail import tax policy applies to the following products imported from other countries or regions and within the scope of the List of Goods under Cross-border E-commerce Retail Importation: (i) All cross-border e-commerce retail imports that are traded on the e-commerce transaction platforms connected to the customs and whose electronic information of transaction, payment, and logistics are accessible; (ii) Cross-border e-commerce retail imports that are not traded on the e-commerce transaction platforms connected to the customs, but whose electronic information of transaction, payment, and logistics can be provided by express and postal companies, promising to bear corresponding legal responsibilities for entering the country.

WT/TPR/G/415**Para 3.8****Page 7**

Regards to China Compulsory Certificate (CCC), please elaborate on the approximate approval time per 1 request, the length of validity of the certificate and the average cost per 1 inspection. Please also explain in detail whether there are any differences in the process and cost between enterprises self-declaration and normal process.

Reply: 1. At present, according to the relevant regulations, the CCC certification agency is required to, with the active cooperation of the client, issue a certificate within 90 days of accepting the application (not including the time for rectification after a problem in the product or the manufacturer is discovered during the certification process). 2. The validity period of the certificate is five years. If it needs to be renewed, the client should submit a certification application within 90 days before the expiration of the certificate. If the last inspection result within the validity period of the certificate is "Qualified", the certification agency will directly reissue a new certificate without re-testing or inspection. 3. The inspection fee arising in the certification process is based on the number of certified products and production scale of the enterprise. Generally, the average fee for each inspection is 5,000 yuan. 4. In the case of products in the CCC catalog that are eligible for the self-declaration process, an enterprise will receive a self-declaration certificate after submitting relevant information to China's self-declaration information reporting system. There is no need to go through the CCC certification process with the designated certification agency, which means the enterprise won't have to pay the relevant inspection and evaluation fees.

WT/TPR/G/415**Para 3.26****Page 11**

What is China's expectation for joining CPTPP? What elements or provisions of the agreement does China view as significant obstacles or required substantial domestic adjustments in joining CPTPP?

Reply: China has always been an advocate for the construction of open, transparent, and mutually beneficial regional free trade arrangements, and is actively building a network of high-standard free trade zones open to the world. Applying to join the CPTPP shows China's willingness and determination to further deepen reform and open up its markets. In order to actively promote its accession to the CPTPP, China has conducted a full, in-depth and comprehensive study and

evaluation of the rules of the CPTPP, collated reform measures and revising work of laws and regulations that may be required to join the CPTPP, and made relevant technological preparations for joining the CPTPP. China is willing to make unswerving efforts to fully meet the rules and standards of the CPTPP through active reform.

WT/TPR/G/415**Para 4.12****Page 14**

In light of COVID 19 pandemic, the facilitation of China's compulsory product certification process is a great benefit to help international trade ongoing. However, after the COVID-19 pandemic, does China plan to continue using the facilitative measure on compulsory product certification process?

Reply: China will actively evaluate the CCC certification facilitative measure during the COVID-19 pandemic, and consider promoting the facilitative measure on the basis of ensuring the validity of the certification.

WT/TPR/G/415**Para 5.3****Page 21**

Are foreign start-up entrepreneurs eligible for the benefits and supportive initiatives under the innovation and platform research and development scheme? If so, what are the criteria and conditions for applying to the program?

Reply: Foreign entrepreneurs and foreign-funded enterprises in China are eligible for the benefits and supportive initiatives under the innovation and platform research and development scheme.

WT/TPR/G/415**Para 6.2****Page 22**

Given that the Trade Policy Review of China presents macro-economic development policy, in this regard, Thailand would like to ask if there are any additional specific information on policy at the provincial level such as prioritized areas, targeted industries, and international trade and investment policy?

Reply: Please refer to the official website of local governments. We also welcome specific appeals made by Thailand through bilateral channels.

HONG KONG, CHINA**QUESTIONS REGARDING THE SECRETARIAT AND GOVERNMENT REPORTS****Trade Policies and Practices by Measure****Export finance, insurance, and guarantees**
(WT/TPR/S/415: Page 74, para 3.112-3.113)

China's official export credit insurance agency is SINOSURE. It offers short-, medium-, and long-term export credit insurance, bond and guarantee facilities, and overseas investment insurance and credit information services. One of the available insurance products is small and micro enterprise easy credit insurance, which is tailor-made to meet the specific need of small and micro businesses.

Question:

1. Could China provide more details on the small and micro enterprise easy credit insurance, such as its coverage, credit limit and utilisation?

Reply: This product insures small and micro enterprises incorporated in the People's Republic of China against the commercial risks and political risks in exports. The policy sets limit of liability for a single buyer or issuing bank, which is determined by the premium rate.

Trade Policies by Sector**Financial Services**
(WT/TPR/S/415: Pages 165-166, para 4.189)

The authorities encourage financial institutions to adopt new information technologies, as a way to improve the accessibility of financial services and reduce risk through the application of big data and artificial intelligence. In 2019, the People's Bank of China (PBOC) issued the Fintech Development Plan, which lays out the basic principles, development goals, and supportive measures from 2019-21. The PBOC conducted a pilot programme in 10 different places.

Question:

2. Could China share with us more details about the key strategies or supportive measures of the Fintech Development Plan, in particular those affecting foreign-invested entities? What is the current status of the implementation of the pilot programme?

Reply: Up to now, 27 key tasks in the Plan have delivered positive results. China's financial technology is displaying vigor and vitality, and plays an important role in serving the real economy, practicing inclusive finance, and preventing and mitigating risks.

(WT/TPR/S/415: Page 166, paras 4.191-4.192)

Tech companies are required to obtain the corresponding financial licences to conduct financial services business.

There is no single comprehensive regulation that governs fintech activities. Various administrative measures on financial services apply to fintech business operators. Additionally, China has not set up a single supervisory authority for the regulation of the fintech industry. As indicated in Table 4.21, the relevant businesses of the fintech industry are subject to the supervision of the traditional regulatory authorities, depending on the characteristics of the services provided. The authorities indicated that in the fintech industry, financial innovation must be carried out on the premise of prudential supervision; supervision must be strictly implemented. All financial activities must be licensed and fully regulated in accordance with the law to avoid regulatory arbitrage. According to the authorities, all types of entities, domestic or foreign, are treated equally.

Question:

3. What factors have been taken into account when issuing financial licenses to tech companies to conduct financial services or fintech business? In view that there is neither single regulation nor single supervisory authority for the regulation of the fintech industry, we would like to know whether there is any plan to set up such regulation or supervisory authority given the growing importance of fintech activities.

Reply: First of all, the finance sector is subject to licensing management, and all financial businesses must be licensed before operation. Second, we strictly follow access rules in terms of capital

requirements, shareholder qualifications, internal control system, etc. Third, if the standards for establishing a financial holding company are met, a financial holding company shall be established in accordance with the *Trial Measures for the Supervision and Administration of Financial Holding Companies*.

Telecommunications

(WT/TPR/S/415: Page 169, paras 4.208-4.209)

In March 2020, the Ministry of Industry and Information Technology (MIIT) issued the Notice on Promoting the Accelerated Development of 5G. It provides guidance for the industry to fully promote 5G network construction, application popularization, technological development, and security assurance.

In November 2019, the MIIT issued the Plan for Advancing the 512 Program on 5G Plus Industrial Internet, a policy document to facilitate the integrated development of 5G and industrial Internet. It aims to promote the use of 5G technologies to upgrade five public service platforms by 2022.

Question:

4. Please share with us more details regarding the guidance provided under the Notice on Promoting the Accelerated Development of 5G, and the current status of the Plan for Advancing the 512 Program on 5G Plus Industrial Internet.

Reply: The Ministry of Industry and Information Technology continues to promote the implementation of industrial Internet and 5G innovative development. First, we consolidate the network foundation, and promote industrial enterprises to upgrade and transform industrial production networks using new technologies such as 5G and time-sensitive networks. Second, we improve the industrial ecology, and promote the integration and innovation of "5G + Industrial Internet" and new technologies such as artificial intelligence, edge computing, and blockchain. Third, we deepen integrated applications, and accelerate the popularization of typical applications of "5G + Industrial Internet".

E-commerce

(WT/TPR/S/415: Page 173, para 4.230)

Regarding foreign business, the E-commerce Law provides that China shall encourage cross-border e-commerce (CBEC) development. In practice, the authorities have been promoting CBEC (activities of purchasing or selling products via online shopping across national borders). On 27 April 2020, the State Council issued the Approval of the Establishment of Integrated Pilot Areas for Cross-border E-commerce in 46 Cities and Areas (Guo Han No. 47, 2020). This brought the total number of CBEC pilot zones to 105.

Question:

5. We appreciate the increase in the number of the CBEC pilot zones. What criteria would be taken into account when considering the approval for the establishment of new CBEC pilot zones? In addition to CBEC pilot zones, are there any other measures to encourage CBEC development?

Reply: Since 2015, China has approved 105 cross-border e-commerce (CBEC) pilot zones in five batches successively. In general, CBEC pilot zones have taken on increased importance, becoming a new highlight in foreign trade growth, a new channel for entrepreneurship and innovation, and a new drive for transformation and upgrading.

To encourage and support CBEC, the Ministry of Commerce has worked with relevant departments to explore innovative options, improve supporting policies, foster enabling environment, and achieve high-quality development of CBEC. The Ministry of Commerce has guided the pilot zones in establishing a policy framework centered on "six systems and two platforms." The six systems refer to information sharing, financial services, intelligent logistics, e-commerce integrity, statistics monitoring, and risk prevention and control. The two platforms include the online comprehensive service platform and the offline industrial parks. This has produced 36 mature practices of experience in 12 aspects that have been replicated and promoted nationwide.

On July 5, 2021, the General Office of the State Council released the Opinions of the State Council's General Office on Speeding Up the Development of New Business Forms and New Models of Foreign Trade, making it clear that China will improve support policies for CBEC, expand the integrated pilot zones, enhance refined service platforms such as independent CBEC sites and CBEC software, streamline the management of payment and settlement, strengthen the organization and building

of the industry and talent training, and promote the development of new forms and new models of foreign trade on a healthy, sustainable, and innovative basis.

According to the Notice on Improving the Supervision over Cross-Border E-Commerce Retail Imports (No. 486, 2018, Ministry of Commerce, the National Development and Reform Commission, and the Ministry of Finance) issued by the Ministry of Commerce and other five departments, imported commodities in CBEC retail are subject to the List of the Imported Commodities in Cross-Border E-Commerce Retail and shall comply with relevant supervision requirements. In 2021, China extends the pilot project of CBEC retail imports to all the cities (regions) that are home to pilot free trade zones, CBEC pilot zones, integrated bonded zones, demonstration zones for creative promotion of import trade, and bonded logistics center (Type B). CBEC retail imports have been assigned with tax-free quota. The tax-free limit on single transactions is 5,000 yuan, while the annual trading limit is 26,000 yuan. The temporary tariff rate on any imported commodities in CBEC retail is levied at 0%. The import value added tax and consumption tax are temporarily fixed at 70% of the statutory tax. Tariffs levied on other CBEC imported commodities are the same as that of the general trade. For details, please refer to the Import and Export Tariff.

BRAZIL**QUESTIONS REGARDING THE Secretariat Report****Page 169 (Para 4.207)**

- On 6 June 2019, the MIIT issued the Basic Telecommunication Business Operation License to three state-owned carriers (China Telecom, China Mobile, and China Unicom) and a state-owned broadcasting company (China Broadcasting Network) to approve their operation of "fifth generation digital cellular mobile communication services". As a consequence, the MIIT revised the Telecommunication Services Classification Catalogue (2015) to accommodate the new item. The 2019 revised Catalogue adds "A12-4 Fifth generation digital cellular mobile communication services" to "A12 Cellular mobile communication services" under Category A "Basic telecommunication services". The new item refers to voice, data, multimedia, and other services provided through fifth-generation (5G) digital cellular mobile communication networks. According to the authorities, by end-June 2020, more than 400,000 5G base stations had been built.

Question:

1. Can China give more information regarding its licensing framework? Can any of the licenses mentioned or any other licenses encourage the development, on the telecom market, of supply of the Open-RAN model and of the 5G standalone service architecture? If yes, how so.

Reply: Please refer to the relevant provisions of the *Regulations on Telecommunication* for information regarding the licensing framework. The openRAN technology currently receives considerable attention of the world although it is still in its infancy. China has been adhering to the principle of technology neutrality and keeping a close watch on its latest developments.

Page 169 (Paragraphs 4.208 and 4.209)

- In March 2020, the MIIT issued the Notice on Promoting the Accelerated Development of 5G. It provides guidance for the industry to fully promote 5G network construction, application popularization, technological development, and security assurance.
- In November 2019, the MIIT issued the Plan for Advancing the 512 Program on 5G Plus Industrial Internet, a policy document to facilitate the integrated development of 5G and industrial Internet. It aims to promote the use of 5G technologies to upgrade five public service platforms by 2022.

Questions:

2. Could China elaborate on the developments and results of 5G operations in the country?

Reply: Since the commercialization of 5G, Chinese regulatory authorities have guided telecommunications companies to actively carry out 5G network construction, promote the co-construction and sharing of 5G networks, and expand 5G network coverage in urban areas, counties, and towns. As of the end of August 2021, China has opened a total of more than 1.03 million 5G base stations, and has built and shared more than 500,000 5G base stations, covering all cities, over 97% of counties, and 40% of towns. The number of 5G terminal links exceeded 400 million. China's 5G application is active in innovation, which is reflected in a variety of activities such as the establishment of a 5G application industry phalanx and the "Bloom Cup" innovative 5G application competition. At present, there are more than 10,000 cases of innovative 5G application, and 5G has exerted an enabling effect in industry, medical care, education, transportation, etc.

3. Which are the five public service platforms mentioned as targets for the development policy in place?

Reply: According to the Plan for Advancing the 512 Program on 5G Plus Industrial Internet, the five public service platforms refer to the five service platforms for transforming and promoting the internal 5G network of industrial Internet enterprises by relying on the industrial Internet innovation and development program to build a network test environment that meets the needs of industrial enterprises to carry out 5G network application R&D and verification, provide small and medium-sized enterprises with a "5G+Industrial Internet" intranet construction and transformation template, carry out application consulting and R&D training, and improve public service capabilities.

Page 169 (Para 4.210)

- On facility sharing, the MIIT continues to require basic telecommunications enterprises to carry out infrastructure construction in accordance with the requirements of sharing basic telecommunications facilities or co-construction. In addition, Internet access service providers in China can provide Internet access services to users by leasing the network resources from basic telecommunications companies and wired access facilities service providers. In June 2020, China issued the Implementation Opinions on Supporting the Accelerated Development of 5G Networks Through the Co-construction and Sharing of Telecommunication Infrastructure. According to the authorities, as at end-June 2020, the sharing rate of newly built towers in China stood at 90%, which is equivalent to sharing the construction of 780,000 towers and saving a total of CNY 140 billion. As at end-2020, China's telecom operators had opened more than 330,000 shared 5G base stations.

Questions:

4. Are all companies subject to mandatory infrastructure sharing? If not, how does China define which companies are subjected to such obligations?

Reply: At present, the Chinese government does not force all companies to share telecommunications infrastructure, but only requires basic telecommunications companies to achieve joint construction and sharing through friendly consultations on the premise that they have the conditions for joint construction and sharing.

5. Infrastructure sharing is critical for the deployment of service in certain areas. Given that, can China supply additional information regarding infrastructure and spectrum sharing in their regulatory regime? How these measures can promote the deployment of 5G?

Reply: In terms of telecommunications infrastructure, while continuing to promote the co-construction and sharing of telecommunications infrastructure among basic telecommunications companies, the Chinese government actively promotes the sharing of telecommunications infrastructure and infrastructure resources such as transportation, power, and municipal services to support the large-scale deployment of 5G. Regarding spectrum sharing, first, the Ministry of Industry and Information Technology issued 5G frequency licenses (limited to indoor use) for shared use of the 3300-3400MHz frequency band to China Telecom, China Unicom, and China Radio and Television in 2019. Second, the Ministry of Industry and Information Technology is studying and formulating relevant radio management policies for basic telecom operators to carry out 5G public mobile communication network sharing and frequency sharing, and further guide basic telecom operators to improve the efficiency and comprehensive benefits of 5G frequency resources.

Page 170 (Para 4.211)

- In November 2019, in order to further improve the service quality of the telecommunications industry, China officially rolled out a mobile number portability programme, which allows mobile users to keep their phone numbers when switching to a new mobile provider.

Question:

6. Are there any plans for expanding number portability to other services, for instance to fixed telephony?

Reply: According to the *Measures for Administration of Number Portability Services*, cellular mobile communication users (excluding Internet of Things users) of basic telecom operators have been able to use number portability services since November 27, 2019. Number portability is currently unavailable for other services as the corresponding technology, market, service, etc. are not prepared for this. In the later stage, efforts will be made to actively study the feasibility of providing number portability for corporate services by comprehensively considering the market, technology, service, and other factors.

Page 170 (Para 4.212)

- There were also new developments in the framework of spectrum management. In 2019, the MIIT promulgated provisions on the management of the use of the frequencies of enhanced Machine-Type Communication (eMTC) systems, specifying the usage frequency of eMTC systems, the management requirements of base station terminals, and other content. The Ministry also issued Announcement No. 52, 2019, which defines the catalogue, radio frequency specifications, and

management requirements of micro-power short-range radio transmitting equipment, with a view to further standardizing the management of such equipment.

Question:

7. In the context of 5G, are there coverage obligations related to spectrum auctions in place or planned in the auction proceedings or any other means of granting spectrum for those services?

Reply: Currently, China allocates 5G spectrum by means of administrative license, and is studying and formulating relevant plans for implementing 5G frequency license by means of bidding. According to the *Radio Frequency Utilization Requirements and Verification Administration* issued by the Ministry of Industry and Information Technology in 2017, 5G and other public mobile communications services should meet the following frequency utilization requirements: frequency band occupancy is not less than 70%, regional coverage is not less than 60%, and the user load rate is not less than 60%.

Page 172 (Para 4.221)

- The Measures establish an interagency cybersecurity review body, which consists of members from 12 government agencies – the CAC, the NDRC, the MIIT, the Ministry of Public Security, the Ministry of National Security, MOFCOM, the Ministry of Finance, the PBOC, the SAMR, the National Radio and Television Administration, the National Administration of State Secrets Protection, and the State Cryptography Administration – and is led by the CAC. The Office of Cybersecurity Review is established in the CAC.

Question:

8. Can China elaborate more on the coordination of its several bodies in the context of cybersecurity policies and regulations? What each of the referred Agencies is responsible for in the context of cybersecurity, data protection and other security related policies? Please specify which areas they are involved in, and if they have a complementary role in that matter.

Reply: Article 4 of the Measures on Cybersecurity Review stipulates that the Cyberspace Administration of China (CAC) shall establish a national network security review mechanism in conjunction with relevant departments. The Office of Cybersecurity Review is established in the CAC and is responsible for formulating regulations and rules related to cybersecurity review and organizing cybersecurity reviews.

QUESTION REGARDING BOTH THE GOVERNMENT AND THE SECRETARIAT REPORT

We noted the absence, in both the Secretariat's and the Chinese reports, of information on support to develop, launch and produce civil aircraft. China has, however, notified two programs that explicitly benefit the aeronautical sector by the means of its most recent NFNs (G/SCM/N/372/CHN and G/SCM/N/343/CHN).

Question:

9. We would like to know the Chinese opinion on the role that subsidies play in China's aircraft manufacturing sector, particularly bearing in mind that China is a new entrant to this market. Furthermore, we would like to know the Chinese opinion on the adequacy of the current WTO rules on subsidies to effectively address the distortions of the global aeronautical sector.

Reply: Subsidy policies for the development of the civil aviation industry shall comply with the current WTO subsidy rules.

PART I: QUESTIONS REGARDING THE Secretariat Report

Page 18 (Para 1.6)

- The COVID 19 pandemic has posed an unprecedented shock to China's economy. Besides inflicting human costs, it has had a major impact on output, trade, and employment. At the beginning of 2020, economic growth fell to its lowest level in 40 years: between the last quarter of 2019 and the first quarter of 2020, growth fell by almost 13 percentage points, from 5.8% to -6.8%. Apart from financial services and information technology, all sectors were severely hit. Over 100 million workers were directly affected by the pandemic, by being put on unpaid leave in retention schemes or reduced-work programmes, exiting the labour market, or becoming unemployed. In May 2020, the Government abandoned the announcement of the

annual GDP target for the first time in more than 25 years due to factors that are difficult to predict, such as the coronavirus pandemic and uncertainties around trade.

Question:

1. According to Chinese authorities, what are the main factors that best explain the distinctive performance of the financial services sector, compared to other sectors of the economy, during the pandemic?

Reply: First, China has always regarded the services of bancassurance institutions and the support of the real economy as the starting point and goal.

Second, we paid attention to preventing and addressing stock risks, increased efforts to dispose of non-performing assets through various forms such as liquidation, write-off, and transfer, and conducted more stringent investigations on high-risk institutions to address the risks.

Third, we took forward-looking measures to prevent risks.

Page 20 (Para 1.13)

- With a view to safeguarding financial market stability and providing liquidity to the banking system during the pandemic, the PBOC expanded its relending facilities to provide targeted support to manufacturers of medical supplies and daily necessities. Furthermore, the authorities tolerated rising levels of non-performing loans in heavily impacted regions and sectors, and introduced a payment moratorium for most micro, small, and medium-sized enterprises (MSMEs) and other eligible firms until end-2021. Furthermore, the PBOC lowered various policy rates. Non-interest rate instruments deployed by the PBOC aimed to provide additional support especially to smaller firms. They included expanding relending facilities, reducing targeted reserve requirement ratios, increasing bank lending targets, expanding credit support by policy banks, subsidizing local banks' repayment moratoria, and introducing a zero-interest scheme for uncollateralized lending to MSMEs. The various measures led to a rapid increase in bank lending and had a significant positive measure on corporate bond issuance.

Questions:

2. Considering the higher tolerance level of non-performing loans in heavily impacted sectors, does the PBOC envision any program to rebalance the risks related to these loans?

Reply: The Chinese government quickly responded to the COVID-19 strikes and implemented targeted policies. Remarkable results in controlling the epidemic and stabilizing the economy have been achieved, and the quality of credit assets in the banking industry was basically stable. Considering the time lag in the reflection of non-performing loans, the financial authorities support and encourage banks to increase provision for losses on non-performing loans as well as write-off and disposal of non-performing loans in order to cope with the possible downward pressure of bank credit asset quality under the impact of the COVID-19.

3. In which sectors of the economy did the PBOC apply the policy of higher tolerance of non-performance loans?

Reply: The Chinese regulatory rules do not provide different non-performing loan ratios by economic sector.

Page 20 (Para 1.18)

China continued its efforts during the review period to further internationalize the CNY; for example, it took measures including bilateral swap agreements, the pursuit of alternatives to the SWIFT inter-bank payments system, and investment in credit rating agencies for sovereign debt. According to the authorities, China promotes the two-way opening of the capital market, facilitates foreign investors to invest in CNY assets, optimizes policies on cross-border CNY business, promotes trade and investment facilitation, and further improves the CNY internationalization infrastructure. About 70 countries now also use the CNY as reserve currency. Yet as at mid-2020, only about 2% of global payments were conducted through the CNY. It would appear that regulations on capital movements (see below) constitute a major obstacle for the further internationalization of the CNY.

Question:

4. What are, if any, the foreign partners with which the Chinese authorities are negotiating or envisioning future negotiations regarding trade in local currencies?

Reply: The People's Bank of China has signed local currency cooperation/settlement agreements with the central banks of 10 countries including Laos and Cambodia, and launched a local currency settlement (LCS) cooperation framework with the Central Bank of Indonesia. There is no negotiation or plan to start negotiations with the central banks of other countries on local currency settlement.

Page 21 (Para 1.19)

Since 2014, the PBOC has been developing a central bank digital currency, the e-CNY or e-renminbi. It is designed to be a legal tender combining digital currency and electronic payment characteristics, thus serving as cash (M0). The e-CNY is currently being tested across several regions, selected banks, and electronic payment platforms. It is expected to offer a higher degree of anonymity and lower handling charges than those of existing payment providers, higher compatibility across platforms, and, by broadening the reach of people with limited access to finance, to lead to more financial inclusion. The PBOC plans to use the e-CNY for domestic transactions initially.

Questions:

5. What is the PBOC's current assessment of the development and operation of e-CNY?

Reply: The e-CNY mainly serves as cash (M0), which will coexist with physical CNY for a long time, and is subject to centralized management and two-tier operation. The e-CNY issuance right belongs to the state. The People's Bank of China is responsible for e-CNY issuance, cancellation, inter-institutional interconnection, and wallet ecological management. At the same time, commercial banks meeting the capital and technology requirements will be selected as designated operating institutions, which work together with relevant commercial institutions to provide e-CNY exchange and circulation services to the public. These institutions currently include commercial banks, telecom operators and Internet companies.

6. What are the main challenges faced by the PBOC during the development process of e-CNY?

Reply: With the deepening development of e-CNY and financial technology, regulatory rules and laws related to legal e-CNY and e-CNY-related business rules and systems need to be improved. In addition, the e-CNY acceptance environment needs to be further optimized and requires the engagement of all sectors of society.

7. Has the project of developing a central bank digital currency (e-CNY or e-renminbi) been conceived of as an element of currency statecraft to foster the renminbi as an international currency?

Reply: Cross-border payment involves many complex issues such as monetary sovereignty, foreign exchange management policies, exchange system arrangements, and regulatory compliance requirements, and remains to be a tricky problem to be addressed by the international community. Currency internationalization is a natural market selection process. The status of international currencies is fundamentally determined by economic fundamentals and the depth, efficiency, and openness of the currency and financial markets. Digital RMB has the technical conditions for cross-border use, but it is currently mainly used for domestic retail payment.

In the future, the People's Bank of China will actively respond to the Group of Twenty (G20) and other initiatives to improve cross-border payments, and study the applicability of central bank digital currencies in cross-border fields. Based on the domestic pilot results and the needs of the international community, the People's Bank of China will explore cross-border payment pilots on the premise of fully respecting the monetary sovereignty of both parties and complying with laws and regulations, will establish legal digital currency exchange arrangements and regulatory cooperation mechanisms with relevant monetary authorities and central banks following the three requirements of "lossless", "compliance" and "interoperability", and will adhere to the two-tier operation, risk-based management requirements and modular design principles to meet the regulatory and compliance requirements of various countries.

The People's Bank of China will also continue to advance the R&D pilot work in a steady and orderly manner; further expand the coverage of pilot test application scenarios in combination with the

development plans and local characteristics of the pilot test areas; study and improve relevant systems and rules; study and formulate administrative methods related to e-CNY; strengthen the protection of personal information of e-CNY; deepen the research and evaluation of the in-depth influence of legal digital currency on monetary policy, financial system, and financial stability; and actively engage in the international exchange on legal digital currency.

Page 21 (Para 1.23)

Against the background of dampening of domestic demand and weaker exports, partly resulting from trade tensions, the authorities resorted to various stimulus measures during the review period, involving taxes, access to credit, and infrastructure investment; however, according to an OECD study, the stimulus may increase corporate sector indebtedness and, more generally, reverse progress in the deleveraging of state-owned enterprises (SOEs).

Questions:

8. What were the main consequences to the Chinese economy from the increased trade tensions with the US under the Trump administration?

Reply: Some changes have taken place in China-US relations in the past, which affected the economic and trade relations between the two countries. However, it must be noted that China and the United States share extensive common interests and continue to maintain close economic and trade ties. The impact of changes in China-US economic and trade relations on China's economic growth is generally limited. For example, in 2020, while China's total imports fell by 0.8%, imports from the United States achieved a relatively rapid growth of 9.8%; while global cross-border direct investment has fallen sharply by approximately 40%, US non-financial direct investment in China reached USD 2.3 billion, a decrease of 14.2% over the previous year and China's non-financial direct investment in the US registered USD 6.21 billion, an increase of 56.4 %.

9. As a result of the escalation of trade tensions with the US has it been seen the emergence of any different pattern of trade and FDI of China and its major foreign partners?

Reply: Direct investment by Chinese companies follows commercial and market principles and global practice and is negotiated with foreign partners on an equal footing. There's not really much of a difference in the pattern of trade and FDI of China.

Page 22 (Para 1.31)

Under the One Belt and One Road Initiative, or the Belt and Road Initiative (BRI), launched in 2013, the Government seeks to connect nearly 140 countries and regions through rail lines, pipelines, highways, ports, and other infrastructure. As at March 2021, total expenditure under the BRI amounted to USD 640 billion. According an OECD study, infrastructure projects of the BRI may have an impact on the debt burden on recipient countries. Nonetheless, the authorities do not agree with the conclusion of the study. The authorities also underline the trade-enhancing and mutually beneficiary nature of the projects.

Questions:

10. As it has been originally conceived of, does the Belt and Road Initiative (BRI) contemplate the integration of South America under its wide trade and investment connections?

Reply: China's "Belt and Road" Initiative (BRI) aims to continuously strengthen economic development cooperation with BRI countries through policy communication, facility connectivity, unimpeded trade, financial integration, and people-to-people bonds, promote the facilitation and liberalization of global trade and investment, and build together with BRI countries a community of shared interests, future, and responsibility featuring political mutual trust, economic integration, and cultural inclusiveness.

11. If so, what are the main areas of cooperation with South America seen as strategically important for the BRI?

Reply: The BRI is an economic cooperation initiative, not a geostrategic concept. It always adheres to the principle of achieving shared growth through discussion and collaboration, upholds the concept of openness, greenness, and integrity, follows international rules and national laws, pursues environmental protection and sustainability, and is committed to jointly building high-quality, high-standard projects.

12. More specifically, does MERCOSUR play any important role under the strategic alliance of the BRI with South America?

Reply: As developing countries, China and MERCOSUR member states go through similar development stages, and face similar development challenges and governance dilemmas. In recent years, some MERCOSUR member states including Chile, Peru, Ecuador, and Uruguay have signed the "Belt and Road" cooperation documents with China. It is believed that in the future, the MERCOSUR will help promote in-depth cooperation between member states and China in infrastructure, logistics and transportation, and economic and trade under the framework of the "Belt and Road Initiative", and play a significant role in achieving mutual benefit and win-win results for the Chinese and Latin American people.

Page 35 (Para 2.29)

On 15 November 2020, China and 14 other countries signed the Regional Comprehensive Economic Partnership (RCEP) Agreement. The Agreement has provisions on trade in goods; rules of origin; customs procedures and trade facilitation; sanitary and phytosanitary measures; standards, technical regulations, and conformity assessment procedures; trade remedies; trade in services; temporary movement of natural persons; investment; intellectual property; e-commerce; competition; small and medium-sized enterprises (SMEs); economic and technical cooperation; government procurement; institutional provisions; and dispute settlement. It has four market access annexes (schedules of tariff commitments, schedules of specific commitments for services, schedules of reservations and non-conforming measures for services and investment, and schedules of specific commitments on temporary movement of natural persons). In general, tariffs on 90% of tariff lines will be eliminated; regarding trade in services, some participating signatories made commitments in over 100 sectors/subsectors. In addition, participating countries adopt a negative list approach to make commitments on investment in non-services sectors. The RCEP Agreement will take effect 60 days after its ratification by at least six Association of Southeast Asian Nations (ASEAN) and three non-ASEAN signatories.

Questions:

13. What are the main results expected to the Chinese economy from its participation in the RCEP Agreement?
14. Which Chinese economic sectors/products are likely to gain/lose consequent upon its entry into the RCEP Agreement?

Reply to Question 13 and 14: The RCEP Agreement will significantly improve the overall business environment in the region, further enhance the trade creation effect, strengthen the division of labor and cooperation between the members, propel the expansion and upgrading of the consumer market, and promote the in-depth integration of the industry chains, supply chains and value chains in the region. After the RCEP Agreement takes effect, more than 90% of the goods trade in the region will eventually achieve zero tariffs, and the regional cumulation rule will greatly lower the threshold for tariff preferences. The high-level trade in service and investment opening-up commitments made by the members will further unleash the potential of cooperation.

Page 36 (Para 2.33)

On 15 January 2020, China and the United States signed the China-United States Phase 1 Economic and Trade Agreement. It contains provisions related to, inter alia, intellectual property, technology transfer, trade in food and agricultural products, and financial services.

Questions:

15. What are the main results so far from the Phase 1 agreement with the US to the Chinese economy?

Reply: The China-US economic and trade agreement on the basis of equality and mutual respect is beneficial to both countries and the whole world. Since the agreement came into effect, the two sides have communicated smoothly at all levels, jointly and steadily promoted the implementation of the agreement, and maintained a good working relationship. In terms of optimizing the business environment, China has made positive progress in intellectual property protection, expanding access to agricultural products and food, and opening up financial markets in accordance with the needs of domestic reform and opening up. In terms of expanding procurement from the United States, China has carried out exclusions for market-based procurement with additional duties to facilitate

enterprises' trade. Chinese companies have carried out procurement from the United States in accordance with WTO rules and principles of marketization and commercialization, and achieved good results. In 2020, China's imports from the United States totaled approximately USD 134.9 billion. Since 2021, China's procurement from the United States has shown rapid growth.

16. Overall, is this agreement seen as beneficial or detrimental to the bilateral trade relationship with the US both in a short-term and a long-term perspective?

Reply: After the China-U.S. economic and trade agreement was reached, China and the U.S. settled the conflicts and maintained a relatively stable relationship for a certain period of time. Global investment, trade, and financial markets continue to recover. International organizations have raised their economic growth expectations. Multilateral platforms such as the Group of Twenty have positively evaluated that the agreement has injected positive energy into the stable growth of the global economy. After the unexpected COVID-19 outbreak, the political atmosphere and market conditions have changed significantly, which brought difficulties and challenges to the implementation of the agreement. Despite the challenges, China persisted in promoting reform and opening up, steadily promoted the implementation of the agreement, advanced bilateral economic and trade cooperation, stabilized market expectations, enhanced corporate confidence, and maintained the relative stability of the China-US economic and trade field. The U.S. has given positive comments on the progress of the agreement on many public occasions. The U.S. business community has repeatedly sent letters to the leaders of China and the United States to express their affirmation and support for the agreement. The economic and trade teams of both sides maintained good exchanges, making the agreement one of the few communication platforms to maintain China-US relations. It can be said that the China-US economic and trade agreement is conducive to stabilizing China-US economic and trade relations and injecting stability into global economic and trade development.

Page 94 (Para 3.188)

China has been active in international cooperation in the area of competition policy. By mid-2020, China signed 53 international anti-monopoly cooperation documents with 32 countries and regions and established bilateral and multilateral anti-monopoly cooperation mechanisms. Since its establishment in 2018, the SAMR has signed bilateral memoranda of understanding (MOUs) on anti-monopoly cooperation with the competition authorities of the European Union, Japan, the Republic of Korea, Serbia, Belarus, the Philippines, and Morocco. China and the Russian Federation renewed their MOU on the Implementation of the Agreement on Cooperation and Exchanges in Anti-monopoly and Anti-Unfair Competition (2020-21). The SAMR extended the MOU on Cooperation with BRICS Countries in the Field of Competition Laws and Policies. China actively participated in the BRICS Competition Conference and furthered cooperation with BRICS countries in competition policy. China also carried out cooperation and coordination in many merger and monopoly agreement cases with its trade partners such as Canada, the European Union, Germany, India, the United States, the Russian Federation, and South Africa. China also participated in the United Nations Conference on Trade and Development (UNCTAD) activities in the area of competition and consumer protection.

Questions:

17. What are the main goals envisaged by the Chinese authorities under the strategic cooperation with the BRICS countries?

Reply: Over the past more than ten years, the trade and investment cooperation among the BRICS countries has been continuously deepened, and their economic and trade ties have developed rapidly. First, the BRICS countries have seen closer economic and trade ties. In 2020, the combined GDP of the BRICS economies accounted for 23% of the world total, compared with 12% when the BRIC was formalized in 2006, and their share in global trade in goods increased from 12% to 18%. Second, the BRICS countries have seen productive outcomes of their cooperation. In 2013, President Xi Jinping proposed the vision of "integrated market" for the BRICS, pointing the way for cooperation and development of developing countries. In 2017, China hosted the Ninth BRICS Leaders' Summit in Xiamen, and the leaders of the five countries witnessed the signing of the BRICS Action Agenda on Economic and Trade Cooperation, ushering in a new era of BRICS economic cooperation and trade. At the 12th BRICS Leaders' Summit in November 2020, the Strategy for BRICS Economic Partnership 2025 was adopted, which maps out the roadmap for BRICS cooperation in the next five years.

18. What are the main economic and financial projects being currently undertaken by means of the cooperation with the BRICS countries, within and beyond member countries territories?

Reply: First, Great Wall Motor Company Limited signed an investment agreement with the Russian side in May 2014. The Tula project was started in September 2015, and the factory was put into operation in June 2019. The construction of the engine plant was started in April 2021 and is expected to be completed in 2022. Second, the Haier Russia Industrial Park project was launched by Haier Smart Home in January 2019, with a total capacity of more than three million home appliances such as refrigerators, freezers, washing machines, TVs, water heaters and kitchen appliances. Up to date, the refrigerator and washing machine plants have been in operation.

Page 149 (Para 4.101)

China is the largest automobile market worldwide, both in terms of demand and supply. According to the results of the national survey of industries above a certain scale, the production volume of automobiles in 2018 and 2019 was around 27.8 million and 25.7 million, respectively.

Questions:

19. Has the heavy blow inflicted to the Chinese car industry during the COVID-19 pandemic been at least in part the result of a shortage of semiconductors worldwide along its value chain?

Reply: From January to August this year, China's automobile production and sales showed a growth trend year-on-year, and the overall development of the automobile industry was sound.

20. If so, how have the Chinese authorities reacted to this seemingly inherent fragility of its automotive industry in terms of industrial policy measures?

Reply: China established a working group for the promotion and application of automotive semiconductors, organized a number of work coordination meetings, gave full play to the strength of local governments, vehicle companies and chip companies, strengthened supply and demand matching and work coordination, promoted the improvement of automotive chip supply capabilities, and strived to minimize the impact. In the next step, we will continue to play the role of special classes, strengthen operation monitoring, analysis, and judgment, coordinate and solve related problems in a timely manner, and support enterprises to find alternative solutions through the enterprise measures implemented by China. We will guide enterprises to optimize the layout of the supply chain, improve the supply capacity of automotive chips, and fundamentally improve the stability of the supply chain.

Page 153 (Para 4.123)

The 2014 Guidelines for Promoting the Development of the National Integrated Circuit Industry set specific targets to develop China's IC and semiconductor industry. It identified the goals of raising the industry's revenue to over CNY 350 billion by 2015, and achieving an annual rate of revenue growth of over 20% by 2020. Priority tasks include the establishment of the National Leading Group for the Development of Integrated Circuit Industry, the initiation of the National Integrated Circuit Industry Investment Fund, and the promotion of safe and reliable hardware and software.

Questions:

21. What are the main fragilities of the Chinese semiconductor industry, if any, in terms of production shortages and technology gaps?
22. Has China suffered from any significant disruption in the supply chain of semiconductors during and in the aftermath of the COVID-19 pandemic?
23. If so, which policies have been implemented to counter this problem?

Reply to Questions 21-23: There is a certain technological gap between China's integrated circuit industry and other countries. At the beginning of 2020, the COVID-19 epidemic has had a certain impact on the production of companies in various industries, including the integrated circuit industry. The Chinese government has adopted effective anti-epidemic measures to help companies including integrated circuit companies resume work and production.

Page 156 (Para 4.136)

State-owned banks are among the major players in China's financial sector. Large banks in the system (e.g. the Big Six state-owned commercial banks and the three policy banks) and most other financial institutions (e.g. credit cooperatives, non-bank financial companies, and insurance

companies) are either directly state-owned or owned by other SOEs. In a report to the NPC, the State Council indicated that total assets of state-owned financial institutions at end-2017 was CNY 241 trillion, which represented 88% of the total.

Question:

24. What are, if any, the most significant actions taken by the Chinese authorities to reduce the State participation in the financial sector?

Reply: Financial institutions have always made independent decisions and operated independently in the Chinese market in accordance with market-oriented and law-based principles. Let's take the six large state-owned commercial banks in China for an example. Although the six banks are controlled by the state, they have been listed in either the A-share or the H-share market. Their operation and management need to fully perform relevant corporate governance procedures, and they should operate in a market-oriented manner in accordance with the principle of commercial sustainability, and accept the supervision of shareholders and other stakeholders.

In terms of the securities business, the Chinese government respects the market rules, and steadily implements the reform of the stock issuance registration system step by step. The Chinese government launched a science and technology innovation board at the Shanghai Stock Exchange and experimented with a registration system for listed companies in June 2019, and kicked off the pilot of registration-based IPO system on the ChiNext stock market in June 2020. In the next step, based on the pilots, the registration system will be implemented across the markets after further evaluation.

Page 157 (Para 4.143)

The new structure follows an integrated type of supervisory model. The Financial Stability and Development Committee (FSDC), established in November 2017, is a financial regulatory body under the auspices of the State Council and headed by a Vice Premier, which is higher ranked than the ministry-level heads of the other financial regulators. The FSDC is tasked with, inter alia, implementing the decisions and plans of the State Council regarding the financial sector; deliberating major reform and development programmes for the financial sector; coordinating financial reform, development and regulation, issues concerning monetary policy and financial regulation, and major issues concerning financial regulation; analysing international and domestic financial situations, addressing international financial risks, and conducting policy research on systemic risk prevention and treatment to maintain financial stability; and guiding local financial reform, development, and supervision of the duty performance of local financial regulatory authorities and governments. During the review period, a new supervisory arrangement was adopted, combining the oversight structure of banking and insurance to form one single regulator, the CBIRC. The CBIRC was established in April 2018, as a result of a merger of the CBRC and China Insurance Regulatory Commission (CIRC).

Questions:

25. Can the Chinese authorities confirm the understanding that the FSDC is headed by a higher rank authority than the PBOC?

Reply: The FSDC under the State Council is a deliberation and coordination body of the State Council for overall planning and coordination of major issues of financial stability, reform and development. The FSDC is headed by the Vice Premier of the State Council in charge of financial affairs, and the President of the PBOC is the deputy head of this committee. As a member the FSDC, the PBOC undertakes the duties of the Office of the FSDC and is responsible for handling the daily affairs of the committee.

26. Considering the tasks of the FSDC, how does it interact with the PBOC when dealing with financial regulation and monetary policy issues?

Reply: Since its establishment, the FSDC has actively played a leading role in planning financial reform, development and regulation as a whole, coordinating matters related to monetary policy and financial regulation, and coordinating and planning major matters of financial regulation, and has actively promoted finance's serving the real economy, prevention of financial risks, the deepening of financial reforms. As the Office and a member of the FSDC, the PBOC timely submits the major issues and matters involved in the performance of its duties to the FSDC for research and deliberation, and earnestly implement them according to the decisions and arrangements of the FSDC.

Page 165 (Para 4.185)

Measures were taken during the review period to promote the internationalization of the CNY – among them, the recent reforms of the QFII/RQFII status (as described in Section 4.4.1.3.4.1) to further facilitate qualified overseas investors to invest in China's capital market. In 2019, the PBOC reformed the procedures for foreign Central Banks to have better access to China's interbank market.

Questions:

27. Can the Chinese authorities detail the reforms carried out by the PBOC to allow other countries' Central Banks to have better access to China's interbank market?
28. What are, if any, the most recent data regarding the result of these reforms?

Reply to questions 27-28: In terms of entering the inter-bank bond market, the PBOC has, together with relevant departments, simplified the market entry procedures and materials of overseas central bank institutions, and reduced the time limit for its handling of each market entry procedures to less than 30 days. On this basis, the PBOC has updated the Operational Procedures for Overseas Central Bank Institutions to Enter China's Interbank Inter-bank Market (the Procedures) and frequently asked questions (Q&A), and opened a column on its official website to publish the Chinese and English versions.

In terms of entering the inter-bank foreign exchange market, there are three ways for overseas central bank institutions to enter China's foreign exchange market: through the agency of the PBOC, through the agency of members of China's inter-bank foreign exchange market, and directly becoming overseas members of China's inter-bank foreign exchange market. Overseas central bank institutions can independently choose one or more ways to enter China's inter-bank foreign exchange market and carry out foreign exchange spot, forward, swap and option transactions without lines of limit.

Page 165 (Para 4.188)

Regarding the necessary infrastructure for CNY internationalization, on 2 May 2018, the CNY Cross-border Interbank Payment System (Phase II) was established. According to the authorities, it improved the settlement mode, extended the system's external service hours, lengthened the list of direct participants, and further improved the application system design.

Question:

29. How did the CNY Cross-border Interbank Payment System (Phase II) improve the settlement mode and the application system design?

Reply: The following optimization has been made to the design of the settlement mechanism and the application system of the CIPS (Phase II). In terms of operation time, 5x12 hours has been extended to 5x24 hours + 4 hours, fully covering the financial markets in all time zones around the world and supporting daily settlement. In terms of business functions, first, it supports the Delivery Versus Payment (DVP) system, Payment Versus Payment (PVP) between CNY and foreign currencies, centralized central counterparty clearing and other businesses to meet the business needs of different financial markets. Second, a hybrid settlement mechanism of Real-time Gross Settlement (RTGS) and Deferred Net Settlement (DNS) is adopted to meet the differentiated needs of participants for liquidity management. In terms of the message standard, the internationally used ISO 20022 is adopted as the message standard.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORTPage 4 (Para 2.1)

In 1978, China made its historic decision of reform and opening up. After more than 40 years of reform and opening up, China has embarked on a new journey towards fully building a modern socialist country. China aims to coordinate the overall great rejuvenation strategy of the Chinese nation and the profound changes unseen in the world for a century. China draws up the Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035, and embarks on a new journey towards the second centenary goal, which marks that China has entered into a new development stage. China's economy has shifted from a stage of high-speed growth to a stage of high-quality development. The basic national condition that China is still in the primary stage of socialism and will remain so for a long time has not changed. China's international status as the world's largest developing country has not changed.

Question:

1. What are, according to the Chinese authorities, the main differences between the previous stage of high-speed growth and the current stage of high-quality development?

Reply: The original growth model in China that mainly relies on factor investment, external demand driver, investment driver and scale expansion, has been restricted increasingly. There is an urgent demand for changing development model, optimizing economic structure and transforming growth momentum. The characteristics of high-quality development phase include: First, the economic growth gradually decreases from the original high-speed growth of approximately 9% to the growth of approximately 6%; second, the growth model must be changed to pursuing high-quality and high-efficiency, and continuously improving added value and competitiveness of products and market, so as to promote structure optimization and quality improvement through balanced development; third, the market-oriented reform must be stuck to, the decisive role of market in allocating resource shall be fully utilized so as to improve the allocation efficiency of social resources, the overall competitiveness of economy, and the sustainability of economic growth.

Page 7 (Para 3.4)

On 4 November 2020, China set up ten demonstration zones on import promotion, including Shanghai Hongqiao Central Business District and Jinpu New Area in Dalian, Liaoning, covering the eastern, central, western regions as well as the old industrial base in Northeast China. These zones include sea, land and air ports, reflecting the dynamism and potential of China's import. The demonstration zones are designed to play an important role in four aspects. First, facilitating import and tapping import potential through innovation and reduction of institutional costs. Second, expanding the import of technical equipment and raw materials and promoting the deep integration of imports and industries. Third, increasing the supply of domestic high-quality goods, and leading and creating domestic demand with high-quality supply. Fourth, focusing on the import distribution centres as conditions permit and giving play to the exemplary role of the centres to surrounding areas.

Questions:

1. What are the goods covered in the "demonstration zones on import promotion" program?

Reply: The two functions of the national demonstration zones on import promotion and innovation are "trade promotion" and "trade innovation". The essence is to encourage each demonstration zone to give full play to its regional and industrial advantages and cultivate high-quality and efficient import platforms, which are not limited to specific goods.

2. What is, if any, the preliminary assessment regarding the performance of these zones in import promotion?

Reply: Since the establishment of the national demonstration zones on import promotion and innovation, the demonstration zones have made full use of the markets and resources both at home and abroad in adjusting measures to local conditions, carrying out policy innovation and strengthening the efforts on cultivation, and preliminary results have been made in promoting imports, serving industries and unblocking both domestic and international circulations.

Page 8 (Para 3.10)

In August 2020, China issued the Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services to promote the transformation, upgrading and high-quality development of foreign trade. According to the Plan, Beijing, Tianjin, Shanghai and other 25 provinces/cities/regions are designated as pilot zones, which will comprehensively explore eight pilot tasks within the three-year pilot period. In the key areas of services trade under full competition or limited competition, and competitive elements of services trade under natural monopoly, China promoted the cancellation or relaxation of restrictions on services trade, guided by the principles of full removal, substantial relaxation and orderly liberalization correspondingly.

Questions:

3. What are the eight pilot tasks that are being explored in the "Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services"?

Reply: The eight pilot tasks put forward in the Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services include the pursuit of improving the management

mechanism, opening wider to the outside world, enhancing facilitation, innovating development modes, improving the promotion system, optimizing the policy system, improving the regulatory mode and improving the statistical system from an overall perspective.

4. What are, if applicable, the main aspects of the program that are related to financial services?

Reply: According to the Pilot Programme of the Innovative Development of Trade in Services and the Tasks, Specific Measures and Division of Responsibilities for Pilots of the Innovative Development of Trade in Services printed issued together with the document, the work related to banking and insurance mainly includes implementing the reform of administrative license examination and approval in the pilot areas, supporting medical institutions to strengthen cooperation with domestic and foreign insurance companies, exploring the participation of commercial insurance in the construction of basic medical and elderly care service systems, supporting international cooperation in the development of cross-border commercial medical insurance products, promoting overseas talents to practice in China, and innovating intellectual property and financial services, etc.

Page 11 (Para 3.26)

China continues enhancing liberalization of trade and investment with its trading partners. In October 2019, the Agreement on Trade and Economic Cooperation between China and Eurasian Economic Union came into effect. In December 2020, the leaders of China and Europe jointly announced the conclusion of negotiations on China-EU Comprehensive Agreement on Investment. Review and translation of the texts are now in process, with a view to signing the Agreement and bringing it into effect promptly. In the meantime, China favorably considers joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and has made informal contacts with relevant CPTPP signatories.

Questions:

5. What are the main benefits envisaged by the Chinese authorities from joining the CPTPP?
6. What are the main expected gains to the Chinese economy in terms of economic sectors/products from joining the CPTPP?

Reply to Question 6-7: China is a staunch advocate of free trade. It has been calling for open, transparent and mutually beneficial regional free trade arrangements and is committed to building a high-level network of free trade zones. China has applied to join the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), which will not only help further deepen reform and push forward high-level opening-up but also inject new vitality into the economic and trade ties between China and other members and the regional economic integration process.

Page 15 (Para 4.23)

China values and supports the e-commerce related work in the WTO. China has actively participated in relevant discussions, submitted concrete proposals, and joined the "Friends of E-Commerce for Development". In January 2019, China, together with other 75 WTO Members, confirmed their intention to commence WTO negotiations on trade-related aspects of e-commerce. Since then, China has submitted four proposals, pushing the negotiations forward together with other participants. China also supports the work related to services domestic regulation within the WTO framework. In December 2017, 59 Members, including China, announced the initiation of the plurilateral negotiation on services domestic regulation. The negotiation has made substantial progress following three years of intensive consultations.

Question:

7. What are the main factors guiding the Chinese proposals on trade-related aspects of e-commerce?

Reply: Adhering to the principles of openness, transparency and inclusiveness, China's e-commerce proposal emphasizes on the development dimension with full respect for the regulatory rights of Members, and focuses on cross-border trade in goods enabled by the Internet, as well as on such related services as payment and logistics services. China's proposal puts forward negotiation suggestions from the following aspects: first, clarifying the connotation of e-commerce and the application scope of rules; second, establishing a standardized and convenient trading environment

for e-commerce; third, creating a safe and credible market environment for e-commerce; fourth, carrying out pragmatic and inclusive development cooperation.

Page 17 (Para 4.33)

China contributes constructively to the economic and trade cooperation of the BRICS countries. With other members, China actively facilitated the release of the joint communiqués of Meetings of BRICS Trade Ministers from 2018 to 2020. The BRICS trade ministers reached consensus on supporting the multilateral trading system; opposing unilateralism and protectionism; promoting the Model E-Port Network; and making progress in terms of trade and investment facilitation, e-commerce, services trade, intellectual property rights, technical specifications and standardization, and MSMEs. These documents laid solid foundation for the BRICS leaders to deliver economic and trade outcomes. Since the outbreak of the pandemic, the BRICS countries have reached consensus on wide-ranging issues. In the field of economic cooperation and trade, the BRICS countries decided to strengthen the coordination of combating COVID-19, and jointly safeguard the stability of the industrial chains and supply chains. This sends a strong message to the world that the BRICS countries are resolute in joining hands and rising to the external challenges. The Strategy for BRICS Economic Partnership 2025 adopted at the 12th BRICS summit maps out the key areas of economic and trade cooperation and the way forward for the next five years.

Questions:

8. What are the main goals envisaged by the Chinese authorities under the strategic cooperation with the BRICS countries?
9. What are the main economic and financial projects being currently undertaken by means of the cooperation with the BRICS countries in their member countries territories?

Reply to Question 9-10: In 2009, the leaders of the BRICS countries held their first summit in Russia. To date, 13 summits and nine informal meetings have been convened. A multi-tiered practical cooperation framework led by the leaders' summit plus the ministerial meetings has taken shape, covering a number of fields such as economy and trade, finance, science and technology, agriculture, culture, education, health, think tanks, and sister cities.

Page 18 (Para 4.23)

China values and supports the e-commerce related work in the WTO. China has actively participated in relevant discussions, submitted concrete proposals, and joined the "Friends of E-Commerce for Development". In January 2019, China, together with other 75 WTO Members, confirmed their intention to commence WTO negotiations on trade-related aspects of e-commerce. Since then, China has submitted four proposals, pushing the negotiations forward together with other participants. China also supports the work related to services domestic regulation within the WTO framework. In December 2017, 59 Members, including China, announced the initiation of the plurilateral negotiation on services domestic regulation. The negotiation has made substantial progress following three years of intensive consultations.

Questions:

10. What are the main characteristics of the Digital Silk Road and the Green Silk Road?

Reply: Guided by the ecological progress and green development concepts, the Green Silk Road aims to embed the principles of resource conservation and environmental protection in every dimension and phase of the Belt and Road Initiative to promote greener policy, infrastructure, trade, financial and people-to-people connectivity. After eight years of effort, cooperation in ecological progress has become an essential part of Belt and Road cooperation, bringing great benefits to the people along the Belt and Road. At the Boao Forum for Asia in April 2021, President Xi Jinping called for a closer partnership for green development, stressing that we could strengthen cooperation on green infrastructure, green energy and green finance, and improve the BRI International Green Development Coalition, the Green Investment Principles for the Belt and Road Development, and other multilateral cooperation platforms to make green a defining feature of Belt and Road cooperation. This highlights the direction and key areas of the Green Silk Road.

11. What is the current state of the Digital Silk Road and the Green Silk Road?

Reply: First, a closer partnership for green development is in the making. The BRI International Green Development Coalition is now composed of more than 150 partners from over 40 countries. A series of dialog and exchange events such as policy research conferences and the Belt and Road

Green Innovation Conference have been held to promote global consensus on green development. Second, the green and low-carbon investment concept has taken root. In recent years, China's investments in renewable energy project in Belt and Road countries have continued to grow, and a batch of clean energy projects have been implemented. Third, support and services for ecological conservation and environmental protection have been strengthened. Special meetings and joint research on key topics such as climate change and biodiversity conservation have been carried out, and a series of research reports including the Green Development Guidelines for Belt and Road Projects and the Research Report on Belt and Road Carbon Market Mechanisms have been released. Fourth, the joint capacity building for environmental governance has been continuously enhanced. The South-South cooperation on climate change plan has been implemented, and 40 cooperation agreements on climate change have been signed with 35 developing countries to help them improve their capacity for climate change response.

12. What are the main features of green finance cooperation in the Green Silk Road?

Reply: First, the top-level design has been strengthened. In 2016, China released the Guidelines for Establishing the Green Financial System in a bid to encourage and support financial institutions to strengthen environmental risk management in Belt and Road projects and other investment projects. In 2017, China issued the Guidance on Promoting Green Belt and Road, which reiterates the importance of strengthening environment management in outbound investments and promoting the development of the green financial system. Second, the Belt and Road Green Investment Principles has been promoted and applied on a wider scale. It was co-initiated by the Green Finance Committee of China Society for Finance and Banking and the City of London Corporation's Green Finance Initiative, and global financial institutions and enterprises engaging in Belt and Road investments can sign up to it voluntarily.

Page 26 (Para 6.1)

Currently, the global industrial chains and supply chains are hampered, trade and investment activities remain sluggish, and the momentum of global economic recovery is rather unstable. Facing the harsh and complicated international situation and the arduous tasks of domestic reform, development, and stability, especially under the severe impact of COVID-19, China will uphold its belief in openness, cooperation, and unity for achieving win-win outcome, stay committed to expanding all-round opening up and exploring more efficient ways to connect domestic and foreign markets, and share production factors and resources. The aim is to turn the market of China into a market for the world, a market shared by all, and a market accessible by all and bring more positive energy to the international community. China is committed to promoting mutual opening up featuring shared benefits, shared responsibilities, and shared governance and building an open world economy.

Questions:

13. What are the main global/regional industrial chains in terms of economic sectors/products in which the Chinese economy takes part?

Reply: China is a powerhouse in both manufacturing and trade, with its economic sectors deeply integrated in global industry chains and supply chains. Resource products, agricultural products and consumer products take a lion's share in its imports. As an important trading partner of the ASEAN, EU, US, Japan and South Korea, China connects the downstream and upstream of the global value chains and plays a vital role in aligning supply and demand and in keeping the global industry chains and supply chains stable and open. In the future, China will push forward high-level opening-up, further improve the quality of economic development, continuously modernize its industry chains and supply chains, and share development opportunities with other parts of the world, thus giving fresh impetus to the global industry chains and value chains.

14. What is the relative position of the Chinese firms in these global/regional industrial chains in terms of backward and forward linkages?
15. How has this relative position of Chinese firms in global/regional industrial chains in terms of backward and forward linkages been evolving over time?

Reply to 15-16: In the global industrial chain, China, the United States and Germany are the three production centers that deeply participate in the global industrial chain and drive the development of the production clusters in Asia, North America and Europe. Most industries and products in China are located near the downstream of the global industrial chain, closer to the final consumer market. With forward participation in the global industrial chain increasing steadily since 2008, China is playing the role as a key "hub" in the global industrial chain.

JAPAN**Report by the Government (WT/TPR/G/415)****3 TRADE POLICIES AND PRACTICES BY MEASURE****3.1 Measures Directly Affecting Imports****3.1.1.3 Trade facilitation****(Question 1: Paragraph 3.18, page 49)**

In the Regulations on the Registration and Administrative Measures for the Registration of Overseas Producers of Imported Foods, the competent authorities of foreign countries are obliged to inspect and supervise manufacturing enterprises in accordance with Chinese laws and regulations, and to provide guarantees to the Chinese government. In addition, the scope of the regulation covers all food products. We would like you to provide us with a scientific basis for the enactment of this management regulation.

Reply: According to the Food Safety Law of the People's Republic of China and its regulations and other laws and administrative regulations, China has revised the previous two rules on the safety management of imported and exported food and the registration management of overseas production enterprises of imported food. On April 12, 2021, the Measures of the People's Republic of China for the Administration of Imported and Exported Food Safety (Order No. 249 of the General Administration of Customs) and the Provisions of the People's Republic of China on the Administration of the Registration of Overseas Production Enterprises of Imported Food (Order No. 248 of the General Administration of Customs) are announced, which will take effect on January 1, 2022.

Before the announcement, China issued a circular in accordance with relevant WTO rules, accepted the deliberation by WTO members, and adopted reasonable opinions and suggestions, which was in line with the relevant WTO rules. Article 2 of Order No. 248 and Order No. 249 of the General Administration of Customs makes clear the scope of application of these two rules. In the near future, China will the Measures of the People's Republic of China for the Administration of Imported and Exported Food Safety (Order No. 249 of the General Administration of Customs) and the Provisions of the People's Republic of China on the Administration of the Registration of Overseas Production Enterprises of Imported Food (Order No. 248 of the General Administration of Customs) in an appropriate form. Your concerns are welcome. Order No. 248 of the General Administration of Customs will not affect the implementation of the bilateral protocol. If the relevant countries (regions) and China have otherwise agreed on the registration method and application materials, the contents agreed by both sides shall prevail.

3.2 Measures Directly Affecting Exports**3.2.5 Export finance, insurance, and guarantees****(Question 2: Paragraph 3.25, page 73)**

According to the information provided by the Chinese authorities, SINOSURE's export credit insurance covered around 20% of total exports in 2018 and 2019. As China is not a member to the OECD's Arrangement on Officially Supported Export Credits, nor follows the notification requirement therein, it is unclear whether such official export credits do not distort the international trade nor constitute subsidies prohibited under the WTO SCM Agreement. Japan would like to request China to provide explanation in this regard, with supporting evidences, if any.

Reply: China's export credit policies comply with WTO rules and do not constitute export subsidies or distort trade. SINOSURE does not provide export credit services.

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND**4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core****4.2.1 Actively participating in reform of the WTO, and opposing unilateralism and protectionism****(Question 3: Paragraph 4.19, page 15)**

Regarding the Law on Countering Foreign Sanctions (enforced from 10 June 2021), Japan would like to request China to answer:

- (1) whether foreign companies or individuals who stay in China are obliged to enforce the countermeasures employed by China under Article 11 of the Law;
- (2) whether foreign companies or individuals who do not stay in China are obliged to enforce or cooperate in implementing countermeasures under Article 14 of the Law; and
- (3) if the answers to (1) and (2) are yes, what kind of sanction or legal responsibility (if any) may be imposed if such foreign companies or individuals fail to comply with Article 11 and/or Article 14, respectively.

Reply: China's formulation of the Anti-foreign Sanctions Law is a defensive measure to deal with and counterattack the containment and suppression of China by some of the countries. It is to counter, counterattack and oppose so-called "unilateral sanctions" of those foreign countries against China, safeguard China's sovereignty, security and development interests, and protect the legitimate rights and interests of Chinese citizens and organizations.

According to Article 11 of the Anti-foreign Sanctions Law, all organizations and individuals in China shall implement and carry out the counter-measures taken by the related departments of the State Council. The Constitution of China stipulates that foreign enterprises, other foreign economic organizations, Sino-foreign joint ventures and foreigners in China must observe Chinese laws. The provisions of Article 11 of the Anti-foreign Sanctions Law are consistent with those of the Constitution of China.

If foreign countries take discriminatory restrictive measures against Chinese citizens and organizations and implement the so-called "unilateral sanctions", no matter in what name or excuse, the purpose will be to interfere in China's internal affairs and seriously undermine the international rule of law. It is a manifestation of bullying and illegal. Therefore, Article 12 of the Anti-foreign Sanctions Law stipulates that no organization or individual may implement or assist in the implementation of all and any discriminatory restrictive measures taken by any foreign countries against Chinese citizens and organizations.

It is stipulated in Article 11 of the Anti-foreign Sanctions Law that, if organizations and individuals in China fail to implement the counter-measures taken by the relevant departments of the State Council, the said departments may deal with them correspondingly according to law, and restrict or prohibit them from engaging in relevant activities, as well as investigate and affix legal liabilities of them according to law. In addition, if any organization or individual implements or assists in the implementation of any discriminatory restrictive measures taken by foreign countries against Chinese citizens and organizations, concerned Chinese citizens and organizations may then bring a lawsuit to the people's court according to law to demand cessation of such infringement or discriminatory restriction and compensation for losses, if any.

(Question 4: Paragraph 4.19, page 15)

Article 4 of the Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures (enforced on 9 January 2021) oblige Chinese citizens, companies and organisations to report to Chinese government if they face prohibition or restriction by foreign legislation and other measures from engaging in normal economic, trade and related activities with third countries (regions). Japan would like to request China to answer whether such report obligations will apply if the domestic transactions in China are prohibited or restricted by foreign legislation or not.

Reply: If foreign laws and measures prohibit or restrict the normal economic, trade and related activities between Chinese citizens, legal persons or other organizations and third countries (regions), then this reporting obligation should also apply to transactions within or outside China.

(Question 5: Paragraph 4.19, page 15)

Please answer whether there is any case where compensation for damages are litigated under Article 9 of the Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures and/or Article 12 of the Law on Countering Foreign Sanctions. If yes, please explain the detail of such cases.

Reply: There are no such cases.

(Question 6: Paragraph 4.19, page 15)

Article 2, item (2) of the Provisions on the Unreliable Entity List (enforced on 19 September 2020) provides that a foreign entity will be listed as a unreliable entity, if such foreign entity "suspends normal transactions with an enterprise, other organization, or individual of China or applies discriminatory measures against an enterprise, other organization, or individual of China, which violates normal market transaction principles and causes serious damage to the legitimate rights and interests of the enterprise, other organization, or individual of China." Japan would like to request China to answer (i) under what situations "normal transactions" are suspended, and (ii) under what situations "normal market transaction principles" are violated.

Reply: Violating the principles of fairness, integrity and non-discrimination, and abnormally interrupting transactions with Chinese citizens, legal persons or other organizations.

4.2.2 Deeply and fully participating in multilateral negotiations and discussions, and earnestly fulfilling the obligations as a WTO Member**(Question 7: Paragraph 4.24, page 16)**

Regarding the statement of "China has fully fulfilled its obligations of notification under all WTO agreements", please answer which of the notified subsidies are relevant to the supports for transferring the production capacity from China to foreign countries, which is mentioned in some government strategies such as in the 13th Five-Year Plan. If such subsidies are not included in the notifications, please explain the reason.

Reply: The 13th Five-Year Plan is a guiding document that does not involve specific subsidy policies. China does not need to make a notification.

4.3 Promoting Fairer and More Equitable Global Economic Governance System**(Question 8: Paragraph 4.34, page 17)**

Although China states that "China has deeply participated in APEC economic and trade cooperation, and is committed to building an Asia-Pacific community with a shared future", the projects proposed in APEC including on SOEs have not been achieved for many years. Please explain the reason and claim that relevant ministries argue that make China difficult to agree on such projects and what is necessary to start working on those.

Reply: China is an important participant, builder, and contributor to the prosperity of the Asia-Pacific. China has always been committed to creating a more open and inclusive Asia-Pacific economy, boosting the well-being of the Asia-Pacific people, taking a clear stand in supporting the multilateral trading system and regional economic integration, promoting the establishment of a high-level Free Trade Area of the Asia-Pacific, and strengthening APEC practical cooperation in various fields to build an Asia-Pacific Community with a shared future. APEC cooperation should adhere to the principle of consensus, which is also the fundamental guarantee for APEC's steady progress in the long run. At present, as the two implementation paths of the Free Trade Area of the Asia-Pacific (RCEP and CPTPP) have made positive progress, APEC is developing the implementation plan of the cooperation vision for the next 20 years. China is willing to maintain close communication and coordination with APEC parties, continue to give play to the important role of APEC in promoting economic prosperity and regional economic integration, and promote an early establishment of the Free Trade Area of the Asia-Pacific to provide support and guarantee for building an Asia-Pacific community with a shared future. China believes that the necessary precondition for carrying out relevant works under APEC is that research initiatives should be in an objective and neutral position, and do not presuppose any research conclusions.

5 DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM**5.1 Generating New Demand Through Innovation-Driven Development and High-Quality Supply****5.1.3 Dissolving excess production capacity and improving the quality of supply****(Question 9: Paragraph 5.4, page 21)**

For addressing "zombie enterprises", please answer what kind of measures are taken by China to prevent the flow of funds to zombie enterprises. Is there any system to ensure that debt exemption or other support which may extend life of zombie enterprises shall not be made? Does China think

that the bailout fund described in paragraph 3.208 of the Report by Secretariat does not extend the life of zombie enterprises?

Reply: In 2016, the State Council issued the opinions on actively and steadily reducing enterprise leverage (GF [2016] No. 54), which prohibited precisely "Zombie Enterprises" from being the object of market-oriented debt to equity swap. In 2018, with the consent of the State Council, the National Development and Reform Commission released the Notice on Further Doing a Good Job in the Debt Disposal of "Zombie Enterprises" and Enterprises with Excess Capacity Reduced (FGCJ [2018] No. 1756), which clearly requires that for "Zombie Enterprises" meeting the conditions for bankruptcy reorganization, local people's governments at all levels, relevant state-owned assets management departments at all levels and financial regulatory authorities should actively promote the reorganization process for them. For "Zombie Enterprises" meeting the conditions for bankruptcy liquidation, they should be liquidated timely and effectively, and the government is strictly prohibited from maintaining the survival of any "Zombie Enterprises" through financial subsidies.

5.3 Committed to Creating Market-Oriented, Law-Based and Internationalized Business Environment

5.3.2 Further strengthening intellectual property rights protection

(Question 10: Paragraph 5.14, page 23-24)

Are social media operators included in the scope of regulations under the E-commerce Law that would allow the revocation of licenses of platform operators who do not take necessary measures against sellers who infringe intellectual property rights?
If not, how will social media operators be regulated?

Reply: According to the E-commerce Law, "this Law applies to e-commerce activities within the territory of the People's Republic of China. The e-commerce as mentioned in this Law refers to the business activities of selling goods or providing services through such information networks as the Internet. All the provisions of the laws and administrative regulations on the sale of goods or the provision of services shall apply. However, this Law shall not apply to the financial products and services that use information networks to provide news information, audio and video programs, publishing and cultural products. "

In order to refine and implement the relevant provisions of the E-commerce Law, the State Administration of Market Supervision issued on March 15, 2021 the Measures for the Supervision and Administration of Online Transactions, which came into force on May 1, 2021. Article 2 of the Measures states that "within the territory of the People's Republic of China, through the Internet and other information networks (hereinafter referred to as the network), these Measures shall apply to the business activities of selling goods or providing services and the supervision and administration of market supervision and administration departments. These Measures shall also apply to the business activities of selling goods or providing services through information network activities such as social networking and live webcasts."

5.3.3 Implementing the Negative List for Market Access system across the board

(Question 11: Paragraph 5.16, page 24)

According to the China Promise Table, China has liberalized MA with limited joint ventures for GATS mode 3 of education services. Therefore, according to the Opinions on Further Reducing the Homework Burden and Out-of-School Learning Burden of Students in Compulsory Education (hereinafter referred to as the "Opinions") released by the Central Office of the Communist Party of China and the State Council on July 24, the following regulation may be a violation of Article 16 of GATS, Market Access. Japan would like to request China to answer the following questions.

(1) As stated in "Opinions" 4-13, prohibiting the teaching school curriculum for profit (e.g., cram schools and prep schools) could be seen as limiting the number of educational service providers to zero, which may effectively be a violation of "Article 16(2)(a) Limitation on the number of service providers". Please explain the China's view on this point.

(2) As stated in "Opinions" 4-13, the measure of not allowing new institutions and re-registering existing institutions as non-profit organizations could be seen as a request for education service providers to take a particular form, which may be a violation of "Article 16(2)(e), where services are provided by service providers through a statutory entity such as a joint venture, a measure restricting or requiring a specific form for such statutory entity". Please explain the China's view on this point.

As stated in "Opinions" 4-13, with regard to measures to prohibit foreign investment in such institutions, a total ban on investment, despite the fact that joint ventures are allowed under mode 3, may constitute a violation of "Article 16(2)(f) Restriction on the participation of foreign capital". Please explain the China's view on this point.

Reply to the questions above: The overall goal of the "double reduction" is divided into two aspects. In the school, we would further improve the teaching quality and service level, assign homework in a more scientific and reasonable way, and the after-school services will basically meet the needs of students so that students can learn better inside the campus. Out of the school, we would comprehensively regulate the training action of off-campus training institutions, basically eliminate various chaos in subject-based off-campus training, so as to gradually cool down the heat of off-campus training. China is studying the issues raised.

5.3.5 Improving the performance of state-owned assets and state-owned enterprises (SOEs) reforms

(Question 12: Paragraph 5.18, page 24)

Regarding the market-oriented reform of SOEs, please explain what system (if any) exists to ensure that SOEs act in a market-oriented way.

Reply: In recent years, China has introduced and implemented the "1+N" policy system for state-owned enterprise reform, and has achieved a series of significant progress in important areas and fields and key links of state-owned enterprise reform. The system includes defining and classifying the functions of state-owned enterprises, improving the state-owned assets supervision system over time focusing on capital management, stripping enterprises from their social functions and solving problems left over by history, achieving major breakthroughs, fully completing the corporate restructuring of central enterprises, carrying out the tenure system of management members and contractual management, etc. At present, the three-year action of state-owned enterprise reform is being conducted under way. Continuing to promote state-owned enterprises to establish and improve a corporate governance structure that meets the requirements of the market mechanism and has multiple checks and balances, implementing the functions and powers of the board of directors, deepening the reform of the three systems of labor, personnel and distribution, improving the market-oriented operation mechanism.

(Question 13: Paragraph 5.18, page 24)

Understanding the Chinese government absolutely or relatively control the shareholding (voting rights) of "mixed ownership" enterprise, Japan would like to request China to answer whether China will not plan to make reform of SOEs in a way under which private investors will control the majority of shareholding (voting rights)?

Reply: China is now actively developing a kind of mixed ownership economy with cross shareholding and mutual integration of state-owned capital, collective capital and non-public capital. Mixed-ownership enterprises mainly include state-owned absolute holding enterprises, state-owned relative holding enterprises and shareholding enterprises. Not all mixed-ownership enterprises are absolute holding enterprises or relative holding enterprises. The reform of mixed-ownership gives full play to the role of market mechanism, makes decisions on specific plans according to the actual situation of enterprises, takes the form of mixed, independent or controlled ownership as appropriate, and is implemented in mature enterprises one by one.

(Question 14: Paragraph 5.18, page 24)

Regarding the statement of "In 2020, China officially launched three-year action plan of SOE reform", Japan would like to request China to explain the contents of the three-year action plan.

Reply: The three-year action plan for reform of state-owned enterprises focuses on the following key tasks: First, improve the modern corporate system with Chinese characteristics and form a scientific and effective corporate governance system; second, promote the layout optimization and structure adjustment of state-owned capital and improve the allocation efficiency of state-owned capital; third, actively yet prudently promote the reform of mixed ownership and motivate enterprises of all types of ownership to learn each other's good points for common development; fourth, stimulate the vitality of state-owned enterprises, perfect market-oriented management system and improve efficiency; fifth, form a state-owned asset supervision system focusing on asset

supervision and further improve the systematic, targeted and effective characteristics of state-owned asset supervision.

Report by the Secretariat (WT/TPR/S/415)

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

(Question 15: Paragraph 1.2, page 16)

As population aging accelerates, there is a possibility of tightening or shortage of financial resources for social security. What policy will the government adopt to assure adequate financial resources for social security?

Reply: Actively coping with ageing population is concerned with the national development and the well-being of the people. The Chinese government will continuously perfect relevant policies and vigorously promote the implementation of national strategy for coping with ageing of population. First, expand the scale of endowment insurance fund in multiple channels. Push forward the investment and operation of basic endowment insurance fund steadily and strive to ensure that the basic pension is paid on time and in full amount. Second, deepen the reform of social insurance system such as endowment insurance and medical insurance. Establish the mechanism to determine the treatment of urban and rural residents on basic endowment insurance and normally adjust the basic endowment insurance, and guide and stimulate urban and rural residents to participate in the basic endowment insurance program as early as possible and pay as much as possible. Gradually improve the level of unified planning for endowment insurance, implement the system that the central government regulates the basic endowment insurance fund for enterprise employees, perfect the overall planning at the provincial level for endowment insurance, and promote the implementation of unified national planning for endowment insurance. Perfect the funding mechanism for basic endowment insurance, promote all-round reform of the payment method for medical insurance, and boost the sustainable development of medical insurance system. Third, strengthen the management of budgets for social security fund. Standardize the budgets and final accounts preparation for social security fund, strengthen the submission and disclosure of social security fund budget, realize organic connection between budgeting and implementation, and effectively improve the utilization efficiency of fund.

(Question 16: Paragraph 1.3, page 16)

While China announced eradication of absolute poverty in 2020, relative poverty still exists. What policy will the government adopt to address this latter issue?

Reply: After the achievements in poverty alleviation targets, the focus of work in Chinese agriculture, rural areas, and farmers will be historically shifted to comprehensive promotion of rural revitalization. Next, China will practically consolidate the achievements in poverty alleviation and connect it with rural revitalization in an organic way, so as to make the foundation for poverty alleviation more stable and the achievements more sustainable. Enhance monitoring of the population who will fall back to poverty easily, and identify, interfere in and assist them as early as possible. Provide subsequent support for poverty-stricken people who move to other places, promote employment in multiple channels, strengthen social management and promote social inclusion. For the counties which have been lifted out of poverty, help them develop for a period. Set a transition period, during which the major assistance policies will remain unchanged for them. Stick to and perfect east-west collaboration, partner assistance and social assistance, and make improvements according to the changes in situation and task.

(Question 17: Paragraph 1.5, page 18)

According to the proposal of the 14th Five-Year Plan (2021-25) for National Economic and Social Development and the Long-Range Objectives Through the Year 2035 issued by Chinese government, China will boost its per-capita GDP to that of a moderately developed country. Please clarify the definition of "a moderately developed country"

Reply: This is based on the United Nations definition of "moderately developed country".

(Question 18: Paragraph 1.17, page 20)

Japan would like China to provide us with the breakdown of China's foreign currency reserves except for US dollar (USD:58%, Other than USD:42% as of 2015).

Reply: Please refer to the data and statistics webpage of the State Administration of Foreign Exchange of China. <http://www.safe.gov.cn/en/DataandStatistics/index.html>.

(Question 19: Paragraph 1.19, page 21)

Japan appreciates if China could clarify the schedule of introducing Digital RMB. Japan would like to request China to answer whether cross-border payments of Digital RMB is designed to be used for. If yes, please clarify the schedule of the introduction.

Reply: As for the progress of the development of e-RMB, At present, the top-level design, function research and development and system debugging of the research and development experiment on e-RMB have been basically completed. Based on the principles of steady, safe, controlled, innovative and practical experiment, it has selected some representative areas to conduct pilot projects and has issued the White Paper for the Progress of Research and Development of Chinese e-RMB.

As for the cross-border payment of e-RMB, the People's Bank of China will actively respond to the initiative to improve cross-border payment proposed by G20 and study the applicability of central bank digital currency in cross-border areas. According to the domestic pilot projects and the demand of international community, the People's Bank of China will explore pilot projects for cross-border payment based on the premise that it will fully respect the monetary sovereignty of both sides and comply with laws and regulations, meet the requirements of "no damage", "compliance" and "inter-connectivity", and establish cooperation mechanism for exchange arrangement and regulation of legal digital currency, stick to the requirements of double-level operation and risk-oriented management and the principle of modular design, so as to meet the requirements of different countries for regulation and compliance.

(Question 20: Paragraph 1.21, page 21)

On September 21, the southbound link between China and Hong Kong opened while China plans to launch wealth management connect, but there is the upper limit on investment volume. Japan would like to ask whether there are any plans to raise or eliminate the limit in the future.

Reply: The total annual quota of Bond Connect "South Connect" is equivalent to RMB 500 billion and the daily quota is equivalent to RMB 20 billion. The People's Bank of China will adjust the total annual quota and daily quota of Bond Connect "South Connect" according to the situation of cross-border capital flow.

The pilot business of "cross-border money management" adopts quota management mode, and the upper limit of south (north) connect is RMB 150 billion of net outflow (inflow). The quota for individual investors shall not exceed RMB 1 million. As the pilot projects advance and become mature in the future, the People's Bank of China will adjust the total quota and the quota for individual investors at proper time according to the market demand and macro-economic situation, and meet the market demand as far as possible while effectively prevent risks.

(Question 21: Paragraph 1.45, page 27)

MOFCOM has not disclosed the position of the amount of the inward foreign direct investment (both the total and by country). Japan would like China to provide us with both flow and stock data. If not possible, Japan would like to know the reason.

Reply: Ministry of Commerce publishes the Statistical Bulletin on Chinese Foreign Investment every year, which introduces the situation that China absorbs foreign investment in detail, including: the amount of foreign investment absorbed in the current year, the accumulated amount of foreign investment absorbed and investment of related countries and regions in China. For details please see <http://wzs.mofcom.gov.cn/article/ztxx/>.

(Question 22: Paragraph 2.3, page 31)

Japan would like to know (i) whether the internet courts described in the paragraph handle cases in relation to the cross-border trade, and (ii) whether these courts have exclusive jurisdiction or non-exclusive jurisdiction.

Reply: Internet courts may deal with cross-border cases per the Civil Procedure Law of the People's Republic of China, the Provisions of the Supreme People's Court on Issues Concerning the Hearing of Cases in Internet Courts (Fa Shi [2018] No. 16), the Provisions of the Supreme People's Court on Issues Concerning Litigation Jurisdiction in Foreign-related Civil and Commercial Cases (Fa Shi [2020] No. 20) and the Notice of the Supreme People's Court on Clarifying the Jurisdiction

Criteria for the Level of Foreign-Related Civil and Commercial Cases of the First Instance and Issues Concerning Responsible Court Designation (Fa [2017] No. 359).

The nature of the cases accepted and heard by the Internet Court is the centralized jurisdiction designated by the Supreme People's Court, not exclusive jurisdiction.

(Question 23: Paragraph 2.4, page 31)

Japan would like to request China to answer whether the disclosure obligations under the Government Information Disclosure Regulations (http://www.gov.cn/zhengce/content/2019-04/15/content_5382991.htm) apply not only to the central government but also to the local governments or not. (http://www.gov.cn/zhengce/content/2019-04/15/content_5382991.htm)

Reply: Applicable to both central and local governments.

(Question 24: Paragraph 2.41, page 37)

Japan would like to request China to explain what kind of measures are taken to prevent the government official from forcing foreign investors and foreign enterprises to transfer the technology, and what kind of remedies are available for the foreign investors and foreign enterprises which are forced to transfer the technology.

Reply: The Chinese government will earnestly fulfill its commitment to joining WTO and will not take technology transfer as the precondition for approving foreign investment projects. In accordance with relevant provisions in the Civil Code, the Chinese government and related entities will not interfere in technology transfer or permit in any way. In accordance with Foreign Investment Law and the regulations on the implementation, our country encourages technical cooperation in foreign investment based on the principles of voluntariness and business rules; the conditions for technical cooperation shall be determined by all investors through equal consultation based on the principle of fairness, and the administrative organ and its staff shall not force investors to transfer technologies by employing administrative means. Besides, China has revised Regulations on the Import and Export of Technologies and laws and regulations on intellectual property, takes the enhanced protection and equal protection of intellectual property as the orientation, and actively creates sound legal environment and market environment for foreign investment.

(Question 25: Paragraph 2.45, page 37)

Regarding the Catalogue of Industries for the Guidance of Foreign Investment, Japan would like to know which industries China intends to remove from the restricted and prohibited categories and add to the encouraged category in the future.

Reply: Presently, the Catalogue of Industries for the Guidance of Foreign Investment does not exist. In 2018, China issued a negative list for foreign investment access to specify the foreign investment areas which are prohibited and restricted. The list is abstracted from the Catalogue of Industries for the Guidance of Foreign Investment. In June 2019, China issued the Catalogue of Industries for the Promotion of Foreign Investment (2019). For the specified contents, refer to the website: http://www.gov.cn/xinwen/2019-06/30/content_5404701.htm

(Question 26: Paragraph 3.55, page 63)

Japan would like to request China to provide with the details regarding the changes introduced by the Rules on Questionnaires in Anti-Dumping Investigations in May 2018. Particularly, Japan would like to know what content in the questionnaire descriptions and requirements was deleted, and why China deleted it regarding (iii), and how the questionnaire survey procedures and time requirements are regarding (iv) in paragraph 3.55 of the Report by the Secretariat.

Reply: As for the deleted contents requested by Japan, in practice, the requirements of the Questionnaires in Anti-Dumping Investigations have not changed, but some contents are no longer outlined in the law. China has corrected and updated the inaccurate parts of the Secretariat Report, and now the statement is more accurate.

Questionnaires in Anti-Dumping Investigations provide for clear and strict questionnaire survey procedures and time requirements. For example, Article 13 provides that the answer sheets of the questionnaire shall be delivered to the investigating authority within 37 days from the date of issuance of the questionnaire. If the interested parties fail to complete the answer sheet before the due date of the answer sheets with justified reasons, they should submit a written application to the

investigating authority for the extension of the submission of the answer sheet 7 days before the submission deadline of the answer sheet, and explain the reasons for the extension. The investigating authority shall give a written reply to the extension application of the interested party based on the specific circumstances of the interested party 4 days before the submission deadline of the answer sheet. If the investigating authority decides to agree to an extension, the extension period usually does not exceed 14 days.

(Question 27: Paragraph 3.1, page 45)

When returning goods imported by China, the customs duty paid for the import must be declared at customs within one year from the date of import clearance, but before such declaration, the occurrence of a report of quality defects and approval by the Commercial Inspection Bureau is required, and this often takes a long period of time, such as several months. In many cases, it has been reported that it is difficult to complete the procedures within one year because this period accounts for most of the time required for the procedures. Japan would like to request China to explain how China is going to deal with such a system that is difficult to implement in practice by improving the system.

Reply: China is currently studying it.

(Question 28: Paragraph 3.43, page 58)

to provide the following information.

We recognize the article 65 of the revised Forest Law stipulates about the timber legality.

Will the legality of imported timber be checked under the article 65?

Reply: Article 65 of the Forest Law stipulates that "Wood processing enterprises shall establish a storage ledger of raw materials and products. No organizations or individuals shall acquire, process or transport woods that are knowingly derived from illegal sources, such as illegal logging or deforestation." This clause requires wood processing enterprises in China to establish a storage ledger for raw materials and products and purchase timber from legal sources. The judicial interpretation of specific norms needs to be clarified in the Regulations on the Implementation of the Forest Law under revision.

Could you provide the tentative schedule about when the related regulation will take into force? Appreciate if China could show when the outline of the related regulation will be made public.

Reply: The revised Forest Law came into effect on July 1, 2020. The corresponding Regulation on the Implementation of the Forest Law is still being revised.

Is China preparing new timber legality assurance system to follow the revised law and related regulation?

Reply: In order to comply with the revised laws and relevant regulations, some Chinese research institutions are cooperating with international institutions to study compliance with international norms, as well as timber legality assurance tools and systems in line with the actual situation in China. Meanwhile, they are providing wood processing enterprises with technical support to establish a storage ledger for raw materials and products and purchase timber from legal sources, and promoting the implementation of the forest law.

(Question 29: Paragraph 3.52, page 62)

Is it possible under the domestic law for the MOFCOM to initiate original investigations, interim reviews and sunset reviews on its own initiative?

Reply: Article 18 of the Regulations on Anti-dumping stipulates that under special circumstances, if MOFCOM has not received a written application for anti-dumping investigation, there is still sufficient evidence that the dumping and damage exist and there is a causal link between the two, it may decide to initiate an investigation.

Article 49 of the Regulations on Anti-dumping stipulates that after the anti-dumping duty enters into effect, MOFCOM may, with justified reasons, decide to review the necessity of continuing to levy the anti-dumping duty.

(Question 30: Paragraph 3.52, page 62)

Does the MOFCOM consider the public interest in investigations? Please indicate the applicable domestic law.

Reply: Article 20 of the Regulations of China on Anti-dumping provides that MOFCOM may obtain information from interested parties and conduct investigations by means of questionnaires, samplings, hearings, and on-site verifications. Article 20 also provides that MOFCOM shall provide relevant interested parties with opportunities to state their opinions and arguments. Therefore, throughout the whole investigation process, the relevant interested parties may express their relevant opinions including those of the public interest, to MOFCOM. Article 37 of the Regulations of the People's Republic of China on Anti-dumping further provides that the levy of anti-dumping duties should be in the public interest.

(Question 31: Paragraph 3.54, page 62-63)

The lack of required information is also observed in the final determinations. It is necessary to disclose essential facts not only before the final determination is made but also in the final determination itself (if not properly disclosed before the final determination). Japan would like to request China to explain when and how China will improve this practice.

Reply: MOFCOM guarantees that all interested parties are informed of the information submitted or obtained by all parties and the investigating authority in the process of investigation in a timely manner through various forms such as public information rooms, information platforms, and hearings. Second, subject to confidentiality requirements, MOFCOM has made timely and adequate disclosure of relevant facts in the announcement of the Preliminary determination, the disclosure of the basic facts on which the preliminary determination is based, the relevant disclosure of the on-site verification, and the disclosure of the basic facts before the final determination, so as to ensure that all interested parties are timely informed of relevant facts. The basic facts disclosed by China include but are not limited to investigation procedures, the collaboration situation of various interested parties, products under investigation and products of the same type, as well as data on dumping, damage, and the determination of causal link, calculation processes, methods, conclusions, and other information. Third, at the time of final determination, after considering the opinions of all interested parties, MOFCOM shall make further determinations in accordance with the laws and regulations and relevant facts, and the relevant facts and laws and regulations shall be published in the final determination announcement.

(Question 32: Paragraph 3.54, page 62-63)

WTO cases such as the Appellate Body Report of China – GOES (WT/DS414/AB/) found China failed to comply with Article 6.9 of the AD Agreement due to insufficient disclosure of essential facts. According to the Japanese exporters/producers, the disclosure of essential facts remains to be insufficient, and they cannot know and understand the facts and methodology used by the investigating authority for calculation of dumping margin. Japan would like to request China to explain when and how China will improve this practice.

Reply: In addition to the above reply of China to question 31, first, for exporters/producers who have separately determined the dumping margins, MOFCOM has separately disclosed to them the process of calculating the dumping margin and basic facts involving confidential information two times, respectively after the initial determination and before the final determination. The disclosure contents include the data and sources of the calculation of dumping margin, descriptions in text of the identification method and basis of dumping margin, as well as the calculation table of dumping margin in the form of electronic data. The calculation table includes relevant data (usually data provided by exporters/producers, sometimes including third-party data (BIA)), calculation formulas, calculation processes and conclusions, and other information, and calculations that the exporters/producers concerned can completely repeat or check, so as to verify the dumping margin. Second, after the preliminary determination and before the final determination, the exporters/producers concerned have sufficient time and opportunities to communicate with the investigating authority or submit comments to them on the calculation and determination of their dumping margins. MOFCOM fully guarantees the understanding of basic facts by all interested parties.

(Question 33: Paragraph 3.54, page 62-63)

Japanese producers/exporters had applied interim reviews three (3) times for chloroprene rubber (imposed since 10.05.2005), and one time for M-Dihydroxybenzene or Resorcinol (imposed

since 23.03.2013), all of which were rejected without detail explanation of such rejections. Japan would like to request China to provide with:

- (1) the information on, since 2018, how many applications of interim reviews have been filed by foreign producers/exporters and how many such applications have been approved or not;
- (2) same information on the applications by domestic industry; and
- (3) detail standards for the requirement of "necessity of review".

Reply: The currently approved applications for interim review have been fully reviewed by China's investigating authority, and have been initiated after they are determined to meet the filing conditions.

(2) As the same above.

(3) According to Article 6 of Rules on Interim Review of Dumping and Dumping Margins (Order No. 4 of the Ministry of Commerce in 2018), exporters and producers who apply for the interim review of dumping margin shall submit the following materials of evidence: (I) The name, address and other relevant information of the applicant; (II) Data on the domestic sales of the applicant within 12 months before the application; (III) Data on the applicant's exports to China within 12 months before the application; (IV) The various adjustments necessary to calculate the dumping margin and the preliminary calculation results of the dumping margin; (V) Reasons for why major changes in normal values, export prices, and dumping margins will continue; (VI) Other contents that the applicant thinks needs to be explained. In the chloroprene rubber case, Japanese enterprises failed to meet the above-mentioned evidence requirements in several interim review applications, so the investigating authority did not initiate the investigation.

(Question 34: Paragraph 3.60, page 64)

The term of China's longest-standing anti-dumping measures on chloroprene rubber, which has been extended twice, will expire in 2022 without third extension via sunset review. Japan would like to ask China to answer:

- (1) whether China will set certain limitation on number of extension(s) of anti-dumping measures by sunset review(s) or not; and
- (2) whether the length of anti-dumping measure from first imposition will be considered in sunset review (if initiated).

Reply: (I) There are no such limitations on number.

(II) In the sunset review investigation, China will strictly analyze the factors such as the export situation of the producers and exporters of the countries (regions) involved and the production and operation situation of domestic industries during the implementation of the anti-dumping measures, assess whether the termination of the anti-dumping measures may lead to the continuation or recurrence of dumping and damage, and finally make a decision on whether to maintain the measures.

(Question 35: Paragraph 3.79, page 69)

Please answer whether the concept of "national security" has the same meaning among the different laws and regulations which refer to such concept. For example, Does the "national security" in Article 1 of the Export Control Law, the "national security" in Article 1 of the Cybersecurity Law, and the "national security" in Article 1 of the Data Security Law have the same meaning?

Please also explain what kind of securities are included in the concept of such "national security".

Reply: The three terms of "national security" mentioned in the Export Control Law, the Cybersecurity Law and the Data Security Law have the same meaning.

(Question 36: Paragraph 3.79, page 69)

Please answer whether the concept of "national security" as defined in various laws and regulations includes the concept of "holistic approach to national security" which had been raised in the National Security Commission of CPC Central Committee in 2014 or not.

Reply: To implement the overall concept of national security, the 15th Session of the 12th NPC Standing Committee adopted the State Security Law of the People's Republic of China on July 1, 2015, which clearly defines the concept of "national security". Article 2 of the State Security Law states that "State security refers to the state power, sovereignty, unity and territorial integrity, the people's well-being, sustainable economic and social development and other major interests of the state that are relatively free from danger and from internal and external threats, as well as the ability to guarantee sustainable security situation".

(Question 37: Paragraph 3.79, page 69)

If the concept of "national security" includes various type of safeties broadly, would the legitimate business activities be prevented under the name of "national security"? For example, Japan concerns the possibility that China sets the scope of the controlled items under the Export Control Law too broadly, considering that the objectives of the Law include protection of "national security" and that export control operations stick to "holistic approach to national security". In addition, the Cybersecurity Law and the Data Security Law stipulate that a security review should be conducted if there is a risk of affecting national security. If the concept of "national security" is construed broadly, the scope of the security review will also become broader, which may lead to arbitrary review and operation. Such situation may violate national treatment obligations stipulated in Article 17 of GATS. Please answer how China evaluate this risk.

Reply: China's Export Control Law is not intended to impose general restrictions on legitimate commercial activities, but to implement necessary management on foreign trade in the limited, sensitive and specific items. It provides a necessary legal guarantee to ensure the security of foreign trade activities, beneficial to China better fulfilling its international obligations and serving the interests of all parties in the world. China will continue to open wider to the outside world, firmly uphold the multilateral trading system based on WTO rules, and promote the construction of the open type world economic system.

(Question 38: Paragraph 3.79, page 69)

Japan would like to request China to answer when "Rare-Earth Management Regulation", the draft of which was published for public comment on 15 January 2021 (https://www.miit.gov.cn/jgsj/zfs/qzdt/art/2021/art_0994492127994695baf1139a0d80dfc9.html), will be enacted.

Reply: The management regulations are still in the process of formulation at present.

(Question 39: Paragraph 3.79, page 69)

Regarding the "Rare-Earth Management Regulation" which was called for public comment in January 2021, Japan would like to have detailed explanation about the relationship between the legislative purpose on Article 1 and the actual enforcement of ensuring traceability of rare-earth products, or concisely, the reason why China regards it essential to ensure traceability for fulfilling such legislative purpose.

Reply: The purposes of enacting the "Rare Earth Management Regulations" are first, to effectively safeguard national interests and industrial safety; second, to regulate the order of production and operation of rare earths according to law; and third, to improve the management system of rare earths. Traceability is of great significance to achieving the above purposes.

Japan would also like to request the official explanation that, with regard to export of rare earth, the Export Control Law and related regulations will be implemented in consistent with the WTO rules such as GATT Article 11, including that domestic demand and foreign demand shall be treated without discrimination.

Reply: China will formulate the Rare Earth Management Regulations in a manner consistent with the rules of the WTO.

"Rare-Earth Management Regulation" Article 1 (Provisional Translation)

This regulation enacts in order to standardize the management of the rare earth industry, guarantee the rational development and utilization of rare earth resources, promote the sustainable and sound development of the rare earth industry, and protect the ecological environment and resource security.

(Question 40: Paragraph 3.79, page 69)

Section 3, Article (12) of the Guiding Opinions of the State Council on Accelerating the Establishment of a Sound Economic System with Green, Low-carbon and Circular Development (http://www.gov.cn/zhengce/content/2021-02/22/content_5588274.htm) refers to strict control on exports of highly pollutive highly energy consumptive products. Japan would like to request China to answer whether any list or standard of such highly pollutive highly energy consumptive products will be prepared or not. If yes, Japan appreciates if China could clarify the schedule of establishing such list or standard and whether the opportunities of public comments would be available.

Reply: In September 2020, at the general debate of the 75th Session of the UN General Assembly, China solemnly announced its goal of peak carbon dioxide emissions and carbon neutrality. This means not only a solemn commitment China has made to the world, but also an intrinsic requirement for China to achieve sustainable development and high-quality development. We will continue to develop trade in green products and build a green trading system industriously.

(Question 41: Paragraph 3.90, page 71)

Article 2 of the Export Control Law provides that the provision of controlled items to "foreign" organisations and individuals (so called "deemed export") is subject to the prohibition or restriction under this Law. Japan would like to request China to answer:

- (1) whether the provision of the controlled items to foreign invested enterprises, which are legally speaking Chinese companies, will be subject to the prohibition or restriction under this Law or not.
- (2) whether the provision of the controlled items to Chinese invested enterprises which involve foreign individuals as their management members will be subject to the prohibition or restriction under this Law or not.
- (3) whether joint technical research or development project between Chinese companies or citizens and foreign companies or citizens will be subject to the prohibition or restriction under this Law or not.
- (4) whether provision or sharing of technical information with foreign individuals employed by domestic enterprises will be subject to the prohibition or restriction under this Law or not.
- (5) whether provisions or sharing from Chinese enterprises or individuals to foreign enterprises or individuals which are performed outside China will be subject to the prohibition or restriction under this Law or not.
- (6) Japan is concerned that (i) to the extent the Law applies to transactions occurred outside China, such application may be regarded as excessive extraterritorial application and thus impermissible under the international law, and that (ii) lack of clarity in the scope of the application of the Law harms the predictability for the operation of foreign businesses. The paragraph 3.92 states that China is in the process of formulating supporting regulations and shall release further regulations at a later stage. Will China clarify under such regulations the scope of "deemed export" and avoid excessive extra-territorial application of the Law?
- (7) Article 2 (c) 2 of the protocol on accession of China, China "shall provide a reasonable period for comment to the appropriate authorities before such measures are implemented." Please answer whether China will, in advance of enacting the above-mentioned further regulations, conduct a public comment before enactment of such regulations?

Reply: At present, China is actively promoting the legislation of supporting laws and regulations for the Export Control Law, and will promulgate them in due course to further refine and implement the relevant systems established in the Export Control Law, so as to provide clearer and more specific guidance for all parties, including foreign enterprises, to implement and abide by the Export Control Law. All the related members are welcome to continue to concern China's legislative work, keep in communication with The Chinese side and put forward their comments and suggestions during the public consultation period for laws and regulations.

(Question 42: Paragraph 3.92, page 71)

Japan concerns the possibility that China sets the scope of the controlled items under the Export Control Law too broadly, considering that the objectives of the Law include protection of "national interests". If the scope of controlled items exceeds the one under international export control regimes, the measure may be an export restriction which is inconsistent with GATT Article 11.1.

In this regard, Japan would like to request China to answer following questions:

- (1) Article 4 provides that the control list will be prepared. Is Japan's understanding correct that the controlled items under Article 2 (i.e., "dual-use items, military items, nuclear items and other goods, technologies, services and items relating to the maintenance of national security and national interests, and performance of antiproliferation and other international obligations") are to be provided by the control list under Article 4?
- (2) Para 3.92 of the Secretariat Report states that "Specific export control lists were also released." What are the existing control list that were already released other than the list of dual-use items and of items subject to administration of export/import license (<http://www.mofcom.gov.cn/article/b/c/202012/20201203027833.shtml>) published on 31 December 2021? What would be the prospect and schedule of establishing or revising control lists in future? Please also answer whether any public comment will be procured for them,

Reply: The Export control Law has taken effect formally. Before the promulgation of the new law, the contents that are not in conflict with the law can continue to be enforced and the existing control list will continue to be effective. Enterprise managers can consult the relevant laws and regulations on the official website of the Ministry of Commerce. After the promulgation of the Export Control Law, the Ministry of Commerce revised and issued the Guiding Opinions of the Ministry of Commerce on The Establishment of Internal Compliance Mechanism for Export Control over Exporters of Dual-Use Items. At the same time, it issued the Internal Compliance Guide for Export Control of Dual-Use Items to provide compliance reference and guidance for exporters. Reply: The Export Control Law stipulates that exporters have the obligation to provide end-user and end-use certification documents, which is consistent with the general international practice. In order to better enforce the law and improve the operability, the Chinese government has now expedited its advances in formulation and amendment of the supporting complementary laws and regulations. The related regulations will be detailed further.

According to the Export Control Law, the Chinese government will continue to deepen multilateral and bilateral cooperation and exchanges in the field of export control, participate in the formulation of international rules, and make positive contributions to preventing the proliferation of weapons of mass destruction and safeguarding world peace and security together with other countries.

(Question 43: Paragraph 3.91, 3.94, page 71)

The Export Control Law requires exporters to provide documentation proving the intended end-use and end-user of controlled goods, including services, and to apply for an export license, but if such regulations effectively place foreign businesses at a competitive disadvantage compared to domestic businesses in China, they may violate the national treatment obligations of Article 17 of the GATS. We would like to know the Chinese government's position on this point.

Reply: The Export Control Law stipulates that exporters have the obligation to provide end-user and end-use certification documents, which is consistent with the general international practice.

(Question 44: Paragraph 3.92, page 71)

Article 2.2 of the Export Control Law defines the "controlled items" to include technologies and data such as technical materials on the products. On the other hand, the important data will be protected under the Cybersecurity Law and Data Security Law. Japan would like to request China to explain the relationship between technologies and data that are subject to the Export Control Law and important data under the Cybersecurity Law and Data Security Law.

Reply: According to Paragraph 2, Article 2 of Export Control Law of the People's Republic of China, "controlled items" include the technical materials and other data relating to the items. The "data" therein is determined in accordance with the export control list established by the Ministry of Commerce and other departments in accordance with the Export Control Law.

(Question 45: Paragraph 3.92, page 71)

The Export Control Law and the list of import/export restrictions on Chinese commercial crypto have been published. However, it is quite difficult to take actions in accordance with these new rules in practice because they have been enforced in an extremely short period of time from the date of their promulgation, and because their details have been unclear (in particular, the relevant implementing regulations tend to be absent at the time of promulgation). Japan would like to request China to explain the schedule for the promulgation and enforcement of the relevant laws and regulations in future, and whether China plans to introduce improvements, such as the establishment of a grace period.

Reply: At present, China is actively promoting the legislation of supporting laws and regulations for the Export Control Law, and will promulgate them in due course to further refine and implement the relevant systems established in the Export Control Law, so as to provide clearer and more specific guidance for all parties, including foreign enterprises, to implement and abide by the Export Control Law. All the members are welcome to continue to concern China's legislative work, keep in communication with The Chinese side and put forward their comments and suggestions during the public consultation period for laws and regulations.

(Question 46: Paragraph 3.92, page 71)

Japan would like to request China to explain the relationship between the restriction list under Article 18 of the Export Control Law and the Provisions on the Unreliable Entity List (enforced on 19 September 2020).

Reply: The restriction list under Article 18 of the Export Control Law and the Unreliable Entity List are made from different legal systems.

Aiming at the importers and end users who "have violated the requirements for end users or end use management" or "may endanger national security and interests" or "have used the Controlled Items for terrorist purposes", the control list system establishes the restriction list and take necessary measures to prohibit and restrict the transaction of the Controlled Items, and order to suspend the export of the Controlled Items.

In order to safeguard the national sovereignty, security and development interests, maintain a fair and free international economic and trade order, and protect the lawful rights and interests of Chinese enterprises, other organizations and individuals, China has established the Unreliable Entity List. The Unreliable Entity List aims at those foreign entities that violate the principles of normal market transactions, interrupt normal transactions with Chinese enterprises, take discriminatory measures and seriously harm the legitimate rights and interests of Chinese enterprises in international economic and trade activities, or harm China's national sovereignty, security and development interests. Those above-mentioned foreign entities shall be listed into The Unreliable Entity List and the coping measures against them will be taken.

(Question 47: Paragraph 3.92, page 71)

Japan would like to request China to explain the relationship between the technologies which are subject to the restrictions under the Export Control Law and the list of technologies which are prohibited/restricted to be exported under the Foreign Trade Law.

Reply: In accordance with the provisions of Foreign Trade Law of the People's Republic of China and Regulations of the People's Republic of China on Administration of Import and Export Technologies, the Chinese Catalogue of Technologies Restricted or Forbidden for Export is formulated, adjusted and issued by the Ministry of Commerce jointly with the departments concerned under the State Council. If any of them are civil-military dual-use technologies, they shall be subject to export control.

The Chinese Catalogue of Technologies Restricted or Forbidden for Export is aimed at regulating management over technological exports, promoting technological advances and foreign economic and technological cooperation, and maintaining national economic security. Article Sixteen of the Foreign Trade Law specifies the concrete situations of the technological import and export restricted or prohibited.

(Question 48: Paragraph 3.94, page 71)

Japan concerns the possibility of excessive request of disclosure of technical information in the process of examining approval/rejection of application and end-users and usage under the Export Control Law, which could be inconsistent with Article 11.1 of GATT. Please explain whether any regulations or measures are expected to be established to prevent such excessive request of disclosure of technical information.

Reply: The Chinese government will make a decision to license or not to license an export application in accordance with the provisions of the Export Control Law, taking into account relevant factors. During the review process, the Chinese government will protect the commercial secrets of enterprises and safeguard their legitimate rights and interests in accordance with the law. To ensure the effective implementation of the systems established by the Export Control Law, the Chinese government is actively promoting the legislation of other export-control-related regulations and will further refine the relevant provisions of the Export Control Law.

(Question 49: Paragraph 3.95, page 72)

Article 44 of the Export Control Law provides that any organization or individual outside of the territory of China that violates the provisions of this Law in relation to administration of export control, endangers the national security and national interests of China, and hinders the performance of non-proliferation and other international obligations, shall be subject to investigation and legal

liability in accordance with the laws. Also, Article 45 of the Law provides for that transit, transshipment and through shipment, re-export of any controlled items shall be subject to this Law. Since Japan is concerned that these provisions assume extra-territorial application, Japan would like to request China to answer:

- (1) under what kind of situations companies or individuals outside the territory of China are subject to the application of the Export Control Law;
- (2) what kind of legal liability will be imposed on foreign companies or individuals in accordance with this Articles 44 and 45;
- (3) whether any transit or re-export of a controlled item will be restricted or prohibited under this Law, even when such item is totally produced outside China; and
- (4) whether China will clarify the scope of Articles 44 and 45 through the supporting regulations and avoid excessive extra-territorial application of the Law.
- (5) Article 2 (c) 2 of the protocol on accession of China, China "shall provide a reasonable period for comment to the appropriate authorities before such measures are implemented." Please answer whether China will, in advance of enacting the above-mentioned further regulations, conduct a public comment before enactment of such regulations?

Reply: At present, China is actively promoting the legislation of supporting laws and regulations for the Export Control Law, and will promulgate them in due course to further refine and implement the relevant systems established in the Export Control Law, so as to provide clearer and more specific guidance for all parties to implement and abide by the Export Control Law. All the related parties are welcome to continue to concern China's legislative work, keep in communication with The Chinese side and put forward their comments and suggestions during the public consultation period for laws and regulations.

(Question 50: Paragraph 3.95, page 72)

Article 48 of the Export Control Law provides for reciprocal measures against the country or region which abuses export control measures to endanger national security and national interests of China. Considering that export restrictions as retaliation could be inconsistent with Article 11.1 of GATT, Japan requests China to answer how China will operate this provision, and whether China has a plan to abolish this provision or not.

Reply: In order to better safeguard the national security, the Chinese government has set up parity provisions in the Export Control Law targeting abuse of export control measures by foreign countries, which conforms to the basic norms governing international relations, WTO rules and international recognized practice.

China's promulgation of the Export Control Law is not intended to impose general restrictions on the general trade between Chinese and foreign enterprises, still less to restrain and suppress foreign enterprises through export control. As is known to all, China has always been firmly opposed to the abuse of export control measures under the pretext of national security and the obstruction of normal international economic and trade exchanges and scientific and technological cooperation through the abuse of export control. In implementing the Export Control Law in the future, China will continue to learn from the beneficial experience and practices of WTO members in export control, intensify international cooperation and exchanges, and continue to open wider to the outside world.

(Question 51: Paragraph 3.97-102, page 72)

Japan recognizes the refund rates of VAT at exports has been adjusted frequently, and several times in one year. Please explain how China assesses and decides such refund rates.

Please also explain the standards on amendment of the refund rate and measure to ensure transparency and foreseeability, because an amendment of the refund rate may cause significant impact on global market price.

Reply: After the issuance by the Ministry of Finance (MOF) and the State Taxation Administration of the Announcement on Increasing the Export Tax Refund Rate of Some Products in 2020, the VAT rebate rate of all products, except for the high-pollution, high-energy consuming, and resource-based products, became equal to the applied rate.

(Question 52: Paragraph 3.108-114, page 73-75)

On Sep 21st, China announced that it will not build new coal-fired power projects abroad.

Japan would like to ask related questions below.

- (1) Is it correct to understand that this new policy applies to the project that both public and private financial institutions?

(2) Will public finance institutions (e.g. China Eximbank, Sinosure etc.) end new supports for those projects in line with this policy? If yes, please explain in detail when and to what extent (Export Buyer's Credit Insurance? Comprehensive Cover Insurance for export of parts for coal-fired power plants?)these institutions end support?

Reply: China has always attached great importance to green development and actively supported the related financial institutions in providing financing support for the global green and low-carbon development. It is learned that the China Development Bank and the Export-Import Bank of China (EIBC) have stopped providing new financing for coal-fired power station projects, and have properly handled relevant matters with all concerned parties legally with good compliance in accordance with relevant international rules and practices. China Export & Credit Insurance Corporation will strictly implement relevant policies and properly deal with relevant matters after the specific policies of relevant competent authorities are clear and explicit.

Reply: The Export-Import Bank of China has always attached importance to green and sustainable development and has stopped providing financing for coal-fired power plant projects. In the meantime, it is offering financing support for green and low-carbon development in the countries where the projects are based.

Does this mean that the contract can be withdrawn before the start of construction even if the project has already been concluded?

Reply: The Export-Import Bank of China will, strictly pursuant to the international rules and with the premise of abiding by the law and compliance, handle the ensuing issues in a proper way with the parties concerned in the project.

(Question 53: Paragraph 3.110, page 73)

According to China, all projects by policy financial institutions, including the China Eximbank, operate according to market principles, and banks do not attach any additional conditions to their loans. Japan would like to request China to answer what kind of system or measure exists for ensuring such situation.

Reply: in recent years, China's financial institutions targeting the policy and development have made great efforts to formulate market-oriented operation and restraint mechanisms. From the debt side, China has raised funds through bond issuance in the financial market, implemented cost-benefit accounting management, and constantly enhanced the capabilities of risk prevention and dissolving, and consolidated the sustainable financial foundation. From the asset side, we select the business objects in a market-oriented manner, and make decisions independently, bear risks, and undertake profits and losses by ourselves. At the same time, China's financial regulatory and supervising authorities have supervised the policy and development financial institutions based on capital adequacy ratio, provision coverage ratio, non-performing loan ratio and liquidity ratio to ensure their healthy and sustainable development.

The Export-Import Bank of China conducts fund-raising (loan principal) at the capital market under the market principle, and implements appraisals, pre-loan investigations, loan release and recovery, and post-loan management by referring to commercialized conditions. Except for the norms in the banking industry, the Export-Import Bank of China does not attach any other conditions to the loans.

(Question 54: Paragraph 3.120, page 76)

Regarding the sentences of "the total amount of expenditure or revenue forgone was usually not provided; according to the authorities, this is due to the lack of statistics on tax expenditures.", Japan would like to request China to answer why such tax expenditure, which normally should be recorded and monitored, lacks the statics. How does China monitor whether the provided subsidies are used for appropriate purposes or not.

Reply: China currently has no statistics on tax expenditures.

(Question 55: Paragraph 3.120, page 76)

Japan recognizes the Administrative Measures for the Management of Central Budgetary Investment Subsidy and Interest Discount Project has been enforced since 5 January 2017 (https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/201612/t20161208_960831.html). Japan would like to request China to explain the amounts, recipients and usages of subsidies and interest discount provided under this Administrative Measures.

Reply: *The Interim Measures* provides mainly procedures and involves no specific allocation and use of funds. It is therefore not specific subsidy program subject to the notification obligation of the SCM Agreement.

(Question 56: Paragraph 3.120, page 76)

Regarding the amendment of the Interim Measures for the Management of Saving Energy and Emission Reduction Support Fund (http://www.gov.cn/zhengce/zhengceku/2020-02/21/content_5481719.htm), Japan would like to request China to explain the amounts, recipients and usages of the support provided under this Measures.

Reply: Please refer to item 47 of subsidy notification (G/SCM/N/372/CHN) submitted by China to the WTO.

(Question 57: Paragraph 3.120, page 76)

Regarding the enforcement of the Interim Management Measures for Central Budgetary Investment (Support) for Hi-tech Industry Development Projects (https://www.ndrc.gov.cn/xxgk/zcfb/ghxwj/201612/t20161219_960912.html?code=&state=123), Japan would like to request China to explain the amounts, recipients and usages of the fund support provided under this Measures.

Reply: China will study the relationship between the Measures and the obligation of subsidy notification.

(Question 58: Paragraph 3.120, page 76)

Japan would like to request China to explain the amounts, recipients and usage of the subsidies and other support provided for the new energy vehicles.

Reply: Please refer to item 54 of subsidy notification (G/SCM/N/343/CHN) submitted by China to the WTO.

(Question 59: Paragraph 3.120, page 76)

Section 4, Article (13) of the Guiding Opinions of the State Council on Accelerating the Establishment of a Sound Economic System with Green, Low-carbon and Circular Development (http://www.gov.cn/zhengce/content/2021-02/22/content_5588274.htm) refers to a subsidy and point bonus by local governments to promote green consumption. Japan would like to request China to answer whether such subsidy and point bonus will be given equally to foreign invested enterprises or not.

China's relevant policies treat domestic and foreign-invested enterprises equally.

Reply: Fostering green and low-carbon lifestyles and promoting green consumption will effectively help China achieve its goals of peak carbon dioxide emissions and carbon neutrality. In promoting green consumption, we will treat all sectors of the economy equally, encourage the supply and consumption of green products and services and foster a new trend of green and low-carbon life in accordance with the principle of fairness toward both domestic and foreign investment entities.

(Question 60: Paragraph 3.122, page 76)

Indication of "there is no obligation to provide written information on programmes not contained in the subsidy notification" can be inconsistent with the China's statement, "China has always been a staunch supporter, active participant and major contributor to the multilateral trading system", in paragraph 4.14 in the government report. Please explain China's view about this contradiction.

Reply: China firmly supports the multilateral trading system, earnestly fulfills its obligations of transparency, submits subsidy notifications in a timely and comprehensive manner, and tries its best to respond to the concerns of members. China earnestly replies to the written questions raised by other members on China's subsidy notifications. Although China believes that the questionnaire should focus on the contents of the subsidy notifications, China has made every effort to verify and provide relevant information on issues unrelated to the notification.

(Question 61: Paragraph 3.123, page 76)

Regarding the China's indication of "no implicit subsidies were paid to China's SOEs", Japan would like to request China to provide a list of subsidies to SOEs (recipients, usages and amounts). Also,

Japan would like to request China to explain what kind of system exists to ensure that the Government does not intervene in SOEs' financing, operation, and management.

Reply: China does not have subsidies especially for state-owned enterprises.

(Question 62: Paragraph 3.123, page 76-77)

According to the Interim Regulation on the Supervision and Administration of State-owned Assets of Enterprises (last amended on 2 March 2019) and related regulations, it appears that State-Owned Assets Supervision and Administration Bodies decides important matters of SOEs such as division, merger, bankruptcy, dissolution, increase or decrease of capital, issuance of corporate bond, and supervise SOEs' financial matters. Also, according to the Opinion by General Office of the CPC Central Committee as published on 30 May 2021 (http://www.gov.cn/zhengce/2021-05/30/content_5614000.htm) and other regulations, it appears that important operation and management matters of SOEs are required to be consulted with the Communist Party of China before SOE's decisions. Japan then would like to request China to explain on what ground China insists the Government does not intervene in SOEs' financing, operation, and management.

Reply: The Interim Regulation on the Supervision and Administration of State-owned Assets of Enterprises regulates the basic shareholder rights of the State-owned Assets Supervision and Administration Commission (SASAC). The management on enterprises and supervision on financial affairs is mainly to prevent the loss of state-owned assets, which has nothing to do with interfering in the financing, operation and management of state-owned enterprises. The Opinion shall be subject to consultation with the enterprises' Party Committee. The participation in discussion does not mean interfering in enterprises' operation.

(Question 63: Paragraph 3.124-125, page 77-78)

Japan would like to request China to explain for what reasons China insist that the funds listed in Table 3.15 and 3.16 do not provide any subsidies despite financed by the central and local governments, and are not relevant to this Review.

Reply: The funds set up by China in accordance with the market-oriented principles operate in full accordance with market principles and they are completely independent market entities. China does not provide subsidies to any industry through the funds.

Regarding the funds listed in Table 3.15 and 3.16 and the fund for promotion of venture investment in new industry and the fund for leveling up manufacture industry, please answer (1) shares of members of the Communist Party in the managements of the funds;

(2) the shares of current or ex governmental officers (local or central) in the managements of the funds; and

(3) whether committees of the Communist Party exists in the funds.

Please also provide the list of funds to which central or local government makes investment.

Reply 1-3: The funds set up by China in accordance with the market-oriented principles operate in full accordance with market principles and they are completely independent market entities. China does not provide subsidies to any industry through the funds.

Fund investment management and decision-making is completely market-oriented, where the government does not intervene or participate in the decision-making on any investment project of the funds. The specific source of funds is disclosed by the fund company in accordance with legal and regulatory requirements.

(Question 64: Paragraph 3.126, page 78)

Regarding the China's indication of "the conclusions of the study are not credible as they are based on estimated data" on the OECD report on the semiconductor industry, please provide the list of governmental support to the semiconductor industry (type of support, authority of support, amount, recipient, loan amount from state-owned banks, investment from and return rate of governmental fund).

Reply: For China's support policy for the semiconductor industry, please refer to the subsidy notification (G/SCM/N/372/CHN) submitted by China.

(Question 65: Paragraph 3.169, page 87)

Japan would like to request China to provide with the details regarding its administrative measures for registration of overseas manufacturers of imported food.

Reply: Please see the answer to question 1.

(Question 66: Paragraph 3.181, page 92)

Japan would like to request China to answer whether any element other than competition (such as political or diplomatic elements) may affect the procedures or results for the approval of mergers and acquisitions.

Reply: According to the provisions of China's Anti-Monopoly Law, the anti-monopoly law enforcement agency shall consider the following factors when reviewing whether the concentration of business operators: The first is the market share of the operators participating in the concentration in the relevant market and their control over the market; second, the market concentration of relevant markets; third, the influence of operators' concentration on market entry and technological progress; fourth, the influence of operators' concentration on consumers and other relevant business operators; fifth, the influence of operators' concentration on national economic development; sixth, other factors affecting market competition should be considered that the anti-monopoly law enforcement agency of The State Council considers. Beyond that, anti-monopoly enforcement agencies do not consider other factors in their reviews.

(Question 67: Paragraph 3.181, page 92)

Please clarify the criteria and conditions for the recognition of market dominance and the conditions and scope of exemption from prior notifications obligation for corporate combinations, which appears to be unclear under the proposed amendment to the Antimonopoly Law. Please also answer whether there are any differences in the application of these regulations between SOEs and other enterprises or not.

Reply: The Anti-Monopoly Law of China and the Interim Provisions on The Prohibition of Abuse of Dominant Market Position issued by the State Administration for Market Regulation have clearly stipulated the factors that need to be considered in determining an operator's dominant market position. The Anti-Monopoly Law makes clear provisions on the concentration of business operators that may not be reported to the anti-monopoly law enforcement agency of the State Council: First, one business operator participating in the concentration owns more than 50% of the voting shares or assets of other business operators; second, more than 50% of the voting shares or assets of each business participating operator are owned by the same business non-participating operator. The above provisions of the Anti-Monopoly Law shall be equally applicable to all forms of market players, including Chinese state-owned enterprises.

(Question 68: Paragraph 3.181, page 92)

Japan would like to request China to explain the details of the criteria for corporate merger review, such as the basis for approval/disapproval/approval with conditions, the standard to determine the scope of market. In particular, please answer whether there are any plans to clarify the standards for the addition or removal of the condition of "maintenance of independency of operation or assets" through new guidelines, etc..

Reply: According to the Anti-Monopoly Law of China and the Interim Provisions on Examination of Concentration of Business Operators, the decisions of examinations of business operators' concentration shall include the following aspects. First, the decision prohibits concentration of business operators. Anti-monopoly law enforcement agencies, on the basis that the review of the concentration of business operators judges the results of the effect of excluding or restricting competition, can make a decision to prohibit concentration. The second is to unconditionally agree to the decision on the concentration of undertakings. If the anti-monopoly law enforcement agency finds that the concentration of undertakings does not have the effect of eliminating or restricting competition after review, it shall make a decision to agree to the concentration. The third is the decision to approve the concentration of undertakings with restrictive conditions. Where the concentration of business operators has or may have the effect of eliminating or restricting competition, the anti-monopoly law enforcement agency shall make a decision to prohibit the concentration of business operators. However, if the business operator can prove that the beneficial effect of the concentration on competition is significantly greater than the adverse effect, or is in the public interest of the society, the anti-monopoly law enforcement agency may make a decision not

to prohibit the concentration of business operators. For concentration of business operators that is not prohibited, the anti-monopoly law enforcement agency may decide to attach restrictive conditions that reduce the adverse effects of concentration on competition.

According to the provisions of China's Anti-Monopoly Law, the anti-monopoly law enforcement agency shall consider the following factors when reviewing whether the concentration of business operators has or may have the effect of eliminating or restricting competition: The first is the market share of the operators participating in the concentration in the relevant market and their control over the market; second, the market concentration of relevant markets; third, the influence of operators' concentration on market entry and technological progress; fourth, the influence of operators' concentration on consumers and other relevant business operators; fifth, the influence of operators' concentration on national economic development; sixth, other factors affecting market competition should be considered that the anti-monopoly law enforcement agency of The State Council considers.

According to the Interim Provisions on the Review of the Concentration of Business Operators, the structural or behavioral conditions attached to the concentration of business operators may require operators to maintain the independence of some assets or businesses. The anti-monopoly law enforcement agency will make a decision based on the specific circumstances of the case. During the decision process, it needs to conduct in-depth investigation and evaluation, and negotiate with the centralized party to reach an agreement on the attached conditions.

(Question 69: Paragraph 3.205, page 98-99)

Japan would like to request China to explain on what grounds China does not agree with the IMF's conclusion that productivity of China's SOEs is generally low. Please provide the disclosable data which shows productivity of SOEs, which can prove China's disagreement

Reply: China does not recognize this data and conclusion quoted from IMF's report which may lead misunderstanding, because China can not confirm the detailed information which leads to the mentioned conclusion, such as samples, data, research methods, etc. China does not have the data on average productivity gap between SOEs and private companies. China does not agree with the IMF's conclusion.

(Question 70: Paragraph 3.206, page 99)

China indicates that SOEs in China operate under market conditions, with no privileges granted by the Government. Please provide the supporting data or explain what systems exist to ensure it. Please explain the system, if any, system that provides for the separation of government and SOEs with regard to government involvement in management and the dispatch of executives.

Reply: Chinese law clearly protects fair competition among enterprises of all types of ownership, and does not grant privileges to state-owned enterprises. The Company Law, the Enterprise State-owned Assets Law and other relevant laws and regulations and the company's articles of association constitute a system for the selection and management of state-owned enterprise leaders. The Company Law and the Enterprise State-owned Assets Law comprehensively and systematically regulate the corporate governance structure and the qualifications, production methods and selection procedures of its members. The company's articles of association specify the company's operations and management, as well as the selection and management of shareholders, directors, supervisors, and senior managers.

(Question 71: Paragraph 3.206, page 99)

China has promoted so called "double-hundred action" to boost reform of 100 national SOEs and 100 local SOEs since 2018. Japan would like to request China to answer:

- (1) whether any financial or other type of support to such selected SOEs has been given under such action or not; and
- (2) whether such action is disclosed or not.

Reply: China did not provide financial support. At the same time, the "Double Hundred Action" was carried out in public, and the Japanese side also obtained information from public channels.

(Question 72: Paragraph 3.207, page 99)

Japan would like to request China to provide and explain the supporting data and system to the China's statement that the Structural Reform Fund is established, invested, and operated in a market-oriented manner.

Please also explain

- why China has no information is available on the paid-in capital of the Fund.
- the amount, usage and recipient of the investment by the Fund.

Reply: More information about the "China State-owned Enterprise Restructuring Fund" can be found at: <http://www.gsxt.gov.cn>

(Question 73: Paragraph 3.208, page 99)

Japan concerns that the bailout fund with a fundraising target of CNY 100 billion might hinder the appropriate withdraw of enterprises by extending those lives unnecessary, which should have withdrawn earlier from the market.

Japan would like to request China to explain how it assesses the political legitimacy and sets the limitation of support to avoid harming market principles.

Reply: Please see the answer to question 72.

(Question 74: Paragraph 3.210, page 99)

Japan would like to request China to explain the definition and scope of "government procurement" in China.

Reply: Article 2 of the Government Procurement Law says: "The term 'government procurement' as mentioned in the present law refers to the procurement of goods, projects and services within the lawfully made centralized procurement lists or above the procurement limits by the state organs, public institutions and bodies with public fiscal funds."

(Question 75: Paragraph 3.210, page 99)

Japan would like to request China to answer whether China considers SOEs' procurements are qualified to exemptions of government procurement under Article 3.8 of GATT or not.

Reply: After 40 years of market-oriented reform, China's SOEs have become independent market players operating on their own and responsible for their own profits and losses, and the government does not interfere with their operations.

Article 2 of the Government Procurement Law says: "The term 'government procurement' as mentioned in the present law refers to the procurement of goods, projects and services within the lawfully made centralized procurement lists or above the procurement limits by the state organs, public institutions and bodies with public fiscal funds." At present, the Government Procurement Law does not govern SOEs.

(Question 76: Paragraph 3.210, page 99)

China explained in the video message at GPA Committee meeting in October 2020 that SOEs in telecommunications, petrochemical, air transportation, auto industry, iron and steel industry, etc., do not perform the government functions. Please answer whether China understands these SOEs are not exempted from government procurement under Article 3.8 of GATT.

Reply: Article 2 of the Government Procurement Law stipulates that: The term "government procurement" as mentioned in the present law refers to the procurement of goods, projects and services within the lawfully made centralized procurement lists or above the procurement limits by the state organs, public institutions and bodies with public fiscal funds. At present, SOEs are not subject to the Government Procurement Law.

(Question 77: Paragraph 3.210, page 99)

Please answer whether China understands such SOEs provide TAXI services are not exempted from government procurement under Article 3.8 of GATT.

Reply: Please see the answer to question 76.

(Question 78: Paragraph 3.210, page 99)

In the video message at GPA Committee meeting in October 2020, China categorized public institutions subject to Chinese 6th revised offer, by distinguishing hospitals which provide basic medical services and whose funds cannot or should not be allocated by the market from hospitals which provide high-level medical services and procure most of their fund from the market. Please answer whether China understands the hospital which provide high-level medical services and procure most of their fund from the market is a subject of exemption from government procurement under Article 3.8 of GATT or not.

Reply: Hospitals with public service function are within the scope of government procurement. China has included three top-notch hospitals in Annex III: West China Hospital of Stomatology, Sichuan University; Eye, Ear, Nose and Throat Hospital of Fudan University; and Hospital of Stomatology, Sun Yat-sen University.

(Question 79: Paragraph 3.210, page 99)

Please answer whether there is any difference between private hospitals and hospitals operated by central or local governments regarding treatment policies such as prescription of medicines and usage of medical equipment.

Reply: China implements homogeneous management of the medical quality and safety of medical institutions at all levels and types, and does not differ depending on the host. Public medical institutions run by the central and local governments and private medical institutions run by social forces are managed in accordance with the same laws, regulations, and policy standards, and there is no difference in the use and management of drugs and medical equipment.

(Question 80: Paragraph 3.210, page 99)

Please explain the scope of procuring entities which are subject to the Government Procurement Law. Please also explain the legal status of this Law and whether any subordinate regulations will be enacted or enforced in accordance with this Law or not.

Reply: For the scope of procuring entities which are subject to the *Government Procurement Law of the People's Republic of China*, please refer to Reply to Japanese Question 74. The *Government Procurement Law* is a basic law on government procurement in China. In addition, China has also formulated *Regulations for the Implementation of the Government Procurement Law of the People's Republic of China*, as well as many competent authority regulations and normative documents with respect to government procurement.

(Question 81: Paragraph 3.210, page 99)

Foreign Investment Law and its subordinate regulations provides that foreign invested enterprises shall not be discriminated over government procurement. On the other hand, Japan heard that the products and technologies of foreign invested enterprises are precluded from the SOEs' procurements in the form of specification and other procurement conditions. Please answer whether China recognizes this situation.

Please also answer whether, if such discrimination to the foreign invested enterprises is made, the governmental procurement becomes unlawful and invalid, and the relevant court will enforce the above-mentioned provisions of Foreign Investment Law and its subordinate regulations.

Reply: State-owned enterprises should strictly abide by laws and regulations when carrying out bidding activities. According to Article 6, Article 18 and Article 20 of the Law of the People's Republic of China on Tendering and Bidding, the tenderer shall not restrict and exclude potential bidders in any way. At the same time, the bidding activities are open to the public in accordance with the law and the qualification requirements are subject to social supervision and government supervision and inspection. The situation mentioned in the Japanese question does not match the facts.

There are no discriminatory regulations against foreign-invested enterprises in the field of the Chinese government procurement at the legal level or policy level. In recent years, China has made efforts for promoting the establishment of a unified, open-style and properly competitive government procurement market system. China will continue to strengthen the guidance and supervision of government procurement activities of various regions and competent authorities, and maintain level playing field in the market. If any foreign-invested enterprise believes that it suffers from unfair treatment in government procurement activities, it can raise doubts and complaints to

competent authorities pursuant to the law. If this is verified to constitute differential treatment or discriminatory treatment for suppliers under unreasonable conditions, punishment shall be imposed in accordance with the relevant provisions of government procurement laws and regulations. The Chinese courts strictly enforce the provisions of the *Foreign Investment Law of the People's Republic of China* and regulations for the implementation thereof.

Procurement by state-owned enterprises is beyond the scope of government procurement, for which the *Government Procurement Law* is not applicable.

(Question 82: Paragraph 3.210, page 99)

Please answer whether there is any regulations or internal documents which obliges or encourage local governments and SOEs to procure the domestic products or services or not. If yes, please provide such regulations and documents.

Reply: Article 10 of the Government Procurement Law of the PRC stipulates that the government shall procure domestic goods, construction and services, except in one of the following situations: (1) where the goods, construction or services needed are not available within the territory of the People's Republic of China or, though available, cannot be acquired on reasonable commercial terms; (2) where the items to be procured are for use abroad; and (3) other circumstances provided for other laws and administrative regulations. There is no provision in the Government Procurement Law that makes a commitment to provide preferential treatment for goods, services and suppliers of a specific country.

Procurement by state-owned enterprises is beyond the scope of government procurement, for which the *Government Procurement Law* is not applicable.

(Question 83: Paragraph 3.210, page 99)

Japan heard many Japanese and other foreign companies rarely succeeds the bidding in the governmental procurements. Japan would like to request China to provide:

- (1) the number of biddings performed in 2020;
- (2) the number of biddings won by SOEs or other Chinese invested enterprises; and
- (3) the number of bidding won by Japanese and other foreign invested enterprises.

Reply: China has not yet joined the Agreement on Government Procurement (GPA). China's government procurement laws and regulations do not make specific commitments to provide nondiscriminatory treatment for foreign goods, services and suppliers. Products and services provided by foreign-invested enterprises and Chinese-funded enterprises in China are treated equally in China's government procurement market.

In 2020, the scale of China's government procurement market hit 3.7 trillion yuan. We don't have data on the number of bids won by state-owned enterprises and other Chinese-invested enterprises or Japanese and other foreign-invested enterprises.

(Question 84: Paragraph 3.211, page 100) Under the Circular on Promoting Fair Competition in Governmental Procurement and Enhancing Business Environment (http://www.ccgp.gov.cn/zcfg/mof/201908/t20190805_12605809.htm), local governments were required to publish the result of examinations on the regulations and methods which prevent fair competition in the area of government procurement. Japan would like to request China to explain where such result is published and what kind of problems were found in such result.

Reply: Disposal results of local governments will be made public to the whole society by local competent authorities.

(Question 85: Paragraph 3.213, page 100-102)

According to Nikkei newspaper on 21 May 2020, the Security Reliable Work Committee prepared certain lists of security reliable or information innovation enterprises and products called "secure and controllable/Information Technology Application Innovation", and local governments, etc. procured the products from such lists. Also, a product needs to satisfy the requirements, such as "non-foreign invested", "produced in China" or "designed in China" and so forth to be included in such lists. Japan would like to China to answer whether such reported matters are true or not, and if not true, what portion of the reported matters is not true.

Reply: The Chinese Government backs up the innovations in information technology applications, greets foreign-invested enterprises to participate in government procurement in accordance with

laws and regulations, and will make procurements in accordance with international practices. Information Technology Application Innovation Working Committee of China Electronics Standardization Association (CESA) is a non-profit social organization initiated and founded by various organizations engaged in the research, application and service of key software and hardware technologies. Articles of association and membership accession regulations of CESA are jointly developed by members.

For specific information, please refer to <https://www.itaic.org.cn/gsz/index.htm>.

(Question 86: Paragraph 3.213, page 100-102)

If local governments, etc. procure the products based on non-disclosed lists, such lists will be considered as documents that are not available to other countries or businesses and that are pertaining to or affecting trade in goods. Japan considers such lists are subject to the disclosure obligations under Article 10.1 of GATT and Article 2(c)1 of China's protocol accession, and failure of such disclosure is inconsistent with these provisions. Please answer the China's opinion on this point.

Reply: China has noted the concerns from Japan, and would like Japan to further clarify the information sources.

(Question 87: Paragraph 3.213, page 100-102)

Please answer whether there is any technical requirements applicable to each product and undisclosed to foreign invested companies, with respect to any system for regulating terms and conditions of procurements such as "secure and controllable/Information Technology Application Innovation" or terms and conditions of governmental procurement.

Please also answer whether the lists called as "secure and controllable" products and enterprises and "Information Technology Application Innovation" products and enterprises are applicable only to government procurement or not. If such lists are also applicable to procurement by market players other than government, please explain China's view on its consistency with the national treatment under Article 3.1 and 3.4 of GATT.

Reply: Please see the answer to question 85.

(Question 88: Paragraph 3.213, page 100-102)

Industrial organizations have been formed to promote the system to determine the terms and conditions of procurements, called "secure and controllable/Information Technology Application Innovation", but foreign enterprises are practically unable to participate in it. For example, the requirements for membership in the Information Technology Application and Innovation Working Committee of the China Electronics Industry Standardization Technology Committee are that "the controlling shareholder of the enterprise must be a Chinese corporation or a Chinese citizen, the legal representative must be a Chinese citizen, and the percentage of foreign capital contribution must not exceed 25%", and furthermore, approval from the Chinese government is required. It is said that by joining such an association, one can obtain information on such system, and get cooperation from other participants in the development of products compatible with such system. Japan would like to know whether only products from companies that are members of such organizations can be eligible for government procurement or not.

Reply: Please see the answer to question 85.

If participation in such an organization is a requirement for government procurement, it makes the government procurement system more opaque, as the information on products of government procurement is shared and promoting development among participating companies. Furthermore, if participation in such organization is a requirement for government procurement, it is inconsistent with national treatment rules of the Foreign Investment Law. Please explain China's view on these points.

(Reference: <https://www.itaic.org.cn/gsz/index.htm>)

Reply: Article 15 of the Foreign Investment Law stipulates that the state guarantees that foreign-invested enterprises participate in the standard-setting work on an equal basis in accordance with the law, and strengthen the information disclosure and social supervision of standard-setting. The mandatory standards formulated by the state are equally applicable to foreign-invested enterprises. Article 13 of the Regulations for the Implementation of the Foreign Investment Law stipulates that foreign-invested enterprises and domestic-funded enterprises shall participate in the formulation and revision of national standards, industry standards, local standards, and group standards on an

equal basis in accordance with the law. Foreign-invested enterprises may formulate their own enterprise standards or jointly with other enterprises according to their needs.

Foreign-invested enterprises may submit standard project proposals to the standardization administrative department and relevant administrative departments, put forward opinions and suggestions in the process of standard project establishment, drafting, technical review, and standard implementation information feedback and evaluation, and undertake the related work of standard drafting, technical review and translation of standards in foreign languages in accordance with regulations. Standardization administrative departments and relevant administrative departments shall establish and improve relevant working mechanisms, increase the transparency of standard formulation and revision, and promote the disclosure of information throughout the entire process of standard formulation and revision.

(Question 89: Paragraph 3.213, page 100-102)

According to the Reuters on 3 August 2021 (<https://www.reuters.com/article/china-soe-buy-chinese-targets-0803-idCNKBS2F404K>), Ministry of Finance and Ministry of Industry and Information Technology on 14 May send an internal document, titled "The Circular for Guideline Standard for Examination of Imported Goods for Government Procurement (2021)" (the "Document 551"). The Document 551 was reported to guide 4 types (25%, 50%, 75% and 100%) of minimum local procurement rates for 315 products, such as medical equipments and ground radar equipment. Please answer whether the news report is true or false, whether "Document 551" or similar document exists or not, and if exists, please provide us its detailed contents.

Reply: The Document 551 is mainly aimed at the review of similar products of the same grade among domestic medical equipment. The document neither involves market trading rules nor contains restrictions on market subjects. It is only for internal reference of local finance and industry and information technology departments and has no coercive force.

(Question 90: Paragraph 3.213, page 100-102)

Please answer whether the Document 551, which requires that the minimum procurement rates for domestic goods be 25-100%, is applicable only to procurements by local governments, or applicable also to procurements by SOEs or hospitals invested or operated by local governments.

Reply: The Document 551 neither involves market trading rules nor contains restrictions on market subjects. It is only for internal reference of local finance and industry and information technology departments and has no coercive force.

(Question 91: Paragraph 3.213, page 100-102)

Since Document 551 directs the treatment of imports in government procurement and is pertaining to and affecting trade in goods, the Document 551 shall be subject to the disclosure obligation under Article 2(c)1 of China's accession protocol and Article 10.1 of GATT. Japan considers non-disclosure of the Document 551, which is not available to other countries and businesses, is likely to be inconsistent with these provisions. Please answer the China's opinion on this point.

Reply: The Document 551 neither involves market trading rules nor contains restrictions on market subjects. It is only for internal reference of local finance and industry and information technology departments and has no coercive force. Therefore, the document is not subject to the disclosure obligation under Article 2(c)1 of China's accession protocol and Article 10.1 of GATT.

(Question 92: Paragraph 3.213, page 100-102)

According to the website below

(https://zhuanlan.zhihu.com/p/410133921?utm_source=wechat_session&utm_medium=social&sr=0), the Government Procurement Law obliges the government to procure local products and services, and 14 provinces in China are prioritizing purchase of local equipment. According to the website, 11 provinces among such 14 provinces promote the procurement of local products by preparing "the purchase catalogs" and standards for procurements, and 5 provinces require additional standards and examination when foreign products are procured. (https://zhuanlan.zhihu.com/p/410133921?utm_source=wechat_session&utm_medium=social&sr=0). Please answer the following questions:

(1) Are the measures for priority purchase of local equipment explained in the website true? If not true, please specify which parts of the article are not true.

(2) Are the measures for priority purchase of local equipment applicable only to procurement by local government such as provinces and cities, or also applicable to procurements by SOEs and hospitals operated by local government?

(3) The measures as described in this website shall be subject to the disclosure obligations under Article 2(c)1 of China's accession protocol and Article 10.1 of GATT, and therefore, non-disclosure of such measures is likely to be inconsistent with these Articles. Please explain the China's view on this point.

(4) Foreign Investment Law and the Regulations on the Implementation of the Foreign Investment Law provides for foreign invested enterprises shall be entitled to national treatment; however, the measures as described in the website are de fact discrimination against the foreign invested enterprises, which are more likely to sell imported goods. Please explain the China's view on this point.

The measures as described in this website prioritize procurement of local products and discriminatory against foreign products and services. China expressed its intention to enter into GPA at the Working Party for China's accession to WTO, and has been engaged in the negotiations for accession to GPA. Introduction of such measures may suggest China's lack of honesty for the negotiations for accession to GPA, and should be inconsistent with China's expression at the Working Party for China's accession to WTO. Please explain the China's view on this point.

Reply1-5: The website link provided in the question cannot be opened, and the domain name of the website is neither a portal of the central or local government departments, nor a designated media for the disclosure of government procurement information. We cannot confirm the measures described in the question.

(Question 93: Paragraph 3.229, page 106)

At the Working Party for China's accession to WTO, China expressed its intention to enter into GPA. Please explain China's view on its time schedule to enter into GPA.

Reply: The Chinese government is working hard for accession to the GPA as soon as possible. The seventh offer that China submitted to the WTO in October 2019 presented a level basically on par with parties. In May 2020, China submitted to the WTO its government procurement report (2020 updated version) which fully presented the progress of the reform of China's legal system for government procurement. While advancing the offer negotiation, progress was also made in the legal adjustment negotiation. In June, 2021, China once again provided its seventh offer for the EU and Australia for its accession to the GPA as well as the reply to the list of issues of the government procurement report (2020 updated version). This showed China's determination to join the GPA and to advocate the multilateral trade system.

China's accession to it would not be possible if only China only strives for it. It largely depends on the positions and expectations of participating parties. China has always believed that the sooner China joins the GPA, the sooner all parties will benefit from it. It is our hope that GPA parties can have a clear understanding of the current situations, be forward-looking and pragmatic in making their offers to China, and reach a conclusion that benefits all in the negotiation for China's accession.

(Question 94: Paragraph 3.230, page 106)

According to the report by the Secretariat, it remains China's priority to conclude its GPA accession before opening its government procurement market through bilateral/regional tracks. Could China explain reasons for prioritizing the GPA accession before the negotiation of market access terms on government procurement in EPA/FTA regardless of the stagnation of the GPA accession process since 2014?

Reply: China formally submitted its application for accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the CPTPP) in September this year. Once the negotiations are launched, China will hold consultations with CPTPP Members on the opening of the government procurement market.

(Question 95: Paragraph 3.245, page 108)

For the further development of China's content industry, the establishment of a sound competitive market and an appropriate copyright protection system is more important than the protection of domestic industry. However, China's current strict regulations and barriers to entry for foreign content and foreign companies impede such a sound competitive market and appropriate protection

system. In this context, Japan would like China to elaborate its view on opening the market to foreign content and foreign companies.

Reply: China protects copyright and relates copyright holders at home and abroad in accordance with the Copyright Law and other domestic laws and regulations as well as the international treaties to which accession has been ratified. With the gradual improvement of the relevant legal system, China will continue to promote international copyright cooperation to a larger scale, wider fields and a higher level, and make the global copyright governance system more just, more open, more inclusive and fairer.

Japan would also like China to explain its efforts to protect the rights of a copyright holder. For example, since China's regulatory standards for prior content review and censorship of foreign content are unclear, Japan would like an explanation of the status of China's efforts, including the outlook and schedule of formulation and promulgation of guidelines which stipulate practical requirements and procedures.

Reply: China's recent efforts to protect copyright holders are as follows:

In terms of legislation, the Decision on Amending the Copyright Law of the People's Republic of China for the third time was adopted on 11 November 2020. The amended Copyright Law was officially effective on 1 June 2021, featuring improved concepts and systems related to works and rights, strengthened punishment of infringements, and enhanced law enforcement means of copyright authorities. In addition, the newly revised Civil Code of the People's Republic of China, which took effect on 1 January 2021, provides an important system for strengthening IPR work. The Amendment (XI) to the Criminal Law of the People's Republic of China, which took effect on 1 March 2021, increases the statutory prison term for crimes of copyright infringement and intensifies the crackdown on copyright infringement.

The domestic ratification process of the Marrakesh Treaty is expected to be completed in 2021, and relevant promotion and implementation work is also under preparation, which enables China to contribute more to the protection of the rights of persons who are blind, visually impaired, or otherwise print disabled to enjoy works and receive education on an equal basis.

In terms of law enforcement, in June 2020, the National Intellectual Property Administration, the Cyberspace Administration of China, the Ministry of Industry and Information Technology and the Ministry of Public Security jointly launched the "Sword Net 2020" campaign targeting copyright infringement and piracy on the Internet to severely crack down on copyright infringement and piracy in the fields of audio-visual works, e-commerce platforms, social platforms and online education, and regulate the order of copyright dissemination on online platforms for literature, games, music and knowledge sharing. During the "Sword Net 2020" campaign, a total of 3.2394 million infringing and pirated links were deleted, 2,884 infringing and pirated websites (APPs) were closed, 724 online infringement and piracy cases were investigated and handled, including 177 criminal cases involving RMB 301 million, and 925 online copyright dispute cases were settled. The order of network copyright has been further standardized and the environment of network copyright has been further purified. The "Sword Net 2021" campaign was launched in June 2021, and relevant outcomes will be released at the end of this year.

In addition, in order to standardize the copyright order in the film market, the Copyright Administration and the Film Administration of the Publicity Department of the Communist Party of China and the Food-and Drug-Related Crime Investigation Bureau of the Ministry of Public Security jointly deployed a centralized action to crack down on the piracy and dissemination of theatrical films from February to March 2021, and took a variety of effective measures to severely crack down on illegal and criminal acts of piracy and dissemination of theatrical films during the Spring Festival. During the campaign, 39 key cases of the infringement and piracy of theatrical films were investigated and handled, and 45 infringing websites (official accounts) were closed. The piracy and dissemination of theatrical films were effectively suppressed.

If China considers that its regulations on blocking foreign content will be consistent with the GATT and the WTO protocol on the accession of China, please explain the reasons in detail.

Reply: For details, see Several Opinions of the State Council on Promoting the Integrated Development of Cultural Creativity and Design Services and Related Industries. Viewed at: http://www.gov.cn/zhengce/content/2014-03/14/content_8713.htm.

China's relevant measures are in compliance with WTO rules.

(Question 96: Paragraph 3.250, page 108)

According to amended Trademark Act entered into force in Nov. 2019, counter measure against bad-faith application for trademark registration was strengthened. Japan would like to know how Chinese relevant authority examines bad-faith of applicant and request China to provide the details regarding examination procedures for bad-faith application.

Reply: In order to cope with the revision of the Trademark Law, the Regulations on Regulating Trademark Registration Acts have been implemented since December 1, 2019. The regulations clarify the requirements for applying for trademark registration and the types of irregular applications, as well as the factors that the trademark registration department can consider comprehensively when judging malicious trademark registration applications that are not intended for use, providing clear guidelines for combating malicious registration and improving the operability of legal regulations. Since 2020, the State Intellectual Property Office of China has continued to carry out special actions to combat malicious hoarding of trademarks and malicious trademark squatting that are not intended for use, clarifying the specific circumstances of the review and handling of malicious hoarding and malicious squatting, and publicizing relevant applicants and Agency, the effect has been remarkable since its implementation.

(Question 97: Paragraph 3.304, page 119)

According to Secretariat Report, Chinese custom officers have authority to conduct ex officio actions for import and export shipments. Aside from import and export shipments, Japan would like to know whether Chinese custom officers also have authority to conduct ex officio actions for transit shipment.

The relevant IPRs involved in import and export shipments that are protected by Chinese laws and regulations are protected by the Chinese customs authorities.

(Question 98: Paragraph 3.305, page 119)

According to Secretariat Report, amended Criminal Law entered into force in Mar. 2021 provides for stronger criminal penalty for IPR infringement. Regarding IPR infringement, especially infringement for trademark right and copyright, can police or prosecutor suspend such infringement or initiate a prosecution for such infringer without right holder's complaint?

Reply: According to the provisions of the Criminal Procedure Law, criminal cases of IPR infringement can be prosecuted by the procuratorate to the court according to law to hold the criminal liability of the infringer. Public security authorities shall file and investigate the case if they find criminal facts or suspects within their jurisdiction. Any entity and individual have the right and obligation to report to the public security authorities if they find criminal facts or suspects. Victims have the right to report or sue the criminal facts or suspects infringing their rights to the public security authorities.

(Question 99: Paragraph 3.264, page 111)

In various countries, an applicant is allowed to submit an application (for patents and others) in foreign languages, especially in English, and to correct mistranslation of the translated sentences when necessary. Could China explain whether China has plan to adopt such system?

Reply: The Implementing Regulations of the Patent Law stipulate that all documents submitted in accordance with the Patent Law and the Regulations shall be in Chinese; Based on the patent right granted by the international application, if there are translation errors in the translation, it can be corrected.

(Question 100: Paragraph 3.240, page 108)

Japan would like to know whether China has plan of or at least considering ratifying or acceding to the UPOV 1991, the Marrakesh VIP Treaty, the Trademark Law Treaty (TLT) and the Singapore Treaty on the Law of Trademarks (STLT) in the near future, and, if so, the state of play of such plan or consideration.

Reply: The implementation of the protection of new plant varieties in China is led by the State Intellectual Property Office with the participation of the Ministry of Agriculture and Rural Affairs and the National Forestry and Grassland Administration.

Since China acceded to the International Convention for the Protection of New Plant Varieties more than 20 years, the protection of new plant varieties has been developed, and the review ability and protection level have also been improved. At present, China is revising the seed law, and the regulations on the protection of new plant varieties will be further revised. The main contents of the revision include expanding the protection scope, extending the protection chain, and establishing the EDV protection system, so as to make legal preparations for joining the UPOV1991 text.

China officially launched the ratification process of the Marrakesh Treaty in 2020 and will deliberate a proposal of the State Council on the Treaty at the 31st Session of the Standing Committee of the 13th National People's Congress on 19 October 2021.

China is currently conducting studying and demonstration on issues related to the Trademark Law Treaty (TLT) and the Singapore Treaty on Trademark Law (STLT).

(Question 101: Paragraph 4.37, 4.43 (Box 4.1), page 135-137)

The Report S415 explains that China has taken fisheries conservation measures in line with the revised Fisheries Law and regulations for its implementation in recent years. With regard to this, Japan would like to ask China what kind of standards were introduced to evaluate fisheries stocks as a result of the fisheries resource management. Also, according to paragraph 4.37, China has taken first steps to introduce a total allowable catch system, so Japan would like to ask if China has seized data of catch volume by species and areas, and if China publishes it as well as the results of evaluation of fisheries stocks.

Reply: China publishes fishery statistical yearbooks every year, which contain seized data of catch volume by species and areas. Evaluations of fisheries stocks are conducted by relevant Chinese scientific research institutions by internationally accepted methods. After such evaluations, the relevant scientific research achievements are publicly released as appropriate.

(Question 102: Paragraph 4.43-44, page 136)

Although the Secretariat report says that Chinese authority has strengthened the control over IUU fishing vessels recent years, many fishing vessels based in Chinese ports have been sighted being engaged in illegal fishing for squid in the Sea of Japan. In this context, Japan would like to request China to provide detailed information on the current situation of China's control on these fishing vessels and the future plan.

Reply: China is very concerned about IUU ships and has been severely cracking down on such ships in various ways in accordance with the law. The first is to establish a multi-department joint coordination mechanism, strengthen departmental collaboration, and implement local territorial responsibilities. The second is to strengthen port management, confiscate and destroy all IUU ships and illegal catches found in accordance with the law, and hold relevant ship owners, crew members and other responsible persons accountable in accordance with the law, including criminal responsibility. The third is to organize and implement a series of special law enforcement actions of the "Fishery Policy Bright Sword", to clean up and ban fishing-related "three-nos" vessels, negotiate with the China Coast Guard to strengthen maritime cruises, and strictly deal with the seized fishing-related "three-nos" vessels in accordance with the law. All suspected illegal acts shall be transferred to the public security department. In the next step, China will continue to consolidate local territorial responsibilities, strengthen departmental coordination, and always maintain a high-pressure strike on fishing-related "three noes" ships. At the same time, it will strengthen the construction of fishery administration and fishing port supervision and law enforcement, and further enhance the supervision and law enforcement capabilities.

(Question 103: Paragraph 4.43, page 136)

According to the report by the Secretariat, between January 2018 and early 2021, the Chinese Government "imposed different levels of penalties on 84 deep-sea fishing vessels belonging to 51 enterprise".

Could China provide the details about infractions for which the Chinese Government imposed the penalties? (e.g. Sea areas in which the vessels in question operated, species targeted by the vessels, basis for infractions.)

Reply: The operating sea area is part of the exclusive economic zone of fishing countries, and part of the high seas of the Atlantic Ocean, the Pacific Ocean and the Indian Ocean; The fish caught are squid; The penalties are based on the Regulations on the Management of Ocean Fisheries and other

laws and regulations, and fishery development subsidy policies; Punishment measures include deduction of subsidies, cancellation or suspension of the qualifications of offshore fishing enterprises and offshore fishing projects, fines on the captain of the fishing vessel involved, cancellation of the qualification certificate of the crew member, and inclusion of the person in charge or captain of the enterprise on the "blacklist" of practitioners, etc. .

(Question 104: Paragraph 4.43, page 137)

Regarding the FAO's Port State Measures Agreement, the Chinese authorities are studying the possibility of acceding to the Agreement, according to the report by the Secretariat. Could China elaborate on the progress of preparatory work for this possible accession?

Reply: China agrees with the important role played by the Agreement on Port State Measures in combating IUU fishing. It appreciates the efforts of FAO and its member states to make the Agreement effective, and is actively studying and promoting accession to the Agreement. China's domestic port supervision involves multiple departments and requires coordination and joint management. Although there are still difficulties for China to join the Agreement in the short term, China has included the list of IUU fishing vessels announced by the participating regional fisheries organizations into the scope of China's port control. It is forbidden for fishing boats listed in IUU to enter Chinese ports, refuse to refuel, supply, and repair such fishing boats at Chinese ports, and refuse to unload, transfer, pack and process the fish caught by such fishing boats at Chinese ports. For Chinese fishing vessels entering foreign ports, China requires them to accept and cooperate with relevant countries to carry out port inspections in accordance with relevant international and relevant national laws. In order to further advance the process of joining the Port State Measures Agreement, China is advancing the reform of the fishing port, strengthening the reporting of fishing boats entering and leaving the fishing port, establishing a catch traceability system, and prohibiting illegal catches from landing ashore. In May 2021, China and FAO jointly held an international seminar on advancing port state measures through video conferences, and organized domestic and foreign experts to discuss matters related to port state measures.

(Question 105: Paragraph 4.44, page 152)

Steelmaking capacity increase in foreign countries, mainly in ASEAN, has been promoted by the governmental strategies such as 13th Five-Year Plan and the Belt and Road Initiative. Please explain China's view whether it considers the capacity increase, which significantly exceeds demands in the country invested by Chinese companies, in foreign countries does not cause excess capacity issues.

Reply: At present, there is no data showing that there is a causal relationship between changes in foreign steel production capacity and the policies of the Chinese government. As of the end of 2018, China has completed the target of reducing crude steel production capacity by 150 million tons during the 13th Five-Year Plan period. The overall supply and demand situation of the iron and steel industry has become more reasonable, and the utilization rate of crude steel production has rebounded sharply.

(Question 106: Paragraph 4.115-119, page 152-153)

According to the following statistics disclosed in the Ministry of Industry and Information Technology of China, it appears that production volumes of steel, aluminum and coal has increased for recent three (3) years. Japan would like to request China to explain how China evaluate this situation in the context of excess capacity issues.

(Steel)

2018

https://www.miit.gov.cn/gxsj/tjfx/yclqy/gt/art/2020/art_7e912c04b16d48c4a7609de9acee9a37.html

2019

https://www.miit.gov.cn/gxsj/tjfx/yclqy/gt/art/2020/art_78e06002ee5e441eb67427c450751fa9.html

2020

https://www.miit.gov.cn/gxsj/tjfx/yclqy/gt/art/2021/art_7e1abd4df2534112af929972244aa388.html

(Aluminum)

2018

https://www.miit.gov.cn/gxsj/tjfx/yclqy/ys/art/2020/art_f26d2d6fab6a49ba825e64246260921d.html

2019

https://www.miit.gov.cn/gxsj/tjfx/yqlq/ys/art/2020/art_96e67367c02f41ff8a0ee1cac2378e7e.htm

2020

https://www.miit.gov.cn/gxsj/tjfx/yqlq/ys/art/2021/art_1c856f83c3234efd9fd01d7b4da3ff85.htm

(Coal)

2018

http://219.235.131.8/pub/lwzb/gzdt/201905/t20190521_5097.html

2019

<http://lwzb.stats.gov.cn/pub/lwzb/gzdt/202005/W020200528770641842151.pdf>

2020

<http://www.coalchina.org.cn/uploadfile/2021/0303/20210303022435291.pdf>

Reply: As for steel, China's steel production mainly serves the needs of domestic economic construction and development. Since the outbreak of COVID-19, in particular, steel demand in the international market has been shrinking, but in China, the demand for steel has been strong. The output growth of steel and other products in the past three years has mainly met the demands in the domestic market.

As for aluminum, the development of electrolytic aluminum in China has based on the domestic demand. In 2020, balance in the supply and demand of electrolytic aluminum was basically maintained in China. With regard to coal, China strictly controls the amount of coal mined. In general, the management policy that outputs are determined by enterprises in the above fields themselves according to market needs has achieved good results in containing new capacities, and kept the bottom line of total capacity control.

(Question 107: Paragraph 4.124, page 153)

Please explain the system (if any) which ensures the China's statement, "the Fund's investment management and decision-making of the Fund are under the market principles".

Please explain how is it possible to prove that it is under the market principles; for example, how the Fund decides and conducts exits and sales of investments as private funds usually do.

Please explain why China did not confirm the figures on shareholding in first term of China's National IC Investment Fund. Please also clarify the share of investors and the conditions for receiving investment with respect to the second term of IC Investment Fund.

Reply: National Integrated Circuit Industry Investment Fund Co., Ltd. is a corporate equity investment fund. It does not belong to any government department. Its management and decision-making are completely market-oriented. Government department does not interfere with, nor participate in the decision-making progress of any investment program within the fund. The source of the fund will be released by the fund with accordance to requirements of Chinese law and regulation. The fund is operated in compliance with Company Law of China. Company governing systems have been established accordingly, including general meeting of shareholders, board of directors and board of supervisors. The general meeting of shareholders is the supreme authority, the board of directors is responsible for implementing the decision from general meeting of shareholders and making decisions over certain major events in a legal manner. The senior managers of the fund is employed and designated by the board. The senior managers are responsible for daily operation of the fund. Board of supervisors is responsible for supervising the directors and the senior managers. Provincial level local funds and National Integrated Circuit Industry Investment Fund are both independently-operating market-oriented funds.

(Question 108: Paragraph 4.132, page 154-155)

According to the Report S415, China is a world's leading shipbuilder and MIIT is encouraging financial institutions to support the domestic shipbuilding industry. With respect to this, Japan would like to ask China if this financial support covers fishing vessels for its modernization, and if so, could it potentially contribute to overcapacity and overfishing, which is considered as one of the world's urgent problem to be addressed?

Reply: China implements strict "shipping network tool indexes" approval system for governing fishery ships and has established "two way control system of input and output", controlling the total amount of ship, total power and total catch. By doing so, we gradually coordinated the relationship

between the fishery capacity, total catch and the fishery resources carrying capacity, achieved sustainable utilization of marine fishery resources.

(Question 109: Paragraph 4.143, page 157-158)

Please explain how CBIRC operates to achieve its mandate to "regulate and supervise banking and insurance institutions, maintain fair competition in the banking and insurance sectors".

Reply: Anti-unfair competition is the internal requirement of perfecting the market economy system and promoting high quality development. According to Article 9 of the Law on Commercial Banks and Article 3 of the Banking Supervision Law, the CBIRC shall protect fair competition in the banking sector, and commercial banks shall not engage in any unfair competition. Articles 115 and 116 of the Insurance Law stipulate that insurance companies shall operate business according to the principle of fair competition, shall not commit unfair competition, and shall be prohibited from damaging the goodwill of competitors by fabricating or spreading false facts, or disturbing the order of the insurance market by any other act of unfair competition. On the basis of such financial laws and administrative regulations as the Law on Commercial Banks, the Banking Supervision Law and the Insurance Law, the CBIRC fully implements its regulatory responsibilities in the banking and insurance industry, severely cracks down on unfair competition, and effectively maintains the market competition order; it severely cracks down on illegal operations of banking and insurance institutions and their employees, and their acts that damage the legitimate rights and interests of other financial institutions or disrupt financial order. It has strengthened market regulation and regulated market disorder through coordinated action at all levels, thus protecting the legitimate rights and interests of consumers and maintaining a fair and just market order.

Please also explain how CBIRC assesses "fair competition" and what it does to ensure.

Reply: Please refer to the above reply.

(Question 110: Paragraph 4.204, page 169)

Japan would like to know whether a provision of service through crowd computing itself will be included in the scope of the value-added telecom services, for which 50% cap of foreign shareholding is generally applied. For example, a foreign invested enterprise with 100% foreign shareholding may desire to provide its customers who bought its products with the maintenance and support services online through its crowd server. Is it allowed for such 100% foreign invested enterprise to provide such maintenance and support services through its crowd server?

Reply: Please clarify the business pattern of crowd computing.

(Question 111: Paragraph 4.204, page 169)

In China, Foreign companies are restricted from entering value-added communications and cloud services, which Japan is requesting to deregulate. In this context, Japan would like China to elaborate its view on opening the market to foreign companies. Japan would like to know the reason why a guideline (for value-added telecommunication services and cloud services) which stipulates practical requirements and procedures of the regulation have not been formulated yet. If China plans to prepare such guidelines in future, Japan requests China to share the schedule for providing them.

Reply: Currently, China is actively promoting the further opening of the telecom industry, with accordance to state's requirement for constructing a new system of open economy. On top of fulfilling China's promise of entering WTO, China is studying and investigating the feasibility of loosening the limitation of foreign capital share in the telecom industry in pilot districts.

(Question 112: Paragraph 4.214-222, page 170-172)

We understand that cybersecurity-related laws and regulations are subject to public comment, but have opinions from foreign governments and foreign companies been taken into account? If so, could China share with us specific examples?

Reply: China follows the principle of democratic legislation and attaches importance to extensively listening to opinions and suggestions from all quarters. When formulating laws and regulations related to cybersecurity, we paid attention to in-depth research in various places, and extensively listened to the opinions and suggestions of relevant departments, enterprises and experts through various methods such as holding seminars and demonstration meetings, and fully grasped all aspects of legislative needs. At the same time, the Cybersecurity Law, Data Security Law and Personal

Information Protection Law have been publicly solicited opinions from the public many times during the formulation process, and all domestic and foreign members of the public can submit their opinions online or in paper.

(Question 113: Paragraph 4.214, page 170)

The scope of "critical information infrastructure" under Article 37 of the Cybersecurity Law is stipulated in Article 31, but we understand that China has promised liberalization or partial liberalization in many of these areas. As the scope of "critical information infrastructure" is unclear, service providers in a wide range of fields that China has promised to liberalize under the GATS may be affected, and we would like to know the relationship between the Law and the national treatment obligations of GATS.

Reply: China has always complied with the WTO's principles of national treatment and treats domestic and foreign service providers equally and equally. The relevant systems stipulated in Article 37 of the Cybersecurity Law have the same requirements for domestic and foreign service providers, and there is no requirement for foreign service providers to set higher obligations than similar domestic service providers and does not constitute a violation of the principle of national treatment. The Critical Information Infrastructure Security Protection Regulations clarified the definition of critical information infrastructure. Critical information infrastructure refers to important industries and fields such as public communication and information services, energy, transportation, water conservancy, finance, public services, e-government, national defense technology industry, and other important network facilities, information systems, etc. that may seriously endanger national security, national economy, people's livelihood and public interests if they are damaged, lost function, or data leaked.

(Question 114: Paragraph 4.214, page 170)

Article 37 of the Cybersecurity Law stipulates that operators of "critical information infrastructures" are obligated to store personal information and critical data in China, and to conduct security assessments when providing such data outside China. In general, it is presumed that foreign operators consolidate and manage data centrally outside of China, and therefore, when fulfilling these obligations, it is assumed that there will be cases where additional burdens arise that do not arise for Chinese operators who consolidate and manage data domestically. In this way, if foreign operators are effectively placed in disadvantageous competitive conditions compared to Chinese domestic operators, there is a possibility that this will violate the national treatment obligations under Article 17 of the GATS. We would like to know what the Chinese government's position is on this point.

Reply: It is a misinterpretation of the law to simply equate critical information infrastructure operators with foreign operators, and the scope of critical information infrastructure is limited. The relevant provisions of the Cybersecurity Law treat domestic and foreign operators equally and make no difference. The primary starting point for China to formulate relevant policies is to support data flow and data development and utilization. But at the same time, it should be noted that disorderly circulation and sharing of data may lead to major risks in personal information protection and data security. Necessary, appropriate, and non-discriminatory management must be imposed. It is also a common international practice to strengthen the management of cross-border data flows.

(Question 115: Paragraph 4.214, page 170-171)

Japan recognizes the Provisions on Ecological Governance of Network Information Content (http://www.cac.gov.cn/2019-12/20/c_1578375159509309.htm) provides for content restrictions of information on the Internet. Japan would like to request China to answer whether and how such restrictions will apply to the contents transmitted or imported from foreign countries.

Reply: Article 2 of the "Regulations on the Ecological Governance of Network Information Content" clarifies that these regulations apply to the ecological governance of network information content within the territory of the People's Republic of China. Therefore, to engage in network information content services within the territory of the People's Republic of China, the relevant requirements of the "Regulations" should be followed.

(Question 116: Paragraph 4.214, page 170-171)

Japan would like China to answer when (1) the Regulation on the administration of commercial encryption which was issued on 20 August 2020, (2) Cyber Security Multi-Level Protection Scheme, (3) Data Security Management Measures, (4) Personal Information Outbound Transfer Security

Review Measures, and (5) the amendment of Cybersecurity Review Measures, are expected to be enacted and current situations of progress.

Reply: The Regulation on the Administration of Commercial Encryption (revised) has been included in the legislative work plan of the State Council for 2021. In the revision of the Regulation on the Administration of Commercial Encryption, China will abide by the principles of law, democracy and science, adhere to openness, transparency and scientific demonstration, widely solicit public opinions, and ensure that stakeholders participate in the revision by legal means.

Reply: According to the Cybersecurity Law, the Data Security Law, and the Personal Information Protection Law, relevant supporting regulations such as data security management and data outbound security assessment are being formulated, and it is expected that the public will solicit public opinions in the near future.

(Question 117: Paragraph 4.214, page 170-171)

The Cybersecurity Law provides that when selling network core products and specialized cybersecurity products, it is required to obtain a security certification following the related national standards and industry standards, it is assumed that technical regulations and conformity assessment procedures for these products will be established. Japan would like to request China to answer whether China intend to notify such technical regulations, etc. to TBT Committee. If it fails to do so, it would be inconsistent with Article 2.9.2 of TBT Agreement.

Reply: China has consistently complied with the requirements of the Technical Barriers to Trade Agreement and notified the Technical Barriers to Technical Barriers Committee of relevant mandatory national standards and other technical regulations in a timely manner. Among the national standards related to information security, only "Computer Information System Security Protection Grade Classification Guidelines" (GB 17859-1999) is a mandatory national standard. The rest are recommended national standards or guiding technical documents, and there are currently no issues such as notification of strong standards.

(Question 118: Paragraph 4.214, page 170-171)

Article 37 of the Cybersecurity Law obliges critical information infrastructure (CII) operators (CIIOs) to store personal information or important data collected during operations in China and to undertake a security review of such data when it is transferred outside of China. Please clarify the specific scope of CIIOs.

The Cybersecurity Law and Critical Information Infrastructure Protection Regulations do not have exhaustive list in the definitions of CII or CIIOs and are not foreseeable, even though it would cause a significant burden to the business entity if it falls under the category of CIIOs. Japan would like to ask China for its views on the possibility of an exclusive list of CII or CIIOs, where any unlisted items will not be included as CII nor CIIOs.

Reply: The Critical Information Infrastructure Security Protection Regulations clarified the definition of critical information infrastructure. Critical information infrastructure refers to important industries and fields such as public communication and information services, energy, transportation, water conservancy, finance, public services, e-government, national defense technology industry, and other important network facilities, information systems, etc. that may seriously endanger national security, national economy, people's livelihood and public interests if they are damaged, lost function, or data leaked. Chapter 2 of the "Regulations" stipulates that the competent departments and supervisory departments of the above-mentioned important industries and fields are responsible for formulating key information infrastructure identification rules, and organizing the identification of key information infrastructure in the industry and this field as the protection work department. The operator shall be notified of the determination result in a timely manner, and the public security department of the State Council shall be notified. Judging from the situation of various countries, it is quite complicated to specify the scope of key information infrastructure, and it is a process of continuous improvement and continuous adjustment in practice. At present, relevant departments are actively promoting the establishment of rules for the identification of critical information infrastructure and the organization of identification in accordance with the "Regulations."

(Question 119: Paragraph 4.214, page 170-171)

Article 37 of the Cybersecurity Law stipulates that where it is truly necessary to provide the personal data and the important data to the outside of China due to business requirements, the data shall be subjected to a security assessment in accordance with the measures jointly formulated by the State

cybersecurity and informatization departments and the relevant departments of the State Council. Japan would like to request China to answer when such measures jointly formulated by the State cybersecurity and informatization departments, etc. will be enacted.

Reply: In accordance with the Cybersecurity Law, Data Security Law and Personal Information Protection Law, relevant supporting regulations such as data security management and data exit security assessment are being formulated, and it is expected to solicit public opinions from the public in the near future.

(Question 120: Paragraph 4.214, page 170-171)

Article 10 of Critical Information Infrastructure Protection Regulations stipulates that the relevant competent departments in each industry and sector shall certify CIIs in their jurisdictional areas and notify it to the business operator. Does this provision means that the business operator is not required to treat any infrastructure as CII until it is notified as certified CII? In addition, Japan would like to request China to answer what CII has already been certified.

Reply: Please see the answer to question 118.

(Question 121: Paragraph 4.214, page 170-171)

Article 2 of the Data Security Law provides, "data processing activities carried out outside China which harms the national security of China, the public interest, or the lawful rights and interests of citizens and organizations, are to be pursued for legal responsibility in accordance with law". Please answer whether this provision means extraterritorial application of this Law or not. Please also provide the specific name and article of such "law" under which foreign organisation or individuals would be subject to the legal liability.

Reply: In accordance with Article 2.2 of the Data Security Law of the anyone who conducts data processing activities outside the People's Republic of China that harms the national security, public interests, or the legitimate rights and interests of citizens or organizations of the People's Republic of China shall be investigated for legal responsibility in accordance with the law. The above provisions of the Data Security Law have the necessary extraterritorial effect in accordance with the principle of protective jurisdiction. Anyone who commits the above acts may be investigated for legal responsibility in accordance with the China's Criminal Law, the law applicable on the Application of Civil Legal Relationship Concerning Foreign Affairs and other laws.

(Question 122: Paragraph 4.214, page 170-171)

Please answer whether the Data Security Law regulates foreign organisations and individuals acting in China or not.

Reply: In accordance with Article 2.1 of the Data Security Law of the People's Republic of China, data processing activities and safety supervision inside the People's Republic of China shall be subject this Law. Accordingly, foreign organizations and individuals conducting data activities in China shall also be subject to this Law.

(Question 123: Paragraph 4.214, page 170-171)

Please clarify the scope of "data processing activities within or outside China", which is regulated by the Data Security Law. Under current wordings of this Law, it appears any kind of data processing could be subject to this Law, which will significantly hinders the foreseeability of organisations and individuals in other countries. Please consider to clarify more objective and reasonable standard by amending the relevant sentence more practically, such as "data processing activities ancillary to the products or services to Chinese market".

Reply: In accordance with the protective jurisdiction principle as provided in the Article 2.2 of the Data Security Law, this Law has necessary extraterritorial effects.

(Question 124: Paragraph 4.214, page 170-171)

With respect to the "management and supervision of data processing activities and their security in China" as stipulated in Article 2 of the Data Security Law, please clarify the standard to determine whether or not the data processing or data security is conducted "within China". As for the criteria for "within China", please consider to set objective and detail criteria, such as the location of the acting entities or the data storage location, etc

Reply: There are many links in data processing. According to the general understanding, whether the actual place of processing behavior or the location of the server is located in China shall be taken as the judgment criterion, and pure network data transmission shall usually not be regarded as processing within China.

(Question 125: Paragraph 4.214, page 170-171)

Please answer the general contents of "management systems for data transactions", "categorical and hierarchical system for data protection", "systems for data security reviews" and "data security management systems for the entire process", which is contemplated to be established under the Data Security Law. Please also answer when such systems are expected to be established.

Reply: As a basic law in the data field, the Data Security Law has established a basic system for data security protection and management, and relevant departments are formulating and improving related supporting regulations. Laws, regulations, and standards that have been issued or have been solicited for opinions include but are not limited to Regulations on the Protection of Critical Information Infrastructure, Regulations on the Protection of Cybersecurity Levels, Measures for Cybers Security Review, and Guidelines for Classification and Grading of Industrial Data (for Trial Implementation), Financial Data Security Data Security Classification Guide, and other laws and regulations.

(Question 126: Paragraph 4.214, page 170-171)

Article 21 of Data Security Law (enforced from 1 September 2021) provides that a list of "important data" will be enacted by relevant governmental agencies. Japan would like to request China to answer:

- (1) when such list will be enacted; and
- (2) whether the definition of "important data" in Data Security Law is same with the "important data" in Article 37 of the Cybersecurity Law or not

Reply: The "important data" stipulated by Data Security Law is consistent with the "important data" stipulated by the Cybersecurity Law. For the specific situation of the formulation of the important data catalog.

(Question 127: Paragraph 4.214, page 170-171)

Japan would like to request China to explain under what circumstances can the governmental agencies force the operators of networks, etc. to submit credit information of enterprises and individuals.

Reply: China attaches great importance to the protection of personal information, and has successively promulgated laws and regulations such as the Cybersecurity Law and the Personal Information Protection Law, and established systems and rules with clear rights and responsibilities, effective protection, and standardized use to protect the rights and interests of personal information in accordance with the law. According to the relevant provisions of the Personal Information Protection Law, in order to perform statutory duties, state agencies shall process personal information in accordance with the powers and procedures prescribed by laws and administrative regulations, and shall not exceed the scope and limits necessary to perform statutory duties.

(Question 128: Paragraph 4.214, page 170-171)

Article 24 of the Data Security Act stipulates that "a national security review shall be conducted for data processing activities that affect or may affect national security. Please explain detail on what specific cases Article 24 applies to.

Reply: China is currently working on the revision of the Cybersecurity Review Measures, and plans to include data processing activities that affect or may affect national security into the scope of review. The "Measures (Revised Draft for Solicitation of Comments)" has been publicly solicited from the public through the Chinese Government Legal Information Network and China Netcom from July 10 to July 25, 2021.

(Question 129: Paragraph 4.214, page 170-171)

Please clarify the detail concept of "data which is subject to the controlled items ... related to maintenance of national security and interest and the performance of international obligations" under Article 25 of the Data Security Law, to which export control applies. The definition and scope of the controlled items and contents of applicable export control is not stipulated in this Law, and

thus should be clarified. Please explain how to avoid making arbitrary operation, such as by considering industry policy perspectives.

Reply: Please see the answer to question 44.

(Question 130: Paragraph 4.214, page 170-171)

As for "other data processing persons" stipulated in Article 31 of the Data Security Act, since there is no definition and it is unclear which entities are covered, please clarify the specific scope of "other data processing persons".

In addition, as the criteria for determining "important data" stipulated in Article 31 remains unclear, please clarify the criteria for determining the applicable data.

Please also answer the detail contents of security control over the transfer of important data to outside China and preparation status of such contents. Please explain how to ensure transparency and foreseeability of such contents, because such contents may become excessive restrictions on trade.

Reply: The purpose of data exit management is to maintain national network security and protect the interests of the people. It is not to prevent the cross-border flow of data, let alone restrict international trade. According to the "Data Security Law", relevant supporting regulations such as data security management and data outbound security assessment are being formulated, and it is expected that the public will solicit opinions from the public in the near future.

(Question 131: Paragraph 4.214, page 170-171)

Article 35 of the Data Security Law obliges "relevant organizations and individuals" to cooperate when public security agencies and state security agencies need to inspect data to preserve national security or investigate crimes.

Please answer whether organisations and individuals outside China is also obliged to cooperate under this Law or not.

Please also clarify the detail contents of applicable laws and regulations and relevant agencies related to the procedures for the above-mentioned data inspection.

Reply: In accordance with Article 2 of the Data Security Law of the People's Republic of China, data processing activities and its safety supervision inside the People's Republic of China shall be subject to this Law.

Anyone who conducts data processing activities outside the People's Republic of China that harm the national security, public interests, or the legitimate rights and interests of citizens or organizations of the People's Republic of China shall be investigated for legal responsibility in accordance with the law.

(Question 132: Paragraph 4.214, page 170-171)

Article 44 of the Data Security Law provides, "where relevant regulatory departments performing data security oversight and management duties discover that data processing activities have relatively large security risks, they may conduct interview to the relevant organizations or individuals and may require them to employ "measures to eliminate the potential risks."

Please clarify the detail contents or standard on "relatively large security risks" and "measures to eliminate the potential risks".

Reply: Article 27 of the Data Security Law of the People's Republic of China stipulates that "In conducting data processing activities, one shall, in accordance with the provisions of laws and regulations, establish and improve a whole-process data security management system, organize data security education and training, and take corresponding technical measures and other necessary measures to safeguard data security. In conducting data processing activities by using the Internet or any other information network, one shall perform the above data security protection obligations on the basis of the hierarchical cybersecurity protection system."

(Question 133: Paragraph 4.214, page 170-171)

The Data Security Law requires private organisations in China to prepare reports and system with respect to security assessment; but their detail contents are not clear. Please answer whether there is any plan to establish guideline, etc. on the system and so forth to be established by private organisations.

Reply: China would like Japan to further clarify which provisions of the Data Security Law are involved in the above question.

(Question 134: Paragraph 4.214, page 170-171)

Cybersecurity Law, Data Security Law, Personal Information Protection Law and related regulations provide for the following cybersecurity reviews by relevant authorities;

- (1) transfer of personal information and important data outside China by critical information infrastructure operators (Article 37 of the Cybersecurity Law);
- (2) transfer of personal information outside China by operators of critical information infrastructure and personal information processors whose processing of personal information reaches the number prescribed by the State cyberspace administration (Article 38 of the Personal Information Protection Law);
- (3) data security review for data processing activities (Article 24 of the Data Security Law and Article 2 of Cybersecurity Review Measures);
- (4) procurement of network equipment and service by operators of critical information infrastructure (Article 35 of the Cybersecurity Law); and
- (5) foreign listing of business operator which has more than one million of personal information (Article 6 of Cybersecurity Review Measures).

In the process of these cybersecurity review, there is a concern that foreign entities may be subjected to less favorable treatment, or that trade secrets and technical information (such as source code) of companies may be excessively collected or leaked, which may violate the national treatment obligations stipulated in Article 17 of GATS and Articles 8.4 and 10.3 of RCEP Agreement, depending on the operation of reviews. Japan would like to request China to make the standards of such security reviews fair and clear and to ensure the transparency in their enforcements. On the condition, is there any legal security to prevent unfavorable treatment of foreign business operators and excessive collection and leakage of such confidential information? If so, please explain.

Reply: The cybersecurity review fully respects and strictly protects the company's intellectual property rights and related trade secrets. Article 16 of the Cybersecurity Review Measures stipulates that "Relevant institutions and personnel participating in cybersecurity review shall strictly protect business secrets and intellectual property rights of enterprises, undertake confidentiality obligations for undisclosed materials submitted by operators, product and service providers, and other undisclosed information learned during the review; Without the consent of the information provider, it may not be disclosed to unrelated parties or used for purposes other than review. "Article 17 stipulates that "Operators or network product and service providers who believe that the reviewers are not objective and fair, or fail to assume the obligation to keep confidential the information learned during the review work, may report to the Cybersecurity Review Office or relevant departments. "

(Question 135: Paragraph 4.214, page 170-171)

The Provisions on Management of Automobile Data Security (enforced on 1 October 2021) appears not to have detail standards and procedures for "security review" under its Article 11. Please answer whether there is any subordinate regulation or guideline to clarify such standards and procedures. If the answer is no, please answer when such standards and procedures are expected to be enacted.

Reply: In accordance with the Cybersecurity Law, Data Security Law and Personal Information Protection Law, relevant supporting regulations such as data security management and data exit security assessment are being formulated, and it is expected to solicit public opinions from the public in the near future.

These Regulations provides that international treaties committed by China shall prevail over these Regulations if there is any inconsistency. Please answer whether China recognizes any inconsistency between these Regulations and Articles 12.14 and 12.15 of RCEP Agreement, and, if yes, how these Articles of RCEP Agreement will be applied.

Reply: Article 11 of the Provisions on the Management of Automobile Data Security stipulates that, if there are different provisions in the international treaties or agreements committed by China, such international treaties or agreements shall apply, except the provisions on which China has declared reservations.

Japan concerns the risk of inconsistency with Article 17 of GATS and Articles 8.4 and 10.3 of RCEP Agreement, if foreign operators do not receive national treatment, or if trade secrets or

technical information (such as source code) is collected unnecessary or leaked by governmental agencies. Please answer whether there is any system or measure to avoid such situations or not.

Reply: China's measures are in compliance with the WTO rules and relevant treaty obligations

(Question 136: Paragraph 4.217, page 171)

Please clarify the detail and comprehensive scope of "commercial encryption "to be covered by "the Regulation on the administration of commercial encryption" In addition, Japan is afraid that the security review, certification, import and export permits, and enforcement of the use of specific commercial encryption stipulated in the regulation may constitute a violation of national treatment obligation if the conditions of competition for foreign products and services are effectively unfavorable compared to like domestic products and services. Please explain the China's view on this point. Japan would like China to answer how to make the requirements and standards fair and clear and to ensure the transparency of the operation so that foreign business entities are not treated unfavorably.

Reply: Article 2 of the Regulation on the Administration of Commercial Encryption (Revised Draft for Comments) stipulates that commercial encryption referred to in this regulation means cipher techniques, products and services used for the protection or the security certification of information not involving state secret with specific transformation methods. Article 21 of the Encryption Law provides that people's governments at all levels and their relevant departments shall abide by the principle of non-discrimination, and lawfully and equally treat commercial encryption scientific research, production, sale, service, import and export, and other entities including foreign-funded enterprises. The state encourages cooperation in commercial encryption technology based on the principle of voluntariness and business rules in the process of foreign investment. Neither administrative agency nor any of its employees shall use administrative means to force commercial encryption technology to be transferred. The research, production, sale, service, import and export of commercial encryption shall not harm national security, the public interest or the lawful rights and interests of another person.

(Question 137: Paragraph 4.217, page 171)

Please clarify and specify the scope of the subject and standard of export and import regulations of commercial encryption, such as the commercial encryption that affects national security and the public interest and has encryption protection function as stipulated in the Regulation on the administration of commercial encryption.

Reply: Article 28 of the Encryption Law provides that the commerce department of the State Council and the state cryptographic administrative authority shall, according to the laws, subject commercial encryption with encrypted protection functionality relating to national security or public interest to import licensing and impose export control on commercial encryption relating to national security or public interest, or with respect to which China has an international obligation. A list of commercial encryption under import licensing and a list of commercial encryption under export control have been developed and issued by the Ministry of Commerce in conjunction with the State Cryptography Administration and the General Administration of Customs. As for the import of the items and technologies included in the List of Commercial Encryption under Import Licensing, an application shall be made to the Ministry of Commerce for the Import License for Dual-purpose Items and Technologies; as for the export of the items and technologies included in the List of Commercial Encryption under Export Control, an application shall be made to the Ministry of Commerce for the Export License for Dual-purpose Items and Technologies.

(Question 138: Paragraph 4.217, page 171)

Japan would like to request China to explain what kind of merit or incentive, if any, is given to a company which voluntarily apply to qualified testing and certification agencies for the testing and certification of their commercial encryption products under the Encryption Law.

Reply: According to the Encryption Law, the State Administration for Market Regulation shall, together with the State Cryptography Administration, establish a unified national certification system for the certification of commercial encryption products listed in the Catalogue of Commercial Encryption Products Subject to Certification. The state shall encourage commercial encryption practicing entities to voluntarily accept the testing and certification of commercial encryption to improve market competitiveness. Any commercial encryption product relating to national security, national economy and people's livelihood, or public interest shall be put on the list of key network

equipment and exclusive cybersecurity products, and may be sold or provided only after a qualified institution finds the product to have passed testing and certification. The administration of commercial encryption products fully embodies the principle of non-discrimination and fair competition. Domestic and foreign products as well as domestic and foreign enterprises are equally subject to the administration.

(Question 139: Paragraph 4.217, page 171)

Article 25 of the Encryption Law provides that inspection and certification organizations of commercial encryption are obliged to keep commercial secrets confidential. Will such confidentiality obligations be applicable to other governmental agencies and the Communist Party? Is there any possibility that the governmental agencies and the Communist Party may request the disclosure of commercial secrets for the purpose of national security or other reasons?

Reply: The Encryption Law stipulates that a cryptographic administrative authority or relevant authority, or any of its employees, shall not require any commercial encryption practicing entity or commercial encryption testing and certification institution to disclose encryption-related exclusive information such as the source code to it, and shall strictly keep confidential any trade secret or personal privacy that comes to their knowledge in performing duties, without divulging or illegally providing the trade secret or personal privacy to another person.

(Question 140: Paragraph 4.217, page 171)

Some provisions in the Personal Information Protection Law appear to be redundant with or different from the Cybersecurity Law. For example, the Cybersecurity Law only refers to the consent of data subject as justification to process personal information; but the Article 13 of the Personal Information Protection Law allows other legitimate basis in addition to such consent. Also, under the Article 40 of the Personal Information Protection Law, only "Operators of critical information infrastructure" and "personal information processors whose processing of personal information reaches the number prescribed by the State cyberspace administration" are obliged to store data domestically. Therefore, any other person shall not be required to store data domestically, and does not need to pass the security review under the Article 40, when such person desires to transfer the personal information outside China in accordance with the Article 38.

Please clarify whether we can understand that the provisions of the Personal Information Protection Law, which was enacted more recently and is less restrictive, prevails over the corresponding provisions of the Cybersecurity Law or not.

Reply: First, in accordance with the development and popularization of information technology and the increasing needs of personal information processing situations, the Personal Information Protection Law expands the legal basis for processing personal information on the basis of the Cybersecurity Law. In addition to obtaining individual consent, it also includes: necessary for the conclusion and performance of a contract in which the individual is a party, or necessary for the implementation of human resource management in accordance with the labor rules and regulations established in accordance with the law and the collective contract signed in accordance with the law; necessary to perform statutory duties or statutory obligations and many other situations. Second, in order to meet the needs of international economic and trade exchanges and fully protect the rights and interests of personal information, the Personal Information Protection Law has established clear and systematic rules for the cross-border flow of personal information. According to the provisions of Article 38 and Article 40 of the Personal Information Protection Law, the personal information that should be stored in China is limited to the personal information collected and generated by key information infrastructure operators and personal information processors who process personal information up to the number specified by the national cyberspace administration during operations in China; If it is really necessary to provide it overseas, it shall pass the security assessment organized by the national cyberspace administration; Where laws, administrative regulations, and national cybersecurity and informatization departments provide that security assessments may not be required, those provisions shall prevail. For other personal information processors who provide personal information overseas, the Personal Information Protection Law provides for channels such as certification by professional institutions and in accordance with standard contracts formulated by the national cybersecurity and informatization department.

In addition, if the international treaties or agreements that the People's Republic of China has concluded or participated in have provisions on the conditions for providing personal information abroad, it can also be provided overseas in accordance with the provisions of the international treaties and agreements.

(Question 141: Paragraph 4.219, page 171-172)

Foreign enterprises will lose foreseeability and face obstacle in their business activities, unless the scope and interpretations of extraterritorial application in Article 3.2 of the Personal Information Protection Law will be clarified such as through guidelines. This Article 3.2 adopted same standard with GDPR (EU General Data Protection Regulation); but GDPR has detailed interpretation guidelines. Please explain the China's view on the article.

Reply: Paragraph II of Article 3 of the Personal Information Protection Law of the People's Republic of China mainly applies to cross-border transactions targeting individuals in China, and personal information processing behaviors in such activities as recording and tracking the personal information of natural persons within Chinese territory to analyze and evaluate the behaviors of such natural persons.

(Question 142: Paragraph 4.219, page 171-172)

Article 38 of the Personal Information Protection Law (enforced from 1 November 2021) stipulates the following 4 requirements for the transfer of personal information outside China: (1) passing the security review conducted by the State cybersecurity administration;

(2) obtaining certification in relation to personal information protection from professional institutions;

(3) entering into a standard contract as prescribed by the State cyberspace administration with the overseas receiving parties to stipulate the rights and obligations of both parties; and

(4) fulfilling the requirements stipulated in other laws or regulations, or in the rules set by the state cyberspace authorities.

The details of these requirements are unclear. Please clarify such details on the security review, certification and contract. If such details cannot be clarified, please answer when such details are expected to be clarified.

Regarding the requirement (1), Japan recognizes that the draft of the Personal Information Outbound Transfer Security Assessment Measures (http://www.cac.gov.cn/2017-04/11/c_1120785691.htm) was disclosed on 13 June 2019 for public comments. Japan would like to request China to explain when the Regulations are expected to be enacted. In addition, Japan would like to request China to make the standards for (1) security reviews fair and clear and to ensure the transparency in their enforcements.

Regarding the requirement (2), Japan would like to know when the detail on the certification in relation to personal information protection is expected to be enacted.

Reply: In the field of personal information protection, China has issued an announcement in March 2019, establishing and implementing a mobile Internet application (App) security certification system, and evaluating whether the App's collection and use of consumer personal information meets national standards. App security certification is currently being carried out in an orderly manner.

Regarding the requirement (3), Japan would like to know when the standard contract is expected to be enacted.

Reply: In accordance with the Cybersecurity Law, Data Security Law and Personal Information Protection Law, relevant supporting regulations such as data security management and data exit security assessment are being formulated, and it is expected to solicit public opinions from the public in the near future.

(Question 143: Paragraph 4.219, page 171-172)

Please clarify the details of "Operators of Critical Information Infrastructure" and "personal information processors whose processing of personal information reaches the number prescribed by the State cyberspace administration", which are subject to the domestic storage obligation in the Article 40 of the Personal Information Protection Law. If such detail has not been determined yet, please answer when such detail is expected to be determined.

Reply: The Regulations on the Security Protection of Critical Information Infrastructure clarified the definition of critical information infrastructure. Critical information infrastructure refers to important industries and fields such as public communication and information services, energy, transportation, water conservancy, finance, public services, e-government, national defense technology industry, and other important network facilities, information systems, etc. that may seriously endanger national security, national economy, people's livelihood and public interests if they are damaged,

lost function, or data leaked. Chapter 2 of the "Regulations" stipulates that the competent departments and supervisory departments of the above-mentioned important industries and fields are responsible for formulating key information infrastructure identification rules, and organizing the identification of key information infrastructure in the industry and this field as the protection work department. The operator shall be notified of the determination result in a timely manner, and the public security department of the State Council shall be notified. According to the Cybersecurity Law, the Data Security Law, and the Personal Information Protection Law, relevant supporting regulations such as data security management and data outbound security assessment are being formulated, and it is expected that the public will solicit public opinions in the near future.

(Question 144: Paragraph 4.219, page 171-172)

Article 42 of the Personal Information Protection Law provides that, if any overseas organization or individual conduct processing of personal information in any manner which damages "the personal information rights and interests of citizens of China, or endanger the national security or public interests of China", the provision of personal information to such organization or individual will be prohibited or restricted. It appears this requirement is unclear. Please clarify the detail standard for such requirement. Japan concerns arbitrary operation of this provision may lose foreseeability in operations of processors of personal information.

Reply: The Personal Information Protection Law is applicable to Chinese citizen information interest infringement that happened overseas, or personal information processing activities that endanger China's national security and public interests.

The Cybersecurity Review Measures (Revised Draft for Solicitation of Comments) was publicly solicited from the public in July this year. The Chinese side has fully studied the opinions put forward by all sectors of society. At present, relevant content, including supporting measures and standards, is still being improved.

(Question 145: Paragraph 4.219, page 171-172)

Article 41 of the Personal Information Protection Law (enforced from 1 November 2021) and Article 36 of Data Security Law (enforced from 1 September 2021) requires consent of the competent government departments when domestic organizations and individuals provide data and personal information stored in China to foreign judicial or law enforcement authorities. Japan would like to request China to explain the procedures for obtaining the consent of the competent government departments.

Reply: With regard to cross-border judicial or law enforcement activities, China proposes that they should be handled in accordance with international judicial assistance treaties and agreements, administrative law enforcement assistance agreements and agreements on the basis of respecting national sovereignty and the principles of equality and reciprocity. These shall also be applicable for cross-border data retrieval for judicial and administrative law enforcement. In the absence of relevant treaties or agreements, approval of the competent Chinese authorities is required according to the Personal Information Protection Law and the Data Security Law.

(Question 146: Paragraph 4.219, page 171-172)

The Data Security Law and Personal Information Protection Law provides that China may employ equal measures against that nation or region based on the actual circumstances if any nation or region employs discriminatory, restrictive, or other similar measures against China. Please clarify the contents and standard on "discriminatory, restrictive, or other similar measures" and "equal measures".

Reply: In recent years, some countries have violated WTO rules and taken unreasonable prohibitions, restrictions, or other measures against China in the fields of investment and trade, and unreasonably suppressed Chinese enterprises. According to the principle of reciprocity, China has the right to take corresponding measures to safeguard the legitimate rights and interests of Chinese enterprises and maintain the normal international economic and trade order. The above provisions of Data Security Law and Personal Information Protection Law are consistent with the relevant provisions of Foreign Investment Law and Foreign Trade Law.

(Question 147: Paragraph 4.220, page 172)

With regard to the cybersecurity assessment stipulated in Cybersecurity Review Measures, the provisions of the articles appear unclear as to when the cybersecurity assessment is necessary and what standard applies to such assessment. Please clarify more detail requirements and standards.

Please answer whether there is any plan to formulate guidelines or regulations that specify such detail requirements and standards. Japan would like to request China to make equal and transparent standards and to ensure transparency of operation.

Reply: The Cybersecurity Review Measures (Revised Draft for Solicitation of Comments) was publicly solicited from the public in July this year. We have fully studied the opinions put forward by all sectors of society. At present, relevant content, including supporting measures and standards, is still being improved.

(Question 148: Paragraph 4.220, page 172)

Japan understand that the draft amendment of Cybersecurity Review Measures not only regulates the CIIOs but also regulates data processing persons, requiring data processing persons to take cybersecurity assessment if data processing activity affects or may affect national security. Please clarify the scope of such data processing persons and data processing activities under this Measure.

Reply: Please refer to the answer to question 148.

(Question 149: Paragraph 4.220, page 172)

Regarding Article 10 of the Cybersecurity Review Measures, please clarify the specific scope and definitions of "core data", "important data" and "large amounts of personal data" so that business operator can objectively understand the scope of these concepts

Reply: Please refer to the answer to question 148.

(Question 150: Paragraph 4.220, page 172)

Article 16 of the draft amendment of Cybersecurity Review Measures provides that government organizations related to cybersecurity review may initiate cybersecurity review of data processing and listed activities outside of China that may affect national security. Please answer the detail on the element of "affect or may affect the national security" regarding the assessment by CAC.

Reply: Please refer to the answer to question 148.

(Question 151: Paragraph 4.223, page 167-172)

Article 25 of the E-commerce Law provides that, "Where relevant competent authority requires an e-commerce operator to provide e-commerce data information according to laws and administrative regulations, such e-commerce operator shall provide". Japan would like to request China to explain under what situations the Government can require the data information, and what kind of data information will be required. Can such data information be provided to the Government by the e-commerce operator without knowledge of relevant parties of e-commerce transactions?

Reply: According to the Measures for the Supervision and Administration of Online Transactions, online transaction operators should provide data and information on the prices, sales, and sales of goods or services in a specific time period, a specific variety, and a specific area in accordance with the requirements of the State Administration for Market Regulation and its authorized provincial market supervision and management departments.

(Question 152: Paragraph 4.223, page 172)

Does the scope of operators subject to the E-commerce law include suppliers of telecommunications service and computer related services, including cloud services, in terms of China's commitments under the GATS? If so, what kinds of sub-sectors of those services are included and what other sectors are not included?

Reply: Please refer to the interpretation of the E-Commerce Law. http://www.mofcom.gov.cn/article/zt_dzswf/ImportNews/201901/20190102828936.shtml

(Question 153: Paragraph 4.4 (Table A4.2), page 202)

Regarding the Fund for distant water fishery of Rizhao City and Qingdao City, Shandong Province, listed in Table A4.2 Local government support to fisheries as notified to the WTO, whose objective is to promote sustainable development of distant water fisheries and improve the stability and safety of distant water fishing vessels, Japan would like to ask China what kind of requirements should be satisfied to grant such subsidies. Are they contingent upon fishing in areas beyond China's jurisdiction? Are they conditioned to comply with obligations by relevant international agreements

and rules such as covered species and areas for fishing, catch volume, and installation of Global Positioning Systems and observer crew on board?

Reply: Please refer to the Subsidy Notification G/SCM/N/372/CHN submitted by China.

ARGENTINA**Informe Secretaria de la OMC****Párrafo 3.3.7.5.1 Trademarks****Subpárrafo 3.252.**

PREGUNTA Nº 1 ¿se pueden registrar como marca un término que sea igual o similar a una Indicación Geográfica (IG) de algún miembro de la OMC que tenga acuerdo con China?

Reply: According to *the Trademark Law, the Implementation Regulations of the Trademark Law and the Administrative Measures Concerning the Registration of Collective Marks and Certification Marks*, geographical indications can be applied for registration as certification marks or collective marks. Where a foreigner or a foreign enterprise applies for the registration of a geographical indication as a collective mark or a certification mark, the applicant shall provide proof that the geographical indication is protected by law in its name in its country of origin. If a geographical indication of a WTO Member has been registered as a collective mark or a certification mark of geographical indication in China, the application of others for a trademark that is the same or similar to the collective mark or the certification mark of geographical indication on the same or similar goods will be rejected according to law. If a geographical indication of a WTO Member has not been registered as a collective mark or a certification mark of geographical indication in China, other people's applications for a trademark that is the same or similar to the geographical indication trademark will be preliminarily examined and approved according to law, and the relevant right holders or interested parties may raise objections or apply for invalidation according to law.

The provisions on the registration and protection of foreign geographical indication products in China are specified by *the Measures for the Protection of Foreign Geographical Indication Products*, a normative document of China National Intellectual Property Administration.

Párrafo 3.3.7.5.2 Geographical indications**Subpárrafo 3.256.**

PREGUNTA Nº 2: ¿Podría explicar China cuáles son los criterios para proteger una IG de acuerdo al sistema sui generis mencionado?

Reply: According to *the Trademark Law, the Implementation Regulations of the Trademark Law and the Administrative Measures Concerning the Registration of Collective Marks and Certification Marks*, in China, a geographical indication can either be applied for registration as a certification mark or a collective mark, or be requested for protection as a geographical indication product. If protection is requested for a geographical indication product, it shall be conducted mainly according to the relevant provisions of *the Provisions on the Protection of Geographical Indication Products and the Measures for the Protection of Foreign Geographical Indication Products*. China National Intellectual Property Administration and State Administration for Market Regulation also jointly issued *the Guidance on Further Strengthening the Protection of Geographical Indications*. In addition, *the Measures for the Administration on the Use of Special Signs of Geographical Indication Products (Trial)* were also issued.

¿Cuáles son los procedimientos y criterios que se establecen para el registro de IGs extranjeras?

Reply: Foreign geographical indications may be registered as collective marks or certification marks of geographical indications according to China's trademark law system, The process is as follows: submission of application - formal examination - substantive examination - preliminary examination and approval announcement - objection - registration announcement or submission of application - formal examination - substantive examination - rejection - reexamination of rejected application - first instance - second instance. The application procedures to be submitted include: application form, power of attorney, certificate of protection in the host country, certificate of right as principal, certificate of geographical division, rules for the administration on the use of geographical indications and trademarks, and certificate of supervision and management ability, etc. At the same time, when a foreign applicant applies to China for the registration of a geographical indication as a collective mark or a certification mark, it can be extended to China through the Madrid system based on the trademark application or registration with its original office.

¿Qué costo tiene el registro?

Reply: There is no charge for the registration of foreign geographical indication products through a special system. When registering as collective marks and certification marks of geographical indications according to China's trademark law system, the official charge is RMB 1,500 yuan for each collective mark or certification mark of geographical indication, and RMB 1,350 yuan for those submitted through electronic applications. When the trademark application or registration of a foreign geographical indication with its original office is extended to China through the Madrid system, the specific charging standard can be found on the official website of the WIPO (https://www.wipo.int/madrid/en/how_to/file/fees.html).

¿Existe intervención del país de origen de la IGs que la ha reconocido o queda sólo a cargo de los productores el registro en China de una IG extranjera?

Reply: The authorities in charge of the management and control of foreign geographical indication products in China shall be consistent with those in their countries of origin. Where a foreign geographical indication is protected through China's trademark system, the applicant shall entrust a trademark agency to submit an application for trademark registration of the relevant geographical indication together with a certification for the protection of the geographical indication in its country of origin. When the trademark of a geographical indication has been registered, its management and operating activities shall comply with the requirements of China's trademark law system.

Subpárrafo 3.257.

PREGUNTA Nº 3: ¿Se protegen las IGs extranjeras que no hayan sido registradas por alguna de las leyes mencionadas?

Reply: For collective marks and certification marks of geographical indications, according to Article 10 of the *Trademark Law*, signs such as "a sign which is deceptive and easily misleads the public regarding the quality or origin of goods" and "signs detrimental to socialist morality or mores or having any other adverse effect" may not be used as trademarks; Article 11 stipulates that "a sign only bearing the generic name, design or model of the goods" and "other signs lacking distinctiveness" may not be registered as trademarks. Meanwhile, Article 16 stipulates that where a trademark contains a geographical indication of the goods but the goods do not originate from the region indicated thereon, thus misleading the public, the trademark shall not be registered and shall be prohibited from use; however, those that have been registered in good faith shall continue to be valid.

For products enjoying geographical indication protection, according to the relevant rules of the WTO and the *Measures for the Protection of Foreign Geographical Indication Products*, a geographical indication applied in China must obtain geographical indication protection in its country or region of origin.

Subpárrafo 3.258.

PREGUNTA Nº 4: ¿Qué criterios hay establecidos en el sistema sui generis para tratar los genéricos, como así también las IGs que incluyen varios términos inclusive genéricos?

Reply: According to Article 5 of the *Measures for the Protection of Products Bearing Foreign Geographical Indications* on the rules for the composition of the application name, generally, it is required to be composed of a name with a geographical indication (GI) function and a common name reflecting the true attributes of the product. In addition, it requires that the GI name to be applied for is not a common name, and does not conflict with other prior rights such as the names of Chinese GI products.

Subpárrafo 3.259.

PREGUNTA Nº 5: ¿Cómo se protegen las IGs que son homónimas con aquellas que sean iguales o similares a otras protegidas por acuerdos multilaterales o bilaterales?

Reply: China has not yet encountered the above situation in the implementation of bilateral or multilateral agreements. If a GI product is requested for protection in such case, the above-mentioned problems shall be resolved in accordance with the opposition procedure stipulated in the *Regulations on the Protection of Geographical Indication Products*. GIs applied for registration as certification trademarks or collective trademarks shall be resolved in accordance with the procedures of rejection, opposition, and invalidation specified in the *Trademark Law* and the *Regulations for the Implementation of the Trademark Law*.

Debe tenerse en cuenta que el Acuerdo ADPIC contempla la protección de IGs homónimas en el artículo 23.3.

¿Están exceptuados de la protección por IGs los nombres de las variedades vegetales, incluidas las variedades de vid y las razas animales?

Reply: According to Article 5 of the *Measures for the Protection of Products Bearing Foreign Geographical Indications* on the rules for name composition, the name to be applied for shall not conflict with other prior rights such as the names of Chinese GI products.

China's trademark legal system stipulates the name composition of GI trademarks. A GI trademark must not be a common name for a commodity. If the relevant right holder or interested party believes that its prior rights have been damaged, they may file an objection or an application for invalidation in accordance with the law. The registered GI trademark becomes the common name of the goods approved for use, and any unit or individual can apply for cancellation.

4.1.2.2 Legal and institutional framework

PREGUNTA N° 6: ¿Podría brindarse mayor información en cuanto a excepción sobre Restricciones Inversión Extranjera Directa en sector Semillas, ya que el Informe sólo señala que fue realizada en soja y arroz, pero sin brindar mayores detalles o motivo?

Reply: The negative list for foreign investment access lists the restrictions on soybeans and corn, not rice.

4.1.2.4.3.1 Support measures

PREGUNTA N° 7: ¿Podrían informarse los incentivos brindados por el gobierno al sector agrícola durante la pandemia de COVID-19 en 2020 en los diferentes niveles administrativos?

Reply: In 2020, while strengthening the prevention and control of the epidemic in rural areas, the Chinese government further advanced agricultural supply-side structural reforms. The first was to improve agricultural support and protection policies, stabilize subsidies for grain farmers, and adhere to and improve the minimum purchase price policy for rice and wheat. The second was to strengthen the construction of agricultural infrastructure, promote a new round of high-standard farmland construction, implement the national black soil protection project, and promote protective farming models. The third was to strengthen the support of modern agricultural science and technology, enhance the construction of modern seed industry infrastructure, continue to strengthen the construction of animal epidemic prevention and crop pest control systems, and improve the capability of agriculture against risks.

PREGUNTA N° 8: En el párrafo 2.15 del informe de la Secretaría se menciona que el Consejo de Estado emitió las Orientaciones sobre la Promoción del Desarrollo del Comercio de Alta Calidad, en las que se reitera la intención de las autoridades de promover el desarrollo del comercio de alta calidad, en especial mediante la innovación en ciencia y tecnología, la mejora de la estructura comercial y las inversiones en ambos sentidos.

¿Qué acciones piensa llevar o está llevando a cabo el gobierno para lograr estos objetivos?

Reply: (1) Create a good environment for enhancing capacity for innovation in trade and promote the innovative development of foreign trade. Further deepen technological innovation, institutional innovation, model and business format innovation, and promote the foreign trade development to evolve from being factor-driven to being innovation-driven, and from pursuing scale and speed to pursuing quality and efficiency. (2) Continuously optimize the international market layout, domestic regional layout, business entities, commodity structure and trade methods. Further explore traditional markets such as developed economies while expanding emerging markets. (3) Deepen reforms in the field of foreign trade and fully release the development potential of foreign trade. Fully implement the measures of the Trade Facilitation Agreement, promote paperless license application, strengthen the construction of a "single window" in international trade, and continue to improve the level of trade facilitation. (4) Further expand opening up and share development results with other countries. In 2020, in addition to effectively controlling the spread of COVID-19 within the country, China also exported anti-pandemic materials to more than 200 countries and regions, which vigorously promoted international anti-pandemic cooperation.

Informe del Gobierno

5.2.3 Fully implementing the rural revitalization strategy and steadily modernizing agriculture and rural areas

PREGUNTA N° 9: ¿Podría China mencionar cual es el tiempo estimado (periodo) para cumplir con las nuevas iniciativas para el sector agrícola?

Reply: It depends on the trend of the COVID-19 and the development of the market.

PREGUNTA N° 10: En el párrafo 3.9 del Informe del Gobierno se menciona que China ha establecido 105 zonas experimentales de comercio electrónico transfronterizo en cinco tramos, ha ofrecido orientaciones a las autoridades locales para que construyan laboratorios de ensayo de nuevas ideas, ha promovido la innovación de los modelos de negocio y ha creado un entorno de desarrollo justo, abierto y transparente.

¿Podría describir brevemente las características de tales zonas, y en caso de poseer datos al respecto, comentar sobre los efectos observados de tales medidas?

Reply: Since 2015, the Chinese government has approved the establishment of 105 cross-border e-commerce pilot zones ("pilot zones") in five batches. Overall, these pilot zones are playing increasingly prominent roles in the development of foreign trade. They have become new bright spots in foreign trade growth, new channels for innovation and entrepreneurship, and new drivers for transformation and upgrading.

In terms of the encouragement and support for the development of cross-border e-commerce, the Ministry of Commerce has, together with relevant departments, actively explored innovation, constantly strengthened top-level design, improved support policies, optimized the development environment and improved the development level. We have guided the pilot zones to build a policy framework with "six systems and two platforms" as the core ("Six systems" includes: information sharing system, financial system, intelligent logistics system, e-commerce credit risk systems, air defense systems and statistical detection system; "two platforms" are: the online "single window" platform and the offline "integrated park" platform), and copy and popularize 36 mature experiences and practices in 12 respects.

On 5 July this year, the General Office of the State Council issued *the Opinions on Accelerating the Development of New Operations and New Models of Foreign Trade*, which clearly puts forward such ideas as improving the support policies for the development of cross-border e-commerce, solidly promoting the construction of pilot zones, supporting the development and growth of subdivision service platforms such as independent stations and station building tools, facilitating trade payment and settlement management, and strengthening the construction of industry organizations and the cultivation of professionals, so as to promote the healthy and sustainable innovation and development of new forms and new models of foreign trade.

PREGUNTA N° 11: En el párrafo 3.10 del Informe del Gobierno se indica que en las esferas fundamentales del comercio de servicios en régimen de plena competencia o de competencia limitada, y en los elementos competitivos del comercio de servicios en régimen de monopolio natural, China promovió la anulación o la flexibilización de las restricciones impuestas al comercio de servicios, guiándose por los principios de supresión total, flexibilización sustancial y liberalización ordenada.

¿Podría mencionar si en tal marco se han implementado o se planea implementar medidas que faciliten el comercio de servicios basados en conocimiento?

Reply: The *Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services* stipulates that in qualified pilot zones, foreigners who have obtained permanent residence permits issued by the Chinese government and have patent agency qualifications issued in other countries are allowed to participate in the patent agent qualification examination. Those who pass the examination will be issued a "Patent Attorney Qualification Certificate." At present, this policy has been implemented in pilot zones of comprehensively deepening the innovative development of trade in services such as Beijing, Suzhou, Nanjing, and Guangzhou.

PREGUNTA N° 12: En el párrafo 4.95 se menciona la implementación de nuevo impuesto ambiental con el fin de promover la protección del medio ambiente y reducir la contaminación, en el cual se prevén reducciones del impuesto ambiental para las empresas con un nivel de contaminación inferior al estándar, a la vez que se han reforzado las sanciones.

¿Podría comentar si este impuesto posee una articulación con el recientemente implementado mercado de carbono de China? De ser este el caso, ¿Podría comentar la dinámica de tal articulación?

Reply: On December 25, 2016, the Twenty-Fifth Session of the Standing Committee of the Twelfth National People's Congress adopted the *Environmental Protection Tax Law of the People's Republic of China*, which was formally implemented on January 1, 2018. In the three years since the environmental protection tax was levied, the tax system has operated steadily and smoothly, law enforcement has been steadily strengthened, and the green effect has gradually become apparent. The scale of environmental protection tax revenue has been generally stable, and the green taxation increasingly played a leading role, which has contributed to strengthening the ecological environment management and winning the battle against pollution.

ARGENTINA – ADDITIONAL QUESTIONS

Preguntas Adicionales de la Argentina - CHINA TPR WT/TPR/S/415

POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS

2.4 Régimen de inversión

2.4.1 Marco reglamentario y acceso a los mercados

El 15 de marzo de 2019, China adoptó la Ley de Inversión Extranjera, cuyo objetivo es mejorar el entorno empresarial para los inversores extranjeros y asegurar que las empresas con inversión extranjera participen en la competencia de mercado en pie de igualdad con sus homólogos nacionales, de conformidad con el ordenamiento jurídico. El 31 de diciembre de 2019, el Consejo de Estado promulgó el Reglamento de Aplicación de la Ley de Inversión Extranjera. La Ley de Inversión Extranjera y su Reglamento de Aplicación entraron en vigor el 1 de enero de 2020. Posteriormente, se derogaron las leyes y los reglamentos de aplicación anteriores relativos a los inversores extranjeros y a las empresas con inversión extranjera, a saber, la Ley de Empresas Conjuntas de Capital con Inversión China y Extranjera, la Ley de Empresas Conjuntas Cooperativas con Capital Chino y Extranjero, y la Ley de Empresas con Inversión Extranjera, así como sus reglamentos y normas administrativos.

1-¿Podría China detallar con mayor precisión en qué consiste la Ley de Inversión Extranjera y enumerar los requisitos necesarios para aplicar por parte de los inversores extranjeros?

Reply: Foreign investors investing in China should abide by the Foreign Investment Law and its supporting policies. China implements the pre-establishment national treatment and negative list management system for foreign investment. The negative list for foreign investment access uniformly lists special management measures for foreign investment access such as equity requirements and executive requirements. As for the areas beyond the negative list shall follow the principle of fairness toward both domestic and foreign investment.

3.1 Medidas que afectan directamente a las importaciones

3.1.1 Procedimientos y requisitos aduaneros y valoración en aduana

En el inciso 3.2 se explica que los procedimientos aduaneros están regulados por varios instrumentos legislativos (cuadro 3.1). Los cambios introducidos recientemente en la Ley de Aduanas y el Reglamento sobre Derechos de Importación y Exportación eliminaron las prescripciones administrativas sobre licencias para las importaciones y exportaciones temporales. Las modificaciones de otras reglamentaciones aduaneras, como las Disposiciones sobre la Tramitación por la Administración de Aduanas de las Declaraciones de Importación y Exportación de Mercancías y las Normas de la Administración de Aduanas sobre la Gestión de la Percepción de Derechos sobre las Importaciones y las Exportaciones, tenían por objeto optimizar el entorno empresarial, reducir los costos de las transacciones institucionales, simplificar los procedimientos aduaneros y reducir el tiempo necesario para el despacho de aduana.

2-¿Podría China detallar cuáles fueron todas las modificaciones realizadas sobre las reglamentaciones aduaneras?

3- ¿Se han logrado los objetivos mencionados?

4- ¿Podrían brindar detalles sobre el impacto económico que tuvo la aplicación del mismo?

Reply to question 2-4: China's revision of customs-related laws and regulations in recent years mainly involves 43 provisions of Customs Law, Regulations on Import and Export Duties, Provisions of the Customs on the Administration of Declaration of Imported and Exported Goods and Measures of the Customs for the Administration of the Collection of Duties on Imported and Exported Goods. With the improvement of relevant customs laws and regulations, the customs clearance procedures of China Customs have been further optimized and the business environment has been further improved.

En el punto 3.5 dice que en 2019, la GACC inició una reforma de la "declaración en dos etapas" de las importaciones, de modo que las empresas ya no necesitan presentar todas las declaraciones y documentos a la vez. La primera etapa consiste en presentar la declaración resumida junto con el conocimiento de embarque para recoger las mercancías, y la segunda en completar todo el proceso de declaración en un plazo determinado. Según las autoridades, la reforma, que se llevó a cabo primero en algunas oficinas de aduanas, volvió más eficaz y sencilla la declaración de las empresas,

aceleró el levante de la carga y mejoró la eficiencia del despacho de aduana. Se aplica en todo el país desde el 1 de enero de 2020.

5-¿Podría China dar mayor detalle acerca de cómo ha logrado a través de su reforma de la "declaración en dos etapas" de las importaciones volver más eficaz y sencilla la declaración de las empresas, acelerar el levante de la carga y mejorar la eficiencia del despacho de aduana?

Reply: Through actively carrying out the reform of declaration system such as "two-step declaration", China provides enterprises with an alternative customs clearance mode rather than entering all 105 customs declaration information one-off. When enterprises adopt "two-step declaration", they only need to declare at least 9 items of data to take the goods in the "General Declaration" stage. This helps solve the problem that customs clearance cannot be carried out because the documents are not collected completely in advance. After the goods are taken, enterprises can choose to complete the remaining declaration items within specified time, which considerably improves the customs clearance efficiency. In October 2021, the overall customs clearance time for goods using "two-step declaration" mode in China is 19.91 hours, which is 57.07% shorter than that of goods adopting other modes.

En el inciso 3.18 se informa que en febrero de 2020, la GACC promulgó 10 medidas encaminadas a hacer frente a los efectos de la epidemia y promover el crecimiento sostenido del comercio exterior con miras a reducir el impacto de la COVID-19 en la economía china y fomentar el crecimiento sostenido del comercio exterior al prevenir y controlar la epidemia.

6-¿Podría China detallar cuáles son las medidas que se introdujeron a causa de la pandemia y explicar cuáles fueron los efectos de su aplicación?

Reply: In February 2020, the General Administration of Customs issued the notice of Ten Measures to Deal with the Impact of the Pandemic and Promote the Steady Growth of Foreign Trade, which is available on its official website. The measures include increasing supportive measures, alleviating business difficulties of enterprises, speeding up the inspection and release of imported production equipment and raw materials and promoting the expansion of imports of agricultural products and food, etc, which effectively mitigate the impact of the pandemic on customs clearance of import and export.

En el punto 3.19 explica que las autoridades han confirmado que las medidas relacionadas con la COVID-19 que afectan a las mercancías adoptadas por China en la esfera de la facilitación del comercio incluyen: i) un aviso del MOFCOM en el que se ofrecen directrices a las empresas sobre la solicitud de licencias de importación y exportación sin documentos impresos y se alienta activamente a que las soliciten de este modo, se simplifica aún más la documentación necesaria para solicitar licencias de importación y exportación sin documentos impresos, se optimizan los procesos de solicitud y actualización de claves electrónicas y se alienta a las empresas a que realicen estos trámites en línea; ii) una Circular del Ministerio de Agricultura y Asuntos Rurales (MARA) por la que se aplican nueve medidas de facilitación correspondientes a tres categorías de trámites administrativos de aprobación en relación con la agricultura (renovación de licencias, simplificación del procedimiento de aprobación y optimización del proceso de aprobación).

7-¿Podría China informar con mayor precisión cuáles son las medidas de facilitación correspondientes a las tres categorías de trámites administrativos de aprobación en relación con la agricultura (renovación de licencias, simplificación del procedimiento de aprobación y optimización del proceso de aprobación) que se introdujeron a causa de la pandemia?

Reply: In order to effectively guarantee the agricultural production during the pandemic, the Ministry of Agriculture and Rural Affairs issued the Notice on Optimizing Review and Approval Services during the COVID-19 Pandemic (Notice of the Ministry of Agriculture and Rural Affairs [2020] No.1) and the Notice on Optimizing Veterinary Drug Examination and Approval Services during the COVID-19 Pandemic (Notice of the Ministry of Agriculture and Rural Affairs [2021] No.3). rolling out facilitation measures to optimize agricultural administrative review and approval services. Please refer to http://www.moa.gov.cn/gk/tzgg_1/tz/202002/t20200213_6337012.htm and http://www.moa.gov.cn/govpublic/xmsyj/202105/t20210514_6367752.htm

8 - Sírvase describir cuales fueron los logros obtenidos por su incorporación en cada uno de ellas.

Reply: The above measures have effectively improved the efficiency of review and approval of related matters, met the needs of China's agricultural production, and ensured the smooth operation of agricultural production and foreign trade.

3.1.3 Aranceles

3.1.3.1 Aranceles NMF aplicados

En el punto 3.29 del informe se explica que el arancel más elevado de China (65%) se aplica a 20 líneas arancelarias (trigo y morcajo (tranquillón); maíz, excepto para siembra; arroz; harina de trigo y morcajo (tranquillón); grañones, sémola y "pellets", de cereales; determinados cereales en grano, molidos o tratados (de maíz y cebada); y vermut y demás vinos preparados con plantas aromáticas (en recipientes con capacidad superior a 2 litros). Cuatro líneas arancelarias están sujetas a un tipo del 57% (los demás tabacos elaborados (partida 2403 del SA), y 10 líneas arancelarias a un tipo del 50% (7 correspondientes a la partida azúcar de caña o de remolacha y sacarosa químicamente pura, en estado sólido (partida 1701 del SA) y 3 a la de abonos minerales o químicos (partida 3105 del SA).

9-¿Podría China indicar si planea reducir estos aranceles tan elevados (65%) que se aplican a ciertos productos agrícolas? En caso de respuesta afirmativa sírvase indicar en detalle el plan para ello. En caso de respuesta negativa sírvase indicar las causas por las cuales China no planea reducir tales aranceles.

Reply: According to the Customs Import and Export Tariff of the People's Republic of China (2021), 21 tariff lines apply the MFN rate of 65%, among which 19 tariff lines are food products with tariff quotas and in-quota tariff rate is only 1%-10%. The other two tariff lines are vermouth wine and similar wines. The vermouth wine and similar wines with small packages are subject to a the provisional preferential tariff rate of 14%.

3.1.3.5 Exenciones o concesiones arancelarias

En el inciso 3.36 dice que además, pueden aplicarse exenciones y reducciones de derechos de conformidad con las disposiciones establecidas en la reglamentación pertinente del Consejo de Estado a las mercancías importadas en zonas designadas, para empresas específicas o para usos específicos. Por ejemplo, los productos importados quedan exentos de derechos de importación y otros impuestos cuando entran en zonas especiales bajo supervisión aduanera. Se notificaron al Comité de Subvenciones y Medidas Compensatorias de la OMC diversas exenciones de los derechos de aduana en vigor durante el período 2017-2018. No se dispone de información sobre posibles exenciones o reducciones de derechos de aduana introducidas desde 2019; las autoridades han indicado que no hay datos disponibles sobre los ingresos no percibidos como consecuencia de las concesiones o exenciones arancelarias aplicadas en ese mismo período.

10-¿Podría China explicar con mayor detalle cómo es el proceso para aplicar una exención o reducción arancelaria a las mercancías importadas en una zona designada?

Reply: Please refer to the relevant laws and regulations and announcements on the website of the General Administration of Customs for the application process of tariff reduction and exemption for imported goods in special customs supervision areas.

3.2.2 Impuestos, cargas y gravámenes

El punto 3.76 comenta que China aplica derechos de exportación de conformidad con el Reglamento sobre Derechos de Importación y Exportación. Se aplican con miras a proteger el medio ambiente del país y a apoyar la utilización eficaz y el desarrollo sostenible de la energía y de los recursos escasos. Pueden aplicarse tipos arancelarios provisionales a las mercancías de exportación durante un plazo determinado. El Consejo de Estado constituirá la Comisión Arancelaria del Consejo de Estado para adoptar una resolución sobre las mercancías sujetas al arancel provisional, los tipos arancelarios y el plazo de aplicación. Las autoridades afirman que los tipos arancelarios provisionales de exportación se ajustan según proceda sobre la base de consideraciones de desarrollo económico nacional.

11- Sobre la aplicación de derechos de exportación de acuerdo con el Reglamento sobre Derechos de Importación y Exportación; ¿Podría China expresar los tipos arancelarios aplicados y detallar cómo es el procedimiento que aplica, como así también, demostrar la afirmación de que los tipos arancelarios provisionales de exportación se ajustan según proceda sobre la base de consideraciones de desarrollo económico nacional?

Reply: The Import and Export Tariff issued by China annually lists the export tariffs of all goods. Details are available on the website of the Customs Department of the Ministry of Finance at <http://gss.mof.gov.cn/gzdt/zhengcefabu>. According to relevant provisions of the Customs Law and the Import and Export Tariff Regulations, the Customs Tariff Commission of the State Council shall decide on the goods, tariff rates and time limits for which the provisional rate shall be applied. The provisional tariff rate shall be adjusted once a year in principle.

3.2.5 Financiación, seguro y garantías de las exportaciones

En el párrafo 3.100 se explica que el Banco EXIM ofrece principalmente financiación en el extranjero a través de diversas actividades, como los créditos a la exportación (incluidos los créditos a la exportación para el vendedor y para el comprador), los préstamos para construcción e inversión en el extranjero y los préstamos en condiciones favorables. Los créditos a la exportación para el comprador consisten en préstamos concedidos a prestatarios extranjeros para financiar sus importaciones de mercancías chinas, mientras que los créditos a la exportación para el vendedor consisten en préstamos otorgados a empresas nacionales dentro del ámbito de sus actividades de exportación. El Banco mantiene dos instrumentos preferenciales: los préstamos del Estado en condiciones favorables y los créditos preferenciales a la exportación para el comprador. Los préstamos en condiciones favorables se otorgan a países en desarrollo a tipos de interés inferiores a los de mercado y, por lo general, están vinculados a las exportaciones chinas. Las autoridades señalan que todos los proyectos se rigen por los principios del mercado y que los bancos no exigen ninguna condición adicional en sus préstamos. El Banco EXIM presta sus servicios a diversas empresas. En 2018, realizó operaciones por valor de USD 178.100 millones en concepto de liquidación internacional (USD 118.300 millones), cartas de garantía (USD 9.400 millones) y financiación del comercio (USD 50.300 millones), lo que supuso un aumento interanual del 8,85%.

12-¿Podría China detallar el procedimiento que deben observar aquellos países en desarrollo que se encuentren interesados en obtener un préstamo en condiciones favorables según se expresa en el presente informe?

Reply: Please visit the English website of Export-Import Bank of China for details: <http://english.eximbank.gov.cn>

3.3 Medidas que afectan a la producción y al comercio

3.3.1 Incentivos

En el punto 3.115 se informa que durante el período examinado, China siguió ofreciendo incentivos y apoyo financiero a diferentes sectores y ramas de producción. Según las autoridades, con la aplicación de estas medidas se pretende acelerar la transformación y modernización de las ramas de producción tradicionales, impulsar las incipientes, estimular la innovación, fomentar el desarrollo de zonas remotas, mejorar la competitividad de las pymes y atraer IED. También se concedió ayuda destinada a la protección del medio ambiente, la reducción de emisiones y el ahorro energético. En general, la ayuda, en forma de transferencias directas y preferencias fiscales, la otorgan el Gobierno central o los Gobiernos locales. Las autoridades han indicado que no se conceden incentivos en forma de acceso al crédito.

13- ¿Podría China cuantificar los cambios o avances alcanzados mediante la implementación de incentivos y apoyo financiero a diferentes sectores y ramas de producción?

Reply: Taking energy conservation and carbon reduction as an example, during the 13th Five-Year Plan period, China promoted energy-saving and carbon-reducing transformation by adopting mandatory energy-saving standards. China saved around 83 million tons of standard coal, equivalent to reducing emission of carbon dioxide by about 159 million tons.

3.3.3 Prescripciones sanitarias y fitosanitarias

3.3.3.1 Marco jurídico, institucional y normativo

En el inciso 3.158 del informe se explica que durante el período objeto de examen, se llevó a cabo una reorganización sustancial de los organismos encargados de las cuestiones sanitarias y fitosanitarias (MSF). En 2018, la antigua Administración de Productos Alimenticios y Farmacéuticos de China, la Administración General de Industria y Comercio y la Administración Estatal General de Supervisión de la Calidad, Inspección y Cuarentena (AQSIQ) se reestructuraron y pasaron a ser la Administración Estatal de Reglamentación del Mercado (SAMR), bajo cuya responsabilidad se estableció la Administración Nacional de Productos Médicos (NMPA). La Administración General de Aduanas (GACC) asumió muchas de las responsabilidades ejercidas anteriormente por la AQSIQ. Las responsabilidades respectivas de las diferentes instituciones encargadas del régimen sanitario y fitosanitario de China figuran en el cuadro 3.17. El servicio de información MSF/OMC de China es el Servicio de Información y de Notificación MSF del Centro de Investigaciones sobre Normas Internacionales de Inspección y Cuarentena y Reglamentos Técnicos, dependiente de la GACC. El organismo nacional encargado de la notificación es el Centro de Información y Notificaciones relativas a la OMC del Ministerio de Comercio (MOFCOM).

14- ¿Podría China indicar las razones por las cuales se llevó a cabo una reorganización sustancial de los organismos encargados de las cuestiones sanitarias y fitosanitarias?

15 -¿Qué resultados se esperan a partir de esa modificación?

Reply: In March 2018, the State Council Institutional Reform Proposal clearly stated that the entry-exit inspection and quarantine management responsibilities and teams of the General Administration of Quality Supervision, Inspection and Quarantine should be assigned to the General Administration of Customs.

The reform has integrated customs duties with the former entry-exit inspection and quarantine duties. It is an important achievement of the continuous promotion of port customs clearance reform. After the reform, the customs assumes more supervision responsibilities in wider fields. The supervision team is larger and the supervision force is stronger. The reform further promotes the modernization of the customs governance system and governance capacity.

En el apartado 3.163 se explica que el MARA prevé introducir un sistema de certificados de conformidad para los productos agropecuarios comestibles, así como una Plataforma Nacional de Trazabilidad de la Calidad y la Inocuidad de los Productos Agropecuarios. Según las autoridades, estas medidas solo se aplican a las actividades de producción y transformación de productos agropecuarios comestibles llevadas a cabo en China.

16-¿Podría China dar mayor detalle acerca de cómo serán los cambios citados en el informe como el sistema de certificados de conformidad para los productos agropecuarios comestibles y la Plataforma Nacional de Trazabilidad de la Calidad y la Inocuidad de los Productos Agropecuarios?

17 - ¿Cuáles son los objetivos que se desean alcanzar con estos cambios?

Reply to questions 16-17: The certification system of edible agricultural products aims to solve the problems of not shouldering the main responsibilities for the quality and safety of agricultural products and the ineffective connection between the market exit and market access. The construction of a national traceability platform for agricultural product quality and safety aims to improve the supervision capabilities, which marks an important step to realize whole-process traceability of agricultural products.

SINGAPORE**PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT****1.2.2 Monetary and exchange rate policy**

Page 21 (Para 1.19)

1. The WTO Secretariat Report notes that *"Since 2014, the PBOC has been developing a central bank digital currency, the e-CNY or e-renminbi. It is designed to be a legal tender combining digital currency and electronic payment characteristics, thus serving as cash (M0). The e-CNY is currently being tested across several regions, selected banks, and electronic payment platforms. It is expected to offer a higher degree of anonymity and lower handling charges than those of existing payment providers, higher compatibility across platforms, and, by broadening the reach of people with limited access to finance, to lead to more financial inclusion. The PBOC plans to use the e-CNY for domestic transactions initially."* Could China elaborate on the progress made or issues faced since 2014, and whether there are plans to expand the pilot programme beyond domestic transactions? If so, what would be the estimated roadmap and timeline?

Reply: The PBOC established a digital legal tender research group in 2014 to start researching on the issuance framework, key technologies, circulation environment and international experience for the country's digital currency. It then set up China Digital Currency Research Institute in 2016 and constructed the first generation prototype system for the digital legal tender of China in the same year. Upon approval of the State Council, it began to organize commercial institutions to conduct R&D experiment for the e-CNY at the end of 2017. Thus far, the experiment has largely completed such work as top-level design, functional R&D, system debugging, etc. Following the principles of steadiness, security, controllability, innovation and practicability, the PBOC is now piloting the e-CNY in some selected representative regions. Furthermore, it has released a *White Paper on the R&D Progress of the e-Renminbi in China*.

1.3.2 Trends and patterns in FDI

Page 29 (Para 1.48)

2. The WTO Secretariat Report notes that *"China continues to be a significant investor abroad", and "the most important sectors for China's FDI abroad are leasing and business services, manufacturing, financial intermediation, and wholesale and retail trade"*. Could China share more about the size of its outward FDI to the main destinations, by services sectors?

Reply: The statistical data of China on outward FDI are based on the classification of national economic sectors by the National Bureau of Statistics, which does not distinguish trade in services from trade in goods. For data on China's outward FDI, please consult the *Statistical Bulletin of China's Outward Foreign Direct Investment* issued by the Ministry of Commerce on its official website for various years in the past.

2.4.1 Regulatory framework and market access

Page 37 (Para 2.43)

3. The WTO Secretariat Report notes that foreign investors *"might need prior approval from the Government to invest in restricted markets"*. Could China provide some examples of these "restricted markets"?

Reply: China applies pre-establishment national treatment and negative list systems to foreign investors. The negative list is issued or approved by the State Council and is available on the official website of the Central People's Government of the People's Republic of China (www.gov.cn).

2.4.2 Examination and approval procedures

Page 41 (Para 2.52)

4. The WTO Secretariat Report also notes that for investors interested to invest in a restricted industry, they *"must comply with the required administrative measures, such as those for equity shareholding and qualifications for senior management officers"* and undergo *"formal examination of relevant application materials"*. Could China clarify on the other

requirements/measures which these investors would need to fulfil, as well as the estimated timeline for the entire approval process?

Reply: Please refer to the *Foreign Investment Law of the People's Republic of China*.

2.4.3 Incentives to foreign direct investments

Page 44 (Para 2.66)

5. We understand that *"when importing R&D equipment or procuring it domestically, qualified domestic and foreign R&D centres can apply for import duty, VAT, and consumption tax exemption, and a VAT refund for domestic equipment"*. We would like to seek China's clarifications on the qualification criteria, as well as whether these criteria would apply equally to all foreign and domestic R&D centres.

Reply: To encourage scientific research and tech development and promote the progress of science and technology, China refunds VAT for eligible domestic equipment procured by domestic or foreign R&D centers in its entirety. Specifically, the equipment refers to experimental equipment, devices and apparatuses that create necessary conditions for scientific research, teaching and tech development.

3.1.1.3 Trade Facilitation

Page 49 (Box 3.1)

6. We note that the measures to facilitate agri-food trade under Box 3.1, include *"expedited process to grant market access to more categories of agri-food products from more countries and to register more establishments"*, as well as the establishment of *"green lanes [...] at key ports"*. Could China clarify when and how these measures would be implemented?
7. Specifically, we would like to seek China's clarifications on (i) the agri-food product categories that are being considered for expedited market access; (ii) the registration process of establishments to export to China; and (iii) the criteria for green lane clearances for agri-food products. Would China consider a pre-export inspection and testing in the exporting country as a means of providing assurance of animal or plant health or food safety, in order to facilitate clearance of the products upon arrival in China? Under what circumstances would such a facilitated clearance be considered?

Reply for 6 and 7: The "green lanes for agri-food products" are opened by China in consultation with relevant countries. The goods imported or exported through the "green lanes for agri-food products" mainly include the agricultural and by-products that are fresh and live, perishable and therefore have relatively higher requirement for the timing of customs clearance. The customs authorities of China and their foreign counterparts (including inspection and quarantine authorities) jointly confirm and exchange the catalogue (HS codes) of goods to be imported or exported in such manner that comply with their respective requirements. With regard to the "green lanes for agri-products", the port inspection authorities, including customs authorities, on the two sides will take supervisory measures for such facilitated clearance within their terms of reference approved by state laws, regulations and policies.

3.3.3.2 SPS Measures

Page 87 (Para 3.169)

8. With reference to China's *"administrative measures for registration of overseas manufacturers of imported food"* as one of the specific trade concerns (STCs) raised in the SPS Committee, Singapore further notes that the latest announcement on the General Administration of Customs (GACC) Decree Order 248 in April 2021, where all food manufacturers, processes, and storage facilities of 20 food categories (expanded from 4 previously – meat, dairy, seafood, bird nest) would be subject to registration. Could China provide information on how this new decree would be rolled out by 1 January 2022? Would advisories on the definition of these food categories, and the checklists of requirements for registration, as well as registration timeline and procedures be made available on its *standardized National Single Window for international trade* (as mentioned in Para 3.6)?

Reply: As the safety of imported food bears on the physical health and personal safety of the general public, it is an important livelihood issue. According to provisions of such laws and administrative

regulations as the *Food Safety Law of the People's Republic of China* as well as its implementation regulations, the Chinese Government has revised two former regulations on the administration of food safety for import and export and on the registration administration of overseas manufacturers of imported food and on 12 April 2021 issued the *Measures of the People's Republic of China for the Administration of Food Safety for Import and Export* (General Administration of Customs Order No. 249) and the *Provisions of the People's Republic of China for the Registration Administration of Overseas Manufacturers of Imported Food* (General Administration of Customs Order No.248), both of which were slated to take effect as of 1 January 2022. Before issuance, the Chinese Government made notifications according to relevant rules of the WTO, solicited comments from various WTO members and adopted those reasonable, thus complying with relevant WTO rules. The General Administration of Customs Orders No. 248 and No.249 have both specified the scope of application for the two regulations in their Article 2. Moreover, the Chinese Government will make interpretations for the *Measures of the People's Republic of China for the Administration of Food Safety for Import and Export* (General Administration of Customs Order No.249) and the *Provisions of the People's Republic of China for the Registration Administration of Overseas Manufacturers of Imported Food* (General Administration of Customs Order No.248) in an appropriate manner in the near future and you are welcome to follow such development. In addition, the General Administration of Customs Order No.248 will not affect the implementation of bilateral protocols. Should a country/region have otherwise agreed with China on the method of registration and the submission of applications, such agreement shall prevail.

3.3.7.2 Institutional reforms and IP-related policies

Page 107 (Para 3.235)

9. Regarding the *Notice on Further Strengthening Intellectual Property Pledge Financing* issued by the China National Intellectual Property Administration (CNIPA) in 2019, could China share more about (i) how the valuation of IP is conducted (and by which type of entities); (ii) its efforts to increase liquidity of IP assets, including efforts to enhance the secondary market?

Reply: (i) In terms of intellectual property pledge financing, financial institutions e.g. banks need to comprehensively evaluate the tech innovation capability, development potential, brand value, etc. of an enterprise through its intellectual property, rather than evaluate the intellectual property alone. The *Notice on Further Strengthening Intellectual Property Pledge Financing* issued under the leadership of China Banking and Insurance Regulatory Commission explicitly encourages commercial banks to create evaluation systems for the tech innovation capability of enterprises, with a view to reasonably analyzing the innovation-driven development capability and brand value of enterprises by comprehensively valuing their intellectual properties, like patent rights, trademark rights, copyrights, etc., thereby grasping the direction of their development via the intellectual property pledge financing business. In the meantime, the notice proposes to create and improve intellectual property internal valuation systems, strengthen internal capacity building for risk assessment and asset valuation, and explore the possibility of conducting internal assessment/valuation. The *Asset Valuation Law of the People's Republic of China*, which was enacted in 2016, provides for the conditions and procedures for the establishment of asset valuation institutions as well as the procedures for actual valuation. In an effort to guide and regulate intellectual property valuation, competent authorities of China have issued a series of guidelines that serve as basic norms, including those for the valuation of intangible assets and those for the valuation of intellectual property assets. Valuation institutions shall value various intellectual properties, such as patents and trademarks, according to different methods, scenarios and circumstances. (ii) The *Notice on Further Strengthening Intellectual Property Pledge Financing*, issued by China National Intellectual Property Administration together with China Banking and Insurance Regulatory Commission, sets forth the need to explore effective means to dispose and transfer intellectual property pledged and give full play to various types of intellectual property trading platforms in disposing such pledged property.

3.3.7.5.1 Trademarks

Page 109 (Para 3.253)

10. The WTO Secretariat Report notes that the CNIPA has adopted a *sub-class system*. "*whereby goods and services under each Nice class are classified into sub-classes, and some sub-classes are further categorized into different groups*". Could China elaborate on the objectives behind the further categorization, and whether it is a requirement for applicants to provide details of the sub-classes at the point of filing their trademark application?

Reply: According to relevant provisions of the *Trademark Law* and the *Implementing Regulation for the Trademark Law* of China, an applicant for the registration of a trademark shall fill out the category and name of the goods that are going to use the trademark sought according to prescribed classification of goods. The name of the goods or services shall be completed according to the category number and name given in the classification of goods and services; if a good or service is not listed in the classification table, the applicant shall attach an explanation on the good or service concerned. The *Similar Goods and Services Table* is formulated and circulated by the trademark registration authorities of China based on the Nice classification and their work experience over the years. As a matter of fact, it does not adopt the so-called "sub-class system". As China is a member country of the Nice Union, an applicant shall declare its goods or services according to the Nice classification in filing its application. The *Similar Goods and Services Table* does employ the system, content and rules of Nice classification, but divides various types of goods and services into different similar groups in light of the trademark registration work in China. The table can serve as a reference for trademark examiners, trademark agents and trademark applicants in distinguishing similar goods or services.

3.3.7.5.2 Geographical Indications

Page 110 (Para 3.258)

11. The WTO Secretariat Report notes that the CNIPA has published *Guidelines on Determining Common Names in Geographical Indication Protection (Draft)* in 2020, which clarified the "determining factors, cancellation, and other aspects of common names in terms of the common name determination in GI protection". Could China clarify when these guidelines would be implemented? If so, do they have force of law?

Reply: China National Intellectual Property Administration and State Administration for Market Regulation jointly issued the *Guiding Opinions on Further Strengthening the Protection of Geographical Indications* in early 2021. The Guidelines abovementioned have taken those opinions into account, but have not yet taken effect at present.

3.3.7.5.3 Patents

Page 111 (Para 3.263)

12. The WTO Secretariat Report notes that CNIPA has amended the *Patent Examination Guidelines*, to "clarify the examination standard in patent applications involving artificial intelligence [...]". We would like to seek China's clarifications on its considerations and rationale for introducing these amendments.

Reply: In order to meet the need for intellectual property protection in new business types and areas and to enhance the building of intellectual property institutions in relevant domains, China National Intellectual Property Administration has been improving the patent examination standards for concerned tech areas by way of stepping up investigations into social needs and perfecting the regular revision mechanisms for patent examination guidelines.

3.3.7.6.1 Overview

Page 117 (Table 3.32)

13. We note from Table 3.32 that the patent disputes in 2020 reduced by more than 49.5% year-on-year from "77,300" in 2019 to "39,000". Could China elaborate on the reasons behind this drop?

Reply: The white paper 2019 was issued in 2020, while the white paper 2018 was issued in 2019, so there is inconsistency between the years and the data in the question. China handled nearly 77,300 patent-related administrative law enforcement cases in 2018, including close to 34,600 patent dispute cases and nearly 42,700 patent counterfeiting cases. We handled nearly 39,000 patent infringement administrative adjudication cases in 2019, an increase of 13.7% year on year over the 34,600 patent dispute cases posted in 2018. Also in 2019, we dealt with more than 7,300 patent counterfeiting cases, in sharp contrast to the almost 42,700 patent counterfeiting cases registered in 2018. The cause behind this sharp drop in the patent counterfeiting cases dealt with in 2019 was the reshuffle of China National Intellectual Property Administration in 2018 as a result of government restructuring. The reshuffle transferred the trademark and patent law enforcement responsibility to the market regulation comprehensive law enforcement teams

under the State Administration for Market Regulation. After the reform, moreover, the market regulation authorities focused their efforts on combating major counterfeit cases and some petty cases such as inadvertent use of others' marks were not covered in the statistics due to changes in the statistical scope.

3.3.7.6.3 Judicial Measures

Page 118 (Para 3.297)

14. Regarding the new *IP Court of the Supreme Court* established in January 2019, could China elaborate on the (i) percentage of IP cases at the *IP Court of the Supreme Court* which underwent mediation; (ii) the mediating institution (i.e. would it be the Court itself or other institutions) for these cases; and (iii) the mediation success rate among these cases?

Reply: From 1 January 2019 to 30 December 2020, the IP Court of the Supreme Court concluded a total of 3,325 second-instance civil cases, of which 229 were closed by mediation and 786 were closed by withdrawal, together accounting for 30.5%.

4.2.2.1 Overview including environmental policy

Page 141 (Para 4.59)

15. The WTO Secretariat Report states that "*a new Energy Law is currently being drafted*". Could China elaborate on this new law, and when it would be implemented?

Reply: The *Energy Law* is right now in the stage of drafting and revising. It will be made available for public consultation in the period from April to May 2020. Nowadays, we are researching and reasoning the opinions from all sources and revising the draft law. In the next step, we will proceed according to legislative procedures.

Page 141 (Para 4.60)

16. The WTO Secretariat Report notes that China "*is actively pursuing a policy of decoupling of economic growth and energy consumption, through increased energy efficiency*". How does China intend to increase energy efficiency in the various sectors? Are there currently any incentives/subsidies for companies to be more energy efficient and reduce their carbon emissions, and if so, whether they will apply to foreign companies currently in China?

Reply: China has put in place a slew of policies in favor of environmental protection, energy conservation and emissions reduction under its current tax regimes. Firstly, it supports the development of clean energy and renewables and guide enterprises to replace fossil fuels with clean and renewable energy. Secondly, it reduces energy consumption and raises energy efficiency. In addition, it has undergone several tax reforms to promote environmental protection. Firstly, it introduced the environmental protection tax in 2018. Secondly, it launched the reform to impose ad valorem tax on resources in July 2016. For relevant incentive tax policies of China, please consult the latest notification on subsidies made by the Chinese Government to the WTO (G/SCM/N/372/CHN).

Page 142 (Para 4.64)

17. Regarding China's *Regulations on Carbon Emission Trading (Trial) and the Implementation Plan on National Carbon Emission Trading Quota Determination and Distribution for 2019 – 2020 (Power Generation Industry)* as issued in December 2020 which provided "*specific requirements for quota allocation and compliance*", could China clarify how its carbon emissions trading market would support China's plans for emission intensity target for 2030 and carbon neutrality goal for 2060? How would these quotas be determined?

Reply: The carbon emission trading market of China will play an active role in helping the country to attain its 2030 carbon intensity goal and its 2060 carbon neutrality goal. Firstly, it can help to effectively realize the carbon emission goal through a quota management system; secondly, it can identify reasonable carbon prices through market mechanisms and therefore help to lower the cost of carbon emission reduction; and thirdly, it offers a flexible option for enterprises to reduce their carbon emissions, thus driving the investment in green, low-carbon sectors. The national carbon market has been officially launched in July 2021. The first compliance cycle covers 2,162 key

emitters in the power generation industry, involving 4.5 billion tons or so of carbon dioxide on a yearly basis and accounting for 45% of the annual carbon dioxide emissions across the country, making it the largest carbon market all over the world. In terms of quota distribution, the current system adopts the industry benchmark method (with the leading emission level per unit product output/capacity in the industry used as the benchmark) to distribute the carbon emission quotas, following the emission intensity control principle. The quota distribution process is unified, open and transparent across the country. The basis for quota distribution is the carbon emission data certified by competent authorities for ecological environment administration. According to the *Regulations on Carbon Emission Trading (Trial)*, key emitters can lodge complaints and request review should they disagree with their emission figures certified.

18. Could China elaborate on its future plans for the emissions trading market, including whether China will be including more industries in the emissions trading market, and if so, what would these industries be and when might this occur?

Reply: China will expand the emissions trading market into more industries based on the emissions trading market functioning well for the power generation industry. To prepare for such expansion, we have organized such high emission industries as power generation, petrochemical, chemical engineering, building materials, steel making, non-ferrous metal, paper making, aviation, etc. to calculate, submit and audit their emission data for years, hence the availability of relatively sound data for the expansion. To date, the Ministry of Ecology and Environment has commissioned relevant industry associations to conduct preliminary research on relevant industry standards and tech norms complying with requirements of the national emissions trading market to be built. Following the principle of approving and issuing standards only when they are mature, moreover, it will ratchet up revising the national standards for calculating and reporting greenhouse gas emissions for particular industries and formulating industry-specific quota distribution plans. To sum up, it will give full play to market mechanisms in curbing the emission of greenhouse gases, promoting the innovation of green, low-carbon technologies, guiding climate investment and financing, etc.

Page 142 (Para 4.65)

19. Other than the *Notice on Establishing and Improving the Safeguard Mechanism of Renewable Energy Consumption*, could China clarify its other existing or future policies relating to promotion of clean energy, reducing emissions from other industries, and increasing share of non-fossil energy?

Reply: Accelerating the development of clean energy and increasing the share of non-fossil energy in total energy consumption plays an important role in driving down pollutant and carbon emissions. In addition to circulating the *Notice on Establishing and Improving the Safeguard Mechanism of Renewable Energy Consumption*, which secures the exploitation and utilization of electricity derived from renewable sources, such as hydropower, wind power, solar power and biomass power, China has put in place many more special policies in this regard. For instance, it has circulated the *Guiding Opinions on Promoting the Integration of Power Generation, Grid, Load and Storage Sectors and the Development of Multi-energy Complementary Energy Systems* to improve the consumption of electricity derived from renewable energy and the efficiency of power systems; it has issued the *Notice on Guiding and Increasing Financial Support to Promote Healthy and Orderly Development of the Wind and Photovoltaic Power Industries, etc.*, the *Several Opinions on Promoting the Exploitation and Utilization of Geothermal Energy* and the *Guiding Opinions on Promoting the Industrialization of Bio-natural Gas* to accelerate the exploitation and utilization of wind, solar, geothermal and biomass energy; furthermore, it has released the *Medium- and Long-term Development Plan for the Pumped Storage Power Industry (2021-2025)* and the *Guiding Opinions for Accelerated Development of New Types of Energy Storage* to improve the power system's regulation capability and facilitate the consumption of power from renewable energy.

4.4.1.3.7 Developments in the fintech industry

Page 167 (Para 4.193)

20. The WTO Secretariat Report notes that the State Administration for Market Regulation (SAMR) has issued a *consultation draft of the Anti-Monopoly Guidelines on the Sector of Platform Economies* in November 2020, which had expressly referred to the *Anti-Monopoly Law*. Could China clarify the differences between the "*Guidelines of the Anti-Monopoly Committee of the State Council on Anti-Monopoly in the Field of Internet Platform Economy*" which were in effect

since 7 February 2021 (mentioned in Page 90, Box 3.2), and the draft *"Anti-Monopoly Guidelines on the Sector of Platform Economies"*? What is the status of these draft guidelines? What are the key rules or obligations imposed in these draft guidelines to discipline the online market? Other than these guidelines, are there other regulatory instruments to discipline the online market?

21. The same paragraph also states that *"all companies engaged in Internet platform business must be subject to anti-monopoly supervision"*. Could China clarify the scope of *"Internet Platform business"*?

Reply for 20-21: In February 2021, the Anti-Monopoly Commission of the State Council of China issued the *Antitrust Guidelines for the Platform Economy Industry*. Based on the *Anti-Monopoly Law*, the *Guidelines* emphasizes that monopolistic activities in the platform economy industry should be subject to the *Anti-Monopoly Law* and supplementary laws. The formulation and implementation of the *Guidelines* provides targeted institutional rules for strengthening the anti-monopoly supervision of the platform economy, helps the anti-monopoly law enforcement agencies to unify the standards and improve the transparency of law enforcement, which is beneficial for platform operators, platform sellers and other market players to deepen their understanding of the *Anti-Monopoly Law* and effectively prevent and reduce legal risks. During the drafting process of the *Guidelines*, opinions from all quarters were solicited and absorbed. Regarding the concept of Internet platform business, *Article 2 of the Guidelines* makes it clear that an Internet platform refers to a business organization that uses network information technology to enable mutually dependent bilateral or multilateral entities to interact under the rules provided by a specific carrier to jointly create value.

4.4.2.2 Regulatory Framework

Page 169 (Para 4.204)

22. The WTO Secretariat Report notes that *"for basic telecommunications, the controlling stake shall be held by the Chinese national"*. Could China clarify the scope of *"basic telecommunications"*? Does this requirement only apply to mobile and fibre broadband operators?

Reply: According to the *Regulation of the People's Republic of China on Telecommunications*, "Basic telecommunications business refers to the provision of basic facilities of public networks, public data transmission and basic speech communication". The specific types and business definitions of basic telecommunications services are stipulated in the *Classified Catalogue of Telecommunications Services (2015 Version)*.

4.4.2.2.1 Developments in 5G

Page 169 (Para 4.207)

23. The WTO Secretariat Report notes that China's Ministry of Industry and Information Technology (MIIT) had issued different plans and notices for 5G. Could China elaborate on its policy on the 5G Standalone Access (SA), as well as developments pertaining to the 5G Non-Standalone Access (NSA)? Could China also update on the state of deployment for 5G SA and NSA across China?

Reply: Since the commercialization of 5G, China has supported telecom operators to carry out the construction of 5G SA networks, promote the joint construction and sharing of 5G networks, and increase the coverage of 5G networks in urban areas, counties and towns. At present, all the new 5G base stations have adopted the SA mode, and the SA mode of 5G network has covered all prefecture-level cities across China.

4.4.2.2.5 Cloud computing

Page 170 (Para 4.213)

24. The WTO Secretariat Report notes that *"no substantial progress"* was made on cloud-enabled services regulations. The *Notice on Standardizing Cloud Service Market and Facilitating the Sound Development of the Industry* has not yet been implemented. Could China provide more information on its regulatory framework for cloud computing?

Reply: The Chinese government strictly abides by WTO rules and relevant laws and regulations, and encourages foreign-funded enterprises to participate in China's cloud service market in a legal and compliant manner.

4.4.2.2.6 Cybersecurity

Page 171 (Para 4.215)

25. The WTO Secretariat Report states that China's network security is regulated by *Article 21 of the Cybersecurity Law*, which stipulates that China shall "*implement a tiered system of network security protection*". We would like to seek China's clarifications on whether this provision is intended to regulate network security of content distribution network, Internet exchanges and/or domain name servers? If so, how does such "*tiered system*" operate in relation to such digital infrastructure?

Reply: The tiered system of network security protection stipulated in *Article 21 of the Cybersecurity Law* is the continuation and improvement of the information security protection system stipulated in *the Regulations of the People's Republic of China for Safety Protection of Computer Information Systems* promulgated in 1994. The Chinese competent authorities have solicited public opinions on *the Regulations on Tiered Protection of Cybersecurity (Draft for Comments)*.

Page 172 (Para 4.219)

26. The WTO Secretariat Report notes that the SAMR and the Standardization Administration of China (SAC) jointly published the *Information Security Technology – Personal Information (PI) Security Specification (GB/T 35273-2020)* (hereinafter referred to "Specification"), which took effect starting 1 October 2020. Could China clarify on the authority-in-charge (i.e., SAMR, SAR or the Cyberspace Administration of China (CAC)) if interested persons have queries on the Specification.

Reply: For any questions about the content and clauses of the national-standard *Information Security Technology – Personal Information (PI) Security Specification (GB/T 35273-2020)*, please consult the SAMR (SAC). The competent national standardization technical committee will provide a technical interpretation.

27. We also note that Article 9.8 of the Specification states that "*PI collected and generated in China can be transferred overseas, but the controller must comply with all relevant national regulations and standards*". Could China clarify how it would determine whether data controllers have complied with all relevant national regulations and standards, as well as which agencies would be making such determinations?

Reply: *Article 38 of the Personal Information Protection Law* clearly stipulates that the provision of personal information to any party outside the territory of China shall meet one of the following conditions: (1) security assessment organized by the national cyberspace administration has been passed; (2) personal information protection certification has been conducted by a specialized institution according to the provisions issued by the national cyberspace administration; (3) a contract has been concluded with the overseas recipient in accordance with the standard contract formulated by the national cyberspace administration, agreeing on both parties' rights and obligations; (4) other conditions provided in laws or administrative regulations or by the national cyberspace administration. At present, relevant supporting regulations such as those on the security assessment on outbound data are being formulated, and are expected to be open to the public for comments in the near future.

28. In the same paragraph, we also note that China had published the *first draft of the Personal Information Protection Law (PIPL)* for public comments, on 21 October 2020. We understand that the PIPL will take effect from 1 November 2021. Could China clarify how should the Specification be interpreted with the PIPL, including whether the definition and classification of personal information in the PIPL would prevail?

Reply: The *Personal Information Protection Law of the People's Republic of China* is China's basic law for regulating the protection of personal information. The relevant supporting laws, regulations and administrative provisions will comply with the provisions of the *Personal Information Protection Law*.

4.4.2.2.7 E-commerce

Page 173 (Para 4.226)

29. The WTO Secretariat Report notes that the *"E-commerce law holds liable both counterfeiters and e-commerce operators that fail to take appropriate measures to prevent sellers in violation of intellectual property rights (IPRs). It also provides that IP holders can notify a platform owner of an alleged infringement, and the platform owner has the obligation to prevent the trade of the infringed good pending investigation. Platform operators that fail to fulfil their responsibilities in terms of IP protection within a specific time period are punishable by a fine ranging from CNY 50,000 to CNY 2 million"*. Could China elaborate on the obligations and responsibilities of the platform operator, as well as how it assesses whether the platform operators have taken adequate remedial actions?

Reply: Article 45 of the *E-Commerce Law* stipulates that "Where an operator of an e-commerce platform knows or should have known that an operator on its platform has infringed any intellectual property right, it shall take necessary measures, such as deleting or blocking relevant information, disabling relevant links, and terminating transactions and services; otherwise, it shall be held jointly liable with the infringing party."

Page 173 (Para 4.228)

30. The WTO Secretariat Report notes that Article 22 of the *E-commerce Law* has spelt out the *"fair competition obligations for all e-commerce operators, with special emphasis on those with dominant market positions"*, and *"operators with advantages in the market due to technology or number of users are prohibited from abusing their position to exclude or restrict competition"*. Could China clarify the criteria in defining an e-commerce operator as having a *"dominant market position"*?

Reply: China's *Anti-Monopoly Law*, the *Interim Provisions on Prohibiting Abuse of Dominant Market Positions* and the *Antitrust Guidelines for the Platform Economy Industry* by the Anti-Monopoly Commission of the State Council clearly stipulate the factors that need to be considered in determining that operators have market dominance. These factors stipulated in the relevant legislation are equally applicable to all kinds of market entities, including e-commerce enterprises. In the practice of law enforcement, China's law enforcement agencies will determine whether an operator has a dominant market position in accordance with the above provisions on a case-by-case basis.

31. We would also like to seek China's clarifications on the differences between the provisions listed in Article 22 of the *E-commerce Law* and the *"Guidelines of the Anti-Monopoly Committee of the State Council on Anti-Monopoly in the Field of Internet Platform Economy"* (mentioned in Page 90, Box 3.2)? Are there other regulations in place to prevent operators from engaging in anti-competition practices? If so, could China clarify how these laws will interact? Does China foresee overlapping provisions, and if so, how does China intend to address such overlaps?

Reply: In February 2021, the Anti-Monopoly Commission of the State Council of China issued the *Antitrust Guidelines for the Platform Economy Industry*. Based on the *Anti-Monopoly Law*, the *Guidelines* emphasizes that monopolistic activities in the platform economy industry should be subject to the *Anti-Monopoly Law* and supplementary laws. Article 22 of the *E-commerce Law* stipulates that if an e-commerce operator has a dominant market position due to such factors as its technological advantages, the number of users, its ability to control the relevant industry and the degree of dependence of other operators on the e-commerce operator in transactions, it shall not abuse its dominant market position to eliminate or restrict competition. The *E-Commerce Law* stipulates more specific factors for determining the dominant position of e-commerce operators. Both the *E-Commerce Law* and the *Guidelines* are beneficial supplements to the *Anti-Monopoly Law*. The *E-Commerce Law* mainly provides for the abuse of market dominance, while the *Guidelines* is more comprehensive and the basic contents of both are consistent.

Page 173 (Para 4.229)

32. The WTO Secretariat Report states that *"pursuant to Articles 23 and 24 of the [E-commerce] Law, e-commerce operators must abide by the existing Chinese laws and regulations in respect of protection of personal data when collecting and using users' personal data"*. Could China clarify whether there are requirements for personal information to be stored onshore? If so, what are these requirements? Could China also clarify whether businesses operating in China can transfer personal information offshore, and if so, are there any conditions/requirements which these businesses would need to fulfil prior to the transfer?

Reply: Article 38 of the Personal Information Protection Law clearly stipulates that the provision of personal information to any party outside the territory of China shall meet one of the following conditions: (1) security assessment organized by the national cyberspace administration has been passed; (2) personal information protection certification has been conducted by a specialized institution according to the provisions issued by the national cyberspace administration; (3) a contract has been concluded with the overseas recipient in accordance with the standard contract formulated by the national cyberspace administration, agreeing on both parties' rights and obligations; (4) other conditions provided in laws or administrative regulations or by the national cyberspace administration. At present, relevant supporting regulations such as those on the security assessment on outbound data are being formulated, and are expected to be open to the public for comments in the near future.

Page 173 (Para 4.230)

33. The WTO Secretariat Report notes that the *"E-commerce Law provides that China shall encourage cross-border e-commerce (CBEC) development"*. Apart from *"promoting CBEC"*, the State Council also issued the *Approval of the Establishment of Integrated Pilot Areas for Cross-border E-commerce* in April 2020, as well as extending the *"List of Goods under Cross-Border E-commerce Retail Importation to allow more foreign goods to be delivered to Chinese consumers through the CBEC retail importation programme"* in December 2019. Could China elaborate on (i) the benefits which foreign companies can gain from participating in the CBEC pilot areas; (ii) the number of foreign and local companies participating in such zones; and (iii) how digital trade has grown with the rise in number of these pilot areas?

Reply: Since 2015, the Chinese government has approved 105 cross-border e-commerce (CBEC) pilot zones in five batches successively. In general, CBEC pilot zones have taken on increased importance, becoming a new highlight in foreign trade growth, a new channel for entrepreneurship and innovation, and a new drive for transformation and upgrading. To encourage and support CBEC, the Ministry of Commerce has worked with relevant departments to explore innovative options, improve supporting policies, foster enabling environment, and achieve high-quality development of CBEC. The Ministry of Commerce has guided the pilot zones in establishing a policy framework centered on "six systems and two platforms." The six systems refer to information sharing, financial services, intelligent logistics, e-commerce integrity, statistics monitoring, and risk prevention and control. The two platforms include the online comprehensive service platform and the offline industrial parks. This has produced 36 mature practices of experience in 12 aspects that have been replicated and promoted nationwide. On July 5, 2021, the General Office of the State Council released the Opinions of the State Council's General Office on Speeding Up the Development of New Business Forms and New Models of Foreign Trade, making it clear that China will improve support policies for CBEC, expand the integrated pilot zones, enhance refined service platforms such as independent CBEC sites and CBEC software, streamline the management of payment and settlement, strengthen the organization and building of the industry and talent training, and promote the development of new forms and new models of foreign trade on a healthy, sustainable, and innovative basis.

Page 174 (Para 4.233)

The WTO Secretariat Report notes that the E-commerce Law *"provides that e-commerce disputes can be settled by: (i) negotiating; (ii) requesting mediation by consumer organizations, industry associations, or other legally established mediating organizations; (iii) filing complaints with relevant authorities; (iv) filing for arbitration; or (v) instituting legal proceedings. Additional measures to bolster e-commerce include the establishment of Internet courts"*.

34. Could China elaborate on the implementation of *Internet courts* – what has the utilization rate been like? Are there avenues which foreign businesses or consumers can take to initiate legal proceedings for cases related to E-commerce? If so, whether these foreign businesses or consumers need to fulfil certain conditions, such as requirements for the foreign businesses to have onshore commercial presence, or for these foreign businesses or consumers to be physically present in China while participating in *Internet courts*?

Reply: In recent years, Chinese courts have vigorously launched online litigation to promote the transformation and upgrading of judicial models in the Internet era. On 17 June 2021, the Supreme People's Court of China issued the Rules of Online Litigation of People's Courts (Fa Shi [2021] No. 12), forming a relatively systematic and complete online litigation rules system. As of June 2021, more than 3,500 courts in China have connected to the "China Mobile Micro Court" online litigation platform, which has accumulated more than 1.265 billion visits, providing the public with diversified, full-chain, one-stop online litigation services. Between 1 January 2020 and 31 May 2021, Chinese courts accepted 12.197 million cases filed online, accounting for 28.3% of the total cases filed. There were 6.513 million online mediations, of which 6,142,900 were successful; 1.288 million online court hearings, with the average online trial time of 42.34 minutes; and 33.833 million times of electronic service, accounting for 37.97% of the total.

Foreign companies or consumers may file e-commerce lawsuits that are in line with Chinese laws and judicial interpretations in Chinese courts, in accordance with the Civil Procedure Law of the People's Republic of China and the Provisions of the Supreme People's Court on Several Issues Concerning the Jurisdiction over Litigation of Foreign-Related Civil and Commercial Cases (Amendment in 2020) (Fa Shi [2020] No. 20).

4.4.3.1 Maritime transport

Page 175 (Para 4.240)

35. The WTO Secretariat Report notes that "*between January 2018 and February 2020, eight foreign ships were so authorized*" to operate in the domestic water transport sector. Could China clarify the circumstances under which the State Council may authorize operators to use foreign ships for such operations?

Reply: According to *the Regulations on the Administration of Domestic Water Transport*, water transport operators shall not use foreign vessels to operate China's domestic waterway transport business, but in the absence of Chinese vessels that can meet the requirements of the applied transport, and in the case that the ports or waters where the vessels dock are open to the outside world, they shall be approved by the competent department of transportation under the State Council. Water transport operators may temporarily use foreign vessels for transport within the time limit or voyage prescribed by the competent department of transport under the State Council.

Page 175 (Para 4.241)

36. The WTO Secretariat Report states that China has "*lifted the restrictions on foreign investment in international shipping and international shipping agency services in China*". Does the lifting of such foreign investment restrictions also include the shipping logistics sector?

Reply: China has lifted the restrictions on foreign investment in the international maritime industry, international ship agency, international ship management, and other international maritime auxiliary industries. Since logistics is a cross-departmental field, please clarify the specific service sector referred to in the "shipping logistics sector" in the question.

5. Appendix

Page 190 (Table A2.3)

37. Table A2.3 in the WTO Secretariat Report states that the "*pre-school education, ordinary high school, and higher education institutions*" in China are "*subject to Sino-foreign cooperative education, and led by the Chinese parties*". We would like to seek China's clarifications on whether there are any requirements/conditions which foreign service suppliers or companies would need to fulfil before they can embark on cooperation with a local company in the aforementioned areas, in light of the "Opinions on Further Reducing the Burden of Homework and Off-Campus Training for Compulsory Education Students" jointly issued by the General

Office of the Communist Party of China Central Committee and the General Office of the State Council in July 2021? Apart from these areas, could China also clarify whether foreign investors and service suppliers are able to invest and/or operate companies, as well as provide services, in the other education sub-sectors (e.g. adult education services and other education services)?

Reply: Foreign investment in sectors not included in the Negative List shall be managed in accordance with the principle of same treatment for domestic and foreign investment.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORT

QUESTION:

3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services

Page 8 (Para 3.10)

Regarding China's *Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services* issued in August 2020, could China elaborate on the "eight pilot tasks" which the various Chinese provinces/cities/regions designated as pilot zones, would need to undertake?

Reply: The eight pilot tasks proposed in the *Comprehensively Deepen the Pilot Program of Innovative Development of Trade in Services* include the pursuit of improving the management mechanism, opening wider to the outside world, enhancing facilitation, innovating development modes, improving the promotion system, optimizing the policy system, improving the regulatory mode and improving the statistical system from an overall perspective. The full text of the plan and the interpretation information of the special press conference can be viewed on www.gov.cn and www.mofcom.gov.cn.

Page 8 (Para 3.11)

We note China's commitment to foster "an open, fair and non-discriminatory digital trading environment, and establish basic regimes and standards for property rights, transaction circulation, cross-border transmission and security protection of data resources". Could China elaborate on its policies to promote such a *digital trading environment*, as well as the relevant measures in ensuring data security? Could China also elaborate on the obligations a foreign company would face when undertaking cross-border data activities under the PIPL as well as the new Data Security Law which entered into force on 1 September 2021?

Reply: China is actively creating an open, fair, and non-discriminatory digital trading environment. *The Outline of the People's Republic of China 14th Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035* clearly proposes that it is necessary to promote international exchanges and cooperation in cyberspace, and to promote the formulation of international rules on digital and cyberspace with the United Nations as the main channel and the United Nations Charter as the basic principle. Actively participate in the formulation of international rules and digital technology standards such as data security, digital currency, and digital tax. We will promote the construction of a global cooperation mechanism for network security, and build an international coordination and cooperation mechanism for protecting data elements, handling network security incidents and combating network crimes. In accordance with *the Cybersecurity Law*, *the Data Security Law* and *the Personal Information Protection Law*, relevant supporting regulations such as data security management and data exit security assessment are being formulated quickly, and it is expected to solicit public opinions from the public in the near future. Foreign companies carrying out cross-border data activities need to carry out security assessments in accordance with relevant legal requirements. The specific requirements have been clearly stipulated in relevant laws.

In view of China's recent request to accede to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), would China foresee the need to make changes to its domestic laws and regulations such that it could undertake the data-related commitments under the CPTPP, such as the Article on Cross-Border Transfer of Information by Electronic Means, and the Article on Location of Computing Facilities?

Reply: China has always been an advocate for the construction of open, transparent, and mutually beneficial regional free trade arrangements, and is actively building a network of high-standard free

trade zones open to the world. Applying to join the CPTPP shows China's willingness and determination to further deepen reform and open up its markets. In order to actively promote its accession to the CPTPP, China has conducted a full, in-depth and comprehensive study and evaluation of the rules of the CPTPP, collated reform measures and revising work of laws and regulations that may be required to join the CPTPP, and made relevant technological preparations for joining the CPTPP. China is willing to make unswerving efforts to fully meet the rules and standards of the CPTPP through active reform.

3.5.1 Promoting high-quality development of pilot free trade zones

Page 12 (Para 3.31)

We understand that China's pilot free trade zones introduced various *"facilitation measures, such as establishing central warehouses for the return of imported goods sold via cross-border e-commerce businesses, and enabling paperless digital services for the entire procedure from enterprises' customs registration to port access."* Could China elaborate on its existing and future measures to promote the mutual recognition and acceptance, as well as the interoperability of digital cross-border documents (e.g. customs clearance forms) and those business documents used in trade (e.g. bills of lading)?

Reply: China continues to summarize the good experience and good practices generated in the pilot free trade zone and promote it to a larger scale. In 2020, 37 pieces of pilot free trade zone reform experience was promoted, including the "mode of central warehouses for purchase return of cross-border e-commerce retail imports", allowing companies to set up cross-border e-commerce retail import return center warehouses in special customs supervision areas, and to transfer the sorting and return processes outside the region to the zone, and the whole business return process is completed in a "one-stop" manner, which further reduces the company's operating costs. In 2018, 30 pieces of pilot free trade zone reform experience was promoted, including "paperless whole process of enterprise registration and e-port network access in customs", by which enterprises fill in and submit the required information through the e-port customs-enterprise cooperation platform, without leaving home they can do online registration, payment, and inquiries, and the whole process is paperless. The above two pieces of experience have been promoted nationwide, further enhancing trade facilitation and optimizing the business environment.

We also note that *"98% of customs clearance is completed digitally at Shanghai Port, lowering direct costs by more than RMB 400 million each year"*. Could China provide more details on the breakdown (by component) for its cost savings?

Reply: In recent years, the customs has continued to promote the paperless reform of customs clearance operations. Paperless operations include, but are not limited to: electronic declarations, modification and revocation of the import/export goods declaration forms, issuance of certificates, etc. The *Announcement of the General Administration of Customs on Matters Relating to Further Promoting the Paperless Reform of Customs Clearance Operations (No.25, 2014)* clearly states: Enterprises that choose paperless operations should select the "paperless customs clearance" method at the e-port input terminal when declaring goods. Under the paperless mode, enterprises do not need to submit all kinds of paper materials on site, which greatly saves manpower and time costs.

5.1.2 Pursuing innovation-driven development, and optimizing and upgrading the industrial structure

Page 21 (Para 5.3)

The Government Report states that China has *"continuously strengthened innovation as the core of the modernization drive. Innovation platforms are established with a rapid pace. Enterprises as the main innovation driving force are encouraged to increase R&D input, while the government provides policy incentives that apply to all"*. Could China elaborate on the *"policy incentives"*, as well as provide examples of how foreign companies in China have benefitted from these *"policy incentives"*?

Reply: Please refer to China's latest subsidy notification (G/SCM/N/372/CHN).

We understand that China is currently taking actions to *"foster new forms of digital economy businesses"*. Could China clarify on the new forms of digital economy businesses, as well as elaborate on the measures which China will be taking to further grow its digital economy?

Reply: China attaches great importance to the development of new formats of digital economy, and has successively introduced a series of measures such as the "Internet +" action to accelerate the development of digital industrialization and industrial digitalization, and to promote the digital transformation of the economy and society. China will take new business forms and models that support online and offline integration as an important breakthrough in economic transformation as well as reform and innovation. China will break traditional conventional thinking, to play the leading role of digital innovation in improving the quality and efficiency of the real economy more effectively, and to promote "Internet +", big data, and platform economy to a new stage.

We also note that China has been making "*steady progress*" in new infrastructure such as "*data centres*". Could China provide more information on its regulatory framework for data centres, including areas such as energy efficiency? Could China also clarify the definition of "*data centre*" and whether its regulatory framework for data centre covers the server rooms operated by companies? Are foreign investors allowed to invest in, own and/or operate the data centres, the server rooms, and/or the property housing the data centres in China? If so, what are the requirements they would need to fulfil?

Reply: Internet Data Center (IDC) services belong to the category of value-added telecommunications services. For specific regulatory requirements, please refer to the *Regulation on Telecommunications of the People's Republic of China* issued by the Ministry of Industry and Information Technology. IDC business is currently not open to foreign investment.

6. The Way Forward

Page 26 (Para 6.2)

We note that China will be introducing the *Negative List for Cross-Border Trade in Services* soon. Could China clarify on the scope and coverage of the negative list, including whether the list would cover all services sectors and four modes of supply? We would also like to understand whether the negative list will apply equally to all foreign service suppliers.

Reply: The upcoming *Negative List for Cross-border Trade in Services* will uniformly list the measures taken by overseas service providers in terms of national treatment, market access, local presence, cross-border trade in financial services, etc. to provide services through "cross-border" methods (modes 1, 2 and 4) such as cross-border delivery, overseas consumption and movement of natural persons. The areas outside the list will be managed in accordance with the principle of internal and external consistency.

We note that several sectors, such as telecommunication services, scientific research and technical services, are already covered in China's *Special Administrative Measures (Negative List) for the Access of Foreign Investment* and the *Negative List for Market Access (2020)*. Are there plans to streamline these negative lists in the future, and if so, when might this be?

Reply: Regarding the negative list of market access, the National Development and Reform Commission and the Ministry of Commerce have revised the *Negative List for Market Access (2021)* to further reduce the list items, which will be implemented after being submitted for approval in accordance with the procedures. Regarding the negative list of foreign investment access, the National Development and Reform Commission and the Ministry of Commerce are formulating a new negative list, which has been publicly solicited for comments and will be implemented after being submitted for approval in accordance with the procedures.

BRAZIL**QUESTIONS REGARDING THE SECRETARIAT REPORT**Page 169 (Para 4.207)

- On 6 June 2019, the MIIT issued the Basic Telecommunication Business Operation License to three state-owned carriers (China Telecom, China Mobile, and China Unicom) and a state-owned broadcasting company (China Broadcasting Network) to approve their operation of "fifth generation digital cellular mobile communication services". As a consequence, the MIIT revised the Telecommunication Services Classification Catalogue (2015) to accommodate the new item. The 2019 revised Catalogue adds "A12-4 Fifth generation digital cellular mobile communication services" to "A12 Cellular mobile communication services" under Category A "Basic telecommunication services". The new item refers to voice, data, multimedia, and other services provided through fifth-generation (5G) digital cellular mobile communication networks. According to the authorities, by end-June 2020, more than 400,000 5G base stations had been built.

Question:

1. Can China give more information regarding its licensing framework? Can any of the licenses mentioned or any other licenses encourage the development, on the telecom market, of supply of the Open-RAN model and of the 5G standalone service architecture? If yes, how so.

Reply: Please refer to the relevant provisions of the *Regulations on Telecommunication* for information regarding the licensing framework. The openRAN technology currently receives considerable attention of the world although it is still in its infancy. China has been adhering to the principle of technology neutrality and keeping a close watch on its latest developments.

Page 169 (Paragraphs 4.208 and 4.209)

- In March 2020, the MIIT issued the Notice on Promoting the Accelerated Development of 5G. It provides guidance for the industry to fully promote 5G network construction, application popularization, technological development, and security assurance.
- In November 2019, the MIIT issued the Plan for Advancing the 512 Program on 5G Plus Industrial Internet, a policy document to facilitate the integrated development of 5G and industrial Internet. It aims to promote the use of 5G technologies to upgrade five public service platforms by 2022.

Questions:

2. Could China elaborate on the developments and results of 5G operations in the country?

Reply: Since the commercialization of 5G, Chinese regulatory authorities have guided telecommunications companies to actively carry out 5G network construction, promote the co-construction and sharing of 5G networks, and expand 5G network coverage in urban areas, counties, and towns. As of the end of August 2021, China has opened a total of more than 1.03 million 5G base stations, and has built and shared more than 500,000 5G base stations, covering all cities, over 97% of counties, and 40% of towns. The number of 5G terminal links exceeded 400 million. China's 5G application is active in innovation, which is reflected in a variety of activities such as the establishment of a 5G application industry phalanx and the "Bloom Cup" innovative 5G application competition. At present, there are more than 10,000 cases of innovative 5G application, and 5G has exerted an enabling effect in industry, medical care, education, transportation, etc.

3. Which are the five public service platforms mentioned as targets for the development policy in place?

Reply: According to the Plan for Advancing the 512 Program on 5G Plus Industrial Internet, the five public service platforms refer to the five service platforms for transforming and promoting the internal 5G network of industrial Internet enterprises by relying on the industrial Internet innovation and development program to build a network test environment that meets the needs of industrial enterprises to carry out 5G network application R&D and verification, provide small and medium-sized enterprises with a "5G+Industrial Internet" intranet construction and transformation template, carry out application consulting and R&D training, and improve public service capabilities.

Page 169 (Para 4.210)

- On facility sharing, the MIIT continues to require basic telecommunications enterprises to carry out infrastructure construction in accordance with the requirements of sharing basic telecommunications facilities or co-construction. In addition, Internet access service providers in China can provide Internet access services to users by leasing the network resources from basic telecommunications companies and wired access facilities service providers. In June 2020, China issued the Implementation Opinions on Supporting the Accelerated Development of 5G Networks Through the Co-construction and Sharing of Telecommunication Infrastructure. According to the authorities, as at end-June 2020, the sharing rate of newly built towers in China stood at 90%, which is equivalent to sharing the construction of 780,000 towers and saving a total of CNY 140 billion. As at end-2020, China's telecom operators had opened more than 330,000 shared 5G base stations.

Questions:

4. Are all companies subject to mandatory infrastructure sharing? If not, how does China define which companies are subjected to such obligations?

Reply: At present, the Chinese government does not force all companies to share telecommunications infrastructure, but only requires basic telecommunications companies to achieve joint construction and sharing through friendly consultations on the premise that they have the conditions for joint construction and sharing.

5. Infrastructure sharing is critical for the deployment of service in certain areas. Given that, can China supply additional information regarding infrastructure and spectrum sharing in their regulatory regime? How these measures can promote the deployment of 5G?

Reply: In terms of telecommunications infrastructure, while continuing to promote the co-construction and sharing of telecommunications infrastructure among basic telecommunications companies, the Chinese government actively promotes the sharing of telecommunications infrastructure and infrastructure resources such as transportation, power, and municipal services to support the large-scale deployment of 5G. Regarding spectrum sharing, first, the Ministry of Industry and Information Technology issued 5G frequency licenses (limited to indoor use) for shared use of the 3300-3400MHz frequency band to China Telecom, China Unicom, and China Radio and Television in 2019. Second, the Ministry of Industry and Information Technology is studying and formulating relevant radio management policies for basic telecom operators to carry out 5G public mobile communication network sharing and frequency sharing, and further guide basic telecom operators to improve the efficiency and comprehensive benefits of 5G frequency resources.

Page 170 (Para 4.211)

- In November 2019, in order to further improve the service quality of the telecommunications industry, China officially rolled out a mobile number portability programme, which allows mobile users to keep their phone numbers when switching to a new mobile provider.

Question:

6. Are there any plans for expanding number portability to other services, for instance to fixed telephony?

Reply: According to the *Measures for Administration of Number Portability Services*, cellular mobile communication users (excluding Internet of Things users) of basic telecom operators have been able to use number portability services since November 27, 2019. Number portability is currently unavailable for other services as the corresponding technology, market, service, etc. are not prepared for this. In the later stage, efforts will be made to actively study the feasibility of providing number portability for corporate services by comprehensively considering the market, technology, service, and other factors.

Page 170 (Para 4.212)

- There were also new developments in the framework of spectrum management. In 2019, the MIIT promulgated provisions on the management of the use of the frequencies of enhanced Machine-Type Communication (eMTC) systems, specifying the usage frequency of eMTC systems, the management requirements of base station terminals, and other content. The Ministry also issued Announcement No. 52, 2019, which defines the catalogue, radio frequency specifications, and

management requirements of micro-power short-range radio transmitting equipment, with a view to further standardizing the management of such equipment.

Question:

7. In the context of 5G, are there coverage obligations related to spectrum auctions in place or planned in the auction proceedings or any other means of granting spectrum for those services?

Reply: Currently, China allocates 5G spectrum by means of administrative license, and is studying and formulating relevant plans for implementing 5G frequency license by means of bidding. According to the *Radio Frequency Utilization Requirements and Verification Administration* issued by the Ministry of Industry and Information Technology in 2017, 5G and other public mobile communications services should meet the following frequency utilization requirements: frequency band occupancy is not less than 70%, regional coverage is not less than 60%, and the user load rate is not less than 60%.

Page 172 (Para 4.221)

- The Measures establish an interagency cybersecurity review body, which consists of members from 12 government agencies – the CAC, the NDRC, the MIIT, the Ministry of Public Security, the Ministry of National Security, MOFCOM, the Ministry of Finance, the PBOC, the SAMR, the National Radio and Television Administration, the National Administration of State Secrets Protection, and the State Cryptography Administration – and is led by the CAC. The Office of Cybersecurity Review is established in the CAC.

Question:

8. Can China elaborate more on the coordination of its several bodies in the context of cybersecurity policies and regulations? What each of the referred Agencies is responsible for in the context of cybersecurity, data protection and other security related policies? Please specify which areas they are involved in, and if they have a complementary role in that matter.

Reply: Article 4 of the Measures on Cybersecurity Review stipulates that the Cyberspace Administration of China (CAC) shall establish a national network security review mechanism in conjunction with relevant departments. The Office of Cybersecurity Review is established in the CAC and is responsible for formulating regulations and rules related to cybersecurity review and organizing cybersecurity reviews.

QUESTION REGARDING BOTH THE GOVERNMENT AND THE SECRETARIAT REPORT

We noted the absence, in both the Secretariat's and the Chinese reports, of information on support to develop, launch and produce civil aircraft. China has, however, notified two programs that explicitly benefit the aeronautical sector by the means of its most recent NFNs (G/SCM/N/372/CHN and G/SCM/N/343/CHN).

Question:

10. We would like to know the Chinese opinion on the role that subsidies play in China's aircraft manufacturing sector, particularly bearing in mind that China is a new entrant to this market. Furthermore, we would like to know the Chinese opinion on the adequacy of the current WTO rules on subsidies to effectively address the distortions of the global aeronautical sector.

Reply: Subsidy policies for the development of the civil aviation industry shall comply with the current WTO subsidy rules.

PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT

Page 18 (Para 1.6)

- The COVID 19 pandemic has posed an unprecedented shock to China's economy. Besides inflicting human costs, it has had a major impact on output, trade, and employment. At the beginning of 2020, economic growth fell to its lowest level in 40 years: between the last quarter of 2019 and the first quarter of 2020, growth fell by almost 13 percentage points, from 5.8% to -6.8%. Apart from financial services and information technology, all sectors were severely hit. Over 100 million workers were directly affected by the pandemic, by being put on unpaid leave in retention schemes or reduced-work programmes, exiting the labour market, or becoming unemployed. In May 2020, the Government abandoned the announcement of the

annual GDP target for the first time in more than 25 years due to factors that are difficult to predict, such as the coronavirus pandemic and uncertainties around trade.

Question:

30. According to Chinese authorities, what are the main factors that best explain the distinctive performance of the financial services sector, compared to other sectors of the economy, during the pandemic?

Reply: First, China has always regarded the services of bancassurance institutions and the support of the real economy as the starting point and goal.

Second, we paid attention to preventing and addressing stock risks, increased efforts to dispose of non-performing assets through various forms such as liquidation, write-off, and transfer, and conducted more stringent investigations on high-risk institutions to address the risks.

Third, we took forward-looking measures to prevent risks.

Page 20 (Para 1.13)

- With a view to safeguarding financial market stability and providing liquidity to the banking system during the pandemic, the PBOC expanded its relending facilities to provide targeted support to manufacturers of medical supplies and daily necessities. Furthermore, the authorities tolerated rising levels of non-performing loans in heavily impacted regions and sectors, and introduced a payment moratorium for most micro, small, and medium-sized enterprises (MSMEs) and other eligible firms until end-2021. Furthermore, the PBOC lowered various policy rates. Non-interest rate instruments deployed by the PBOC aimed to provide additional support especially to smaller firms. They included expanding relending facilities, reducing targeted reserve requirement ratios, increasing bank lending targets, expanding credit support by policy banks, subsidizing local banks' repayment moratoria, and introducing a zero-interest scheme for uncollateralized lending to MSMEs. The various measures led to a rapid increase in bank lending and had a significant positive measure on corporate bond issuance.

Questions:

31. Considering the higher tolerance level of non-performing loans in heavily impacted sectors, does the PBOC envision any program to rebalance the risks related to these loans?

Reply: The Chinese government quickly responded to the COVID-19 strikes and implemented targeted policies. Remarkable results in controlling the epidemic and stabilizing the economy have been achieved, and the quality of credit assets in the banking industry was basically stable. Considering the time lag in the reflection of non-performing loans, the financial authorities support and encourage banks to increase provision for losses on non-performing loans as well as write-off and disposal of non-performing loans in order to cope with the possible downward pressure of bank credit asset quality under the impact of the COVID-19.

32. In which sectors of the economy did the PBOC apply the policy of higher tolerance of non-performance loans?

Reply: The Chinese regulatory rules do not provide different non-performing loan ratios by economic sector.

Page 20 (Para 1.18)

China continued its efforts during the review period to further internationalize the CNY; for example, it took measures including bilateral swap agreements, the pursuit of alternatives to the SWIFT inter-bank payments system, and investment in credit rating agencies for sovereign debt. According to the authorities, China promotes the two-way opening of the capital market, facilitates foreign investors to invest in CNY assets, optimizes policies on cross-border CNY business, promotes trade and investment facilitation, and further improves the CNY internationalization infrastructure. About 70 countries now also use the CNY as reserve currency. Yet as at mid-2020, only about 2% of global payments were conducted through the CNY. It would appear that regulations on capital movements (see below) constitute a major obstacle for the further internationalization of the CNY.

Question:

33. What are, if any, the foreign partners with which the Chinese authorities are negotiating or envisioning future negotiations regarding trade in local currencies?

Reply: The People's Bank of China has signed local currency cooperation/settlement agreements with the central banks of 10 countries including Laos and Cambodia, and launched a local currency settlement (LCS) cooperation framework with the Central Bank of Indonesia. There is no negotiation or plan to start negotiations with the central banks of other countries on local currency settlement.

Page 21 (Para 1.19)

Since 2014, the PBOC has been developing a central bank digital currency, the e-CNY or e-renminbi. It is designed to be a legal tender combining digital currency and electronic payment characteristics, thus serving as cash (M0). The e-CNY is currently being tested across several regions, selected banks, and electronic payment platforms. It is expected to offer a higher degree of anonymity and lower handling charges than those of existing payment providers, higher compatibility across platforms, and, by broadening the reach of people with limited access to finance, to lead to more financial inclusion. The PBOC plans to use the e-CNY for domestic transactions initially.

Questions:

34. What is the PBOC's current assessment of the development and operation of e-CNY?

Reply: The e-CNY mainly serves as cash (M0), which will coexist with physical CNY for a long time, and is subject to centralized management and two-tier operation. The e-CNY issuance right belongs to the state. The People's Bank of China is responsible for e-CNY issuance, cancellation, inter-institutional interconnection, and wallet ecological management. At the same time, commercial banks meeting the capital and technology requirements will be selected as designated operating institutions, which work together with relevant commercial institutions to provide e-CNY exchange and circulation services to the public. These institutions currently include commercial banks, telecom operators and Internet companies.

35. What are the main challenges faced by the PBOC during the development process of e-CNY?

Reply: With the deepening development of e-CNY and financial technology, regulatory rules and laws related to legal e-CNY and e-CNY-related business rules and systems need to be improved. In addition, the e-CNY acceptance environment needs to be further optimized and requires the engagement of all sectors of society.

36. Has the project of developing a central bank digital currency (e-CNY or e-renminbi) been conceived of as an element of currency statecraft to foster the renminbi as an international currency?

Reply: Cross-border payment involves many complex issues such as monetary sovereignty, foreign exchange management policies, exchange system arrangements, and regulatory compliance requirements, and remains to be a tricky problem to be addressed by the international community. Currency internationalization is a natural market selection process. The status of international currencies is fundamentally determined by economic fundamentals and the depth, efficiency, and openness of the currency and financial markets. Digital RMB has the technical conditions for cross-border use, but it is currently mainly used for domestic retail payment.

In the future, the People's Bank of China will actively respond to the Group of Twenty (G20) and other initiatives to improve cross-border payments, and study the applicability of central bank digital currencies in cross-border fields. Based on the domestic pilot results and the needs of the international community, the People's Bank of China will explore cross-border payment pilots on the premise of fully respecting the monetary sovereignty of both parties and complying with laws and regulations, will establish legal digital currency exchange arrangements and regulatory cooperation mechanisms with relevant monetary authorities and central banks following the three requirements of "lossless", "compliance" and "interoperability", and will adhere to the two-tier operation, risk-based management requirements and modular design principles to meet the regulatory and compliance requirements of various countries.

The People's Bank of China will also continue to advance the R&D pilot work in a steady and orderly manner; further expand the coverage of pilot test application scenarios in combination with the development plans and local characteristics of the pilot test areas; study and improve relevant systems and rules; study and formulate administrative methods related to e-CNY; strengthen the protection of personal information of e-CNY; deepen the research and evaluation of the in-depth

influence of legal digital currency on monetary policy, financial system, and financial stability; and actively engage in the international exchange on legal digital currency.

Page 21 (Para 1.23)

Against the background of dampening of domestic demand and weaker exports, partly resulting from trade tensions, the authorities resorted to various stimulus measures during the review period, involving taxes, access to credit, and infrastructure investment; however, according to an OECD study, the stimulus may increase corporate sector indebtedness and, more generally, reverse progress in the deleveraging of state-owned enterprises (SOEs).

Questions:

37. What were the main consequences to the Chinese economy from the increased trade tensions with the US under the Trump administration?

Reply: Some changes have taken place in China-US relations in the past, which affected the economic and trade relations between the two countries. However, it must be noted that China and the United States share extensive common interests and continue to maintain close economic and trade ties. The impact of changes in China-US economic and trade relations on China's economic growth is generally limited. For example, in 2020, while China's total imports fell by 0.8%, imports from the United States achieved a relatively rapid growth of 9.8%; while global cross-border direct investment has fallen sharply by approximately 40%, US non-financial direct investment in China reached USD 2.3 billion, a decrease of 14.2% over the previous year and China's non-financial direct investment in the US registered USD 6.21 billion, an increase of 56.4%.

38. As a result of the escalation of trade tensions with the US has it been seen the emergence of any different pattern of trade and FDI of China and its major foreign partners?

Reply: Direct investment by Chinese companies follows commercial and market principles and global practice and is negotiated with foreign partners on an equal footing. There's not really much of a difference in the pattern of trade and FDI of China.

Page 22 (Para 1.31)

Under the One Belt and One Road Initiative, or the Belt and Road Initiative (BRI), launched in 2013, the Government seeks to connect nearly 140 countries and regions through rail lines, pipelines, highways, ports, and other infrastructure. As at March 2021, total expenditure under the BRI amounted to USD 640 billion. According an OECD study, infrastructure projects of the BRI may have an impact on the debt burden on recipient countries. Nonetheless, the authorities do not agree with the conclusion of the study. The authorities also underline the trade-enhancing and mutually beneficiary nature of the projects.

Questions:

39. As it has been originally conceived of, does the Belt and Road Initiative (BRI) contemplate the integration of South America under its wide trade and investment connections?

Reply: China's "Belt and Road" Initiative (BRI) aims to continuously strengthen economic development cooperation with BRI countries through policy communication, facility connectivity, unimpeded trade, financial integration, and people-to-people bonds, promote the facilitation and liberalization of global trade and investment, and build together with BRI countries a community of shared interests, future, and responsibility featuring political mutual trust, economic integration, and cultural inclusiveness.

40. If so, what are the main areas of cooperation with South America seen as strategically important for the BRI?

Reply: The BRI is an economic cooperation initiative, not a geostrategic concept. It always adheres to the principle of achieving shared growth through discussion and collaboration, upholds the concept of openness, greenness, and integrity, follows international rules and national laws, pursues environmental protection and sustainability, and is committed to jointly building high-quality, high-standard projects.

41. More specifically, does MERCOSUR play any important role under the strategic alliance of the BRI with South America?

Reply: As developing countries, China and MERCOSUR member states go through similar development stages, and face similar development challenges and governance dilemmas. In recent years, some MERCOSUR member states including Chile, Peru, Ecuador, and Uruguay have signed the "Belt and Road" cooperation documents with China. It is believed that in the future, the MERCOSUR will help promote in-depth cooperation between member states and China in infrastructure, logistics and transportation, and economic and trade under the framework of the "Belt and Road Initiative", and play a significant role in achieving mutual benefit and win-win results for the Chinese and Latin American people.

Page 35 (Para 2.29)

On 15 November 2020, China and 14 other countries signed the Regional Comprehensive Economic Partnership (RCEP) Agreement. The Agreement has provisions on trade in goods; rules of origin; customs procedures and trade facilitation; sanitary and phytosanitary measures; standards, technical regulations, and conformity assessment procedures; trade remedies; trade in services; temporary movement of natural persons; investment; intellectual property; e-commerce; competition; small and medium-sized enterprises (SMEs); economic and technical cooperation; government procurement; institutional provisions; and dispute settlement. It has four market access annexes (schedules of tariff commitments, schedules of specific commitments for services, schedules of reservations and non-conforming measures for services and investment, and schedules of specific commitments on temporary movement of natural persons). In general, tariffs on 90% of tariff lines will be eliminated; regarding trade in services, some participating signatories made commitments in over 100 sectors/subsectors. In addition, participating countries adopt a negative list approach to make commitments on investment in non-services sectors. The RCEP Agreement will take effect 60 days after its ratification by at least six Association of Southeast Asian Nations (ASEAN) and three non-ASEAN signatories.

Questions:

42. What are the main results expected to the Chinese economy from its participation in the RCEP Agreement?
43. Which Chinese economic sectors/products are likely to gain/lose consequent upon its entry into the RCEP Agreement?

Reply to Question 13 and 14: The RCEP Agreement will significantly improve the overall business environment in the region, further enhance the trade creation effect, strengthen the division of labor and cooperation between the members, propel the expansion and upgrading of the consumer market, and promote the in-depth integration of the industry chains, supply chains and value chains in the region. After the RCEP Agreement takes effect, more than 90% of the goods trade in the region will eventually achieve zero tariffs, and the regional cumulation rule will greatly lower the threshold for tariff preferences. The high-level trade in service and investment opening-up commitments made by the members will further unleash the potential of cooperation.

Page 36 (Para 2.33)

On 15 January 2020, China and the United States signed the China-United States Phase 1 Economic and Trade Agreement. It contains provisions related to, inter alia, intellectual property, technology transfer, trade in food and agricultural products, and financial services.

Questions:

44. What are the main results so far from the Phase 1 agreement with the US to the Chinese economy?

Reply: The China-US economic and trade agreement on the basis of equality and mutual respect is beneficial to both countries and the whole world. Since the agreement came into effect, the two sides have communicated smoothly at all levels, jointly and steadily promoted the implementation of the agreement, and maintained a good working relationship. In terms of optimizing the business environment, China has made positive progress in intellectual property protection, expanding access to agricultural products and food, and opening up financial markets in accordance with the needs of domestic reform and opening up. In terms of expanding procurement from the United States, China has carried out exclusions for market-based procurement with additional duties to facilitate enterprises' trade. Chinese companies have carried out procurement from the United States in

accordance with WTO rules and principles of marketization and commercialization, and achieved good results. In 2020, China's imports from the United States totaled approximately USD 134.9 billion. Since 2021, China's procurement from the United States has shown rapid growth.

45. Overall, is this agreement seen as beneficial or detrimental to the bilateral trade relationship with the US both in a short-term and a long-term perspective?

Reply: After the China-U.S. economic and trade agreement was reached, China and the U.S. settled the conflicts and maintained a relatively stable relationship for a certain period of time. Global investment, trade, and financial markets continue to recover. International organizations have raised their economic growth expectations. Multilateral platforms such as the Group of Twenty have positively evaluated that the agreement has injected positive energy into the stable growth of the global economy. After the unexpected COVID-19 outbreak, the political atmosphere and market conditions have changed significantly, which brought difficulties and challenges to the implementation of the agreement. Despite the challenges, China persisted in promoting reform and opening up, steadily promoted the implementation of the agreement, advanced bilateral economic and trade cooperation, stabilized market expectations, enhanced corporate confidence, and maintained the relative stability of the China-US economic and trade field. The U.S. has given positive comments on the progress of the agreement on many public occasions. The U.S. business community has repeatedly sent letters to the leaders of China and the United States to express their affirmation and support for the agreement. The economic and trade teams of both sides maintained good exchanges, making the agreement one of the few communication platforms to maintain China-US relations. It can be said that the China-US economic and trade agreement is conducive to stabilizing China-US economic and trade relations and injecting stability into global economic and trade development.

Page 94 (Para 3.188)

China has been active in international cooperation in the area of competition policy. By mid-2020, China signed 53 international anti-monopoly cooperation documents with 32 countries and regions and established bilateral and multilateral anti-monopoly cooperation mechanisms. Since its establishment in 2018, the SAMR has signed bilateral memoranda of understanding (MOUs) on anti-monopoly cooperation with the competition authorities of the European Union, Japan, the Republic of Korea, Serbia, Belarus, the Philippines, and Morocco. China and the Russian Federation renewed their MOU on the Implementation of the Agreement on Cooperation and Exchanges in Anti-monopoly and Anti-Unfair Competition (2020-21). The SAMR extended the MOU on Cooperation with BRICS Countries in the Field of Competition Laws and Policies. China actively participated in the BRICS Competition Conference and furthered cooperation with BRICS countries in competition policy. China also carried out cooperation and coordination in many merger and monopoly agreement cases with its trade partners such as Canada, the European Union, Germany, India, the United States, the Russian Federation, and South Africa. China also participated in the United Nations Conference on Trade and Development (UNCTAD) activities in the area of competition and consumer protection.

Questions:

46. What are the main goals envisaged by the Chinese authorities under the strategic cooperation with the BRICS countries?

Reply: Over the past more than ten years, the trade and investment cooperation among the BRICS countries has been continuously deepened, and their economic and trade ties have developed rapidly. First, the BRICS countries have seen closer economic and trade ties. In 2020, the combined GDP of the BRICS economies accounted for 23% of the world total, compared with 12% when the BRIC was formalized in 2006, and their share in global trade in goods increased from 12% to 18%. Second, the BRICS countries have seen productive outcomes of their cooperation. In 2013, President Xi Jinping proposed the vision of "integrated market" for the BRICS, pointing the way for cooperation and development of developing countries. In 2017, China hosted the Ninth BRICS Leaders' Summit in Xiamen, and the leaders of the five countries witnessed the signing of the BRICS Action Agenda on Economic and Trade Cooperation, ushering in a new era of BRICS economic cooperation and trade. At the 12th BRICS Leaders' Summit in November 2020, the Strategy for BRICS Economic Partnership 2025 was adopted, which maps out the roadmap for BRICS cooperation in the next five years.

47. What are the main economic and financial projects being currently undertaken by means of the cooperation with the BRICS countries, within and beyond member countries territories?

Reply: First, Great Wall Motor Company Limited signed an investment agreement with the Russian side in May 2014. The Tula project was started in September 2015, and the factory was put into operation in June 2019. The construction of the engine plant was started in April 2021 and is expected to be completed in 2022. Second, the Haier Russia Industrial Park project was launched by Haier Smart Home in January 2019, with a total capacity of more than three million home appliances such as refrigerators, freezers, washing machines, TVs, water heaters and kitchen appliances. Up to date, the refrigerator and washing machine plants have been in operation.

Page 149 (Para 4.101)

China is the largest automobile market worldwide, both in terms of demand and supply. According to the results of the national survey of industries above a certain scale, the production volume of automobiles in 2018 and 2019 was around 27.8 million and 25.7 million, respectively.

Questions:

48. Has the heavy blow inflicted to the Chinese car industry during the COVID-19 pandemic been at least in part the result of a shortage of semiconductors worldwide along its value chain?

Reply: From January to August this year, China's automobile production and sales showed a growth trend year-on-year, and the overall development of the automobile industry was sound.

49. If so, how have the Chinese authorities reacted to this seemingly inherent fragility of its automotive industry in terms of industrial policy measures?

Reply: China established a working group for the promotion and application of automotive semiconductors, organized a number of work coordination meetings, gave full play to the strength of local governments, vehicle companies and chip companies, strengthened supply and demand matching and work coordination, promoted the improvement of automotive chip supply capabilities, and strived to minimize the impact. In the next step, we will continue to play the role of special classes, strengthen operation monitoring, analysis, and judgment, coordinate and solve related problems in a timely manner, and support enterprises to find alternative solutions through the enterprise measures implemented by China. We will guide enterprises to optimize the layout of the supply chain, improve the supply capacity of automotive chips, and fundamentally improve the stability of the supply chain.

Page 153 (Para 4.123)

The 2014 Guidelines for Promoting the Development of the National Integrated Circuit Industry set specific targets to develop China's IC and semiconductor industry. It identified the goals of raising the industry's revenue to over CNY 350 billion by 2015, and achieving an annual rate of revenue growth of over 20% by 2020. Priority tasks include the establishment of the National Leading Group for the Development of Integrated Circuit Industry, the initiation of the National Integrated Circuit Industry Investment Fund, and the promotion of safe and reliable hardware and software.

Questions:

50. What are the main fragilities of the Chinese semiconductor industry, if any, in terms of production shortages and technology gaps?
51. Has China suffered from any significant disruption in the supply chain of semiconductors during and in the aftermath of the COVID-19 pandemic?
52. If so, which policies have been implemented to counter this problem?

Reply to Questions 21-23: There is a certain technological gap between China's integrated circuit industry and other countries. At the beginning of 2020, the COVID-19 epidemic has had a certain impact on the production of companies in various industries, including the integrated circuit industry. The Chinese government has adopted effective anti-epidemic measures to help companies including integrated circuit companies resume work and production.

Page 156 (Para 4.136)

State-owned banks are among the major players in China's financial sector. Large banks in the system (e.g. the Big Six state-owned commercial banks and the three policy banks) and most

other financial institutions (e.g. credit cooperatives, non-bank financial companies, and insurance companies) are either directly state-owned or owned by other SOEs. In a report to the NPC, the State Council indicated that total assets of state-owned financial institutions at end-2017 was CNY 241 trillion, which represented 88% of the total.

Question:

53. What are, if any, the most significant actions taken by the Chinese authorities to reduce the State participation in the financial sector?

Reply: Financial institutions have always made independent decisions and operated independently in the Chinese market in accordance with market-oriented and law-based principles. Let's take the six large state-owned commercial banks in China for an example. Although the six banks are controlled by the state, they have been listed in either the A-share or the H-share market. Their operation and management need to fully perform relevant corporate governance procedures, and they should operate in a market-oriented manner in accordance with the principle of commercial sustainability, and accept the supervision of shareholders and other stakeholders.

In terms of the securities business, the Chinese government respects the market rules, and steadily implements the reform of the stock issuance registration system step by step. The Chinese government launched a science and technology innovation board at the Shanghai Stock Exchange and experimented with a registration system for listed companies in June 2019, and kicked off the pilot of registration-based IPO system on the ChiNext stock market in June 2020. In the next step, based on the pilots, the registration system will be implemented across the markets after further evaluation.

Page 157 (Para 4.143)

The new structure follows an integrated type of supervisory model. The Financial Stability and Development Committee (FSDC), established in November 2017, is a financial regulatory body under the auspices of the State Council and headed by a Vice Premier, which is higher ranked than the ministry-level heads of the other financial regulators. The FSDC is tasked with, inter alia, implementing the decisions and plans of the State Council regarding the financial sector; deliberating major reform and development programmes for the financial sector; coordinating financial reform, development and regulation, issues concerning monetary policy and financial regulation, and major issues concerning financial regulation; analysing international and domestic financial situations, addressing international financial risks, and conducting policy research on systemic risk prevention and treatment to maintain financial stability; and guiding local financial reform, development, and supervision of the duty performance of local financial regulatory authorities and governments. During the review period, a new supervisory arrangement was adopted, combining the oversight structure of banking and insurance to form one single regulator, the CBIRC. The CBIRC was established in April 2018, as a result of a merger of the CBRC and China Insurance Regulatory Commission (CIRC).

Questions:

54. Can the Chinese authorities confirm the understanding that the FSDC is headed by a higher rank authority than the PBOC?

Reply: The FSDC under the State Council is a deliberation and coordination body of the State Council for overall planning and coordination of major issues of financial stability, reform and development. The FSDC is headed by the Vice Premier of the State Council in charge of financial affairs, and the President of the PBOC is the deputy head of this committee. As a member the FSDC, the PBOC undertakes the duties of the Office of the FSDC and is responsible for handling the daily affairs of the committee.

55. Considering the tasks of the FSDC, how does it interact with the PBOC when dealing with financial regulation and monetary policy issues?

Reply: Since its establishment, the FSDC has actively played a leading role in planning financial reform, development and regulation as a whole, coordinating matters related to monetary policy and financial regulation, and coordinating and planning major matters of financial regulation, and has actively promoted finance's serving the real economy, prevention of financial risks, the deepening of financial reforms. As the Office and a member of the FSDC, the PBOC timely submits the major issues and matters involved in the performance of its duties to the FSDC for research and deliberation, and earnestly implement them according to the decisions and arrangements of the FSDC.

Page 165 (Para 4.185)

Measures were taken during the review period to promote the internationalization of the CNY – among them, the recent reforms of the QFII/RQFII status (as described in Section 4.4.1.3.4.1) to further facilitate qualified overseas investors to invest in China's capital market. In 2019, the PBOC reformed the procedures for foreign Central Banks to have better access to China's interbank market.

Questions:

56. Can the Chinese authorities detail the reforms carried out by the PBOC to allow other countries' Central Banks to have better access to China's interbank market?
57. What are, if any, the most recent data regarding the result of these reforms?

Reply to questions 27-28: In terms of entering the inter-bank bond market, the PBOC has, together with relevant departments, simplified the market entry procedures and materials of overseas central bank institutions, and reduced the time limit for its handling of each market entry procedures to less than 30 days. On this basis, the PBOC has updated the Operational Procedures for Overseas Central Bank Institutions to Enter China's Interbank Inter-bank Market (the Procedures) and frequently asked questions (Q&A), and opened a column on its official website to publish the Chinese and English versions.

In terms of entering the inter-bank foreign exchange market, there are three ways for overseas central bank institutions to enter China's foreign exchange market: through the agency of the PBOC, through the agency of members of China's inter-bank foreign exchange market, and directly becoming overseas members of China's inter-bank foreign exchange market. Overseas central bank institutions can independently choose one or more ways to enter China's inter-bank foreign exchange market and carry out foreign exchange spot, forward, swap and option transactions without lines of limit.

Page 165 (Para 4.188)

Regarding the necessary infrastructure for CNY internationalization, on 2 May 2018, the CNY Cross-border Interbank Payment System (Phase II) was established. According to the authorities, it improved the settlement mode, extended the system's external service hours, lengthened the list of direct participants, and further improved the application system design.

Question:

58. How did the CNY Cross-border Interbank Payment System (Phase II) improve the settlement mode and the application system design?

Reply: The following optimization has been made to the design of the settlement mechanism and the application system of the CIPS (Phase II). In terms of operation time, 5x12 hours has been extended to 5x24 hours + 4 hours, fully covering the financial markets in all time zones around the world and supporting daily settlement. In terms of business functions, first, it supports the Delivery Versus Payment (DVP) system, Payment Versus Payment (PVP) between CNY and foreign currencies, centralized central counterparty clearing and other businesses to meet the business needs of different financial markets. Second, a hybrid settlement mechanism of Real-time Gross Settlement (RTGS) and Deferred Net Settlement (DNS) is adopted to meet the differentiated needs of participants for liquidity management. In terms of the message standard, the internationally used ISO 20022 is adopted as the message standard.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORTPage 4 (Para 2.1)

In 1978, China made its historic decision of reform and opening up. After more than 40 years of reform and opening up, China has embarked on a new journey towards fully building a modern socialist country. China aims to coordinate the overall great rejuvenation strategy of the Chinese nation and the profound changes unseen in the world for a century. China draws up the Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035, and embarks on a new journey towards the second centenary goal, which marks that China has entered into a new development stage. China's economy has shifted from a stage of high-speed growth to a stage of high-quality development. The basic national condition that China is still in the primary stage of socialism and will remain so for a long time has not changed. China's international status as the world's largest developing country has not changed.

Question:

1. What are, according to the Chinese authorities, the main differences between the previous stage of high-speed growth and the current stage of high-quality development?

Reply: The original growth model in China that mainly relies on factor investment, external demand driver, investment driver and scale expansion, has been restricted increasingly. There is an urgent demand for changing development model, optimizing economic structure and transforming growth momentum. The characteristics of high-quality development phase include: First, the economic growth gradually decreases from the original high-speed growth of approximately 9% to the growth of approximately 6%; second, the growth model must be changed to pursuing high-quality and high-efficiency, and continuously improving added value and competitiveness of products and market, so as to promote structure optimization and quality improvement through balanced development; third, the market-oriented reform must be stuck to, the decisive role of market in allocating resource shall be fully utilized so as to improve the allocation efficiency of social resources, the overall competitiveness of economy, and the sustainability of economic growth.

Page 7 (Para 3.4)

On 4 November 2020, China set up ten demonstration zones on import promotion, including Shanghai Hongqiao Central Business District and Jinpu New Area in Dalian, Liaoning, covering the eastern, central, western regions as well as the old industrial base in Northeast China. These zones include sea, land and air ports, reflecting the dynamism and potential of China's import. The demonstration zones are designed to play an important role in four aspects. First, facilitating import and tapping import potential through innovation and reduction of institutional costs. Second, expanding the import of technical equipment and raw materials and promoting the deep integration of imports and industries. Third, increasing the supply of domestic high-quality goods, and leading and creating domestic demand with high-quality supply. Fourth, focusing on the import distribution centres as conditions permit and giving play to the exemplary role of the centres to surrounding areas.

Questions:

2. What are the goods covered in the "demonstration zones on import promotion" program?

Reply: The two functions of the national demonstration zones on import promotion and innovation are "trade promotion" and "trade innovation". The essence is to encourage each demonstration zone to give full play to its regional and industrial advantages and cultivate high-quality and efficient import platforms, which are not limited to specific goods.

3. What is, if any, the preliminary assessment regarding the performance of these zones in import promotion?

Reply: Since the establishment of the national demonstration zones on import promotion and innovation, the demonstration zones have made full use of the markets and resources both at home and abroad in adjusting measures to local conditions, carrying out policy innovation and strengthening the efforts on cultivation, and preliminary results have been made in promoting imports, serving industries and unblocking both domestic and international circulations.

Page 8 (Para 3.10)

In August 2020, China issued the Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services to promote the transformation, upgrading and high-quality development of foreign trade. According to the Plan, Beijing, Tianjin, Shanghai and other 25 provinces/cities/regions are designated as pilot zones, which will comprehensively explore eight pilot tasks within the three-year pilot period. In the key areas of services trade under full competition or limited competition, and competitive elements of services trade under natural monopoly, China promoted the cancellation or relaxation of restrictions on services trade, guided by the principles of full removal, substantial relaxation and orderly liberalization correspondingly.

Questions:

4. What are the eight pilot tasks that are being explored in the "Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services"?

Reply: The eight pilot tasks put forward in the Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services include the pursuit of improving the management

mechanism, opening wider to the outside world, enhancing facilitation, innovating development modes, improving the promotion system, optimizing the policy system, improving the regulatory mode and improving the statistical system from an overall perspective.

5. What are, if applicable, the main aspects of the program that are related to financial services?

Reply: According to the Pilot Programme of the Innovative Development of Trade in Services and the Tasks, Specific Measures and Division of Responsibilities for Pilots of the Innovative Development of Trade in Services printed issued together with the document, the work related to banking and insurance mainly includes implementing the reform of administrative license examination and approval in the pilot areas, supporting medical institutions to strengthen cooperation with domestic and foreign insurance companies, exploring the participation of commercial insurance in the construction of basic medical and elderly care service systems, supporting international cooperation in the development of cross-border commercial medical insurance products, promoting overseas talents to practice in China, and innovating intellectual property and financial services, etc.

Page 11 (Para 3.26)

China continues enhancing liberalization of trade and investment with its trading partners. In October 2019, the Agreement on Trade and Economic Cooperation between China and Eurasian Economic Union came into effect. In December 2020, the leaders of China and Europe jointly announced the conclusion of negotiations on China-EU Comprehensive Agreement on Investment. Review and translation of the texts are now in process, with a view to signing the Agreement and bringing it into effect promptly. In the meantime, China favorably considers joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and has made informal contacts with relevant CPTPP signatories.

Questions:

6. What are the main benefits envisaged by the Chinese authorities from joining the CPTPP?
7. What are the main expected gains to the Chinese economy in terms of economic sectors/products from joining the CPTPP?

Reply to Question 6-7: China is a staunch advocate of free trade. It has been calling for open, transparent and mutually beneficial regional free trade arrangements and is committed to building a high-level network of free trade zones. China has applied to join the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), which will not only help further deepen reform and push forward high-level opening-up but also inject new vitality into the economic and trade ties between China and other members and the regional economic integration process.

Page 15 (Para 4.23)

China values and supports the e-commerce related work in the WTO. China has actively participated in relevant discussions, submitted concrete proposals, and joined the "Friends of E-Commerce for Development". In January 2019, China, together with other 75 WTO Members, confirmed their intention to commence WTO negotiations on trade-related aspects of e-commerce. Since then, China has submitted four proposals, pushing the negotiations forward together with other participants. China also supports the work related to services domestic regulation within the WTO framework. In December 2017, 59 Members, including China, announced the initiation of the plurilateral negotiation on services domestic regulation. The negotiation has made substantial progress following three years of intensive consultations.

Question:

8. What are the main factors guiding the Chinese proposals on trade-related aspects of e-commerce?

Reply: Adhering to the principles of openness, transparency and inclusiveness, China's e-commerce proposal emphasizes on the development dimension with full respect for the regulatory rights of Members, and focuses on cross-border trade in goods enabled by the Internet, as well as on such related services as payment and logistics services. China's proposal puts forward negotiation suggestions from the following aspects: first, clarifying the connotation of e-commerce and the application scope of rules; second, establishing a standardized and convenient trading environment for e-commerce; third, creating a safe and credible market environment for e-commerce; fourth, carrying out pragmatic and inclusive development cooperation.

Page 17 (Para 4.33)

China contributes constructively to the economic and trade cooperation of the BRICS countries. With other members, China actively facilitated the release of the joint communiqués of Meetings of BRICS Trade Ministers from 2018 to 2020. The BRICS trade ministers reached consensus on supporting the multilateral trading system; opposing unilateralism and protectionism; promoting the Model E-Port Network; and making progress in terms of trade and investment facilitation, e-commerce, services trade, intellectual property rights, technical specifications and standardization, and MSMEs. These documents laid solid foundation for the BRICS leaders to deliver economic and trade outcomes. Since the outbreak of the pandemic, the BRICS countries have reached consensus on wide-ranging issues. In the field of economic cooperation and trade, the BRICS countries decided to strengthen the coordination of combating COVID-19, and jointly safeguard the stability of the industrial chains and supply chains. This sends a strong message to the world that the BRICS countries are resolute in joining hands and rising to the external challenges. The Strategy for BRICS Economic Partnership 2025 adopted at the 12th BRICS summit maps out the key areas of economic and trade cooperation and the way forward for the next five years.

Questions:

9. What are the main goals envisaged by the Chinese authorities under the strategic cooperation with the BRICS countries?
10. What are the main economic and financial projects being currently undertaken by means of the cooperation with the BRICS countries in their member countries territories?

Reply to Question 9-10: In 2009, the leaders of the BRICS countries held their first summit in Russia. To date, 13 summits and nine informal meetings have been convened. A multi-tiered practical cooperation framework led by the leaders' summit plus the ministerial meetings has taken shape, covering a number of fields such as economy and trade, finance, science and technology, agriculture, culture, education, health, think tanks, and sister cities.

Page 18 (Para 4.23)

China values and supports the e-commerce related work in the WTO. China has actively participated in relevant discussions, submitted concrete proposals, and joined the "Friends of E-Commerce for Development". In January 2019, China, together with other 75 WTO Members, confirmed their intention to commence WTO negotiations on trade-related aspects of e-commerce. Since then, China has submitted four proposals, pushing the negotiations forward together with other participants. China also supports the work related to services domestic regulation within the WTO framework. In December 2017, 59 Members, including China, announced the initiation of the plurilateral negotiation on services domestic regulation. The negotiation has made substantial progress following three years of intensive consultations.

Questions:

11. What are the main characteristics of the Digital Silk Road and the Green Silk Road?

Reply: Guided by the ecological progress and green development concepts, the Green Silk Road aims to embed the principles of resource conservation and environmental protection in every dimension and phase of the Belt and Road Initiative to promote greener policy, infrastructure, trade, financial and people-to-people connectivity. After eight years of effort, cooperation in ecological progress has become an essential part of Belt and Road cooperation, bringing great benefits to the people along the Belt and Road. At the Boao Forum for Asia in April 2021, President Xi Jinping called for a closer partnership for green development, stressing that we could strengthen cooperation on green infrastructure, green energy and green finance, and improve the BRI International Green Development Coalition, the Green Investment Principles for the Belt and Road Development, and other multilateral cooperation platforms to make green a defining feature of Belt and Road cooperation. This highlights the direction and key areas of the Green Silk Road.

12. What is the current state of the Digital Silk Road and the Green Silk Road?

Reply: First, a closer partnership for green development is in the making. The BRI International Green Development Coalition is now composed of more than 150 partners from over 40 countries. A series of dialog and exchange events such as policy research conferences and the Belt and Road Green Innovation Conference have been held to promote global consensus on green development. Second, the green and low-carbon investment concept has taken root. In recent years, China's investments in renewable energy project in Belt and Road countries have continued to grow, and a

batch of clean energy projects have been implemented. Third, support and services for ecological conservation and environmental protection have been strengthened. Special meetings and joint research on key topics such as climate change and biodiversity conservation have been carried out, and a series of research reports including the Green Development Guidelines for Belt and Road Projects and the Research Report on Belt and Road Carbon Market Mechanisms have been released. Fourth, the joint capacity building for environmental governance has been continuously enhanced. The South-South cooperation on climate change plan has been implemented, and 40 cooperation agreements on climate change have been signed with 35 developing countries to help them improve their capacity for climate change response.

13. What are the main features of green finance cooperation in the Green Silk Road?

Reply: First, the top-level design has been strengthened. In 2016, China released the Guidelines for Establishing the Green Financial System in a bid to encourage and support financial institutions to strengthen environmental risk management in Belt and Road projects and other investment projects. In 2017, China issued the Guidance on Promoting Green Belt and Road, which reiterates the importance of strengthening environment management in outbound investments and promoting the development of the green financial system. Second, the Belt and Road Green Investment Principles has been promoted and applied on a wider scale. It was co-initiated by the Green Finance Committee of China Society for Finance and Banking and the City of London Corporation's Green Finance Initiative, and global financial institutions and enterprises engaging in Belt and Road investments can sign up to it voluntarily.

Page 26 (Para 6.1)

Currently, the global industrial chains and supply chains are hampered, trade and investment activities remain sluggish, and the momentum of global economic recovery is rather unstable. Facing the harsh and complicated international situation and the arduous tasks of domestic reform, development, and stability, especially under the severe impact of COVID-19, China will uphold its belief in openness, cooperation, and unity for achieving win-win outcome, stay committed to expanding all-round opening up and exploring more efficient ways to connect domestic and foreign markets, and share production factors and resources. The aim is to turn the market of China into a market for the world, a market shared by all, and a market accessible by all and bring more positive energy to the international community. China is committed to promoting mutual opening up featuring shared benefits, shared responsibilities, and shared governance and building an open world economy.

Questions:

14. What are the main global/regional industrial chains in terms of economic sectors/products in which the Chinese economy takes part?

Reply: China is a powerhouse in both manufacturing and trade, with its economic sectors deeply integrated in global industry chains and supply chains. Resource products, agricultural products and consumer products take a lion's share in its imports. As an important trading partner of the ASEAN, EU, US, Japan and South Korea, China connects the downstream and upstream of the global value chains and plays a vital role in aligning supply and demand and in keeping the global industry chains and supply chains stable and open. In the future, China will push forward high-level opening-up, further improve the quality of economic development, continuously modernize its industry chains and supply chains, and share development opportunities with other parts of the world, thus giving fresh impetus to the global industry chains and value chains.

15. What is the relative position of the Chinese firms in these global/regional industrial chains in terms of backward and forward linkages?

16. How has this relative position of Chinese firms in global/regional industrial chains in terms of backward and forward linkages been evolving over time?

Reply to 15-16: In the global industrial chain, China, the United States and Germany are the three production centers that deeply participate in the global industrial chain and drive the development of the production clusters in Asia, North America and Europe. Most industries and products in China are located near the downstream of the global industrial chain, closer to the final consumer market. With forward participation in the global industrial chain increasing steadily since 2008, China is playing the role as a key "hub" in the global industrial chain.

COSTA RICA

A. Informe de la Secretaría

Página 119, párrafo 3.222

3.222. Se observa también que el requisito de compra de productos nacionales no se aplica a las contrataciones de las empresas públicas, en tanto en cuanto estas no tienen la consideración de contrataciones públicas y no se rigen por la Ley de Contratación Pública. Por consiguiente, las autoridades afirman que no se aplica un trato diferenciado a los bienes, servicios y proveedores extranjeros en las contrataciones de las empresas públicas, incluidas las esferas de la infraestructura y los servicios públicos. Además, el artículo 16 de la nueva Ley de Inversión Extranjera (promulgada en marzo de 2019) dispone que "el Estado garantizará que las empresas con inversión extranjera puedan participar en las actividades de contratación pública en condiciones de competencia leal; los productos producidos y los servicios prestados por empresas con inversión extranjera en el territorio de China recibirán un trato igualitario en la contratación pública".

Pregunta:

¿Podría China por favor brindar más información sobre si este trato igualitario solo lo reciben las empresas extranjeras que hayan invertido en China a través de una presencia comercial en el país (modo 3 de suministro de servicios) o también pueden recibirlo empresas que brinden servicios por otro modo de suministro de servicios (modos 1, 2 o 4)?

Reply: China's Foreign Investment Law stipulates that "the state guarantees that foreign-invested enterprises participate in government procurement activities through fair competition according to the law. Products manufactured and services provided by foreign-invested enterprises within China shall be equally treated in government procurement according to the law." The foreign-invested enterprises refer to companies that are wholly or partially invested by foreign investors and are registered and established in China in accordance with the Chinese law.

Página 121, párrafo 3.230

3.230. China no ha incluido ningún compromiso de acceso a los mercados en la esfera de la contratación pública en el contexto de ninguno de los ALC que ha negociado con sus interlocutores comerciales. Según las autoridades, la conclusión de la adhesión al ACP antes de una liberalización a escala bilateral o regional del mercado de la contratación pública sigue siendo prioritaria para China.

3.3.7 Derechos

Pregunta:

¿Podría China por favor brindar más información sobre el estado actual de su proceso de adhesión al ACP de la OMC?

Reply: China is working hard to join the GPA at an early date. When China submitted the seventh bidding list to WTO for accession to the GPA, the bidding was of a roughly equivalent level to that of GPA participants. In May 2020, China submitted the Chinese Government Procurement Report (updated in 2020) to WTO, which comprehensively reflected the reform of its legal system for government procurement. While advancing the bidding negotiations, China has promoted the legal revision negotiations simultaneously. In June 2021, China provided to WTO its replies to the list of questions asked by EU and Australia about China's 7th bidding list for accession to GPA and Chinese Government Procurement Report (updated in 2020), taking concrete actions to demonstrate its sincerity for joining GPA and its resolve to preserve the multilateral trade system. GPA is a plurilateral agreement. Whether China will be able to accede to it doesn't just rely on its own efforts, but to a large extent depends on the participants' stance and expectations. China believes the earlier it joins, the earlier relevant parties will benefit. China hopes GPA participants can ask for bidding in a pragmatic spirit, with a long-term view, and reach a mutually beneficial consensus on China's accession as soon as possible.

Página 126, párrafo 3.257

3.257. Según las autoridades, las indicaciones geográficas que no hayan sido registradas oficialmente siguen estando protegidas por las leyes pertinentes, por ejemplo, la Ley de Marcas de Fábrica o de Comercio, la Ley de Represión de la Competencia Desleal, la Ley de Inocuidad de los Alimentos y la Ley de Calidad e Inocuidad de los Productos Agrícolas.

Preguntas:

Costa Rica reconoce la amplitud del ordenamiento jurídico en cuanto a la protección de indicaciones geográficas aun cuando estas no se encuentren registradas. ¿Han existido casos en los cuales se haya reconocido la protección de una indicación geográfica que no haya sido registrada previamente? ¿Cómo se determina cuál ley es aplicable a cada caso? ¿Corresponde a las autoridades en sede administrativa o judicial determinarlo?

Reply: Geographical indications can be put under protection with specially-designed systems or the Law of Trademarks. The Regulations on Protecting Products with Geographical Indications is applicable when a request for protection is submitted. The use of geographical indications should be in accordance with the law. Market entities using due authorized geographical indications should release the information in a public announcement. Unregistered geographical indications are protected by the law.

The Law of Trademarks, Regulations for the Implementation of the Law of Trademarks, and Guidelines for the Registration and Management of Collective Marks and Certification Marks provide legal ground for the protection of geographical indications in China. Geographical indications should be registered in China National Intellectual Property Administration. Beijing Intellectual Property Court, Beijing Higher People's Court and China Supreme People's Court conduct judicial supervision over licensing registered geographical indications. China's national market regulator and intellectual property authorities are the administrative law enforcement departments handling cases involving geographical indications. Civil cases arising from geographical indications should be lodged to people's court in jurisdiction.

China National Intellectual Property Administration makes administrative adjudication, including reviewing geographical indication applied for registration, reexamining the registration and deciding on invalidity of registration. It also offers guidance for trademark-related law enforcement, and is responsible for granting, reviewing, authorizing and protecting indications of geographical origins. Involving parties can appeal against any ruling or adjudication made by China National Intellectual Property Administration to people's courts within legal time limit.

In the case of the Comité Champagne v. Beijing Shengyan Yimei Trading Co., Ltd., the court found that "in accordance with the principle of unanimous legal interpretation, unregistered geographical indications may seek civil remedy by referring to the protection of unregistered well-known trademarks". In trademark dispute case No. 3023790 of "XIANGLIAN & Picture", the Trademark Review and Adjudication Board, based on the evidence submitted by the Xiangtan County Xianglian Association, determined that "Xianglian" was a geographical indication of lotus seeds, and partially cancelled the registration of the disputed trademark, clarifying that unregistered geographical indications can obtain administrative relief in trademark dispute procedures.

The interested parties of geographical indications can seek relief from judicial or administrative agencies, and administrative agencies can actively protect geographical indications through administrative law enforcement.

Página 182, párrafo 4.145

4.145. Durante el período objeto de examen, China siguió reformando su sector financiero. Al tiempo de adoptarse o modificarse diversos reglamentos cautelares y en materia de licencias, se establecieron varias medidas para liberalizar las actividades financieras y seguir promoviendo la participación extranjera en los sectores de la banca, los seguros, la administración de fondos de pensiones y los valores. En lo que respecta a la apertura del mercado financiero, en julio de 2019 el FSDC anunció un conjunto de 11 medidas de reforma que abarcaban: i) las actividades de calificación crediticia realizadas por empresas con inversión extranjera; ii) la participación extranjera en la gestión de activos; iii) medidas para alentar a las instituciones financieras extranjeras a invertir en las filiales de gestión de patrimonios de los bancos comerciales chinos; iv) la participación extranjera en la administración de fondos de pensiones; v) la participación extranjera en el corretaje de divisas; vi) la supresión del límite a la participación extranjera en las compañías de seguros de

vida; vii) la supresión de las restricciones a la participación extranjera en las sociedades de gestión de activos de seguros; viii) la flexibilización de las restricciones a la entrada de compañías de seguros con inversión extranjera; ix) la eliminación de los límites a la participación extranjera en las sociedades de valores, las empresas de futuros y las empresas de gestión de fondos; x) la autorización del acceso de las instituciones financieras con inversión extranjera a las licencias de emisor de tipo A en el mercado de bonos interbancario; y xi) la autorización del acceso de las instituciones extranjeras a los mercados de bonos interbancarios.

Pregunta:

- ¿Podría China por favor brindar más información sobre cuáles de estas de medidas de liberalización del mercado financiero favorecen el comercio transfronterizo de servicios financieros?

Reply: (1) Liberalization of the banking sector: abolished restrictions on foreign shareholding ratios in Chinese banks and financial asset management companies and equally implementing rules regarding equity shareholding ratio for Chinese and foreign banks; allowed branches of foreign banks to engage in government bond-related business; allowed foreign banks to set up both branches and subsidiaries; canceled the waiting period for foreign banks' RMB business; lowered the threshold for foreign bank branches to absorb RMB retail deposits; adjusted the requirements for working capital deposits of foreign bank branches; abolished shareholding ratio caps of single Chinese bank and single foreign bank in Chinese commercial banks in accordance with the principle of equal treatment for Chinese and foreign banks; abolished the total assets requirement for foreign banks to set up foreign legal person banks and branches in China.

(2) Liberalization of the insurance sector: relaxed the foreign shareholding ratio of foreign-funded life insurance companies to 100%; relaxed the entry requirements for foreign-funded insurance companies by abolishing the 30-year operating period requirement; lifted the requirement of setting up a representative office for two years for foreign-funded insurance institutions; aligned the business scope of foreign-funded insurance brokers with that of Chinese institutions; allowed foreign financial institutions to take a stake in foreign-invested insurance companies in China; abolished the requirement of 30-year operating period and total assets of not less than USD 200 million for foreign insurance brokers to develop insurance brokerage business in China.

(3) Liberalization of the securities and futures industry: the restrictions on foreign shareholding in securities companies, fund management companies and futures companies have been lifted in 2020, ahead of the scheduled time of 2021; the revised rules of the QFII/RQFII system have been officially implemented in November 2020, which has lowered the entry threshold for foreign investors, facilitated investment operations and expanded the scope of investment; the futures market have been further opened up and the scope of specific varieties has been expanded. So far, nine specific varieties of futures options, including crude oil, have been made available to the public and foreign investors.

Página 200, párrafo 4.230

4.230 Con respecto a las empresas extranjeras, la Ley de Comercio Electrónico dispone que China fomentará el desarrollo del comercio electrónico transfronterizo (actividades de compraventa de productos en línea a través de las fronteras nacionales), que las autoridades ya han venido promoviendo en la práctica. El 27 de abril de 2020, el Consejo de Estado publicó la Aprobación del Establecimiento de Zonas Piloto Integradas para el Comercio Electrónico Transfronterizo en 46 Ciudades y Zonas (Guo Han Nº 47, 2020). En consecuencia, llegó a 105 el número total de zonas piloto de comercio electrónico transfronterizo. En diciembre de 2019, las autoridades ampliaron la Lista de Mercancías objeto de Importación al Por Menor mediante el Comercio Electrónico Transfronterizo a fin de permitir la entrega de una mayor cantidad de mercancías extranjeras a los consumidores chinos en el marco del programa de importación al por menor mediante el comercio electrónico transfronterizo.

Preguntas:

- ¿Podría China por favor comentar un poco más en detalle sobre las Zonas Piloto Integradas para el Comercio Electrónico Transfronterizo?

Reply: Since 2015, the Chinese Government has granted the establishment of 105 comprehensive experiment zones for cross-border e-commerce in five batches. Generally speaking, the comprehensive experiment zones have been playing an increasingly important role in boosting

foreign trade, and they have emerged as a new momentum for foreign trade growth, innovation and entrepreneurship, and economic restructuring. In approving new comprehensive experiment zones, the Chinese Government will prioritize places boasting large-scale foreign trade, strong momentum in innovation, and enabling infrastructure for the development of new business models.

In terms of incentives for cross-border e-commerce, the Ministry of Commerce, together with other competent departments, has been active in innovation and exploration. It has been dedicated to enhancing top-level design, improving supporting policies, optimizing the business environment and improving the development level. It offered guidance to comprehensive experiment zones to establish a policy framework with "six systems and two platforms" at the core, and promoted 36 effective measures in 12 areas in a wider part of the country. It rolled out a policy of exempting retail exports without purchase certificates from taxes, and a supporting policy of checking the production and sales before levying on taxes. Under its initiative, custom supervision codes including 9610, 1210, 9710 and 9810 have been created. A net settlement approach taking costs of warehouse, logistics, taxation, and export payments into account is allowed for cross-border e-commerce businesses.

In July 5, 2021, the General Office of the State Council released Guidelines for Developing New Business Models in Foreign Trade at a Faster Pace, which called for improving supportive policies for cross-border e-commerce, advancing the building of comprehensive experiment zones, supporting the growth of platforms providing segment services, facilitating settlement, strengthening the building of guilds and fostering professionals.

¿Qué requisitos debe cumplir un producto para ingresar a la lista de mercancías objeto de importación?

Reply: According to the *Notice on Cross-border E-commerce Retail Import Tax Policy*, the cross-border e-commerce retail import tax policy applies to the following products imported from other countries or regions and within the scope of the *List of Goods under Cross-border E-commerce Retail Importation*: (i) All cross-border e-commerce retail imports that are traded on the e-commerce transaction platforms connected to the customs and whose electronic information of transaction, payment, and logistics are accessible; (ii) Cross-border e-commerce retail imports that are not traded on the e-commerce transaction platforms connected to the customs, but whose electronic information of transaction, payment, and logistics can be provided by express and postal companies, promising to bear corresponding legal responsibilities for entering the country.

Páginas 35 y 201, párrafos 2.3 y 4.233

2.3 También se han tomado medidas en los últimos años para seguir poniendo al día la especialización judicial en cuestiones relacionadas con el comercio electrónico. Además del Tribunal de Internet de Hangzhou, establecido el 18 de agosto de 2017, el 9 de septiembre de 2018 y el 28 de septiembre de 2018 se establecieron el Tribunal de Internet de Beijing y el Tribunal de Internet de Guangzhou, respectivamente. Estos se ocupan de entender en 11 tipos de casos relacionados con Internet, como contratos de préstamos financieros, adquisición de bienes, servicios, diferencias en línea sobre la responsabilidad extracontractual e infracciones del derecho de autor. Según las autoridades, a finales de diciembre de 2020 los tres Tribunales de Internet habían entendido en 248.258 casos relacionados con Internet.

4.233. La Ley de Comercio Electrónico dispone que las diferencias relativas al comercio electrónico pueden resolverse mediante: i) negociación; ii) solicitud de mediación de organizaciones de consumidores, asociaciones empresariales u otras organizaciones mediadoras legalmente constituidas; iii) presentación de reclamaciones ante las autoridades competentes; iv) solicitud de arbitraje; o v) incoación de procedimientos judiciales. Otra medida destinada a impulsar el comercio electrónico es el establecimiento de tribunales de Internet. Los tribunales de Internet de Beijing y Guangzhou se establecieron formalmente en septiembre de 2018, tras la apertura del primer tribunal de Internet de China en Hangzhou en 2017 (sección 2.1). Se han constituido tribunales de Internet que conocen de los asuntos relacionados con el comercio electrónico y las transacciones en línea. En general, todo el procedimiento de litigio se lleva a cabo en línea. Los tribunales de Internet pueden optar por completar una parte del procedimiento de litigio fuera de línea, previa solicitud de los litigantes o por las necesidades del juicio. En septiembre de 2018, el Tribunal Supremo del Pueblo dictó también las Disposiciones sobre varias Cuestiones relativas al Enjuiciamiento de Causas por los Tribunales de Internet, a fin de regular las actividades procesales de los tribunales de Internet.

Preguntas:

¿Podría China por favor comentar un poco más en detalle el ámbito y tipo de casos que revisan estos tribunales de Internet? ¿Se requiere representación de un abogado autorizado en China para acceder a ellos?

Reply: According to Article 2 of the Regulations of the Supreme People's Court on Several Issues Concerning the Trial of Cases by Internet Courts (Fa Shi [2018] No. 16), the Beijing, Guangzhou, and Hangzhou Internet Courts have centralized jurisdiction over the following cases of first instance that should be accepted by the basic-level people's courts within the jurisdiction of the cities where they are located:

- (1) Disputes arising from signing or performing online shopping contracts through e-commerce platforms;
- (2) Disputes over network service contracts, of which the signing and performance are completed on the Internet;
- (3) Disputes over financial loan contracts and small loan contracts, of which the signing and performance are completed on the Internet;
- (4) Disputes over the ownership of copyright or neighboring rights of works published for the first time on the Internet;
- (5) Disputes arising from infringements of the copyright or neighboring rights of works published or disseminated online on the Internet;
- (6) Disputes over Internet domain name ownership, infringements, and contracts;
- (7) Disputes arising from infringements of the personal rights, property rights and other civil rights of others on the Internet;
- (8) Product liability disputes arising from product defects purchased through e-commerce platforms that infringe on the personal and property rights of others;
- (9) Internet public interest lawsuits filed by procuratorial organs;
- (10) Administrative disputes arising from administrative actions such as Internet information service management, Internet commodity trading and related service management by administrative agencies; and
- (11) Other Internet civil and administrative cases designated for jurisdiction by the people's courts at higher levels.

According to Article 263 of the Civil Procedure Law of the People's Republic of China, foreigners, stateless persons, foreign enterprises, and organizations who make or defend claims in the people's courts and need to entrust lawyers to represent the litigation must entrust lawyers of the People's Republic of China.

B. Informe de Gobierno**Página 8, párrafo 3.3**

3.3. Desde el último examen, China ha simplificado aún más los procedimientos de administración de las importaciones y ha reducido continuamente los aranceles de importación. En noviembre de 2018, redujo los derechos de importación de 1.585 líneas arancelarias aplicables a equipos mecánicos y eléctricos, piezas y materias primas, etc. Cada mes de enero de 2019 a 2021, China ha aplicado aranceles de importación provisionales, que son más bajos que los tipos arancelarios NMF de más de 700 partidas de mercancías, entre las que figuran algunos equipos avanzados, piezas de repuesto, productos de recursos y materias primas farmacéuticas. Cada mes de julio de 2019 a 2021, China ha cumplido activamente sus compromisos relativos a las concesiones de reducciones arancelarias en el marco de la ampliación del Acuerdo sobre Tecnología de la Información (ATI), y ha puesto en práctica la cuarta, quinta y sexta rondas de reducciones arancelarias para determinados productos de tecnologías de la información. En 2010, China había cumplido todos sus compromisos de reducción arancelaria contraídos en el marco de su adhesión a la OMC, reduciendo el nivel medio de los aranceles al 9,8%. Tras una nueva reducción arancelaria realizada por iniciativa propia, el nivel arancelario medio de China se situó en el 7,5% a principios de 2021.

Pregunta:

¿Podría China por favor brindar más información sobre cómo se divulgan estas reducciones arancelarias? ¿Se publican conforme se adoptan?

Reply: Every year China releases the tariff adjustment plan for the next year, which can be obtained under "policies" on the website of the Tariff Department of the Ministry of Finance: <http://gss.mof.gov.cn/qzdt/zhengcefabu>. The tax reduction information published online is consistent with the actual tax reduction.

OMAN**Oman****Questions based on Report by the Secretariat (WT/TPR/S/415)****2.4 Investment Regime****2.4.1 Regulatory framework and market access****Page 37 , Para 2.45**

The Report states that " On 23 June 2020, the current version of the National Negative List was issued by the NDRC and MOFCOM to replace the 2019 version..... "

And according to the Box 2.1 in Page 38 which including the Main changes in the 2019 National Negative List for foreign investments and the 2019 Encouraged Catalogue in Services activities.

QUESTION :

Will these changes appear in the schedules commitments of Services of China?

Reply: Your interest in China's opening up of trade in service is highly appreciated. China is willing to discuss the issue of market access with other members in the negotiations about market access to trade in services under the World Trade Organization framework.

3.3.7 Intellectual property rights**3.3.7.5.3 Patents****Page 113 , Para 3.272.**

In response to the challenges posed by the COVID-19 pandemic, the China Patent Information Center (CNPAT) developed in collaboration with the Patent Examination Cooperation (Beijing) Center of the Patent Office and the CNIPA to jointly develop an information-sharing public platform for patents related to the prevention of COVID-19. The platform provides precise patent information on almost 10,000 patents.

QUESTION :

Is this platform available to use by foreigners?

Reply: The platform is available to foreigners. In response to challenges posed by the COVID-19 pandemic, China National Intellectual Property Administration launched the Information Sharing Platform for Patents on Pandemic Prevention Against COVID-19 in February 2020. The English version of the platform, <http://ncp.patentstar.cn>, was put into official use on April 20, 2020. The registration-free platform is open to world countries free of charge, and provides in-time and professional patent information for pandemic response to medical institutions and research institutes.

NORWAY

4. Trade policy by sector

4.3 Manufacturing

4.3.2.5 Shipbuilding

Reference is made to para 4.130 and the 13th Five-Year Plan of China Ship Accessory and Equipment Industry, where specific goals for the proportion of domestic equipment in ship categories are outlined.

Could you elaborate on which three ship models are included in the category where the goal is a proportion of domestic equipment of 80 %?

- Which measures if any have been put in place to achieve the objectives outlined in the plan?

Reply: The Action Plan of Improving The Industrial Capacity of The Ship Equipment Industry.

(2016-2020) is a government guidance document.

- Have the goals outlined in the plan been achieved?

Reply: The Action Plan of Improving The Industrial Capacity of The Ship Equipment Industry (2016-2020) is a government guidance document.

4.4 Services

4.4.3.1 Maritime transport

Reference is made to paragraph 4.241, where it is described how China has lifted the restrictions on foreign investment in international shipping and international shipping agency services in China. Considering China's previous efforts to gradually lift restrictions on FDI in the services sector, Norway would like to learn more about the outlook for further liberalisation of FDI in the maritime transport sector, including for Storage and Warehousing Services and Freight Forwarding Services.

Reply: China will promote further liberalization in relevant service areas in accordance with the development needs of the domestic market. For specific progress, we suggest the Norwegian side to pay attention to the Special Administrative Measures (Negative List) for the Access of Foreign Investment.

Seafood

Covid measures

The COVID-19 pandemic has had serious consequences around the world and different countries have chosen different approaches to fight the pandemic. The General Administration of Customs, Peoples Republic of China implemented emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid test results. This was notified to the WTO as an emergency measure in September 2020 and is still in force. Since the implementation there has been a lack of transparency and lack of written information when positive nucleic acid test results have been found. This has caused additional uncertainty for exporters of seafood and other food products, and hampers trade.

China has referred to the World Health Organization and the Food and Agriculture Organization of the United Nations document entitled COVID-19 and Food Safety: Guidance for Food Businesses of 7 April 2020. This guideline was updated on 2 August 2021, and the updated guidance states that "neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including SARS-CoV-2" and that "SARS-CoV-2 is not a direct food safety concern". The guidance is in line with the current scientific evidence available on COVID-19 that indicate that food, food packaging or food handling is not a transmission route for corona virus

Question

When will China lift the emergency measures based on the updated guidance from FAO dated 2 August 2021?

Reply: China has implemented emergency preventive measures to strengthen the supervision of imported cold-chain food to protect Chinese people's safety and health, which is in full compliance with international rules and have not negatively affected the food trade to China. We have taken

samples of imported cold-chain food and its packaging for nucleic acid testing in accordance with the law, with the aim of preventing the spread of the coronavirus through cold-chain food. On October 17, 2020, the Chinese Center for Disease Control and Prevention (CDC) announced that live NNV virus was isolated from the outer packaging of imported aquatic products, confirming that contact with outer packaging contaminated with live NNV virus can lead to infection. China welcomes the import of high-quality, safe food products to China, and China's attitude of expanding opening-up and imports is consistent and clear. However, with the development of the global epidemic, consumers' concerns and doubts about the safety of the food supply chain have increased, and believe that without consumer confidence there is no market and without market there is no trade. Under the current epidemic situation, we hope that countries (regions) outside China that export food to China can follow the relevant guidelines issued by the Food and Agriculture Organization of the United Nations (FAO) and require food enterprises exporting to China to take preventive measures to ensure that all food exported to China is not contaminated by the coronavirus. China is willing to work with all relevant parties to respond to consumer concerns, to ensure food safety supply, and to maintain market stability, thus promoting the healthy development of international trade.

New regulations regarding imported food

In April 2021, China notified two new decrees in the WTO SPS and TBS committees, decree 248 "Regulations of the People's Republic of China on the Registration and Administration of Imported Food Overseas Production Enterprises" and decree 249 "Registration and Administration of Overseas Manufactures of Imported Food". According to the notification, the new regulations will be implemented on 1 January 2022.

However, some of the new packaging and labelling requirements appear to have been implemented in advance of the notified date at least two airports (Shanghai Pudong and Guangzhou). According to Shanghai customs authorities the requirements are in accordance with existing rules from 2011 (AQSIQ decree 135), which had previously not been implemented for fresh Atlantic salmon from Norway.

Norway has in written format requested bilateral discussions with China to better understand how the new requirements will be applied to prepare for the implementation date on 1 January 2022. So far, China has not responded to the request from the Norwegian side. Several WTO members have repeatedly urged China to provide more information on the system and how it will be implemented, but China has so far not responded to the request. Although the implementation date is approaching, it is unclear how the new requirements will be applied.

While these measures are expected to have a significant impact on exports of seafood and other food products to China, it is not clear how the new measures will contribute to achieving China's appropriate level of protection.

Questions

Which specific food safety risks are addressed through these Decrees 248 and 249 and why are these risks are not mitigated by China's existing regulations?

When will China provide relevant information on the new measures, including the details of the system and information on how the new requirements will be applied?

Will China consider delaying the implementation of Decrees 248 and 249 in order to allow both governments and industry to fully understand and comply with the new requirements contained in the regulations?

Reply to the three questions above: Imported food safety concerns the health and life safety of the people and is key to people's livelihood. In accordance with the provisions of the Food Safety Law of the People's Republic of China and its implementing regulations and other laws and administrative regulations, we revised the two regulations on the management of food safety of imports and exports and the management of registration of imported food production enterprises outside China, and announced on April 12, 2021 Measures of the People's Republic of China for the Administration of Safety of Imported and Exported Food (Order No. 249 of the General Administration of Customs of the People's Republic of China) and Provisions of the People's Republic of China on the Administration of Registration of Overseas Imported Food Production Enterprises (Order No. 248 of the General Administration of Customs of the People's Republic of China), which are to be implemented from January 1, 2022. Prior to official release, China, in accordance with the relevant rules of the World Trade Organization (WTO), has notified and accepted the WTO members' comments and suggestions, which is in line with the relevant WTO rules. The scope of application of the two regulations have been clarified in Article II, Order No. 248 and 249 of General Administration

of Customs. In the near future, China will interpret the Measures of the People's Republic of China for the Administration of Safety of Imported and Exported Food (Order No. 249 of the General Administration of Customs of the People's Republic of China) and Provisions of the People's Republic of China on the Administration of Registration of Overseas Imported Food Production Enterprises (Order No. 248 of the General Administration of Customs of the People's Republic of China) in an appropriate form, to which we welcome your attention. Besides, Order No.248 of the General Administration of Customs will not affect the implementation of bilateral protocols. Where relevant countries (regions) and China have stipulations on the registration and application materials, such stipulations shall prevail.

Article 11 in decree 248 states that "If relevant countries (regions) and China have separate agreements on registration method and application materials, (registration) shall be carried out following the agreement. Will China consider the initiation of bilateral discussions in order to clarify possible questions exporting countries might have related to bilateral agreements or protocols on trade in food products?

Reply: If the exporting country has questions for bilateral agreements or protocols related to food, China is willing to consider initiating bilateral consultations to solve the problem.

Is it correct that some of the measures, such as packaging requirements, already have been implemented at local level at some airports? Can China explain why local customs authorities have different enforcement of national regulations?

Reply: China Customs enforces the law within the customs territory. We suggest Norway further clarifying the "packaging requirements" referred to in the question.

Registration and listing of establishments

China requires that all seafood producing establishments are registered and approved by the General Administration of Customs, Peoples Republic of China. Norway shared the first list of Norwegian producers of seafood with the Chinese competent authority in 2013 and has since updated and amended the list of establishments on many occasions.

While the Norwegian competent authority has worked hard to respond to and fulfil the requirements stipulated by the Chinese competent authority, repeated changes to the registration procedure, often with very short deadlines, impose a substantial burden. Simultaneously, there have been significant delays in China's approval procedures for the establishments on these lists. While the companies are awaiting approval, they cannot access the Chinese market, something which Norway experiences as a trade barrier.

Question

Norway sent an updated list of seafood producing establishments to China on 27 January. The list contains 135 establishments that have not previously been registered or approved by the General Administration of Customs, Peoples Republic of China. When does China expect to complete the approval process of these 135 establishments?

Reply: Given the large number of new aquatic product enterprises to be registered in China applied by Norway, the Chinese experts are reviewing the relevant information and will provide feedback immediately after the review is completed.

Import licences for Atlantic salmon

Norway is of the understanding that China has implemented a new practice on the issuance of import licenses for Atlantic salmon from Norway. The quantity per import license seems to be significantly reduced, and it appears that new import licenses are not issued before the entire quantity of the current import license is fully utilised.

The new practice for the issuance of import licenses may act as a barrier to trade, and Norway has formally requested consultations on this matter with the General Administration of Customs of the People's Republic of China in accordance with the consultation mechanism in the Protocol on Inspection, Quarantine and Sanitary Requirements for Atlantic Salmon Imported from the Kingdom of Norway into the People's Republic of China between General Administration of Customs of the People's Republic of China and the Ministry of Trade, Industry and Fisheries of the Kingdom of Norway signed 20 May 2019. So far, China has not responded to the request.

Question

Are the changes to the practice based on new regulations that been implemented for the issuances of import licenses for Atlantic salmon from Norway, and if so, what is the rationale behind the changes?

Reply: According to Administrative Measures for the Quarantine Approval of Imported Animals and Plants, an entity applying for going through the formalities of quarantine approval shall, before concluding a trade contract or agreement, file an application to the customs authorities and obtain the "Quarantine Permit". The same applicant entity may, with regard to the same variety, the same exporting country or region, or the same processing or using entity, apply for the "Quarantine Permit" for only once. The information on the use of the "Quarantine Permit" approved at the last time and the cancellation of the said permit upon verification shall be examined by the customs authorities in accordance with the relevant provisions. Exporters of relevant aquatic products to China should comply with the approval management methods, which are not specific to any particular country or region.

Subsidies: The Secretariat report paragraph 22, p.13 notes that in June 2019 China notified its support programs for the period 2017-18. However, it also notes that no information was provided by the authorities on how many of the programs were still active as at April 2021, and that the information provided by China has not enabled the Secretariat to have a clear picture of China's support programs, particularly with regard to sectors such as aluminum, electric vehicles, glass, shipbuilding, semiconductors or steel. How does the Chinese government work to ensure that incentives (e.g., R&D, environmental) are equally granted to SOE/POE and foreign invested companies and do not constitute subsidies that should be notified under the Agreement on Subsidies and Countervailing Measures?

Reply: In July 2021, China has submitted the subsidy notification for 2019-2020 to the WTO. It includes 71 subsidy policies at the central government level, and 374 subsidy policies at the local level of 31 provinces, autonomous regions and municipalities directly under the central government as well as five cities specifically designated in the State plan. Please refer to the latest subsidy notification of China for relevant supporting projects.

Government procurement: According to the Secretariat Report, paragraph 3.3.6, the total value of government procurement in China was reported to be worth CNY 3.3 trillion in 2019, with the majority of government procurement at the sub-Central Government level. Both the Government Procurement Law and the Tendering Law are currently under amendment. What will the Chinese government do to ensure that foreign invested companies, Chinese private companies and SOEs have more equal access to government contracts?

Reply: There are no discriminatory provisions against foreign-invested enterprises in China's government procurement, either at the legal level or at the policy level. In recent years, the Ministry of Finance has been promoting the construction of a unified, open, competitive and orderly government procurement market system, and will continue to strengthen the guidance and supervision of government procurement activities in all regions and departments, so as to maintain a fair and competitive market environment. If a foreign-invested enterprise believes that it has been treated unfairly in government procurement activities, it may submit a question and complaint to the relevant departments in accordance with the law. If any of the conduct is found to constitute differential or discriminatory treatment of suppliers on unreasonable terms, it will be handled in accordance with the relevant provisions of government procurement laws and regulations. Chinese courts strictly enforce the provisions of the Foreign Investment Law and its implementing regulations. Procurement by state-owned enterprises is not part of government procurement and the government procurement law does not apply.

Visa restrictions: We are receiving reports that China's current restrictions on visa issuance make it challenging for foreign-invested companies to bring competent personnel who are foreign citizens into China. Which measures can China take to ease this situation and make sure it does not come to be seen as a trade barrier?

Reply: Foreigners who come to China to engage in necessary activities such as business and trade, science and technology, epidemic prevention cooperation and exchange, as well as those who really need to come to China for urgent humanitarian reasons, can apply for visas from Chinese embassies

and consulates. The relevant Chinese authorities will determine the visa entry policy according to the changes of the epidemic.

IPR: China has made progress with regards to IPR in recent years, but infringements remain an issue and the appeal processes for claiming wrongful use of IPR, patents and trademarks can be complicated and time-consuming. What can the Chinese government do to address these concerns?

Reply: Recently, the Supreme Court has issued judicial interpretations on evidence in civil litigation of intellectual property rights and other matters, which further facilitates parties to produce evidence, shortens the litigation cycle, reduces the cost of rights protection, increases the amount of compensation, and imposes heavier punishment for intellectual property infringements. On 1 January 2019, the IP Court of the Supreme Court was officially opened to handle the nationwide patent and other highly specialized intellectual property appeals, which is conducive to improving the quality and efficiency of trials.

UNITED STATES

Part I. Questions based on the Secretariat Report (WT/TPR/S/415)

SUMMARY

Page 12, Paragraph 15: The Secretariat Report indicates that China's "highest tariffs of 65% apply to 20 agricultural tariff lines."

- For each relevant product or product group, please explain China's rationale for maintaining such high tariffs.

Reply: In accordance with China's WTO commitments, in 2021, a total of 21 tariff lines in China will implement the MFN rate of 65%, of which 19 are food products with tariff quotas, and the rate within tariff quotas is only 1%-10%. The other two tariff lines are vermouth wine and similar wines, and a preferential provisional tax rate of 14% is implemented for small packages of vermouth wine and similar wines.

Page 12, Paragraph 17: The Secretariat Report notes that imports of "all solid waste products" have been prohibited as of 1 January 2021, but "[c]ertain recycling materials" may be still imported.

- Can China explain the scientific basis that it used to determine which categories of "recycling materials" are acceptable for importation and which categories are not acceptable for importation?
- What is China's policy regarding expansion of the list of "recycling materials" that are acceptable for importation?" Can China explain why it discriminates between domestically sourced solid wastes and certain recycling materials, which are not prohibited, and imports of solid wastes and certain recycling materials, which are prohibited?

Reply to two questions above: According to the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste, raw materials derived from solid wastes which have been processed and treated comply with compulsory national product quality standards and pose no danger to public health and ecological safety, are not classified as solid wastes, and can be imported into China through normal product trade. Moreover, there is neither a list of "recycling materials" that are acceptable nor policy regarding expansion of the list.

In accordance with the principles universally recognized by the international community, the proper disposal of domestically generated solid wastes is the responsibility and obligation of every country.

Page 13, Paragraph 23: The Secretariat Report notes that China does not timely notify its subsidies, that China's notifications of subsidies lack required information and that China's notifications of subsidies do not include what appear to be the largest subsidies that China provides, which is through so-called "government guidance funds." For many years, the United States and other Members have complained about China's subsidies notifications being untimely, lacking in required information and incomplete. In addition, the United States agrees with the Secretariat's assessment that government guidance funds constitute subsidies. Given the enormous size of China's government guidance funds and the significant support that they provide to China's domestic industries, and given the assessment of the Secretariat and WTO Members like the United States that these funds appear to constitute subsidies, what is China's policy on notifying the WTO about them?

Reply: In recent years, China has been committed to enhancing the transparency of its subsidy policies, has timely submitted notifications on subsidies at level of both central and local governments. There is no late or incomplete notification. China's latest notification on subsidies for 2019-2020 includes 71 subsidies policies at the central level, and 374 subsidies policies at the local level in 31 provinces, autonomous regions and municipalities directly under the central government, as well as 5 cities specially designated in the state plan. China's funds set up in accordance with market principles is operated entirely in accordance with market principles, and are completely independent market entities. China has not provided subsidies for any industry through these funds.

Page 13, Paragraph 23: With regard to its "government guidance funds":

- Please explain how the investment decisions of the guidance funds are consistent with the usual investment practice of private investors, including for the provision of risk capital.
- Please provide examples of specific equity investments that are consistent with the usual investment practice of private investors.

Reply to two questions above: The investment management and decision-making of government guidance funds are completely market-oriented. Government departments do not intervene in or participate in any investment project decisions of the funds. These funds were established in accordance with the Company Law of the People's Republic of China, and a fund governance structure was established for market-oriented operation. For example, the National IC Industry Fund is managed strictly in accordance with the relevant laws and regulations on private equity investment funds, and each investment requires a corresponding income.

Page 14, Paragraph 29: While the Secretariat Report does not directly discuss China's judicial system, it does note that China undertook wide ranging reforms in its intellectual property regime during 2018 and 2019, including with regard to "the infrastructure of IP courts." A hallmark of democratic market economies is judicial independence. Since its last Trade Policy Review in 2018, has China taken any steps to promote judicial independence, i.e., the ability of Chinese judges to make decisions without interference from officials from People's Congresses, Communist Party officials, officials from Communist Party committees, officials from central government ministries, local government officials and officials from the procuracy?

Reply: Article 131 of The Constitution of the People's Republic of China stipulates: The people's courts exercise judicial power independently, in accordance with the provisions of law, and are not subject to interference by any administrative organ, public organization or individual. According to relevant laws, no unit or individual may require judges to engage in affairs beyond the scope of their statutory duties. Judges shall be protected by law when they perform their statutory duties according to law. Judges shall be responsible for their conducts in performing their judicial duties and shall be responsible for the quality of handling cases for life within the scope of their duties.

Page 14, Paragraph 33: Please provide additional details on how China's carbon emissions trading framework will operate, including how it has structured the emissions cap and set prices on carbon to facilitate emissions reductions?

Reply: China's carbon emissions trading market is major institutional innovation which utilizes market mechanisms to control and reduce greenhouse gas emission and promote green and low-carbon development, and an important measure to peak carbon dioxide emissions and achieve carbon neutrality. The first compliance period of the national carbon emissions trading market covers about 4.5 billion tons of carbon dioxide emissions, accounting for about 45% of the total carbon dioxide emissions in China, making China the largest carbon emissions trading market in the world. In addition, domestic carbon emissions trading market has achieved positive results. As of 30 September 2021, China's emissions trading market has achieved an accumulative trading volume of the national carbon emissions trading quota of 17.649 million tons, with a total transaction volume of RMB 801 million.

In terms of institutional building, at the end of 2020, the Ministry of Ecology and Environment issued the Measures for the Administration of Carbon Emissions Trading (for Trial Implementation) (hereinafter referred to as the Measures), which initially established a market regulation system for the national carbon emissions trading market, clarified the objects, contents and measures of market regulation by the Ministry of Ecology and Environment and provincial and municipal ecology and environment authorities, standardized the market activities of key greenhouse gas emitters, and defined their responsibilities and obligations. In terms of quota allocation, the current quota is allocated free of charge with the industry benchmark method with intensity control as the basic (the method for issuing quota based on the advanced emission level of output (capacity) per unit of product in the industry). This method is based on the actual output and the advanced carbon emission level of the industry, and the quota is allocated free of charge and "linked" to the actual output, reflecting the principle of rewarding the advanced and punishing the backward.

China will utilize the market mechanism to find a reasonable carbon price, guide the optimal allocation of carbon emission resources, and reduce the cost of emission reduction for the whole society.

Page 15, Paragraph 15: The Secretariat Report states: "The Made in China 2025 (or China Manufacturing 2025) initiative (launched in 2015) and the Internet Plus initiative (launched in 2015) remain China's main initiatives to promote the manufacturing sector." Does China agree with this statement?

Reply: "The Made in China 2025" initiative is a manufacturing upgrading scheme proposed by China in response to the new industrial revolution by drawing lessons from common practices of developed countries in the light of its own industrial development stage. The "Guiding Opinions on Actively Promoting the 'Internet Plus' Action Plan" are guidelines for accelerating the in-depth integration between the Internet and various fields and innovative development. In addition, other relevant documents are available on the official website of the Ministry of Industry and Information Technology.

Page 15, Paragraph 34: The Secretariat Report notes that China's Made in China 2025 industrial plan remains China's main initiative for promoting many of China's manufacturing industries. Among other things, this industrial plan sets forth specific domestic market share targets for these Chinese industries to achieve by 2020 and 2025.

- Please detail all of the policies and practices that China is using in an attempt to achieve the market share targets set forth in Made in China 2025.
- Does China consider these policies and practices to be market-oriented? Please explain.

Reply to two questions above: The statement in the report that "'The Made in China 2025' initiative sets forth specific domestic market share targets for these Chinese industries to achieve by 2020 and 2025" does not conform to the fact. Some indicators of "The Made in China 2025" initiative are from academic advisory reports. They are predictive and guiding, are not linked to official policies or financial input, and are not compulsory. In fact, many countries have similar guiding indicators and schemes. "The Made in China 2025" initiative follows the principles of openness, fairness and competition, and applies to both domestic and foreign-invested enterprises equally. The Circular of the State Council on Several Measures Concerning Further Openness and Active Utilization of Foreign Investment issued in January 2017 clearly states that "'The Made in China 2025' initiative applies to both domestic and foreign-invested enterprises equally." A number of foreign enterprises have been involved in the implementation of "The Made in China 2025" initiative. China has always been an advocate, practitioner and promoter of globalization. China will continue to adhere to open and cooperative development, unswervingly implement "The Made in China 2025" initiative in an open environment, and work with other countries to achieve win-win results.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

Page 16; Table 1.1 The economic indicators provided in this table indicate that, based on GDP per capita, China falls into the World Bank's upper middle income category and is close to the high income threshold of GDP per capita at 12,535. These economic indicators generally would not be considered developing. What indicators, justification or threshold does China base its continuing claim to developing country status at the WTO?

Reply: The concept of developing countries is relative to developed countries, and international organizations do not have a unified definition of developing countries. However, on the whole, compared with developed countries, developing countries lag far behind in economic strength, per capita income, economic structure, industrial competitiveness, social security system, environmental protection and the ability to participate in global governance. Since the reform and opening up, China has made remarkable economic and social progress. However, unbalanced, uncoordinated and unsustainable development remains a serious problem. There is a wide gap in regional development between urban and rural areas; the development pattern remains extensive, and there is still a significant gap in scientific and technological innovation capacity. On the whole, the objective fact that China remains a developing country is undisputed. The basic national condition that China

is still in the primary stage of socialism and will remain so for a long time to come has not changed. China's international status as the world's largest developing country has not changed.

1.2.3 Fiscal policy

Page 21, Paragraph 1.23: What is the average debt ratio of sub-central state-owned enterprises? What is the average debt ratio of other state-invested companies that might not meet the definition of a state-owned enterprise under Chinese law?

Reply: In recent years, the average debt ratio of sub-central state-owned enterprises has remained stable with a slight decline, with the debt structure within a reasonable range. The assets and liabilities of enterprises invested by state-owned enterprises shall not be included in the statistics of Chinese government departments.

1.2.4 Structural measures

Page 22, Paragraph 1.31. Under the Belt and Road Initiative (BRI), launched in 2013, the Chinese Government seeks to connect nearly 140 countries and regions through rail lines, pipelines, highways, ports, and other infrastructure. As of March 2021, total expenditures under the BRI amounted to USD 640 billion. According an OECD study, infrastructure projects of the BRI may have an impact on the debt burden on recipient countries. A recent Center for Global Development report found that eight BRI recipient countries—Djibouti, Kyrgyzstan, Laos, the Maldives, Mongolia, Montenegro, Pakistan, and Tajikistan—are at a high risk of debt distress due to BRI loans. These countries will all face rising debt-to-GDP ratios beyond 50%, with at least 40% of external debt owed to China once BRI lending is complete. The IMF has scrutinized multiple aspects of the BRI, repeatedly warning of unsustainable debt levels, predatory lending, and the lack of project transparency.

What steps is China taking to ensure that BRI projects uphold internationally accepted best practices in infrastructure development and internationally based standards and financing so as not to cripple countries with unsustainable debt problems and the inability to finance maintenance and repair of infrastructure provided?

Reply: This year marks the eighth anniversary of the proposal of the Belt and Road Initiative. Over the last eight years, China has signed more than 200 Belt and Road cooperation agreements with over 100 countries and dozens of international organizations. Against the backdrop of the COVID-19 pandemic, Belt and Road cooperation has bucked the trend and demonstrated strong resilience to risk, playing a vital role in supporting countries around the world in battling the pandemic, maintaining economic stability and ensuring people's livelihoods. China always gives prominence to debt management and is committed to building a long-term, stable and sustainable financing system that is well-placed to manage risks. It also works to help the relevant countries strengthen their debt sustainability and improve their ability to prevent sovereign risk. The Guiding Principles on Financing the Development of the Belt and Road Initiative were jointly ratified by 28 countries including China. Due to the impact of the pandemic and the resultant global recession, some developing countries are indeed struggling with heavy debt burdens. In view of this, China has canceled the debt of relevant African countries in the form of interest-free government loans due to mature by the end of 2020. In terms of the debt structure of debtor nations, most of the debts are owed to multilateral financial institutions and commercial creditors of developed countries, which should also play a part in relevant debt relief initiatives.

In terms of investment and financing for specific projects, China always adheres to the principle of economic benefit and provides loans according to the actual conditions of the project countries to avoid new debt risks and financial burdens for the project countries. Before providing funds for projects under the "Belt and Road Initiative", Chinese banks will make strict calculations on the debt and solvency of borrowers, and continue to track and monitor relevant country and sovereign risks after lending. Institutions including SINOSURE have also established relevant assessment, monitoring and management systems.

- The BRI is allegedly plagued by an overall lack of transparency in publishing project details, selection criteria, financing terms and other related information. What steps is China taking to improve data sharing and increase transparency?

Reply: The "BRI" cooperation covers broad areas. The vast majority of the projects are obtained by enterprises through market competition. It is the project owner or host government rather than the Chinese Government that determine how to operate and how to disclose project information.

- To date, BRI projects have been dominated by China's state-owned enterprises. Is China willing to promote greater inclusivity in BRI projects? If so, what steps has China taken to do so?

Reply: China supports and guides market entities including private enterprises to contribute to the "BRI". In fact, private enterprises are also important forces participating in the "BRI". We have strengthened policy support, guidance and training for private enterprises in "going global", guided them to focus on risk prevention, and urged them to operate in good faith, abide by local laws and regulations, and follow universally accepted international rules and standards. In the next step, China will continue to support and guide private enterprises to improve their operation level for "going global", and participate in high-quality development of the "BRI".

2 TRADE AND INVESTMENT REGIMES

2.1 General Framework

Page 31, Paragraph 2.1 footnote 4: Are there any plans to establish additional intellectual property courts beyond those in Beijing, Shanghai, Guangzhou, and Haikou?

Reply: Intellectual property courts have been established in Beijing, Shanghai, Guangzhou and Hainan Free Trade Port according to the decisions of the Standing Committee of the National People's Congress. Whether other intellectual property courts will be established or not is subject to the decision of the Standing Committee of the National People's Congress.

2.2 Trade Policy Framework and Objectives

2.2.2 Trade Policy Formulation and Objectives

Page 33, Paragraph 2.14 – 2.17: The Secretariat Report states that China has updated and revised several of its measures at the national and regional levels. Can China confirm whether any measures related to the following initiatives were included in its most recent subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures or will be included in China's next subsidy notification?

- Belt and Road Initiative (BRI);
- The State Council's 2019 Guiding Opinions on Promoting High-quality Trade Development;
- The Pilot Free Trade Zones program; and
- The 2020 edition of the Catalogue of Encouraged Industries for Foreign Investment.

Reply: China notified the WTO in strict accordance with the WTO Agreement on Subsidies and Countervailing Measures. If the subsidy policies involved in the implementation of the above-mentioned documents fall within the scope of notification, China will notify about them.

Page 33, Paragraphs 2.16 and 2.17: The Secretariat Report states that, since 2003, China has used Pilot Free Trade Zones (PFTZs) as a testing ground for nationwide investment liberalization and streamlined regulations of all types. As of 2020, China had 21 PFTZs in place. Recognizing that, in June 2018, China issued the first version of a standalone Foreign Investment Negative List (the "Special Administrative Measures on Access to Foreign Investment") and has revised it each year since then, how long of a pilot is China conducting via its PFTZs? Why does China continue to maintain and expand the number of PFTZs? If the PFTZs are meant to be "pilots," does that mean that the investment rights under the PFTZs are not permanent and may, at some point, be consolidated into the Foreign Investment Negative List to apply on a national basis?

Reply: Pilot Free Trade Zones (PFTZs) are test fields for China's independent reform and opening-up. The core task is institutional innovation. China will take the lead in promoting deeper reform and higher-level opening-up, and apply experience to a wider range, so as to explore ways to and accumulate experience for comprehensively deepening reform and opening up. Chinese President Xi Jinping stressed that China will never stop its reform and opening-up. China will give full play to the leading role of PFTZs and promote the building of a new higher-level system of an open economy.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

- **Page 34, Paragraph 2.22:** The Secretariat Report indicates that China's domestic support notification remains outstanding. Please explain China's policy on filing the required updated information on its domestic support programs.

Reply: China will submit a notification on domestic support for agriculture as soon as possible.

2.3.2 Regional and preferential agreements

Page 35, Paragraph 2.31: The Secretariat Report lists several Free Trade Agreements that China is in the process of negotiating. Since the publication of the report, it appears that China has made application to accede to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and could also be engaging with Uruguay on Free Trade Agreement conversations. Please provide updated information on these two initiatives.

Reply: At the APEC Economic Leaders' Meeting on 20 November 2020, Chinese President Xi Jinping stated China will favorably consider joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). According to relevant provisions of the CPTPP, China has had informal contact with existing members and conducted a full, comprehensive and in-depth study and assessment of the content of the CPTPP. On this basis and in accordance with relevant procedures and steps, on 16 September, China's Commerce Minister submitted the application in written letter to Minister for Trade and Export Growth of New Zealand, which is the depositary for the CPTPP, to formally apply for China's accession to the CPTPP.

2.3.3 Other agreements and arrangements

- **Page 36, Paragraph 2.34:** The Secretariat Report notes that China provides trade preferences to Least Developed Countries. Document G/RO/W/163/Rev.8 notes that China has not submitted reports on the covered imports from LDCs for nine years since 2010. What is China's policy on submitting the missing reports?

Reply: China has submitted relevant notification.

2.4 Investment Regime

2.4.1 Regulatory framework and market access

Page 36, Paragraph 2.35: The Secretariat Report discusses various aspects of China's Foreign Investment Law (FIL). It notes that the FIL and its implementing regulations entered into force January 1, 2020. Does China believe that any further implementing regulations for the FIL are necessary? Please explain.

Reply: The Foreign Investment Law and its implementing regulations came into force on 1 January 2020. At present, China has no plan to formulate other supporting implementing regulations for the FIL.

Page 36, Paragraph 2.36: Article 28 of the Foreign Investment Law states that, for industries not included in the Foreign Investment Negative List, the investment administration "shall be conducted on the principle of equal treatment to domestic and foreign investment." Can China clarify what it means by "the principle" of equal treatment? Does it provide equal treatment of domestic and foreign investment in all cases?

Reply: For industries not included in the Foreign Investment Negative List, China accords the treatment to foreign investors and their investments no less favorable to that accorded to domestic investors and their investments. The state conducts a security review of foreign investment that impacts or may impact national security. Where the state has issued any other provisions on foreign investors' investment in the banking, securities, insurance, and other financial industries or the securities, foreign exchange, and other financial markets within China, such provisions shall prevail.

Page 36, Paragraph 2.38: The Secretariat Report states that China's Foreign Investment Law, which entered into force in January 2020, accords foreign-invested companies "equal treatment" regarding, inter alia, participation in government procurement. Can China clarify how it is implementing this aspect of the Law in practice? That is, do foreign-invested companies in China

have the same rights as domestic companies in China in all instances in which the Chinese Government or a Chinese state-owned enterprise is procuring goods or services?

Reply: China's Foreign Investment Law stipulates that the state ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law. The Chinese Government implements relevant measures in government procurement in accordance with the provisions.

Page 37, Paragraph 2.45, and Page 38, Chart 2.1: In this section of the Report, the Secretariat discusses developments regarding China's Foreign Investment Negative List. Over the past three years, China has removed some restrictions from its Foreign Investment Negative List. However, unfortunately this element of the Report does not make clear that China does continue to prohibit or restrict foreign investment in several key sectors, including Internet and related services, cloud computing services, express delivery services, higher education services, news publishing services, film production, film distribution, medical institutions, legal services, market research firms and certain agriculture sector investment. For each of the identified sectors, can China explain (1) why it continues to maintain investment restrictions and (2) its policy on removing the remaining investment restrictions?

Reply: According to the Provisions on Guiding Direction of Foreign Investment (State Council Decree No. 346), foreign invested projects under any of the following circumstances shall be listed as prohibited ones: 1) projects endangering State security or damaging social and public interests; 2) projects causing pollution or damage to environment, jeopardizing natural resources or impairing health of human body; 3) projects unfavorable to the protection and development of land resources as a result of occupation of large amount of arable lands; 4) projects endangering the safety of military installation or the work efficacy thereof; 5) projects involving the making of products by utilizing the unique craftsmanship or technology of our country; or 6) other circumstances provided for in laws and administrative regulations. Foreign invested projects under one of the following circumstances shall be listed as restricted ones: 1) projects with backward teleology; 2) projects without any benefit to the conservation of resources and the improvement of eco-environment; 3) projects involving the exploration and exploitation of any special mineral resource the exploitation of which shall, as provided for by the State, be carried out in a protective way; 4) projects involving the industry that is being opened up by the State step by step; or 5) other circumstances provided for in laws and administrative regulations.

2.4.3 Incentives to Foreign Direct Investments

Page 44, Paragraphs 2.66 and 2.67: The Secretariat Report states that China has updated and revised several of its measures at the national and regional levels. For the following measures, can China confirm that these measures will be included in its subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures? In addition, if the following measures were included in China's recent subsidy notification (G/SCM/N/372/CHN), please identify the notified subsidy programs under which they fall.

- Notice of the Ministry of Finance, the General Administration of Customs and State Taxation Administration on Import Tax Policies that Support Sci-Tech Innovation during the 13th Five-Year Plan Period (Cai Guan Shui No. 70, 2016);
- Announcement on Continuing Corporate Income Tax Policies for Large-scale Development in the Western Region (MOF Announcement No. 23, 2020);
- Notice on Preferential Corporate Income Tax Policies for the Hainan Free Trade Port (Cai Shui [2020] No. 31);
- Notice on Individual Income Tax Policies for High-end Talents in Short Supply in Hainan Free Trade Port (Cai Shui No. 32, 2020); and the
- Notice on Individual Income Tax Incentives for Guangdong-Hong Kong, China-Macao, China Greater Bay Area (Cai Shui No. 31, 2019).

Reply: Please see Item 2 of G/SCM/N/372/CHN for preferential tax policies for Large-scale Development in the Western Region. Individual income tax policies for the Hainan Free Trade Port and China Greater Bay Area are not subsidies that need to be notified. Corporate income tax policies for the Hainan Free Trade Port are temporary measures.

Page 44, Paragraph 2.66: Please identify the types of domestic equipment that are entitled to a VAT refund? Is this VAT refund also available to imported equipment?

Reply: In order to encourage scientific research and technological development and promote scientific and technological progress, China has fully refunded VAT for purchasing domestic equipment to eligible domestic R&D institutions and foreign-invested R&D centers. The equipment refers to experimental equipment, devices and instruments that provide necessary conditions for scientific research, teaching and scientific and technological development.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

Page 46-47, Paragraph 3.8: The Secretariat Report states that "[d]uring the review period, the GACC issued various administrative measures for the inspection and/or quarantine of specific goods." With regard to Decree 248 and Decree 249, which the General Administration of Customs of China issued in 2021, various WTO Members have expressed concern about China's failure to adhere to its WTO transparency obligations, the scope of impacted commodities and the Decrees' requirements, which are neither clear nor well understood. In addition, the Decrees appear to propose onerous and redundant requirements that are already met by existing measures, and they do not clearly state what food safety risks have necessitated their issuance. Given the scope of impact of Decrees 248 and 249, what is China's view on delaying implementation of these Decrees until 2023 and immediately begin implementing its WTO transparency obligations?

Reply: In accordance with laws and administrative regulations, such as, the Food Safety Law of the People's Republic of China and the Regulation on the Implementation of the Food Safety Law of the People's Republic of China, China has organized the revision of regulations on the administration of safety of imported and exported food and the administration of registration of overseas imported food production enterprises. The Measures of the People's Republic of China for the Administration of Safety of Imported and Exported Food (General Administration of Customs No.249) and the Provisions of the People's Republic of China on the Administration of Registration of Overseas Imported Food Production Enterprises (General Administration of Customs No. 248) promulgated on 12 April 2021 will come into force on 1 January 2022. Before the promulgation, China notified the WTO in accordance with the relevant rules, accepted comments of WTO members and adopted reasonable opinions and suggestions, so it conform to relevant WTO rules. General Administration of Customs No. 248 and No.249 have been published on the official website of General Administration of Customs. Enquiries are welcome. Where an overseas imported food production enterprise undergoes any change in its registration information during the validity period of registration, it shall handle procedures according to Article 19 of General Administration of Customs No. 248.

3.1.5 Import prohibitions, restrictions, and licensing

3.1.5.1 Import prohibitions

Page 60, Paragraph 3.46: The Secretariat Report states that, with regard to China's regulation of "solid waste products," several WTO members have urged China to "ensure transparency by notifying measures, both introduced and planned, and to consider less trade-restrictive measures."

- What is China's policy on notifying to the WTO its requirements for import, including relevant contamination requirements, that it has implemented for the importation of recycled raw materials?
- Also, what is the relationship between these policies and China's pro-circular economy narrative, given that China appears to include recyclable materials within the scope of "solid waste," which is banned for importation?

Reply to two questions above: China's measures on importation of solid wastes strictly comply with the formulation procedures of its laws and regulations, and China takes into full consideration the voices of all parties, adopts transitional policy arrangements, notifies the WTO in advance, and strictly follows international rules. For example, the notification of the first Catalogue of Solid Wastes Prohibited from Importation at the end of 2017 was nearly six months ahead of its implementation, and the Catalogue of Solid Wastes Prohibited from Importation at the end of 2018 and 2019 were released eight months and 20 months ahead of schedule respectively, leaving sufficient and reasonable transition period for relevant industries and enterprises to make adjustments.

The definition of scrap and waste varies from country to country, and there is no unified understanding and standard internationally. The definition of solid waste in China follows the Law of

the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste, and is basically consistent with the international legal meaning of waste in the Basel Convention. Wastes that can be used as raw material also fall under solid wastes. According to the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste, China prohibits the importation of solid wastes, but allows the importation of recycled raw materials that meet product quality standards, which ensures environmental protection in the process of developing a circular economy and promotes the recycling of domestic and international resources, is highly consistent with the relevant requirements of the Circular Economy Promotion Law of the People's Republic of China and the concept of vigorously promoting circular economy around the world, and will strongly promote the healthy development of circular economy in China and the world.

On the contrary, the United States has been exporting heavily polluted solid wastes to developing countries lacking technological capacity in the name of "recyclable materials" and "circular economy" for a long time, which is inconsistent with the goal of circular economy development and the requirements of sustainable development. China hopes that WTO members can actively fulfill their responsibilities in the international community and make due contributions to global environmental protection.

China has submitted its latest notification on quantitative restrictions to the WTO.

3.1.5.2 Import licensing requirements

3.1.5.2.1, Automatic Import Licensing Requirements

- **Page 61, Paragraph 3.48:** Footnotes 62 and 63 indicate that some medical equipment is newly subject to import licensing and that other medical equipment is now exempt from licensing requirements. Where does China maintain a list of the medical equipment that is subject to import licensing?

Reply: According to the Foreign Trade Law of the People's Republic of China and Regulation of the People's Republic of China on the Administration of the Import and Export of Goods and other relevant regulations, China implements automatic import licensing management for some mechanical and electrical products such as medical equipment. The Ministry of Commerce, together with the General Administration of Customs and other departments, shall formulate, adjust and publish the catalogue of mechanical and electrical products subject to automatic import licensing. At present, the latest edition of the catalogue is Catalogue of Goods Subject to Automatic Import Licensing (2021) (Announcement No. 67 [2020] of the Ministry of Commerce and the General Administration of Customs), which can be found in the Government Information Disclosure column on the website of the Ministry of Commerce.

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Anti-dumping measures

Page 62, Paragraph 3.53: The Secretariat Report states that, in 2018, China amended three trade remedy measures, i.e., the Rules on Interim Review of Dumping and Dumping Margins, the Rules on Questionnaires in Anti-Dumping Investigations, and the Rules for Hearing of Anti-Dumping and Anti-Subsidy Investigations. Three years later, China has still not notified these measures to the WTO. The Secretariat Report states that China is preparing to notify these measures to the WTO. Please clarify when China intends to notify these measures to the WTO.

Reply: The notification is under preparation and will be submitted as soon as possible.

3.2 Measures Directly Affecting Exports

3.2.2 Taxes, charges, and levies

Page 68, Paragraph 3.78 and Table 3.11: The Secretariat Report states that China continues to apply export duties on a wide range of products. It explains that, as of January 2021, "102 tariff lines (at the 8-digit level) were subject to statutory export duties, unchanged since 2015, while 75 tariff lines carried interim duties, down from 180 in 2017." Although the Secretariat Report does not discuss the panel and Appellate Body findings on China's export duties in DS394, DS395, DS398, DS431, DS432 and DS433, the United States notes that two panels and the Appellate Body found that paragraph 11.3 of part I of China's WTO Protocol of Accession commits China to eliminate all export duties unless specifically provided for in Annex 6 of the Protocol or applied in conformity with the provisions of Article VIII of the GATT 1994 and, further, that Article XX of the GATT 1994 is not

available to justify a violation of this commitment. What is China's policy on eliminating these export duties?

Reply: According to Annex 6 of the Protocol on China's Accession to WTO, China can retain export tax on a small number of products, while other products shall not be subject to export tax. At present, the products subject to export tariffs are all in line with China's WTO accession commitments, and the export tariff rate shall not exceed the upper limit of China's WTO commitments.

3.2.4 Export support and promotion

Page 72, Paragraph 3.101: The Secretariat Report explains that in China the value-added tax (VAT) may be rebated on exports, but exporters are generally entitled to VAT rebates lower than the VAT paid. It states that "four refund rates are in force: 13%, 9%, 6%, and 0%, with the proportion of tariff lines subject to each rebate rate being 61.2%, 18.9%, 0.1%, and 19.6%." In connection with the 2012 Trade Policy Review of China, the Secretariat Report noted (in paragraph 143 of Part III) that "[t]he difference between the two rates constitutes a levy on exports, which may in turn constitute assistance to downstream processing of the products affected, and could affect China's terms of trade." It added that "China adjusts VAT rebate rates as part of its industrial policies, to control, restrict, or otherwise 'manage' the export of certain products."

- What is China's view on the proposition that moving to a trade-neutral VAT system, in which input VAT is rebated in full for all exports, would allow the market, rather than the Chinese state, to play a decisive role in the allocation of resources? If not, please explain.
- Is China studying the possibility of adopting a VAT rebate policy pursuant to which the input VAT is automatically rebated in full for all exports, consistent with the policies prevailing in other WTO Members with a VAT system and how long would it take China to adopt and implement such a policy. Please explain.

Reply to questions above: it is clearly stated in paragraph 3.98 that "after the issuance by the Ministry of Finance (MOF) and the State Taxation Administration of the Announcement on Increasing the Export Tax Refund Rate of Some Products in 2020, the VAT rebate rate of all products, except for the high-pollution, high-energy consuming, and resource-based products, became equal to the applied rate."

3.2.5 Export finance, insurance, and guarantees

Page 73, Paragraph 3.108: The Secretariat Report states that "the bulk of export finance is provided by the China Export-Import Bank ... and the state-owned China Export & Credit Insurance Corporation (SINOSURE)." On its website, China Development Bank, under international business products, lists a buyer's credit as one of its product offerings. This product appears to be a loan provided to foreign importers or government agencies or banks of the importing country that can only be used to purchase Chinese equipment and should be linked to a specific export-related project. The loan requires SINOSURE credit insurance and Chinese content of at least 50 %. Can China provide information on the financial terms and conditions of the buyer's credit program offered by China Development Bank?

Reply: The buyer's credit project contract of China Development Bank (CDB) is generally formulated based on a formatted text of the Asia Pacific Loan Market Association (APLMA) and compliant with loan market practices in the Asia Pacific region. For each project, CDB needs to conform to confidentiality clauses and requirements related to financing documents signed with the customer and shall not provide the financing documents to the outside.

Page 73, Paragraph 3.108: Did the COVID-19 pandemic affect how China Eximbank and SINOSURE calculate risk in emerging markets? Please explain.

Reply: The COVID-19 pandemic has brought about significant brunt to the countries around the world, and questions like conspicuous disparity in the pace of economic recovery, uneven vaccine distribution and unbalanced and insufficient development among different countries are still prominent. Judging from the relevant objective data of socio-economic development, we find the pandemic has caused different negative impacts on risks of different countries in the world (including those emerging market countries), but it is by far difficult to make a precise quantitative calculation.

Page 73, Paragraph 3.110: According to the Secretariat Report, China Eximbank offers "concessional loans ... to developing countries at rates lower than market interest rates and are

usually tied to Chinese exports." The United States notes that, in China's questionnaire on export competition, it replied that Eximbank provides export financing for agricultural products.

- Does China Eximbank offer concessional loans to developing countries at rates lower than market rates for the export of agricultural products. If so, please provide a detailed description of the concessional loan program(s), and maximum repayment terms.

Reply: The Export-Import Bank of China provides domestic working capital loans and export order financing for Chinese agricultural product exporters. According to The Ministerial Decisions on Export Competitions reached by the WTO members at the Tenth Session of the Ministerial-level Meeting on December 19, 2015, the export credit for agricultural products does not include the agricultural product working capital loans offered to the exporters. Therefore, the working capital loan associated with agricultural products provided by the Export-Import Bank of China to exporters does not belong to the export credits for agricultural products; As for the agricultural export order financing provided in 2019 and 2020, the WTO agricultural export competition questionnaire has been completed as required.

- Please explain if interest rates or premiums charged on concessional loans are risk-based, and whether the rates or premiums differ by country and/or by overseas borrowers.

Reply: The loan interest rate of concessional loans will be based on a variety of relevant factors, such as the country risk of the borrower.

- **Page 73, Paragraph 3.110:** How does China Eximbank decide when to use the concessional loan or preferential exports buyer's credit versus its standard export credit products?

Reply: The borrower, not the lender, has the right to choose which loan product to use. The borrower applies for a loan within the business scope of the Export-Import Bank of China based on its own situation, as well as the nature and characteristics of the project.

- **Page 73, Paragraph 3.110:** What are the longest repayment terms offered with China Eximbank's seller's credit support?

Reply: The Export-Import Bank of China will determine the credit repayment term of the export seller in line with the borrower's ability in operation and management, the borrower's credit status, capital turnover, project operation, etc.

- **Page 74, Paragraph 3.111:** What are China Eximbank's terms and conditions for the concessional loans, the preferential export buyer's credits, and the standard export credits?

Reply: The loan conditions will be determined for specific projects based on the market benchmark: on the basis of actuarial cost and risk quantification, with the goal of sustainable operation and be in line with the market rate of interest, overall considering the comprehensive contribution of customers and various costs such as capital, risk, tax and management expenses, predicting the trend of the interest rate, and determine according to market competition and the principle of risk-return matching.

Page 73, Paragraph 3.113: The United States notes that, in China's export competition questionnaire response, it indicates that SINOSURE also provides export financing for agricultural products.

- Please explain if SINOSURE issues short-term credits for the export of agricultural products at market rates.

Reply: SINOSURE does not provide direct lending or credits. SINOSURE supports the Chinese agricultural exports through its short-term export credit insurance and premiums are collected on normal commercial conditions.

- Also, please describe if rates or premiums charged are risk-based and whether the rates or premiums are by country and/or by overseas borrowers.

Reply: The premium rate is determined according to the applicable country risk classification, the credit period, the credit rating of the borrower or the obligor, the country risk mitigation technique applied, buyer risk credit enhancements and other applicable factors.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 77, Paragraph 3.124: With regard to China's so-called "government guidance funds," the Secretariat Report notes that the Secretariat was "unable to get clarity on what these funds are" from the Government of China. Why does China believe that these funds are not relevant to its Trade Policy Review?

Reply: The funds set up by China under market-oriented principles operate completely in accordance with the market principles as a completely independent market entity. China has not provided subsidies to any industry through the funds.

Page 77, Paragraph 3.124: With regard to China's subsidies notification, the Secretariat Report states that China did not notify numerous "government guidance funds," which provide financing to industries such as advanced manufacturing, new materials, and other innovative industries. The Secretariat Report also notes that was "unable to get clarity on what these funds are" from the Government of China. Please provide additional information on each of the government guidance funds listed in Table 3.15, including:

- What is the structure and purpose of the fund?
- What forms of assistance are granted under the fund, including whether the fund provides export support or promotion?
- Please explain why China asserts that the financial support provided through the fund does not constitute subsidies and therefore is not subject to the WTO's notification requirement.

Reply: The investment management and decision-making of government guidance funds are completely based on market principles, and government departments do not intervene or participate in the decision-making of any investment projects of the fund. The fund is established in accordance with the Company Law of the People's Republic of China and other laws, and its fund governance structure is also determined on the basis of such laws for market-based operation. China has not provided subsidies to any industry through the fund.

Page 77, Paragraph 3.124: With regard to China's government guidance funds, the Secretariat Report notes that China "uses public resources to make equity investments in industries that the Government considers important."

- How does the Government of China make these investment decisions? What factors does the Government consider?
- How does China ensure that these investment decisions are consistent with the investment decisions of a private investor?

Reply: The investment management and decision-making of government guidance funds are completely based on market principles, and government departments do not intervene or participate in the decision-making of any investment projects of the fund. The fund is established in accordance with the Company Law of the People's Republic of China and other laws, and its fund governance structure is also determined on the basis of such laws for market-based operation. China has not provided subsidies to any industry through the fund.

Page 77, Paragraph 3.124: With regard to China's government guidance funds, the Secretariat Report notes that "these funds were in part privately funded." For each of the government guidance funds listed in Table 3.15, please identify what part or percentage of the fund is privately funded versus government funded.

Reply: The investment management and decision-making of government guidance funds are completely based on market principles, and government departments do not intervene or participate in the decision-making of any investment projects of the fund. The fund is established in accordance with the Company Law of the People's Republic of China and other laws, and its fund governance structure is also determined on the basis of such laws for market-based operation. China has not provided subsidies to any industry through the fund.

Page 78, Paragraph 3.125: In addition to the government guidance funds referenced above, the Secretariat Report notes the existence of several policy-related funds targeting, for example, Made in China 2025 industries and the integrated circuit industry, among others. Please provide additional information on each of the policy-related funds listed in Table 3.16, including:

- What is the structure and purpose of the fund?

- What forms of assistance are granted under the fund, including whether the fund provides export support or promotion?
- Please explain why China asserts that the financial support provided through the fund does not constitute subsidies and therefore is not subject to the WTO's notification requirement.

Reply: The investment management and decision-making of government guidance funds are completely based on market principles, and government departments do not intervene or participate in the decision-making of any investment projects of the fund. The fund is established in accordance with the Company Law of the People's Republic of China and other laws, and its fund governance structure is also determined on the basis of such laws for market-based operation. China has not provided subsidies to any industry through the fund.

Page 78, Paragraph 3.126: The Secretariat Report cites an OECD study showing significant below market borrowing by Chinese semiconductor firms. China indicates that "the conclusions of the study are not credible as they are based on estimated data." Using non-estimated data, what should be the findings with respect to borrowing by Chinese semiconductor firms?

Reply: Commercial banks independently select customer groups and issue credits and loans according to their own strategic planning, development orientation, risk preference, operation and management capabilities. The relevant decisions of commercial banks are market-based choices and behaviors in light of their own development situations. China's subsidy policies for the semiconductor industry have been notified in accordance with WTO regulations. The OECD report focuses on the global IC industry chain, suggesting that member countries jointly study the development law of the IC industry and promote the healthy development of the global IC industry. China has no targeted research report or conclusion yet.

Page 79, Paragraph 3.132: The Secretariat Report notes that "the authorities indicate that a new fisheries policy would be issued soon." What does China mean when it says that the report will be issued "soon?" What factors are being considered in formulating this policy? Is reducing capacity enhancing support being considered as part of the policy?

Reply: In May 2021, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs issued the Notice on Implementing Fishery Development Support Policies to Promote High-quality Fishery Development (Cai Nong [2021] No.41), proposing to build a fishery development support policy system in the new era coordinated with fishery resources conservation and industrial structure adjustment. The main adjustment of subsidy expense is to cancel direct cost subsidy, change the direction of subsidy, guide fishermen to conserve fishery resources, and emphasize more on green development, people's livelihood and resource conservation. Specifically, since 2021, the fuel subsidy, which is a direct cost subsidy for fishery production, shall be completely abolished. China is supporting the ban on harmful fishery subsidies that contribute to excess capacity and overfishing with practical actions.

3.3.2 Standards and other technical requirements

3.3.2.1 Overview

- **Page 79, Paragraph 3.133:** The Secretariat Report explains that, since its previous Trade Policy Review, China has introduced or revised various laws and regulations related to standards and other technical requirements. Among others, this includes the issuance on 29 April 2020 of the Measures for the Environmental Management Registration of New Chemical Substances by the Ministry of Ecology and Environment (MEE) (Order No. 12), which entered into force on 1 January 2021. Could China please clarify its review timelines for new chemical submissions under MEE Order No. 12?

Reply: According to the Measures for the Environmental Management Registration of New Chemical Substances (Order 12 of the Ministry of Ecology and Environment), the state implements the environmental management registration system for new chemical substances. The "new chemical substances" referred to in these Measures refer to the chemical substances that are not listed in the Inventory of Existing Chemical Substances in China. China has fulfilled its obligation of transparency in accordance with the requirements of the WTO. In September 2019, China notified the WTO of the Measures for the Environmental Management Registration of New Chemical Substances. In September 2020, China notified the WTO of the Guidelines for the Environmental Management Registration of New Chemical Substances.

Page 79, Paragraph 3.133: The United States and other WTO Members continue to have significant concerns because the only means that China's National Medical Products Administration (NMPA) provides for cosmetics importers to establish conformity with good manufacturing practices via the new Cosmetics Supervision and Administration Regulation (CSAR) (G/TBT/N/CHN/1310), which entered into force on May 1, 2021, involves animal testing if the government of the exporter does not issue good manufacturing practices (GMP) export certificates.

- Will China consider alternative means for cosmetics importers to meet NMPA's requirements for government-issued GMP export certificates such as statements of conformity from industry organizations or third-party programs under the ISO/IEC 17065 Conformity Assessment Standard that align with the ISO's GMP standard for cosmetics?
- Will China ensure that NMPA, the State Administration for Market Regulation and the China National Accreditation Service for Conformity Assessment are transparent and report publicly which GMP certificates or production licenses they are accepting as demonstrating conformity?

Reply: Yes, China ensures that China National Accreditation Service for Conformity Assessment (CNAS) is transparent. In accordance with the requirements of relevant Chinese laws and regulations and national standards, relevant international standards and rules of IAF, ILAC and APAC, CNAS publishes the policies, procedures and rules on which its operation is based, publishes its accreditation results, and invites accredited stakeholders to fully participate in the decision-making and management process of CNAS. CNAS is regularly inspected by relevant Chinese authorities, and is regularly peer-reviewed by APAC, so as to ensure that the transparency of CNAS meets the requirements of relevant Chinese laws and regulations, national standards, relevant international standards and relevant rules of IAF, ILAC and APAC.

The Regulations on the Administration of Cosmetic Registration and Filing Materials (No.32, 2021) issued by National Medical Products Administration puts forward completely consistent requirements on the setting of animal experiment alternatives for safety evaluation of imported and domestic cosmetics. Based on the principle of ensuring the quality and safety of product production and WTO non-discrimination, in terms of toxicology test project requirements and exemption conditions, domestic and imported ordinary cosmetics manufacturers who have obtained the relevant qualification certification of production quality management system issued by the competent government department of the host country (region) and the product safety risk assessment results can fully confirm the product safety may be exempted from submitting the toxicology test report of the product.

Page 81, Paragraph 3.143: The Secretariat Report states that China requires that mandatory standards undergo public review at the technical examination stage prior to being notified to the WTO. However, the United States notes that WTO Members are obliged to notify comments at an early stage, and the United States is concerned that China's measures are only notified to the WTO at a stage when major revisions can no longer be made. Please explain if Chinese authorities' current regulatory procedures preclude them from notifying measures to the WTO at an earlier stage. If so, how can China let Members know when measures are undergoing public review?

Reply: Article 25 of Measures for the Administration of Mandatory National Standards stipulates that mandatory national standards that do not adopt international standards or are inconsistent with the technical requirements for relevant international standards, and that have a major impact on the trade of any other member of the World Trade Organization (WTO), shall be notified according to the requirements of the WTO. It is required that in the process of soliciting opinions in standard formulation, the standard draft for soliciting public comments domestically shall be notified externally. This practice can effectively shorten the revision cycle, organize the drafting departments to effectively study and deal with the notification opinions, and meet the TBT requirements of early notification. In addition, Article 26 of the Measures for the Administration of Compulsory National Standards stipulates that in the event of major changes in relevant technical requirements for mandatory national standards under development, public comments shall be solicited again; if a public notification is required, a notification shall be made again.

- **Page 81, Paragraph 3.143:** The Secretariat Report notes that China's technical regulations sometimes refer to voluntary standards, rendering them mandatory. Please confirm China's policy on notifying these standards to the WTO.

Reply: Technical regulations are mainly mandatory national standards in China. At present, the main situations in which mandatory national standards refer to voluntary national standards include:

first, the voluntary standards that provide basic categories such as terms, classifications and signs for mandatory standards; second, the voluntary testing standards that provide verification methods for mandatory standards. These voluntary standards shall still be implemented as voluntary clauses after being referred to.

3.3.2.2 Product certification

Page 82, Paragraph 3.148: Will the China National Accreditation Service for Conformity Assessment consider accepting the results of conformity assessment procedures conducted by U.S. and international labs that are certified for Good Clinical Practices, per the International Council for Harmonization of Technical Requirements for Pharmaceuticals for Human Use Guidelines or for Good Laboratory Practices?

Page 83, Paragraph 3.151: The Secretariat Report notes that random conformity sampling tests are conducted on imports that have already acquired a CCC mark.

- Are domestic products listed in the CCC Catalogue also subject to random conformity sampling tests?
- How does China ensure that imports are not subject to a greater number of random conformity sampling tests compared to like domestic products?

Reply to the above two questions: Medicinal Product Administration Law of the People's Republic of China stipulates that "the drug supervision and administration department may conduct spot checks on the quality of drugs according to the needs of supervision and administration". In practical work, the drug supervision and administration department formulates the corresponding drug quality spot check inspection plan and organizes implementation. The spot check inspection plan shall be formulated according to the needs of supervision and management, and there shall not be discriminatory treatment because of whether the related products have obtained CCC certificates or whether they are imported products.

3.3.2.3 Labelling and packaging

Page 83, Paragraph 3.154: The Secretariat Report details information from China's Food Safety Law and other laws regarding the labeling of pre-packaged foods.

- How are these laws enforced?
- Please describe any measures taken by China to ensure China's labeling requirements are consistent with the WTO SPS and TBT Agreements and, as appropriate, are harmonized with relevant international standards.

Reply: The market supervision department implements "indiscriminate" supervision on imported food and domestic food sold in the market in accordance with relevant laws and regulations such as the Food Safety Law and Regulations on the Implementation of Food Safety Law as well as national food safety standards, strictly abides by the bottom line of food safety and maintains a fair market order.

Page 83, Paragraph 3.156: The United States continues to be concerned that new cosmetics labelling requirements introduced via the Cosmetics Supervision and Administration Regulation and its implementing measures potentially create unnecessary obstacles to trade.

- Why is China requiring foreign labels on products to exactly match the required Chinese labelling, if the foreign language labelling does not conflict with the product safety and effectiveness information on the Chinese label?
- Will China provide at least two years for imported, previously-registered cosmetics to comply with new labelling requirements, so as to allow companies to sell through inventory already in China?

Reply to the above two questions: First, the correspondence between Chinese and English labels. The Measures for the Administration of Cosmetic Labels (No.77, 2021) issued by National Medical Products Administration does not require that all contents of Chinese labels should be consistent with those of the original packaging labels, but only requires that the contents of product safety and efficacy claims should be consistent with those of the original labels. Second, the problem of product transition period. Under the condition of the actual situation of the industry fully considered and avoiding the waste of packaging consumables, a reasonable transition period has been set for the industry. A two-year transition period has been given to products registered or filed before 1 May 2022. If labels are not marked according to the Measures, cosmetics registrants and filers

shall complete the update of product labels before 1 May 2023 to ensure that they meet the provisions and requirements of the Measures.

- **Page 84, Paragraph 3.157:** The Secretariat Report refers to the State Administration of Market Regulation's draft Measures for Supervision and Administration of Food Labeling, published in 2019. Please explain the status of the draft measure and how China will address concerns raised that it is trade distorting?

Reply: The legislative process of the Measures for Supervision and Administration of Food Labeling will be accelerated after research and demonstration are conducted on some of its issues.

3.3.3 Sanitary and phytosanitary requirements

3.3.3.2 SPS measures

Page 86, Paragraph 3.166: The United States notes that China has made significant progress in establishing numerous pesticide maximum residue limits in a short period time. Currently, China does not have a formal registration process to establish import tolerances for pesticides that are not approved for use in China. The United States understands regulations for establishing import tolerances are currently under consideration by China.

- Has China announced the implementation of an import tolerance policy?
- Will the measure undergo public review; If so, when?

Reply: China never declares and will not formulate regulations for establishing import tolerances.

Page 86, Paragraph 3.168: The Secretariat Report lists emergency measures that China notified in 2020 that were purportedly issued and implemented as preventative measures to stop COVID-19 transmission in cold-chain foods. However, these measures are not consistent with the guidance provided by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) such as FAO/WHO's FAO-WHO interim guidance: "COVID-19 and Food Safety: Guidance for competent authorities responsible for national food safety control systems," dated 22 April 2020, or FAO's "COVID-19: Guidance for preventing transmission of COVID-19 within food businesses," dated 2 August 2021. According to this guidance, current data indicates that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including SARS-CoV-2. In other words, SARS-CoV-2 is not a direct food safety concern. Like the FAO and the WHO, the U.S. Food and Agriculture Organization advises that "[c]urrent data indicates that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including SARS-CoV-2. In other words, SARS-Cov-2 is not a direct food safety concern."

- In light of this guidance, please provide the science- and risk-based justification for restrictions on imported cold-chain foods related to COVID-19 prevention.
- Does China disagree with the guidance provided by the FAO and the WHO and China's trading partners.

Reply: In order to effectively prevent Novel Coronavirus from being introduced through imported cold chain food, according to the joint prevention and control mechanism of the State Council, the State Administration for Market Regulation has raised requirements for the producers and operators of imported cold chain food that they shall not process, produce or sell imported cold chain food without inspection and quarantine certificate, nucleic acid test certificate, disinfection certificate and traceability information. For the same batch of products tested positive in nucleic acid test, measures such as taking them off the shelves and stopping selling, and sealing up in special areas shall be implemented. The above measures comply with Article 42, Paragraph 1, Article 44 and Article 55 of the Law of the People's Republic of China on Prevention and Treatment of Infectious Diseases, Article 42, Paragraph 1 and Article 92, Paragraph 2 of the Food Safety Law of the People's Republic of China and other relevant laws and regulations, and are administrative acts according to law. The State Administration for Market Regulation will always strictly follow the deployment of the joint prevention and control mechanism of the State Council, and implement the relevant work requirements for pandemic prevention and control from the cold chain food.

3.3.3.4 Genetically modified organisms (GMOs)

- **Page 88, Paragraph 3.171:** The Secretariat Report indicates that, in 2018, China reportedly amended its regulations on safety assessment, import approval, and labelling of agricultural GMOs, including the procedures relating to the dossier submission process. What is China's policy on notifying these amendments and any future amendments to its biosafety approval procedures to the WTO?

Reply: In 2018, China did not revise the relevant laws and regulations on the safety management of agricultural genetically modified organisms.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.3.4.1.1 Legislative and institutional framework

Page 89, 3.3.4.1.1, paragraph 3.173: Under the revised institutional framework for China's competition regime, three anti-monopoly agencies were merged into a single agency, the State Administration for Market Regulation (SAMR). The new framework also includes the Anti-Monopoly Committee (AMC), which is headed by a leader of the State Council.

- How do the functions of the AMC differ from those of the Anti-Monopoly Bureau (AMB) under SAMR, and what is the justification for maintaining this supervisory institution? Does the AMC have influence over the decision-making of the AMB? Does the AMC need to give its approval to the AMB's decisions and, if so, for which decisions?

Reply: According to the provisions of Anti-Monopoly Law of the People's Republic of China, the Anti-Monopoly Committee of the State Council shall be responsible for organizing, coordinating and guiding anti-monopoly work, and shall mainly perform the following duties: First, study and formulate relevant competition policies; Second, organize investigations and evaluate the overall market competition, and issue evaluation reports; Third, formulate and issue anti-monopoly guidelines; Fourth, coordinate the anti-monopoly administrative law enforcement work; Fifth, other duties stipulated by the State Council. According to Article 10 of Anti-Monopoly Law of the People's Republic of China, the State Administration for Market Regulation shall be responsible for anti-monopoly law enforcement.

3.3.4.1.3 Dominant market positions

Page 91-92, Paragraph 3.178: Article 16(5) of the Interim Provisions on Prohibiting Abuse of Dominant Market Positions prohibits dominant firms from refusing counterparts access to essential facilities without justified reasons.

- Please provide details on cases based on or involving Article 16(5).
- Have intellectual property rights been considered an essential facility for purposes of this provision either in specific cases or policies?
- Have private actions been brought in the courts concerning access to essential facilities? If so, please describe them.

Reply to the above questions: So far, there has been no such case for State Administration for Market Regulation that applies to the provisions of Article 16, paragraph I (5) of the Interim Provisions on Prohibiting Abuse of Dominant Market Positions on necessary facilities. Under certain circumstances, intellectual property rights may constitute necessary facilities, and the following factors can be considered in specific cases: (I) The commitment made by the operator to the intellectual property rights; (II) Whether other operators shall obtain the license of the intellectual property right to enter the relevant market; (III) The impact and degree of refusing to license relevant intellectual property rights on market competition and innovation of operators; (IV) Whether the rejected party lacks the willingness and ability to pay reasonable license fees; (V) Whether the operator has made a reasonable offer to the rejected party; (VI) Whether refusing to license relevant intellectual property rights will harm the interests of consumers or social public interests.

3.3.4.1.4 Mergers and acquisitions

Page 92, Paragraph 3.181: The Secretariat Report discusses China's regulation of mergers and acquisitions.

- During the review period, how many mergers that did not involve at least one non-Chinese party have been approved subject to conditions or failed to gain approval? Non-Chinese in this context refers to entities that are not directly or indirectly owned or controlled by a Chinese entity.
- Please describe the process of getting the viewpoints of other government departments when reaching a decision in a merger case.
- Please describe the role of the Anti-Monopoly Committee (AMC) in approving mergers.

Reply: Since the previous review, China's anti-monopoly law enforcement agencies have approved 15 cases of operator concentration with restrictive conditions, and prohibited one case of operator concentration, including 14 cases of mergers and acquisitions that did not involve at least one non-

Chinese party (all with conditional approval). According to the Anti-Monopoly Law of the People's Republic of China and relevant provisions, during the review process, the State Administration for Market Regulation may solicit opinions from relevant government departments, trade associations, operators, consumers and other units or individuals according to the needs of the review. In law enforcement practice, soliciting opinions from other government departments is mostly carried out in written form.

According to Article 9 of the Anti-Monopoly Law of the People's Republic of China, the State Council established an Anti-Monopoly Committee, which is responsible for organizing, coordinating and guiding anti-monopoly work and performing the following duties: Study and formulate relevant competition policies; Organize investigations, evaluate the overall market competition and issue evaluation reports; Formulate and issue anti-monopoly guidelines; Coordinate the anti-monopoly administrative law enforcement work and other duties stipulated by the State Council. According to Article 10 of Anti-Monopoly Law of the People's Republic of China, the State Administration for Market Regulation shall be responsible for anti-monopoly law enforcement, including the anti-monopoly review of operation concentration.

3.3.4.1.6 Enforcement

Page 93, Paragraph 3.186: The Secretariat Report discusses anti-monopoly enforcement in China and notes that enforcement can be delegated to provincial-level authorities.

- Please provide detailed information on the delegation of responsibility in investigations to provincial-level administrations. How is the determination made as to which provincial-level administration is appropriate?
- What safeguards are in place against local protectionism, or favoritism of local interests?
- What mechanisms are used by ensure consistent approaches across provinces in applying the Anti-Monopoly Law?
- Are the parties able to meet with officials from such provincial-level administration to discuss the matter?
- During the review period, how many first instance civil antimonopoly cases have?

Reply: Article 10 of Anti-Monopoly Law of the People's Republic of China stipulates that the anti-monopoly law enforcement agency designated by the State Council shall be responsible for the anti-monopoly law enforcement work. Paragraph II of Article 10 stipulates that the designated anti-monopoly law enforcement agency may, as required by the work, empower corresponding agencies in the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to be responsible for the anti-monopoly law enforcement work according to the Anti-Monopoly Law. In 2018, State Administration for Market Regulation released Notice on the Empowerment of Anti-monopoly Law Enforcement, making clear that the State Administration for Market Regulation (SAMR) is responsible for the unified anti-monopoly law enforcement, and directly governs or empowers the relevant provincial market regulatory departments to govern the following cases: cases of monopoly agreements or abuse of market dominance or administrative power to eliminate or restrict competition across provinces, autonomous regions, or municipalities directly under the Central Government, and abuse of administrative power by provincial people's governments to eliminate or restrict competition; cases of monopoly agreements or abuse of market dominance or administrative power to eliminate or restrict competition that are complicated or have major impacts nationwide; cases of monopoly agreements or abuse of market dominance or administrative power to eliminate or restrict competition that the SAMR considers necessary to directly govern. Provincial market regulatory departments shall be responsible for the anti-monopoly law enforcement of cases of monopoly agreements or abuse of market dominance or administrative power to eliminate or restrict competition within their respective administrative regions, and handle the cases in their own names in accordance with the law, and relevant treatment decisions shall be published according to law. Relevant cases can be known through the website of SAMR and other channels.

According to Article 10 of Anti-Monopoly Law of the People's Republic of China, SAMR has released three departmental regulations: Interim Provisions on Prohibiting Monopoly Agreements, Interim Provisions on Prohibiting Abuse of Dominant Market Positions, and Interim Provisions on Prohibiting the Acts of Eliminating or Restricting Competition by Abuse of Administrative Power, which clarify the principle of universal authorization, and the relevant contents are the same as Notice on the Empowerment of Anti-monopoly Law Enforcement.

In terms of the unity of anti-monopoly law enforcement, the SAMR has released three departmental regulations: Interim Provisions on Prohibiting Monopoly Agreements, Interim Provisions on Prohibiting Abuse of Dominant Market Positions and Interim Provisions on Prohibiting the Acts of Eliminating or Restricting Competition by Abuse of Administrative Power, stipulating that the SAMR shall strengthen the guidance and supervision of provincial market supervision departments in investigating monopoly agreements, the abuse of dominant market position and the abuse of administrative power to exclude and restrict competition, so as to unify law enforcement standards.

3.3.4.1.7 International cooperation 3.3.4.1.7

- **Page 94, Paragraph 3.188:** In 2019, it appeared that the State Administration for Market Regulation (SAMR) was considering joining the ICN Framework for Competition Agency Procedures (CAP), which allows competition agencies to confirm their adherence to fundamental principles of transparency and procedural fairness in antitrust enforcement. What is China's view on SAMR subscribing to the CAP? Please explain.

Reply: Since the implementation of Anti-Monopoly Law of the People's Republic of China, competition agencies in many countries and regions have invited Chinese anti-monopoly law enforcement agencies to join the International Competition Network (ICN). China holds a positive attitude towards joining ICN and hopes to maintain communication with ICN and competition agencies of relevant countries and regions on China's anti-monopoly law enforcement agencies joining ICN and related issues.

State trading, state-owned enterprises, and privatization

- The Secretariat Report notes that "State participation varies from wholly SOEs and majority state ownership to the State acting as another shareholder." How does the Chinese government currently decide on the appropriate level of state ownership in a particular company? What factors influence that decision?

Reply: Since 2018, positive progress has been made in SOE reform. State-owned enterprises have completed the corporate system restructuring in an all-round way, and their status as independent market entities has been further established on the institutional level. Central SOEs have completed the corporate system restructuring, and 96% of local SASAC-funded enterprises have also completed the corporate system restructuring. Stable progress has been made in the mixed ownership reform.

Page 97, Paragraph 3.202

The Secretariat Report notes that the State-Owned Asset Supervision and Administration Commission (SASAC) is in charge of "contributing capital to ... SOEs under its management."

- Please explain how SASAC makes its decisions on how to contribute capital.
- Please explain how these decisions are consistent with the actions of a private investor.

Reply: SASAC is subordinate to the State Council. According to the Company Law, Law on the State-Owned Assets of Enterprises and other laws and regulations, based on the principle of separating government administration from enterprise management, separating government administration from state assets management, and separating ownership from management rights, SASAC performs investor duties on behalf of the State Council, contributes to the invested enterprise as a shareholder, injects capital acting on market principles and rule of law like other private investors, and has the right in major issues including benefiting from the return on assets and choosing managers. The supervision of enterprises by SASAC is based not on the supervision of administrative power, but on the rights of investors, and the SASAC does not interfere with the daily business decisions of enterprises. SASAC appoints and dismisses the heads of central SOEs under its supervision through legal procedures instead of directly appointing senior managers.

- **Page 98 Table 3.24 :** Does the Agricultural Bank of China support any agricultural equipment exports? If so, what financial terms and conditions does it offer?

Reply: SOEs, private enterprises, foreign-funded enterprises, China-foreign joint ventures, etc. are all customer groups of commercial banks. On the premise of compliance with laws and regulations, commercial banks independently select customer groups according to their own strategic planning, development orientation, risk preference, operation and management capabilities, etc., and issue credits and loans. The relevant decisions of commercial banks are market-oriented choices and behaviors in light of their own development situation.

Page 99, Paragraph 3.206: The Secretariat Report assesses that "[t]he importance of SOEs in China's economy, coupled with high amounts of financial support, may affect the functioning of market-oriented policies and practices. It would appear that SOEs in China often benefit from credits extended by state banks or other forms of financing, implicit grantees, capital injections, and preferential access to inputs." The United States agrees with this assessment, which is an assessment shared by many other WTO Members and by many experts who analyze China's economic and trade regimes. However, the Secretariat Report notes that the Chinese authorities object to this assessment and insist that SOEs in China receive no preferences at all. Can China explain why it considers that Chinese SOEs operate on the same terms and conditions as private enterprises?

Reply: The Chinese government attaches great importance to the fair and equitable participation of SOEs in market competition. SOEs have been integrated with the market economy and become the main entity independently engaging in market competition. They purchase and sell according to commercial considerations. They shall be subject to the same laws and rules as other enterprises in terms of access to funds, bankruptcy and competition legislation, and do not enjoy privileges.

Page 99, Paragraph 3.206: According to the Secretariat Report, it appears "that SOEs in China often benefit from credits extended by state banks." China disagrees with this view. Please explain how state banks determine the loan rate for SOE borrowers? How do they price the risk of lending to an SOE?

Reply: SOEs, private enterprises, foreign-funded enterprises, China-foreign joint ventures, etc. are all customer groups of commercial banks. On the premise of compliance with laws and regulations, commercial banks independently select customer groups according to their own strategic planning, development orientation, risk preference, operation and management capabilities, etc., and issue credits and loans. The relevant decisions of commercial banks are market-oriented choices and behaviors in light of their own development situation.

3.3.6 Government procurement 3.3.6

3.3.6.1 Overview 3.3.6.1

- **Page 99, Paragraph 3.210 and Table 3.25:** The Secretariat Report explains that in 2019 procurement by sub-central entities accounted for 91.9% of China's total value of government procurement in 2019, while procurement by the central Government accounted for 8.1%. In footnote 170, the Secretariat Report states that 31 provincial-level governments reported government procurement statistics to the central Government.
- Can China clarify whether these central and sub-central level totals include procurement by SOEs. If not, please provide any available data regarding SOE procurements?
- Does the China-provided sub-central data include data from any entities other than these 31 provincial-level governments? Is there any government procurement taking place in China that falls below the provincial level, such as in cities or towns? If so, does China have any estimates of the amounts that those levels of government are procuring?

Reply to the above two questions: The Government Procurement Law shall not be applicable to state-owned enterprises. Local government procurement data cover the total amount of local government procurement at all levels.

3.3.6.2 Legal and institutional framework 3.3.6.2

Page 100, Paragraph 3.212: The Secretariat Report explains that the Government Procurement Law is currently under amendment and that the Ministry of Justice is organizing a legislative review of the draft amendments.

- Could China please provide any updates on the status of this review and any anticipated timeline for adoption of the amended Government Procurement Law?

Reply: The Chinese Government is actively promoting the amendments to the Government Procurement Law and the Bidding Law. The timeline for completing the amendments depends on soliciting opinions from all parties concerned and the coordination with relevant departments.

- Do the the draft amendments to Government Procurement Law include a definition for "domestic goods, services, and construction works"? If the draft amendments do not include this definition, what is China's policy to ensure consistency across procuring entities in how they interpret these terms?

Reply: The draft amendments to Government Procurement Law do not include a definition for "domestic goods, services, and construction works". The Foreign Investment Law effective in January 2020 stipulates that the state ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law.

3.3.6.4 Other policy considerations in government procurement

Page 105, Paragraph 3.225 The Secretariat Report refers to China's "green packaging standards."

- What are China's requirements for "green packaging standards?" What targets have been set?
- How does China define "recyclable," "organic," and "renewable" in the context of "green packaging"?

Reply to the above two questions: China's "green packaging standards" refer to the environmental protection requirements for packaging stipulated in the Standards for the Requirements for Government Procurement of Commodity Packaging (For Trial Implementation) and Standards for the Requirements for Government Procurement of Express Packaging (For Trial Implementation). For the interpretation of the recyclable, organic and renewable, please refer to the specific contents of the above two requirements standards. For example, the requirement of product packaging that "packaging for paper products shall be produced with more than 75% renewable fiber raw materials" reflects "renewable".

3.3.7 Intellectual property rights 3.3.7

3.3.7.2 Institutional reforms and IP-related policies

Page 107, Paragraph 3.236: The Secretariat Report indicates that the China National Intellectual Property Administration published in May 2020 the Plan for Further Implementation of the National Intellectual Property Strategy to Accelerate the Construction of an Intellectual Property Power Country. The Secretariat Report indicates that the referenced plan lists measures relating to "reduc[ing] subsidies or rewards for utility model, design, and trademark applications."

- Please provide a listing of existing subsidies and rewards for domestic utility model, design, and trademark applications and indicate whether each is scheduled to be reduced or eliminated.
- Please explain whether the referenced measure applies to subsidies and rewards for applications for foreign patents and trademark.
- Please provide a list of all subsidies and rewards for applications and registrations for foreign patents and trademarks as well as for international trademark registration under the Madrid Protocol and international patent applications under the Patent Cooperation Treaty.

Reply to the above questions: China's economy is now shifting from high-speed growth to high-quality development. In order to meet the needs of economic and social development, in 2021, China National Intellectual Property Administration released a policy document regulating patent and trademark application behaviors, guiding local governments to adjust patent and trademark subsidy policies, and requiring that the subsidy of patent and trademark application stages at all levels be completely abolished. All localities shall not provide financial support to patent and trademark applications in any form including funds, rewards and subsidies. The scope of the existing local funding shall be limited to authorized invention patents (including invention patents authorized overseas through PCT and other means), and the funding method shall be post-authorization subsidy. Subsidies and rewards for domestic utility models, designs and trademark applications shall be cancelled.

China has had no policy of providing subsidies for patent application, granting and maintenance at the national level. In recent years, to promote regional innovation capability and encourage the development of small and medium-sized enterprises, some local governments formulated and issued relevant policies for the purpose of stimulating innovation according to local conditions within the scope of local powers, and the relevant policies have been issued and explained by local governments. These policies are targeted at small and micro enterprises, with equal treatment for domestic and foreign enterprises. Similarly, relevant policy adjustment measures shall also apply to subsidies and incentives for foreign patent and trademark applications.

Page 108, Paragraph 3.239: The Secretariat Report notes that "[t]he Copyright Act was revised in 2020."

- Article 24(13) of the new law authorizes exceptions and limitations to copyright and related rights for "other circumstances as provided in laws and administrative regulations." Will China's National Copyright Administration be the sole agency that will issue regulations establishing

exceptions and limitations beyond those currently enumerated in Article 24(1)-(12), or will other agencies, such as copyright departments at the provincial or local level, have a co-equal authority?

Reply: Laws and administrative regulations shall have the right to provide exceptions to other circumstances.

- Article 45 of the new law adds a right of remuneration for the public performance and broadcasting of sound recordings. Will the China Audio-Video Copyright Association (CAVCA) administer the new statutory license? What other collective management organizations will play a role in the administration of the Article 45 statutory license?
- Have sound recording producers begun receiving royalty distributions under the new license? If not, what is the estimated timeline for achieving this objective?
- Does national treatment apply to the new right of remuneration such that non-Chinese recording companies can begin receiving royalties?
- How does China's reservation under Article 15 of the WIPO Performances and Phonograms Treaty (WPPT) relate to the new Article 45?

Reply to the above questions: Regarding the broadcasting of phonograms, their dissemination to the public and remuneration, relevant departments will implement and adjust according to the newly revised Copyright Law. At present, China maintains the reservation to Article 15 of WPPT.

- Article 47 of the new law clarifies that the right of retransmission for broadcasting organizations covers both wired and wireless means. Does the language in Article 47(3) referring to "information network" indicate that broadcasting organizations now have a right of communication that covers on-demand and other interactive communications, or is the right of communication limited to non-interactive communications?
- What is the object of protection in Article 47? Is it the broadcasting signal, or the copyrighted program?
- Why has China not amended its implementing regulations to take account of the changes in the new copyright law?

Reply to the above questions: According to Article 47 of the Copyright Law, a broadcasting station or television station shall have the right to prohibit the following acts conducted without its permission: Rebroadcasting a radio or television program broadcast by it by wired or wireless means; Recording and reproducing a radio or television program broadcast by it; Disseminating a radio and television broadcast by it to the public via information networks. The protection target is "radio or television program broadcast", which is not simply equivalent to programs or broadcast signals, but radio and television associated with program signals when playing. After the implementation of the newly revised Copyright Law, its relevant supporting laws and regulations, including the Regulations for the Implementation of the Copyright Law, will also be revised accordingly, which is currently under preparation and research.

3.3.7.4 Copyright and related rights 3.3.7.4

Page 108, Paragraph 3.246: The Secretariat Report notes that "the National Copyright Administration administers copyright registration nationally. In the case of computer software, the Copyright Protection of China registers copyrighted works."

- Does the National Copyright Administration (NCAC) register all types of copyrighted works, or has NCAC delegated that administrative function to the Copyright Protection Center of China (CPCC)?
- Under the new copyright law, Article 7 provides that "the local copyright authority at or above the county level shall be in charge of the administration of copyright within its own jurisdiction." Prior to the amendment of the Copyright Act, Article 7 delegated copyright administration to the government of each province, autonomous region, or municipality, but not local copyright authorities. New Article 7 now covers local copyright authorities. Under new Article 7, can a copyright owner now register claims to copyright at the local level, or is it still advisable or required to seek registration with the Copyright Protection Center of China? What are the current registration application fees for copyrighted works, or is registration free?

Reply to the above questions: The National Copyright Administration of China (NCAC) is responsible for copyright management nationwide, including copyright registration management. The copyright bureaus of all provinces, autonomous regions and municipalities directly under the Central government shall be responsible for the registration of works of their respective jurisdictions

or other copyright owners; National Copyright Administration of China has recognized China Copyright Protection Center as the software registration authority. Relevant registration fees shall be collected by various registration agencies according to regulations, and some agencies are currently exempted from registration fees.

Page 109, Paragraph 3.247. The Secretariat Report notes that copyright registration is voluntary and is not a requirement for copyright protection. Does China collect data on the number of registration claims received and processed? If so, please provide this data for the review period. Have any trends in copyright registration been noted by the responsible agencies (e.g., NCAC and CCPC)?

Reply: In 2020, the total number of copyright registration exceeded 5 million, among which, the authorship registration totaled more than 3.31 million, up 22.75% year-on-year, and software copyright registration surpassed 1.72 million, up 16.06% year-on-year, while pledge registration of copyright was 384, a decrease of 153 cases compared with last year.

Page 109, Table 3.28: The Secretariat Report provides certain data relating to copyright management organizations in China.

- Is the information in Table 3.28 applicable to the year 2020, or does it represent an average of the fees collected and number of members during the past 3-year review period, i.e., since China's Trade Policy Review in 2018?
- The data provided by the Secretariat Report only reflect remuneration collected and does not indicate any data regarding distribution. How much of the revenue did these collective management organizations distribute to their members?
- Do these collective management organizations retain any fee for their services to their members? In the industry, this fee is sometimes called a management fee and is often stated in terms of a percentage of annual revenue. If so, please identify the fees retained by these collective management organizations.
- The United States understands that the Music Copyright Society of China (MCSC) has reciprocal agreements with foreign collective management organizations in the music industry. Please provide a breakdown of the collections MCSC received from, and distributed to, foreign collective management organizations for the period 2018-2020.
- The fees collected for the China Film Copyright Association as set forth in Table 3.28 (RMB 27,400) appear to be significantly lower than comparable fees listed in the 2018 Secretariat Report, which were reported to be RMB 160,000. Is there an explanation for this change?

Reply to the above questions: In 2020, the Music Copyright Society of China collected a total of RMB 408 million in royalties for music copyright, basically remaining unchanged from 2019; the China Audio-Video Copyright Association collected RMB 220 million in royalties for music copyright, showing a year-on-year decline; the China Written Works Copyright Society collected RMB 22.44 million in royalties, registering a year-on-year increase of 16%; The Images Copyright Society of China collected a total of over RMB 5 million in copyright royalties for the year; the China Film Copyright Association received EUR 3,500 in copyright royalties to be distributed from SGAE in 2020. For details, please refer to the official website of each collective management organization.

According to Articles 28 and 29 of the Regulation on the Collective Administration of Copyright, the organization for collective administration of copyright may withdraw a certain percentage of the royalties collected as management fees to maintain its normal business activities. The proportion of management fee collected by a collective management organization shall be gradually reduced with the increase of royalty income. The royalties collected by the collective management organization shall be fully transferred to the right holder after the management fees are deducted, and shall not be used for other purposes. In transferring royalties, the collective management organization shall prepare a record of such transfers, which should specify the total amount of royalties, the amount of management fees, the name or title of the right holder, the title of the work/audio and video products, the usage, the specific amount of royalties transferred to each right holder, etc., and should be kept for more than ten year. According to Article 22 of the Regulation on the Collective Administration of Copyright of China, the reciprocal agreements concluded between the copyright collective management organizations and its foreign counterparts shall be reported to the Copyright Administration Department of the State Council for record and shall be announced thereafter.

The fees charged by each collective management organization in China, the distribution ratio, and the relevant details can be viewed on their official websites.

3.3.7.5 Industrial property 3.3.7.5

3.3.7.5.2 Geographical indications 3.3.7.5.2

Page 110, Paragraph 3.258 : The Secretariat Report indicates that "[t]he CNIPA published Guidelines on Determining Common Names in Geographical Indication Protection (Draft) in 2020, clarifying the determining factors, cancellation, and other aspects of common names in terms of the common name determination in GI protection." What is the current status of those draft guidelines? What is the current status of the Provisions for the Protection of Geographical Indications (Draft for Comment) issued by CNIPA on September 24, 2020?

Reply: In early 2021, the China National Intellectual Property Administration and the State Administration for Market Supervision jointly issued the Guiding Opinions on Further Strengthening the Protection of Geographical Indications, with the relevant requirements having been considered and reflected in the Guideline. The Guideline has not taken effect yet. The Provisions for the Protection of Geographical Indications (Draft for Comment) was made available for public consultation between September and October 2020, and the feedback is still being examined for further revision and improvement of the regulations.

3.3.7.5.3 Patents 3.3.7.5.3

Page 111, Paragraph 3.261: The Secretariat Report indicates that no patent-related compulsory licenses had been granted as of the date of the report. Has China issued any compulsory licenses after the issuance of the Secretariat Report?

Reply: Chapter 6 of the Patent Law of China stipulates the applicable conditions for the compulsory licensing. In addition, it also sets forth the supporting departmental regulations of the Measures for Compulsory Licensing of Patent Implementation. Until now, no compulsory licenses have been issued.

3.3.7.5.7 New plant varieties 3.3.7.5.7

- **Page 114, Paragraph 3.278:** The Secretariat Report indicates that China has acceded to the 1978 Act of the International Convention for the Protection of New Varieties of Plants (UPOV 1978) in 1999. Please explain China's rationale for not acceding to UPOV 1991?

Reply: China is working on it.

3.3.7.5.8 Undisclosed information and trade secrets

Page 115, Paragraph 3.284: The Secretariat Report describes the legal framework for the protection of undisclosed information and trade secrets in China.

- Why did China reject recommendations to reduce disclosures required at the time that cosmetics products and ingredients are filed under the new Cosmetics Supervision and Administration Regulation (CSAR) (G/TBT/N/CHN/1310 came into force on May 1, 2021) to only what is necessary for its regulatory obligations, so as to minimize the risks of unauthorized disclosures.
- Will China provide an update on the plans of the National Medical Products Administration and the State Administration for Market Regulation (SAMR) to develop mechanisms and procedures to protect confidential business information and trade secrets marked as such by U.S. cosmetics and cosmetics ingredient companies, when cosmetics and cosmetics ingredients are registered or notified via the new Cosmetics Supervision and Administration Regulation (CSAR) (G/TBT/N/CHN/1310), which came into force on May 1, 2021?

Reply to the above two questions: For the question on trade secrets and intellectual property protection, according to the Cosmetics Supervision and Administration Regulation, to further regulate the registration and filing management of cosmetics and new cosmetic ingredients, Measures for the Administration of the Registration and Recordation of Cosmetics, Provisions for Administration of New Cosmetic Ingredient Registration and Recordation, and Provisions for Administration of Cosmetics Registration and Dossiers elaborate on the workflow and information requirements for the registration and filing of cosmetics and new ingredients. It requires the registrant and the filer to submit safety-related information, which is also the prevailing rule for the inspection of health-related product safety in other countries. Registration and filing Information submitted by enterprises such as a brief description of the production process, and raw materials production process, is not supposed to be publicly disclosed by the government. The disclosure of government information is a measure by the Chinese government to accept social supervision and

protect the public's right to know. According to the Regulation on the Disclosure of Government Information, the administrative authorities shall not disclose government information that involves trade secrets, personal privacy, etc. where disclosure can cause damage to the legitimate rights and interests of third parties. Therefore, the question of damage to the trade secrets and intellectual property rights of enterprises does not apply.

China attaches great importance to the protection of trade secrets of enterprises. The trade secrets of parties concerned should be kept confidential as required by Article 47 of the Regulations on the Supervision and Administration of Cosmetics, and the Measures for the Administration of Registration and Recordation of Cosmetics issued on January 7, 2021. Having taken full account of the protection of intellectual property rights and trade secrets of enterprises, China proposed in the process of developing the relevant technical documents, that a summary of the basis for cosmetics efficacy claims should be submitted instead of the full text for the assessment of cosmetic efficacy claims; the technical requirements for the disclosure of new raw materials only contain basic information on raw materials, without requiring the disclosure of complete technical information. Regulatory authorities also strictly comply with the principle of protecting corporate trade secrets in the cosmetic registration and filing management.

For the question of submitting information related to the safety of cosmetic ingredients. Product safety is closely connected with the safety of raw materials, requiring registrants and filers in the application for registration, to clarify the safety related information of raw materials, which is an important measure to ensure product safety. Meanwhile, to facilitate cosmetic registrants and filers to fill out the safety-related information of raw materials, the National Medical Products Administration issued the Provisions for Administration of Cosmetic Registration and Dossiers, which clearly states that if the raw material manufacturer has submitted safety-related information of raw materials in accordance with the requirements, the registrant and the filer only need to fill out the raw material submission code for relevance.

Page 115, Paragraph 3.287: The Secretariat Report addresses the types of trade secret misappropriation made actionable under the Criminal Law. Does the Criminal Law address trade misappropriation by physical intrusion? If so, please identify the relevant provision of the Criminal Law.

Reply: According to Article 219 of the Criminal Law of the People's Republic of China, whoever engages in one of the following activities which encroaches upon commercial secrets shall be subjected to conviction and punishment for infringement of commercial secrets: (1) acquire a rightful owner's commercial secrets via theft, lure by promise of gain, threat, or other improper means; (2) disclose, use, or allow others to use a rightful owner's commercial secrets which are acquired through the aforementioned means; (3) disclose, use, or allow others to use, in violation of the agreement with the rightful owner or the rightful owner's request of keeping the commercial secrets, the commercial secrets he is holding. Theft of commercial secrets includes theft of trade secret carrier in a tangible manner and other acts.

The "three-in-one" trial of civil, administrative and criminal cases involving intellectual property rights refers to the unified acceptance of civil, administrative and criminal cases by courts with jurisdiction over intellectual property civil cases. The Opinions of the Supreme People's Court on Promoting the "Three-in-One" Trial of Civil, Administrative and Criminal Cases Involving Intellectual Property Rights in Courts Nationwide (Fa Fa [2016] No.17) provide for the promotion of the "three-in-one" trial.

Pages 115-16, Paragraph 3.287: The Secretariat Report references an amendment to the "prerequisite for constituting a crime" of trade secret misappropriation. Effective March 1, 2021, an amendment to Article 219 of the Criminal Law changed the standard from "significant losses" to circumstances that are "serious" or "especially serious." Separately, the Notice by the Supreme People's Procuratorate and the Ministry of Public Security of Issuing the Decision on Amending the Criteria for Launching Formal Investigation into Criminal Cases of Infringement upon Trade Secrets (2020) provides the standard for the initiation of a formal investigation. Consistent with the "significant losses" standard in place at the time the Notice was issued, the Notice indicates that an investigation will not be initiated unless the victim of the alleged trade secret misappropriation has suffered losses of a specified minimum magnitude or the alleged violator has illegal gains of a specified minimum magnitude. The Notice is still in effect even though Article 219 no longer requires a showing of losses but rather a showing of circumstances that are "serious" or "especially serious."

When will the Supreme People's Procuratorate and the Ministry of Public Security amend the standard for the initiation of a trade secret investigation to bring it in line with the amendment of Article 219?

Reply: China is working on it.

3.3.7.6 Enforcement 3.3.7.6 3.3.7.6

3.3.7.6.2 Administrative procedures 3.3.7.6.2

Page 117, Paragraph 3.293: What is the relationship between the National Copyright Administration and the province-level copyright administrative authorities? What duties fall under the local administrative authorities that do not fall under the National Copyright Administration?

Reply: According to Article 7 of China's Copyright Law, the competent department of the national copyright authority is in charge of the national copyright management; local departments in charge of copyright at or above the county level are responsible for the copyright management in their administrative regions.

3.3.7.6.3 Judicial measures 3.3.7.6.3

Page 118, Paragraph 3.299: The Secretariat Report mentions that the courts have "made efforts to achieve coordination and proportionality between compensation for infringement damages and the market value of IPRs." What were those efforts? How is the proportionality between infringement damages and market value determined? What is the ideal or optimum proportionality being sought?

Reply: I. 1. We have increased compensation for infringement, introduced judicial interpretations to improve the punitive compensation system, and increased the punishment for malicious, repeated and other serious infringement of IPRs, so as to effectively deter infringers and ensure that "all losses are compensated and all punishments are appropriate." 2. In the event that the right holder has difficulty in proving the total loss or infringement profit, the burden of proof will be appropriately reduced through the use of evidence preservation.

II. According to laws and regulations, there are three methods of calculating compensation for intellectual property infringement. First, the actual economic loss caused by the infringer to the right holder. Second, all the profits gained by the infringer as a result of the infringement. Third, in the event that the aforementioned specific amount cannot be determined, the degree of infringement, the consequences of infringement, subjective fault and other factors shall be taken into account. Due to the intangible nature of intellectual property rights, the precise calculation of compensation for infringement is a global problem. In this regard, Chinese courts have been committed to achieving coordination and proportionality compensation for infringement damages and the market value of IPRs.

Page 118, Paragraph 3.300

Please describe how the "Three-in-One" trial system works.

Reply: The "three-in-one" trial of civil, administrative and criminal cases involving intellectual property rights refers to the unified acceptance of civil, administrative and criminal cases by courts with jurisdiction over intellectual property civil cases. The Opinions of the Supreme People's Court on Promoting the "Three-in-One" Trial of Civil, Administrative and Criminal Cases Involving Intellectual Property Rights in Courts Nationwide (Fa Fa [2016] No.17) provide for the promotion of the "three-in-one" trial.

Page 119, Paragraph 3.302: The Secretariat Report mentions the Supreme People's Court's list of top 10 IP law cases of 2019. What determinations factor into naming a case as a top 10 IP law case? What are the effects of a case being named a top 10 IP law case?

Reply: The annual top 10 IP law cases and top 50 typical IP law cases are named on the basis of public voting and expert selection. They may serve as reference cases.

4 TRADE POLICIES BY SECTOR

4.1.2 Agriculture 4.1.2

4.1.2.1 Features and market development 4.1.2.1

Page 120, Paragraph 4.2: The challenges of the African Swine Fever amongst China's domestic swine herd are well documented in Chinese official reports and statistics.

- Please provide a comprehensive list of national and sub-national support programs that were introduced to provide support to the swine sector, including both businesses and farmers.

Reply: Please refer to China's upcoming domestic support notification for agriculture.

- What is China's policy on submitting its domestic support notifications to the WTO?

Reply: China will soon submit the notification of domestic support for agriculture.

4.1.2.4 Policy instruments

4.1.2.4.2 Measures affecting exports

Page 126, Paragraph 4.18: According to the Secretariat Report, no data were available on food aid provided by China during the review period. The United States notes that in responding to the ECQ and AG-IMS, China stated that it has provided food aid through both multilateral and bilateral channels, but it has never notified Table ES:3 and NF:1. What is China's policy on providing these food aid notifications to the WTO?

Reply: In response to appeals from the international community and requests for emergency humanitarian assistance from the countries concerned, China has provided multi-bilateral emergency food aid to the countries concerned. The emergency food aid provided by the Chinese government is non-reimbursable and in full compliance with WTO regulations. It also requires the countries concerned to arrange the use of food aid provided by China in a manner consistent with WTO rules, and calls for the recipient countries not to monetize or re-export emergency food aid. The above-mentioned emergency food aid has played a positive role in alleviating the humanitarian crisis in the countries concerned and has received unanimous praise from the international community and the countries concerned.

Page 127, Paragraph 4.20: The Secretariat Report indicates that China's state trading enterprises (STEs) have the exclusive right to import or export several products, including wheat, maize, sugar, rice, cotton, and several other products. The United States notes that wheat and wheat flour are subject to export quotas, which are managed by the National Development and Reform Commission and the Ministry of Commerce, and are allocated only to STEs. Please explain whether STEs with export quota allocation for wheat and wheat flour should be notified in the export competition questionnaire (ECQ).

Reply: Please refer to the latest state trading notification submitted by China for the relevant information of state trading enterprises. According to the Measures for the Administration of Export Commodity Quotas (MOFTEC Order No. 12 of 2001), the allocation of quotas shall take into full consideration the export performance, quota utilization rate, operating capacity, production scale and resource status of the commodity in the last three years for the applicant enterprise or region. Apart from a small amount allocated to COFCO Group, China's export quota for wheat flour is mostly allocated to non-state trading enterprises, rather than only to state trading enterprises. Enterprises receiving export quotas can make their own choice of export timing and export countries. We are not obliged to inform about the exact number of export quotas allocated.

Page 127, Paragraph 4.21 and Table 4.7: According to the Secretariat Report, Table 4.7 describes the size of China's export quotas for maize, rice, and wheat flour by state trading enterprises (STEs) in 2018, 2019, and 2020.

- Please describe how export levels are determined by the STEs. How much was held in public stocks? If applicable, what year were those stocks procured?
- Please describe how the sale contracts are negotiated by the STEs, and whether the sales are government-to-government credit agreements.

Reply: Please refer to the latest state trading notification submitted by China for information on state trading enterprises.

4.1.2.4.3 Internal measures 4.1.2.4.3

4.1.2.4.3.2 Price controls and market price support systems

Page 129-130, Paragraph 4.25: The Secretariat Report indicates that China has a minimum purchase price for rice and wheat meeting minimum requirements as part of its market price support systems.

- With reports of corn and pork auctions, please confirm whether rice and wheat are the only commodities benefitting from a minimum purchase price support mechanism.

Reply: China only implements a minimum purchase price for rice and wheat in major producing areas.

- Please provide the value levels of nationwide support issued for China's agricultural commodities by year.
- Please explain why China has not calculated the level of support as the amount equal to total Chinese production of these commodities and the price support level guaranteed for each commodity.

Reply to the above questions: China only implements a minimum purchase price for rice and wheat in major producing areas. China will soon submit a notification on domestic support for agriculture.

4.1.3 Fisheries 4.1.3

4.1.3.1 Features and market developments

Page 133, Paragraph 4.34: The Secretariat Report states that between 2015 and 2019 there was a downward trend in employment, the number of fishing vessels, and the marine catch. However, efforts taken to address illegal fishing are not outlined in detail.

- Is the reduction in employment, the number of fishing vessels, and the marine catch due to an increase in illegal fishing?

Reply : The reduction in employment, the number of fishing vessels, and the marine catch does not relate to illegal fishing.

- How does this reduction compare to numbers from distant water fishing, which appear to be underreported?

Reply : During the period between 2016 and 2020, China did not approve any new distant water fishing enterprises or vessels, and kept the total number of its approved distant water fishing vessels around 2700. Requirements stipulated by the RFMOs on the limitation of the number and total tonnage of fishing vessels, stock-specific fishing quota and conservation and management measures relating to closed fishing areas and closed fishing seasons are strictly observed. The annual catch by China's distant water fleets has been stabilized at around 2.3 million tons.

- How will China prevent or mitigate spillover from legal to illegal fishing practices?

Reply: There are two main reasons for the decline of legal fishing vessels: First, China has implemented the policy of fishing vessel reduction and/or conversion, and provided corresponding subsidies. Second, fishing is a tough industry. With the economic and social development in China, there are more employment options for labor forces, making fishing less attractive. There is no evidence indicating that the decline in legal fishing has led to an increase in illegal fishing.

4.1.3.2 Legal, institutional, and policy framework

Page 135, Paragraph 4.37: According to the Secretariat Report, the Chinese authorities indicated that they are taking steps to introduce a total allowable catch system for fisheries. However, details about this system have not been released.

- Please describe China's current fishery management system within its Exclusive Economic Zone (EEZ). What is the status of China's stocks within its EEZ? Is the status of China's stocks public information? If so, where can it be found?

Reply: China implements a total management system for marine fishery resources in waters under its jurisdiction and a "dual control" system for the number of fishing vessels and the power of main engines. Relevant Chinese research institutes continue to carry out investigations and assessments on fishery resources in exclusive economic zones and publicly release relevant scientific research achievements as appropriate.

- Is China's move toward a total allowable catch system a result of the depletion of China's domestic fishery resources? In association with the introduction of catch limits, what is China's policy regarding providing greater transparency in China's domestic fishery stock assessments?

Reply: China has implemented a series of fishery management measures, such as, dual control of fishing vessels and total management system, to promote the coordinated development of fishing capacity, volume of catches and carrying capacity of fishery resources, thus realizing the sustainable utilization of marine fishery resources. China has set up the National Committee of Experts on Marine Fisheries Resource Assessment, and has enlisted fishermen's representatives and relevant industry associations to participate in the resource survey and assessment.

- Can China clarify whether its catch limits apply to distant water fisheries as well as domestic fisheries?

Reply: During the period between 2016 and 2020, China did not approve any new distant water fishing enterprises or vessels, and kept the total number of its approved distant water fishing vessels around 2700. Requirements stipulated by the RFMOs on the limitation of the number and total tonnage of fishing vessels, stock-specific fishing quota and conservation and management measures relating to closed fishing areas and closed fishing seasons are strictly observed. The annual catch by China's distant water fleets has been stabilized at around 2.3 million tons.

- Are vessels' compliance with total allowable catch limits used as a factor to determine vessels' eligibility for fishery subsidies and vessel licensing requirements?

Reply: Article 3 of the Provisions on the Administration of Fishing Licenses stipulates that the state shall manage the control quota for vessel and net devices, and implement the fishing license system and fishing quota system. The state shall, on the basis of the changes in fishery resources and the environmental conditions, determine the control quota for vessel and net devices and control the total fishing capacity and the number of fishing licenses. Article 9 stipulates that the competent fishery departments under the local people's governments at or above the county level shall control the number and power of marine fishing vessels within their respective administrative regions within the scope of control quota for vessel and net devices issued by the state or the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government. Article 20 stipulates that for varieties or water areas under the management of fishing quota, operation shall be conducted according to the fishing quota prescribed. Article 41 stipulates that for a fishing vessel subject to management of fishing quota, not exceeding quota is a necessary condition for passing the annual examination of fishing license.

Regarding the granting of fishery subsidies related to fishing vessels, holding a qualified fishing license is a necessary condition for a fishing vessel to receive subsidies.

Page 135, Paragraph 4.37: The Secretariat Report states that a revision to the Fisheries Law was drafted and comments were solicited in 2019. As of April 2021, the law is still under revision. Among the proposed revisions were strengthening management of fishing vessels and licenses, and responses to problems such as illegal shipbuilding, inconsistent ship certificates, and off-site anchoring. The Secretariat Report also references the establishment of a total allowable catch system. Does the Fisheries Law govern China's distant water fishing fleet, and will the revision address growing issues such as labor practices aboard vessels? Much of the focus seems to be on catch that is marketed domestically, and not for export.

Reply: The Fisheries Law governs China's distant water fishing fleet. China puts a high value on the protection of the rights and interests of fishermen. Provisions on protecting labor rights and personal safety of fishing crew are explicitly stipulated in the Administrative Measures on Fishing Crew, the Regulations on Administration of Distant Water Fishery, and the Circular on Strengthening Management on Foreign Crews in Distant Water Fishing Vessels, etc. Measures have been taken, such as increasing training for fishery companies and crews, requiring timely remuneration to crew members, improving working and living conditions as well as safety for crew on board, and providing medical treatment and psychological help for the sick crew in a timely manner via sending hospital ships and providing basic medicines. China's administrative authorities have made it a key task to strengthen supervision of the safety conditions of distant water fishing, and hold the legal representatives of fishery companies, project managers and captains responsible for work safety. Meanwhile, the government will also provide support for fishing vessels to install lifesaving equipment, communication, navigation and environmental protection facilities so as to ensure safety of fishing crew. China will keep on enforcing the safety regulations of fishing activities and take concrete actions to safeguard the legitimate rights and interest of fishing crew and fishermen.

Chinese distant water fisheries companies have independently established labor service cooperation relations with relevant labor source countries through market-based approaches in accordance with international practices in distant water fisheries, achieving mutual benefit and win-win results. Therefore, there is no issue of growing labor practices aboard vessels.

Page 135, Paragraph 4.39: The Secretariat Report notes that the 13th Five-Year Plan on Fishery Development (2016 - 2020) includes a "going out" strategy to support the orderly development of deep sea fisheries and strengthening bilateral and multilateral fishery cooperation. Can China provide more details regarding its "going out" strategy in connection with addressing harmful fishing practices?

Reply: In accordance with the rights granted by the international law and relevant bilateral cooperation agreements, China has conducted rational development and utilization of international living marine resources by developing distant water fisheries. In order to responsibly develop distant water fisheries, China attaches great importance to the scientific conservation and sustainable utilization of fishery resources and actively fulfills its international obligations. By formulating and revising laws and regulations, such as, the Regulations on Administration of Distant Water Fishery, China has established a sound administration system for distant water fisheries, and implemented the strictest measures for monitoring and administration of positions of fishing vessels. In particular, in recent years, China has voluntarily imposed a fishing ban on part of the high seas and strictly supervised the transshipment activities on the high seas. China has joined eight regional fisheries management organizations, ranking among the top in terms of compliance. In addition, China actively works with the international community to severely crack down on IUU fishing activities.

Page 135, Paragraph 4.39: The Secretariat Report indicates that one of the elements of the 13th Five-Year Plan on Fishery Development (2016 - 2020) is to increase public financial investment in the fisheries sector to, *inter alia*, establish a policy support system that is conducive to the development of modern fisheries. Elements include reform and improvement of the fishery oil price subsidy and a focus on supporting the reduction in the number of boats, the renovation and transformation of fishing vessels, the construction of artificial reefs, the maintenance and transformation of fishing ports, the standardization of ponds, the further development of factory-based aquaculture and subsidies for banned fishing. Has China introduced measures to implement elements referenced above? If so, what are the measures?

Reply: Yes, the above-mentioned points have been implemented. With respect to the fisheries subsidies, the main support at the central level includes stock enhancement, aquatic animal epidemic prevention, renovation and transformation of fishing vessels, aquatic breeding project, support to fishermen and enterprises involved in the reduction of the number of fishing vessels and no longer engaging in fishing, and whose fishing vessels are dismantled or transformed into artificial reefs. Some support is provided to fisheries resource conservation, subsidies for banned fishing, fishery and fishery administration informatization construction, navigation sign-post construction in fishing ports, fishing vessel pass guide and safety equipment construction, standardized and plant-based recycling water transformation in ponds and other aquaculture infrastructure construction. The specific content of the subsidies has been notified to the WTO.

Page 135, Paragraph 4.39: The Secretariat Report describes how the 13th Five-Year Plan on Fishery Development (2016-20) also includes principles related to people-oriented development and strengthened rule of law. How are these principles being applied to improve labor conditions and harvesting practices in China's distant water fleet? Are there ways they are being extended to fleets with beneficial Chinese ownership operating under other flags?

Reply: China puts a high value on the protection of the rights and interests of fishermen, especially in the distant water fishing area. Provisions on protecting labor rights and personal safety of fishing crew are explicitly stipulated in the Administrative Measures on Fishing Crew, the Regulations on Administration of Distant Water Fishery, and the Circular on Strengthening Management on Foreign Crews in Distant Water Fishing Vessels, etc. Measures have been taken, such as increasing training for fishery companies and crews, requiring timely remuneration to crew members, improving working and living conditions as well as safety for crew on board, and providing medical treatment and psychological help for the sick crew in a timely manner via sending hospital ships and providing basic medicines. China's administrative authorities have made it a key task to strengthen supervision of the safety conditions of distant water fishing, and hold the legal representatives of fishery companies, project managers and captains responsible for work safety. Meanwhile, the government

will also provide support for fishing vessels to install lifesaving equipment, communication, navigation and environmental protection facilities so as to ensure safety of fishing crew. China will keep on enforcing the safety regulations of fishing activities and take concrete actions to safeguard the legitimate rights and interest of fishing crew and fishermen.

4.1.3.3 Government support to the fisheries sector

Page 136, Paragraph 4.40: The Secretariat Report states: "According to the authorities, the Government will shortly issue a new policy to terminate fuel and boat construction subsidies, with the last of these pay-outs being made at end-2020." Does this include fuel subsidies to distant water fleets flagged to China?

Reply: As stipulated in the Circular on Implementing Policy to Support Development of Fishery Sector to Promote High-Quality Development of Fishery Sector (Circular Cai Nong [2021] No. 41) issued in May 2021, China has abolished fuel subsidies which directly cover the cost of fishing, and redirected the subsidies towards supporting national marine ranching and fisheries infrastructure construction, boosting green and circular development of fisheries sector, enhancing compliance capability with respect to international obligations and promoting oceanic resources conservation. The new subsidies policy, featuring the objective of green development, is designed to incentivize fishermen to preserve fisheries resources, reduce fishing intensity and promote the sustainable utilization of marine fishery sources.

Page 136, Paragraph 4.40: The Secretariat Report notes that the Chinese authorities have indicated that they will soon introduce a new policy halting fuel and boat construction subsidies, with payouts for these programs ending at the end of 2020. Did payouts for these programs end at the end of 2020 or have they continued during 2021? If the payouts ended, have fuel and boat building subsidies been replaced by new forms of government support? If the payouts continued, has the annual amount of support remained approximately the same as under the fuel and boat building subsidies from 2018-2020?

Reply: As stipulated in the Circular on Implementing Policy to Support Development of Fishery Sector to Promote High-Quality Development of Fishery Sector (Circular Cai Nong [2021] No. 41) issued in May 2021, China has abolished fuel subsidies which directly cover the cost of fishing, and redirected the subsidies towards supporting national marine ranching and fisheries infrastructure construction, boosting green and circular development of fisheries sector, enhancing compliance capability with respect to international obligations and promoting oceanic resources conservation. The new subsidies policy, featuring the objective of green development, is designed to incentivize fishermen to preserve fisheries resources, reduce fishing intensity and promote the sustainable utilization of marine fishery sources.

The highlight of this reform is that, for the first time, China made it a key part of the overall fisheries subsidies policies to support the survey and conservation of fisheries resources and compliance capability enhancement with respect to international obligations on distant water fisheries. The subsidy amount is determined on the annual rating of the distant water fisheries companies and their vessels on their compliance performance. In this way, fishing companies and fishermen are incentivized to meet international conservation obligations and preserve international fisheries resources. At the same time, subsidies for the survey on global fisheries resources will provide further scientific support on conservation and sustainable utilization of high seas fishery resources. It is worth noting that the new subsidy policy is a significant policy adjustment made by China to follow the general direction set by the WTO fisheries subsidies negotiations. It is conducive to restoring oceanic resources, protecting ocean ecosystem and promoting sustainable development of global fisheries resources.

Page 136, Paragraph 4.40: The Secretariat Report states that, according to the Chinese authorities, the Chinese Government will shortly issue a new policy to terminate fuel and boat construction subsidies. Has China issued this policy since the drafting of this report? If so, how has this policy been implemented. If not, which fuel and boat construction subsidies will be terminated in the current draft of the policy? How does this new policy relate to the 13th Five-Year Plan on Fishery Development (2016-20), particularly its goal to establish a policy support system that is conducive to the development of modern fisheries?

Reply: The new policy has been released and implemented. In May 2021, the Ministry of Finance and the the Ministry of Agriculture and Rural Affairs issued the Circular on the Implementation of

Fishery Development Support Policies to Promote the High-Quality Development of Fisheries, with the following main support directions. (i) Fisheries development subsidies mainly support the key projects incorporated into national key projects and the upgrading and replacement of fishery facilities and equipment to promote safe production, and other aspects. (ii) Other general transfer payments mainly support local governments to coordinate the promotion of high-quality development of fisheries in the local region. During the "14th Five-Year Plan" period, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs will conduct a mid-term evaluation of the implementation and effectiveness of the policy throughout China, and according to the results of the evaluation and changes in the situation, make dynamic adjustments to the scale of local funds. The new policy mainly serves the 14th Five-Year Plan on Fishery Development" (2021-2025) (not yet available, under preparation).

4.1.3.4 Fisheries conservation measures

Page 136, Paragraph 4.43: According to the Secretariat Report, the Chinese authorities have stated that China has taken steps to limit illegal, unreported, and unregulated (IUU) fishing activities and to strengthen monitoring and control of the fisheries industry while undertaking investigations into and administering penalties for illegal fishing activity and enterprises.

- Do China's anti-IUU fishing efforts apply to distant water fishing vessels that are owned and operated by Chinese companies but registered in and fly the flag of a third country? What laws and regulations apply to such vessels? Does China work with foreign countries and organizations to ensure that these vessels are properly monitored and controlled? If so, how?

Reply: China actively joins the relevant RFMOs, legally engages in offshore fishing activities under the jurisdiction of RFMOs, and effectively fulfills the obligations as a RFMO member. In recent years, China's compliance performance in offshore fisheries has ranked among the top RFMOs such as the IOTC, and the level of compliance has improved year by year. Since 2020, China has established a compliance evaluation mechanism for pelagic fishery enterprises to quantitatively evaluate the annual compliance performance of offshore fishing enterprises and their fishing vessels, and used the compliance evaluation results as the basis for implementing incentives and penalties. As a member of eight RFMOs, China has supported the inclusion of illegal fishing vessels in the RFMO IUU fishing list, and cooperated with coastal countries to jointly combat illegal fishing activities. Bilateral fisheries dialogues and consultation mechanisms have been established the US, EU, Australia, New Zealand, Argentina and other countries to exchange experiences and practices in combating IUU fishing.

- Does China keep records of distant water fishing vessels that are Chinese-owned and operated but registered in and fly the flag of a third country? How does China make this information available to international observers?

Reply: China has established regulatory regimes on distant water fisheries compatible with international norms. Regulations on Administration of Distant Water Fishery and the Management Measures for Monitoring of Distant Water Fishing Vessels' Position have been amended, and relevant implementing measures such as the Circular on Strengthening the Management of Transshipment on High Seas in Distant Water Fisheries and the Detailed Rules on Implementation of National Observer Administration on Distant Water Fisheries were issued. The licensing and approval system for distant water fisheries, as well as systems for data collection and reporting, fishing vessels' position monitoring and electronic fishing log books, are enforced and improved specifically for distant water fisheries. China prohibits distant water fisheries companies, vessels and crews from engaging in, supporting or assisting IUU fishing. With the strengthening of its overall regulatory systems, China is making continuous efforts to develop its distant water fishery sector in a regulated and orderly manner.

- How many fishery access agreements, fishery cooperation agreements, fishery base agreements, and other fishery arrangements does China have with other countries? Do these agreements have provisions that ensure the sustainability of the stocks being fished?

Reply: China carries out cooperation in fisheries with many Asian countries including Malaysia and Thailand, many African countries including Mauritania and Ghana, South American countries including Argentina and Uruguay, and Pacific Island countries including Papua New Guinea and Micronesia, and holds regular bilateral fisheries dialogues with the United States, the European Union and Russia. Fisheries cooperation agreements take a variety of forms, ranging from intergovernmental agreements to business-to-government agreements to business-to-business

agreements. The intergovernmental agreements and intergovernmental dialogues cover a number of topics, such as establishing regular meeting mechanisms, strengthening bilateral cooperation in areas such as trade, technology, and training, law enforcement supervision and information exchange, joint resource surveys, and cooperation in combating illegal fishing.

4.2 Mining and Energy

4.2.2 Energy

4.2.2.1 Overview including environmental policy

Page 142, Paragraph 4.61: The Secretariat Report states that China is optimizing its energy system, promoting energy production and consumption reform, and building a clean, decarbonized, safe and efficient modern energy system. The Secretariat Report also states that coal continues to represent a large part of the country's primary energy and is the main cause of air pollution. Would China please explain how it plans to decarbonize its electrical system and reform the coal sector of its energy economy to reduce coal consumption?

Reply: China attaches great importance to optimizing energy system and promoting green and low-carbon energy development. In the past five years, by vigorously developing non-fossil energy and implementing electric energy substitution, China's coal consumption as a percentage of energy consumption has decreased by approximately 7 percentage points. By 2020, the proportion of coal in total energy consumption had been reduced to 56.8%. China has proposed to strictly control coal fired power projects, including tight control over coal consumption growth in the 14th Five-Year Plan period and gradual reduction in the 15th Five-Year Plan period. To further reduce the proportion of coal consumption and carbon emissions, first, we implement alternative renewable energy actions, pushing forward the development and utilization of non-fossil energy such as water, wind, solar, biomass and geothermal energy. By 2025 and 2030, non-fossil energy will account for about 20% and 25% of energy consumption, respectively. By 2030, total installed capacity of wind and solar power generation will reach more than 1.2 billion kilowatts. Second, we continue to advance electric energy substitution, such as the promotion of industrial electric boilers, electric kilns, etc., to drive clean heating in northern areas. Third, we promote the clean and efficient use of coal, and push forward the ultra-low emission and energy-saving transformation of coal fired generating units, to reduce coal burning. Fourth, we actively carry out research and demonstration of carbon dioxide capture, utilization and storage technology.

4.3.2 Selected subsectors

4.3.2.2 Machinery and equipment

Page 151, Paragraph 4.112: The Secretariat Report indicates that special funds from the central budget were set to be earmarked to support robotics research and development. What are the intended uses of the special funds? Has China introduced measures to appropriate the special funds? If so, what are the measures?

Reply: China has not set special funds from the central budget to support robotics research and development.

4.3.2.3 Iron and steel

Page 152, paragraph 4.116: The Secretariat Report notes that ongoing efforts in China to eliminate overcapacity in the steel industry are guided by government policies, specifically the Opinions on Reducing Overcapacity in the Steel Industry to Achieve Development by Solving Difficulties, which ostensibly prohibits the building up of new steel capacity. Under this policy, China planned to cut 150 million tons by 2020 to bring capacity closer to consumption. However, the OECD estimates that nominal crude steel making capacity in China continued to rise from 2018 levels, reaching approximately 1.12 billion metric tons in 2020. The OECD also found that approximately 39.4 million tons of capacity investments are planned or currently underway in China.

- Given the continued rise in China's steel capacity despite policies to reduce overcapacity in the steel sector, what additional steps has China taken to accelerate steel capacity reduction plans?

Reply: Data on China's steel production capacity should be subject to the data submitted by the Chinese government to the Global Forum on Steel Excess Capacity (GFSEC) and the data from the external bulletin of the National Bureau of Statistics. We are not sure of the source and basis of the data of the report issued by the OECD, and we do not think it is appropriate to use it as a basis for evaluating China's steel production capacity. Since 2016, China has strictly implemented the capacity replacement policy for the construction of steel projects. The Ministry of Industry and Information

Technology (MIIT) has formulated the Notice on the Issuance of Implementation Measures for Capacity Replacement in the Steel Industry (MIIT Original [2021] No. 46), which requires all steel project construction to strictly implement the capacity reduction and replacement policy, with a reduction and replacement ratio of 1.5:1 in key areas and 1.25:1 in other areas. Steel projects under construction in China, all premised on capacity replacement, are of a completely different nature than the building up of new steel capacity. The construction of these projects is subject to the withdrawal of the corresponding existing capacity to achieve the goal of reducing and adjusting the stock of capacity.

- Does China agree that the need for government policy directives indicates that market forces are weak or nonexistent in China?

Reply: China does not agree with the statement that "China's market forces are weak or nonexistent". "Government policies and directives" is China giving decisive role to market in resource allocation and the specific embodiment of better playing government role. This assertion reflects the consistent "double standard" approach of the United States, which on the one hand imposes the label of "market distortion and government subsidies" on the production and operation of Chinese steel enterprises following market principles, and demands that the Chinese government should strengthen its intervention and increase its efforts to reduce production overcapacity; on the other hand, it questions China's market power is weak or nonexistent.

Page 152, Paragraph 4.117: The Secretariat Report notes that, according to the Chinese authorities, zombie companies in the steel industry have been largely dismantled.

- Can China identify how many zombie companies in the steel industry have been dismantled since China's last Trade Policy Review in 2018?
- When the Chinese authorities state that zombie companies in the steel industry have been "dismantled," are they referring to a zombie company being liquidated through bankruptcy, or are they referring to a zombie company that has been acquired by or merged with another company, or both? If both, please indicate how many zombie companies in the steel industry have been dismantled by liquidation through bankruptcy versus by acquisition or merger since China's last Trade Policy Review in 2018.

Reply to the above two questions: From 2016 to 2019, a total of 64.74 million tons of crude steel production capacity of "zombie enterprises" or enterprises with the characteristics of "zombie enterprises" were withdrawn.

4.3 Manufacturing

Page 153, Paragraph 4.124: The Secretariat Report states that, with regard to the National IC Industry Investment Fund, the Chinese authorities have stated that this Fund is not affiliated with any government authority. The Secretariat Report then cites OECD documentation of the Fund's shareholdings as of October 2019, which include 11.02% of shares held by the Ministry of Finance, 10.77% of shares held by China Development Bank Capital, and 7.35% of shares held by China National Tobacco, a central SOE. Given these shareholdings, what is China's basis for stating that the Fund is not affiliated with any government authority?

Reply: The National Integrated Circuit Industry Investment Fund strictly follows applicable laws and regulations related to private equity investment funds in its management, and each investment shall obtain relevant gains. The fund has diversified capital sources of 19 shareholders including both state-owned and private enterprises. The fund operates in accordance with the Company Law and does not fall under any governmental authority. The practices over the past five years reveal that only the decisions in line with corporate interests would be approved; the shareholders focus on the ROI, and would never provide free subsidy for any enterprise by following the government's mindset and behaviors.

4.3.2.4 Electronic, IT, and integrated circuits

Page 154, paragraph 4.126: The Secretariat Report states that the State Council released the Policy on Promoting High-quality Development of Integrated Circuit Industry and Software Industry (Guo Fa No. 8, 2020). Under the Policy, China rolled out a wide range of favorable measures, such as preferential corporate income tax, favorable financing, support for R&D, preferential import duties for certain products, and simplified customs formalities. What is China's policy on notifying the incentives referenced above in its subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures?

Reply: Please refer to paragraph 35 of the latest notification of subsidies submitted by China, G/SCM/N/372/CHN, "Tax Benefits for Integrated Circuit Industry".

4.4 Services

4.4.1 Financial services

4.4.1.1 Overview

Page 157, paragraph 4.141: The Secretariat Report provides a description of the overall level of activity in the insurance sector, broken down by key sub-sectors and measured by assets held by insurance companies. Can China further elaborate on this information and explain the level of assets held specifically by foreign-invested insurance companies, broken down by the same sub-sectors and broken down as a percentage of overall assets for each sub-sector.

Reply: As of the end of December 2020, the life insurance companies' assets totaled 19.98 trillion yuan, with Chinese funds accounting for 92.65% and foreign funds accounting for 7.35%; non-life insurance companies' assets totaled 2.34 trillion yuan, with Chinese funds accounting for 96.07%, and foreign funds accounting for 3.93%.

4.4.1.3 Recent regulatory developments

4.4.1.3.1 Overview

Page 158, paragraph 4.145: The Secretariat Report acknowledges efforts that China has made to allow greater foreign participation in asset management. China issued its first provincial-level financial asset management license to a foreign-invested company (for the purchase of distressed assets from banks) in February 2020, but since then it has not taken steps to issue either provincial or national licenses to foreign-invested companies. Currently, China has five licensed national asset management companies, none of which are foreign-invested. What is China's policy on increasing the total number of provincial or national licenses and offering foreign-invested companies' greater access to them?

Reply: Under the China-United States Phase 1 Economic and Trade Agreement, China allows U.S. financial service providers to apply for asset management company licenses starting at provincial level. We welcome applications from eligible U.S. investors.

4.4.1.3.3 Regulatory developments in insurance

4.4.1.3.3.1 Developments in licensing requirements

4.4.1.3.4 Recent developments in securities activities

4.4.1.3.4.1 Foreign participation

Page 162, Paragraph 4.168: China has stated that the legislative work on the Futures Law is ongoing. China's National People's Congress Standing Committee conducted its first round of deliberations on a draft of the law and released it for public comment in April 2021.

Reply: The Twenty-eighth Session of the Standing Committee of the 13th National People's Congress (NPC) held from April 26 to 29, 2021, held the initial review on the Futures Law of the People's Republic of China (Draft). The draft was published on April 29, 2021 on the website of the Chinese People's Congress for comments, and the deadline for comments was May 28, 2021. The legislative departments, in conjunction with the CSRC and other relevant departments, made the absorption and adoption based on careful study. The 102nd meeting of the council of chairmen of the Standing Committee of the 13th NPC held on September 28, 2021 recommended that the draft futures law would be considered again at the 31st meeting of the Standing Committee of the 13th NPC to be held from October 19 to 23, 2021.

4.4.1.3.5 Developments in pension fund management

Page 165, Paragraph 4.182: According to the Secretariat Report, with regard to the sector of pension fund management, "the FSDC announced that China will permit foreign financial institutions to set up or to invest in Chinese private pension fund management companies."

- Please clarify whether the "FSDC" is the Financial Stability and Development Committee under China's State Council. Please also provide more information regarding the FDSC's announcement, including its date and title and whether it specifies which Chinese agency has oversight for accepting and reviewing any applications from foreign companies.

Reply: On July 20, 2019, the Office of the Financial Stability and Development Committee released the Relevant Measures for Further Opening Up the Financial Industry, introducing 11 measures to open up the financial sector, including "allowing foreign financial institutions to invest in the establishment and participation of pension management companies". On the same day, the CBRC spokesman in an interview with reporters, has made it clear that the CBRC will do a good job in the licensing and admission of pension management companies with the relevant ministries and commissions by approving the matured companies.

- Has China made publicly available any information on its licensing process in the pension fund management sector? If so, where? Does China follow the same process for accepting and reviewing applications from foreign companies as it does from Chinese companies?

Reply: The CSRC has not set up a separate license for the "private pension fund company". Securities companies and fund companies approved by the CSRC, if meeting the relevant legal requirements, may raise and establish pension target funds or apply to the relevant authorities to become pension fund management institutions in accordance with the law.

- Is the China Banking and Insurance Regulatory Commission (CBIRC) the sole regulator in the pension fund management sector, or are other Chinese regulatory agencies also involved?

Reply: In accordance with the administrative licensing work procedures under the Administrative Licensing Law, Provisions on Procedures for the Implementation of Administrative Licensing and other laws and regulations, the CSRC, through the CSRC website, publishes the establishment of public fund management companies, official fund manager qualification approval application materials and application requirements, administrative licensing service guide, processing progress and results, etc. Query Government Affairs Service Platform Project on CSRC official website (www.csrc.gov.cn) for the specific information. China follows the same procedures for Chinese companies in accepting and reviewing applications from foreign companies.

- Does the regulatory process operated by the CBIRC and/or other regulators enable a foreign company to obtain licenses for all of the components of pension fund management under China's system (e.g., custodian, asset management, trustee, etc.)?

Reply: At present, in addition to the CBRC, the Ministry of Human Resources and Social Security, the Ministry of Finance, the People's Bank of China, the China Securities Regulatory Commission and other institutions supervise the pension business of fund management companies according to their regulatory responsibilities.

- The Secretariat Report notes that the Chinese authorities have said that they have adopted a model of "one-on-one approvals" for any eligible companies. What does this mean in practice, and how would it contribute to China's stated goal of allowing foreign financial institutions to set up their own private pension fund management companies?

Reply: China's pension management companies are still in the pilot phase, and there is only one CCB pension management company established by China Construction Bank (CCB). The CBIRC allows overseas financial institutions to invest in the establishment of pension management companies, and will adopt the "mature one, then approve one" approach to work with relevant ministries and commissions to do a good job in licensing access. Next, the CBIRC will promote the improvement of relevant laws and regulations.

4.4.2 Telecommunications

4.4.2.1 Overview

Page 168, Box 4.2: Statistics in Box 4.2 indicate that both fixed and mobile telecommunications service segments are dominated by companies that are majority state-owned enterprises. Of the 85,000 companies providing value-added telecommunications services, only 395 foreign-invested companies were able to enter the market (via "information services and e-commerce-related businesses"). How many of these 395 companies are wholly foreign-owned?

Reply: By the end of 2020, there were 94,018 value-added telecommunications enterprises in China, including 395 foreign-invested telecommunications enterprises and 99 wholly foreign-owned telecommunications enterprises.

4.4.2.2 Regulatory framework

Page 168, Paragraph 4.202: It is the United States' understanding that the 2000 Telecoms Regulations (last amended in 2016) are scheduled for review in 2021. Are draft amendments to the 2000 Telecoms Regulations currently available for public review and comment? If not, when will they be?

Reply: At present, the Telecommunications Law is in the process of drafting, and related regimes are being revised and improved. We will follow the legislation procedures stipulated in the Legislation Law of the People's Republic of China to do a good job in the research and demonstration, soliciting opinions, revision and improvement and other legislation works related to the Telecommunications Law.

Page 169, Paragraph 4.204: Please explain China's rationale for maintaining restrictions in the telecommunications sector that do not allow for meaningful foreign participation?

Reply: China has opened up its telecommunications business to foreign investment in accordance with its WTO accession commitments. Foreign investors may participate in the business operation in the corresponding telecommunications field after obtaining license according to law. In recent years, China has continuously promoted the opening of the telecommunications market and the reform to streamline administration and delegate power, improve regulation, and upgrade services, providing a favorable environment for foreign investors to invest and engage in telecommunications business in China. At the same time, China has been actively exploring to promote the further opening up of the telecommunications sector in China (Shanghai) Pilot Free Trade Zone.

4.4.2.2.1 Developments in 5G

Page 169, Paragraph 4.208: Do any Ministry of Industry and Information Technology 5G guidance documents acknowledge the potential benefits of open standards and access network component disaggregation ("openRAN") in 5G network topology design?

Reply: The Ministry of Industry and Information Technology has not publicly released a similar 5G guidance document, and we do not know about the information sources of the US. At present, openRAN has been closely followed in the global industry. China has always adhered to the principle of technology neutrality, acted on market principles, and will pay close attention to the latest progress and future development trend of this technology. In the meanwhile, the Ministry of Industry and Information Technology encourages Chinese enterprises and institutions to actively participate in the international standardization work related to 5G, so as to enhance the consistency between Chinese standards and international standards. In the next step, we will closely follow the development status of open standards and access network component decomposition (openRAN) related technologies in 5G network topology design, and scientifically evaluate their potential benefits.

4.4.2.2.5 Cloud computing

Page 170, Paragraph 4.213: The Secretariat Report notes that China does not allow any direct provision of cloud computing services by foreign-invested companies and that their only access is through the negotiation of contractual partnerships with Chinese companies, where the Chinese company applies for the licenses needed to supply cloud computing services. Please explain China's rationale for not liberalizing the cloud computing sector to allow for meaningful foreign participation?

Reply: At present, China is actively promoting the further opening up of the telecommunications sector in accordance with the requirements of develop new systems for a higher-standard open economy. On the basis of China's WTO commitments, China will study and explore the feasibility of relaxing the share ratio restriction of foreign capital in telecommunications field in pilot areas.

Page 170, Paragraph 4.213: What are the key barriers to the implementation of the 2017 Notice on Standardizing Cloud Service Market and Facilitating the Sound Development of the Industry?

Reply: Notice on Standardizing Cloud Service Market and Facilitating the Sound Development of the Industry has not been issued.

4.4.2.2.6 Cybersecurity

Page 170, Paragraph 4.214: The Secretariat Report discusses China's Cybersecurity Law, which entered into force in June 2017, including draft implementing regulations that have implications

for cross-border dataflows and data localization. One troubling aspect of the Cybersecurity Law is Article 37, which mandates that "critical information infrastructure operators" store within mainland China all personal information and "important data" gathered or produced within mainland China. The Cybersecurity Law also requires that network operators successfully complete a security assessment before any locally stored data can be transferred overseas. In connection with data flows, including cross-border data flows, China recently finalized a Data Security Law (approved in June 2021 and entered into force in September 2021) and a Law on Protection of Personal Information (approved in August 2021 and will enter into force in November 2021).

- How and when will China implement the Data Security Law and the Law on Protection of Personal Information?

Reply: The main starting point for China to formulate relevant policies is to support data flow and data development and utilization. However, it should be noted that the disorderly circulation and sharing of data may lead to major risks in personal information protection and data security, and necessary, appropriate and non-discriminatory management should be imposed. Strengthening the management of cross-border data flow is also a common international practice. The Data Security Law has been implemented on 1 September 2021, and the Law on Protection of Personal Information will be implemented on 1 November 2021. Relevant departments will do a good job in security protection, supervision and management according to law.

- How does China plan to rationalize any overlaps in regulatory jurisdiction among the Data Security Law, the Law on Protection of Personal Information and the Cybersecurity Law with regard to the obligations that apply to dataflows, including cross-border dataflows? Has China withdrawn, or does China plan to withdraw, the draft implementing regulations relating to cross-border data flows that previously were released in connection with the Cybersecurity Law?

Reply: The provisions on cross-border data outflow in Data Security Law, the Law on Protection of Personal Information and the Cybersecurity Law have different emphasis, which are connected and complementary to each other, and there is no overlap of regulatory jurisdiction. According to Cybersecurity Law, Data Security Law and the Law on Protection of Personal Information, relevant supporting regulations such as data security management and security assessment on cross-border data outflow are being worked out, and it is expected to solicit public comments in the near future.

The Secretariat Report notes that the Chinese authorities plan to develop further regulations regarding critical information infrastructure operators. Can China elaborate on this intention? Which regulations are under development, and how do they relate to the Cybersecurity Law, the Data Security Law, the Law on Personal Information Protection or any other relevant measures that China already has in place? What is the intended subject matter of the planned regulations regarding critical information infrastructure operators?

Reply: Strengthening the protection of key information infrastructure is international common practice. For example, the US, Germany and Japan have enacted relevant laws to include important industries and fields into the scope of protection. According to the needs of China's situation and drawing lessons from the practices of other countries, the Cybersecurity Law stipulates the protection system of key information infrastructure. Regulation on Protecting the Security of Critical Information Infrastructure clarifies the scope and identification procedures of critical information infrastructure. Key information infrastructure refers to important industries and fields such as public communication and information services, power, traffic, water resources, finance, public service, e-government, and other critical information infrastructure which—if destroyed, suffering a loss of function, or experiencing leakage of data—might seriously endanger national security, national welfare, the people's livelihood, or the public interest. Chapter II of the Regulations stipulates that the competent departments and regulatory authorities of the above-mentioned important industries and fields, as protection departments, shall be responsible for formulating the identification rules of key information infrastructure, organizing the identification of key information infrastructure in their own industries and fields, and timely notifying the operators and the public security department of the State Council of the identification results. In the meanwhile, according to the relevant provisions of Article 31 of the Cybersecurity Law, the State encourages operators of networks outside the [designated] critical information infrastructure systems to voluntarily participate in the critical information infrastructure protection system.

Page 171, 4.218: The Secretariat Report indicates that VPN use has been prohibited via 2018 legislation but that provisions appear to be in place that allow VPN use for commercial purposes in certain government-approved circumstances. Can China explain the legal basis and rationale for this distinction? What are the procedures and guidelines for commercial VPN approval and use? Do provisions for commercial VPN use accommodate the cross-border data flows of foreign enterprises? Please explain.

Reply: Virtual Private Network (VPN) is a general network communication technology. To maintain a fair and orderly market order, promote the healthy development of the industry, the regulations formulated by our Ministry on cross-border telecommunication business activities are mainly based on the Telecommunications Regulation of the People's Republic of China (Order No.291 of the State Council) and Measures on the Administration of International Communication Accesses (Order No. 22 of the former Ministry of Information Industry). The targets of regulation are enterprises or individuals without the approval of the competent telecommunications department and without the qualification for international communications business, renting international dedicated lines or VPNs and illegally carrying out cross-border telecommunications business activities. Relevant regulations will not affect the normal cross-border access of domestic and foreign enterprises and users to the Internet and the legal and compliant development of various business activities. When foreign trade enterprises and multinational enterprises need cross-border networking through special routes due to office use and other reasons, they can rent from telecom operators with international communication business qualifications with the approval of the competent telecommunications department.

The management methods vary across different countries. Those living, carrying out production and other activities in China shall abide by Chinese laws and regulations. Any activities involving legal operation and use shall be protected by law.

4.4.3.1 Maritime transport

Page 175, paragraph 4.237: The Secretariat Report states: "In order to encourage qualified Chinese-funded international 'Flag of Convenience' ships to return to China, ships that were declared for import and were registered between September 2016 and September 2019 were exempt from customs duties and import VAT." Did China include the customs duties incentives referenced above in its most recent subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures?

Reply: China is studying on this issue.

Page 176, Paragraph 4.242: The Secretariat Report indicates that, under the Ship Tonnage Tax Law, "Chinese taxable ships and taxable ships whose country of registry has signed treaties or agreements that mutually grant MFN treatment clauses of ship taxes and fees" receive preferential rates. It also notes that there are special tax exemptions for "fishing and breeding fishing boats." Can China explain the preferential rates given to some ships and the special exemptions for fishing and breeding fishing boats? Has China notified the incentives referenced above in its most recent subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures?

Reply: China is studying this issue.

Page 176, Paragraph 4.244: Is there any foreign investment in Chinese ports in practice?

Reply: Many Chinese ports have foreign investment.

4.4.3.2 Air transport

Page 177, Paragraph 4.250: Are there any requirements that persons or goods be transported on nationally registered airlines?

Reply: The meaning of "nationally registered" is unclear. The specific requirements for Airlines (including nationally registered airlines) to transport passengers and their luggage and goods shall be implemented in accordance with the relevant provisions of the Civil Aviation Law and the announcement of the Civil Aviation Administration on the catalogue of prohibiting or restricting passengers from carrying or checking items.

Page 179, Table 4.25: Table 4.25 states that the Government of China intends to "arrange full subsidy from civil aviation development fund for B737NG aircraft data frame expansion projects."

Will China notify the incentives referenced above in its next subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures?

Reply: According to ASCM Agreement, Notification of a measure does not prejudice either its legal status under GATT 1994 and this Agreement, the effects under this Agreement, or the nature of the measure. China submits subsidy notification in accordance with WTO rules.

5 APPENDIX TABLES

Page 194, Table A3.2: The Secretariat Report states that China has continued to provide financial support to the fisheries sector, but does not provide a value of support. Given China's longstanding obligation to notify all of its fisheries subsidies under Article 25 of the Agreement on Subsidies and Countervailing Measures, when will China finally provide a full accounting of all of its fisheries subsidies, particularly at the sub-central levels of government, which are more directly responsible for the fishing industry within China's jurisdiction?

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China, there are a total of 6 fisheries subsidies at the central level and 45 at the local level.

Part II. Questions based on the Government Report (WT/TPR/G/415)

1 INTRODUCTION

3.1.2 Continuously improving trade facilitation

Page 7, Paragraph 3.7: The Government Report indicates that customs clearance time for imports nationwide was 37.12 hours in March 2021. Please explain how this figure was calculated. Please also explain what steps is China pursuing to ensure adequate staffing and technology are available for customs clearance of perishable products.

Reply: The overall customs clearance time of import refers to the time from arrival of imported goods to allowed pick-up of goods. This data is the average overall customs clearance time of actual entry and exit customs declarations within the corresponding time period, which is counted by all simple arithmetic averages included in the calculation of customs declarations.

3.2.2 Actively expanding market access for foreign investment

Page 9, Paragraph 3.16: The Government Report provides examples of foreign investment restrictions lifted in a number of sectors, including the purchase and wholesale of rice, wheat, and corn. Please explain China's rationale for maintaining foreign investment restrictions on crop seed breeding for rice and soybeans and on biotechnology development of planting seeds across several planting seed varieties.

Reply: Relevant departments are studying this issue. Expanding the opening up of seed industry is an important part of building a new pattern of comprehensive opening up of the country, which reflects China's firm determination to expand opening up. Expanding the opening up of seed industry is the objective need of deepening the structural reform of agricultural supply side, which will accelerate the introduction of foreign famous and excellent new varieties, the rapid development of characteristic crop industry and meet people's needs for characteristic agricultural products. China will further optimize the development environment of seed industry, welcome foreign investment in seed industry and carry out seed production and business activities according to law.

3.2.4 Promoting the innovation-driven development of national economic and technological development zones

Page 10, Paragraph 3.19: The Government Report notes that China has set up 217 national economic and technological development zones. However, the Ministry of Commerce lists 219 national-level economic and technological development zones (<http://www.mofcom.gov.cn/xglj/kaifaqu.shtml>) and the Ministry of Science and Technology lists an additional 168 national new and high-tech industrial development zones (<http://most.gov.cn/zxgz/gxjsykyf/gxjsqxm/>).

- What distinguishes the zones listed by the Ministry of Commerce from those listed by the Ministry of Science and Technology?

Reply: National economic and technological development zones are the carrier platform for opening to the outside world and an important engine for regional economic development. In 1984, based on the successful experience of building special economic and technological zones, the State Council approved the establishment of the first batch of 14 national economic and technological development

zones in 12 coastal cities. Since its establishment more than 30 years ago, with the deepening of opening to the outside world, the layout of national economic and technological development zones has been continuously expanded inland. After years of development, there are now 230 national economic and technological development zones, covering 31 provinces (autonomous regions and municipalities) in China. National high-tech industrial development zones are established in some knowledge-intensive and technology-intensive large and medium-sized cities and coastal areas to develop high-tech industrial development zones. In 1988, the first high-tech industrial development zone was established, and as of now, there are 168 high-tech industrial development zones nationwide.

- For each type of zones, what percentage of companies participating in the zones are majority foreign-owned?

Reply: Foreign-owned enterprises are relatively concentrated in national economic and technological development zones. According to statistics, national economic and technological development zones accounts for about 20% of the utilization of foreign capital in the whole country.

- Article 12 of the Opinions on Advancing Innovation in National Economic and Technological Development Zones and Building a New Highland for Reform and Opening-up calls for strengthening cooperation between national economic and technological development zones and investment funds and/or industry funds. What investment funds and industry funds are currently active in the zones listed by the Ministry of Commerce and the Ministry of Science and Technology?

Reply: National economic and technological development zone is industrial cluster. To encourage the development of manufacturing industry, the Opinions on Advancing Innovation in National Economic and Technological Development Zones and Building a New Highland for Reform and Opening-up proposes to strengthen cooperation with relevant investment funds, give full play to the role of industrial funds, bank credit, securities market, insurance funds and national financing guarantee funds, and expand investment and financing channels for developing industrial clusters.

Page 10, Paragraph 3.19: The Government Report notes that one of the 22 supportive measures offered by the Chinese government is "strengthening guarantees for productive factors." Please explain in greater detail what guarantees are being provided, to whom they are being provided, and what "productive factors" are being guaranteed?

Reply: The Opinions of the State Council on Advancing the Innovation and Improvement of National Economic and Technological Development Zones and Creating New Highlands for Reform and Opening-Up clearly states that China will strengthen the guarantee of factors and the intensive use of resources regarding land use, energy resources, talent policies, employment and entrepreneurship.

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.2.2 Deeply and fully participating in multilateral negotiations and discussions, and earnestly fulfilling the obligations as a WTO Member

Page 15, Paragraph 4.20: On April 8, 2020, the United States sent a request to China's inquiry point for copies of several Chinese measures that did not appear to have been published. China refused to provide those measures to the United States. Instead, China indicated that it was not obligated to share measures that were set to expire soon. Moreover, China's response was received more than one year after the request was submitted, well beyond the 30-day requirement (or 45 days in exceptional cases) for responding, as set out in Paragraph 2(C) of China's Protocol of Accession to the WTO. What is China's policy on making all requested measures available to WTO Members without regard to whether the measures being requested are currently in effect, expired, or set to expire?

Reply: China has always attached great importance to compliance with WTO rules, and has been fulfilling its related obligations under the WTO framework. China will respond to the formal requests of WTO members for trade policies as defined in the relevant provisions of the Accession Protocol in accordance with the requirements of its accession commitments.

Page 15, Paragraph 4.21: The Government Report notes that new fisheries policies for 2021-2025 have been adopted that seek to promote the modernization and high-quality development of China's fisheries sector. Recently released government documents, notably the Administrative Measures for Fisheries Development Subsidy Funds, suggest that new fisheries policies will de-emphasize fishing vessel reduction while continuing to subsidize distant water fishing activities that may contribute to illegal, unreported and unregulated (IUU) fishing.

- Is fishing vessel reduction and/or conversion no longer a priority for China? Is China's policy to continue fishing vessel reduction efforts during the 2021-2025 period?

Reply: During the "14th Five-Year Plan" period (2021-2025), China will continue to implement the policy of fishing vessel reduction and/or conversion, and make it a priority, so as to reduce fishing intensity and protect marine fishery resources. At the same time, employment training of fishing vessel reduction and/or conversion for fishermen will continue to be carried out to provide fishermen with employment opportunities and positions.

- Recent Chinese fisheries subsidy measures have mentioned "international contract performance (compliance)" as one of the new policy task factors based on which subsidies may be awarded. What are some examples of "international contract performance" benchmarks that fisheries enterprises must meet to receive fishery subsidies?

Reply: Since 2020, China has established a mechanism of compliance performance assessment on distant water fisheries companies with respect to international regulations. China's fisheries administrative authorities carry out quantitative assessment annually on the compliance performance of distant water fisheries companies and their vessels, use the score of the annual assessment as the basis for subsidies or punishment, so as to incentivize the fulfillment of international conservation obligations and preservation of international fisheries resources. China implements a compliance performance assessment system, and determines the amount of subsidies for fishing vessels based on their compliance with international conventions and production in compliance with laws. The compliance performance assessment is based on a scoring system. Many contents are included in the scope of assessment, including such pluses as vessel position monitoring, fishing log submission, fishing vessel registration, routine notification, crew management, safety production, emergency rescue in accordance with laws, regulations and relevant RFMO requirements, and such minuses as illegal overstepping, illegal fishing and overfishing. The amount of subsidy is determined according to the final score of the enterprise that owns the fishing vessel.

- How will subsidies contingent on distant water fishing be managed to ensure that Chinese fishing vessels do not engage in IUU fishing or overfishing in overseas waters?

Reply: China relentlessly combats IUU fishing through tightening regulations on distant water fishing vessels. In accordance with the Management Measures for Monitoring of Distant Water Fishing Vessels' Position amended in 2020, a distant water vessel shall report its position once every hour, so as to prevent any production activity beyond the permitted areas. It is more stringent than the international reporting standard of once every four hours. To prohibit transshipping and transporting of illegal catches, all high-seas transshipment activities shall be reported to China's fisheries administrative authorities and the national observer system is rolling out gradually. China is committed to law enforcement on the high seas and contributes significant administrative resources to the crack-down of IUU fishing on the high seas. IUU fishing is punished with "zero tolerance". If relevant RFMOs made affirmative determinations that Chinese companies or fishing vessels engaged in, supported or provided assistance to IUU fishing, China's fishery administrative authority would punish the companies and vessels concerned by fining, disqualifying them for fisheries subsidies, suspending or revoking their distant water fishing licenses and/or blacklisting the captain and management personnel, etc.

4.4 Building International Platforms for Opening Up and Cooperation

4.4.1 Promoting high quality cooperation for the Belt and Road Initiative

Page 18, Paragraph 4.36: What steps is China taking to promote a high-quality Belt and Road Initiative?

Reply: First, China is conducting high-quality policy matching, promoting soft linking of policies, rules and standards, and building more extensive and pragmatic partnerships. Second, China is

promoting the interconnectivity of infrastructure to achieve high-quality interconnectivity development. Third, China is promoting unimpeded and high-quality trade development and effectively boosting trade and investment liberalization and facilitation. Fourth, China is promoting the high-quality development of financial integration, establishing a sound, long-term, stable, sustainable and diversified financing system with risks under control, supporting the effective operation of multilaterally developed financing cooperation centers, and encouraging multilateral and international financial institutions to participate in the investment and financing of the Belt and Road initiative. Fifth, China is promoting a high-quality people-to-people bond and deepening cooperation in various fields.

Page 18, Paragraph 4.37: The Government Report states that, "with greater cooperation on green energy, green infrastructure and green finance, a Green Silk Road is being built." However, "green" is a term that can have many meanings. Can China explain what it means by "cooperation on green energy, infrastructure and finance"? Are there any publicly available Chinese documents that China can share with WTO Members on this topic?

Reply: In April 2021, President Xi Jinping proposed at the opening ceremony of the Boao Forum for Asia Annual Conference 2021 that it is necessary to build closer green development partnerships, with cooperation in the fields of green infrastructure, green energy, and green finance strengthened, so that green can become a defining feature of Belt and Road cooperation, which has further defined the direction and key actions of the construction of the Green Silk Road.

Among them, green energy refers to cooperation with co-constructing countries in the fields of wind power, solar power and other renewable energy resources. Green infrastructure refers to the advocacy of green and low-carbon construction and operation of infrastructure, and cooperation with co-constructing countries in the field of green infrastructure construction. Green finance cooperation includes the promotion of the formation of the concept of common development of green finance, the best experience in the field of green finance, the capacity building in the field of green finance, the improvement of the green level of foreign investment, and other aspects.

Page 18, Paragraph 4.37: The Government Report refers to the greening of the Belt and Road Initiative and the emergence of the Green Silk Road. Given this development, will the Chinese government instruct China Eximbank and SINOSURE to stop supporting certain energy projects such as fossil fuel projects (e.g., coal fire plants, etc.)?

Reply: China's president Xi Jinping announced at the general debate of the 76th UN General Assembly that China will vigorously support the development of green and low-carbon energy in developing countries, and will no longer build new overseas coal-fired power generation projects. This is another key initiative since China's declaration of peak carbon dioxide emissions and carbon neutrality, which is also an important action to promote the construction of the Green Silk Road. During the Belt and Road initiative construction, China will strictly implement the requirements of no longer building new overseas coal-fired power generation projects, and work with the co-constructing countries to respond to the global challenges of climate change together.

4.5.2 Contributing to the implementation of UN 2030 agenda for sustainable development

Page 20, Paragraph 4.49: China has indicated that it helps developing country Members by building public facilities and energy infrastructure and supporting wildlife protection. Would China explain how it helps developing country Members in these areas?

Reply: Please refer to the white paper China's International Development Cooperation in the New Era (full text)

<http://www.scio.gov.cn/zfbps/32832/Document/1696685/1696685.htm>

Page 20, Paragraph 4.49: As a major consumer of wildlife and wildlife products, please explain how China is supporting wildlife protection, including how China is working to ensure that the wildlife products that China is importing and exporting are not illegally harvested or taken. In addition, what actions is China taking or planning to take to curb the demand for endangered totoaba bladder?

Reply: The Chinese market regulators always attach great importance to wildlife supervision, strengthen wildlife supervision and law enforcement in accordance with the law, fulfill the responsibilities of member units of the inter-ministerial joint conference system on combating illegal wildlife trade, and enhance law enforcement cooperation with wildlife protection authorities. We will deploy local market regulators to strengthen the supervision and inspection of key food operation

places such as catering service enterprises, shopping malls and supermarkets, agricultural trade markets and other places, and urge food dealers to strictly implement the responsibility as entity for food safety, carry out the purchase inspection requirements of food and edible agricultural products, and implement the relevant regulations prohibiting the trade of wildlife and their products. Procurement, operation, and use of wildlife meat and their products are strictly prohibited, and catering service enterprises are not allowed to engage in wildlife-based food.

5 DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM

5.1.4 Intensifying efforts to prevent and control pollution, and upholding the concept that clear waters and green mountains are as valuable as mountains of gold and silver

Page 21, Paragraph 5.5: Could China explain how it enforces its modern environmental governance system, and how the emission permit system operates?

Reply: The emission permit system is the core system of China's ecological environment management system, and the Chinese emission permit system is being carried out in an orderly manner. First, enterprises apply for key management and simplified management emission permits respectively, or conduct emission registration for classified management of emission permits according to the amount of pollutants produced, emissions and the degree of impact on the environment. Second, enterprises apply for emission permits or conduct emission registration through a nationally unified emission permit management information platform to obtain a uniformly coded emission permit or emission registration form, so as to realize "one enterprise, one code". Third, the ecological and environmental departments at or above the municipal level with districts shall issue emission permits in accordance with the law, incorporate all pollution elements such as air, water, soil and solid waste into the emission permit management, and clarify the corporate emission control requirements and relevant ecological environment management requirements, so as to realize "one enterprise, one certificate". Fourth, licensed enterprises and emission registered enterprises have all been included in the scope of ecological environment supervision. We will urge enterprises to discharge pollutants with and according to certificates, require management departments to supervise according to certificates, and strictly crack down on illegal acts of unlicensed and excessive emissions. Fifth, information on emission permits, emission registrations, implementation, supervision and law enforcement of emission permits shall be disclosed through the national emission permit management information platform to strengthen social supervision.

5.3 Committed to Creating Market-Oriented, Law-Based and Internationalized Business Environment

5.3.1 Further improving the top-level design of the business environment

Page 23, Paragraph 5.9: The Government Report states: "In October 2019, the State Council issued the Regulation on Improving the Business Environment to ensure that all market entities have equal access to various production factors and support policy." Please explain how this Regulation operates to ensure that all market participants, including foreign market participants, have equal access to information as it relates to agricultural and other market intelligence, including production, demand, and price data.

Reply: China always extends the same treatment to all kinds of market entities. Through the implementation of the fair competition review system and other measures, we have made every effort to maintain fair competition in the market, ensuring that various market entities use production factors equally in accordance with law, participate in market competition fairly and receive equal legal protection. Since 2016, China has reviewed 1.89 million policy and measure documents, revised and abolished nearly 30,000 policy and measure documents violating review standards, reviewed 857,000 new policies and measures, and corrected and stopped more than 4,100 policy and measure violating review standards in a timely manner, which effectively promoted the construction of a unified and open market system with orderly competition, complete systems and sound governance, and provided a strong guarantee for high-level opening up.

5.3.2 Further strengthening intellectual property rights protection

Page 23, Paragraph 5.12: The Government Report indicates that "the 'three-in-one' reform of intellectual property trials is making solid progress."

- Please explain the "three-in-one" reform of intellectual property trials.

Reply: The "three-in-one" reform of civil, administrative and criminal cases of intellectual property mainly refers to the reform of uniformly accepting civil, administrative and criminal cases of intellectual property by courts with jurisdiction over intellectual property civil cases, aiming at

unifying judicial standards, improving trial quality and realizing all-round relief of intellectual property rights. It plays a positive role in optimizing the allocation of judicial resources, cultivating compound judicial talents and improving the overall effectiveness of judicial protection of intellectual property rights.

- How many intellectual property-related three-in-one proceedings have been opened to date, and how many of them have involved a foreign right holder?

Reply: The "three-in-one" trial of intellectual property cases is an institutional reform of the trial system. Civil, administrative and criminal cases of intellectual property are tried in accordance with the provisions of the Civil Procedure Law, the Administrative Procedure Law and the Criminal Procedure Law respectively, not a lawsuit involving civil, administrative and criminal cases. At present, the "three-in-one" reform is being pushed forward in an order manner in over 20 higher courts, over 160 intermediate courts and over 130 grass-roots courts in China.

- Is there published information about these proceedings? Please explain.

Reply: In July 2016, the Opinions of the Supreme People's Court on Promoting the "Three-in-One" Trial of Civil, Administrative and Criminal Cases of Intellectual Property in Courts Nationwide (Fa Fa [2016] No. 17) was publicly issued, which clarified the relevant procedures of the "three-in-one" reform.

Page 24, Paragraph 5.15: The Government Report indicates that "China continuously improves the transparency of IPR protection." Addressing transparency, the Supreme People's Court revised the Provisions on the Publication of Judicial Process Information on the Internet by the People's Courts in 2016. As revised, these Provisions require online publication of administrative, civil and criminal judgments and enforcement rulings, as well as "[o]ther judgment documents which have the effect of suspending or terminating litigation procedures, or which affect the parties; substantive rights and interests or have a major impact on the parties; procedural rights and interest."

- On July 6, 2021, the European Union filed a "Request for Information Pursuant to Article 63.3 of the TRIPS Agreement" seeking further information on four judicial decisions in the interest of transparency (IP/C/W/682). According to the European Union's information request, only one of the four cases was published online. What is China's policy on publishing each of the judicial opinions at issue online?

Reply: The Provisions of the Supreme People's Court on the Issuance of Judgments on the Internet by the People's Courts stipulates in detail the types of documents that can be published on the China Judgements Online and those that are not published on the Internet.

- The Provisions on the Publication of Judicial Process Information on the Internet by People's Courts provide that publication requirements do not apply to in certain circumstances, such as "court decisions involving state secrets or individual privacy" and "other cases and documents deemed inappropriate for online publication." Does China refrain from publishing cases involving trade secrets and/or confidential business information? If so, which exception provided in these Provisions applies? What is China's policy on increasing transparency by publishing cases involving trade secrets and/or confidential business information, edited to redact information necessary to protect against the disclosure of trade secrets or confidential business information?

Reply: China determines whether the judgments of specific cases involving trade secrets or commercial confidential information are published on the Internet according to the Provisions of the Supreme People's Court on the Issuance of Judgments on the Internet by the People's Courts. If disclosure is required, the information involving trade secrets will be deleted.

5.3.5 Improving the performance of state-owned assets and state-owned enterprises (SOEs) reforms

Page 24, Paragraph 5.18: The Government Report notes that China's reform "to convert SOEs into standard companies has basically been completed."

- Please explain and provide additional information on how much direct and indirect ownership the Chinese government maintains in these "standard companies."

- How does the "reformed" governance structure provide independence from the Chinese government and ensure that these "standard companies" act consistently with commercial considerations?
- What is the legal distinction between majority-owned SOEs and majority-owned "standard companies"?
- Please detail the reform of enterprises via "mixed ownership reform" by providing specific examples of the level of ownership by the Chinese government both before and after the mixed ownership reform. In these examples, please also detail the other shareholders, besides the Chinese government, that are equity owners in these enterprises?
- What enterprises are indirectly supervised by the State-Owned Assets Supervision and Administration Commission?
- What enterprises are directly or indirectly supervised at the sub-central level of government?

Reply to the above questions: China always adheres to the market-oriented reform of state-owned enterprises. In the process of the reform, China has continuously improved the modern enterprise system, established a sound corporate governance mechanism with statutory and transparent rights and liabilities, coordinated operation and effective checks and balances, clarified the functions and powers of the board of directors, improved the market-based operation mechanism, and continued to promote the reform of the state-owned assets regulation system dominated by capital management. The reformed enterprises operate in accordance with the Company Law and articles of association to serve the interests of shareholders. Shareholders shall appoint directors, supervisors and other senior executives to exercise their statutory and agreed rights in accordance with their shareholding ratios. As independent market entities, enterprises shall conduct production and operation independently, and shall not be directly controlled by the government. In accordance with the provisions of the Company Law, state-owned enterprises that have undergone the reform of the corporate system have set up such internal governance structures as the board of directors, the board of supervisors, and managers, and formulated corresponding articles of association. The internal decision-making, governance, operation and management have been further standardized, and the shareholders shall bear limited liabilities according to their respective shares. In the process of promoting the mixed-ownership reform, China has earnestly protected the property rights and interests of all kinds of investors and aroused the enthusiasm of all kinds of capitals to participate in the development of mixed ownership economy. For example, China Unicom, introduced such large Internet companies as Tencent, Alibaba, JD.com and Baidu as large strategic investors to innovate a new model of integration of the telecom industry with the Internet enterprises and low-cost user acquisition, thus realizing rapid development of industrial Internet services. In addition, Eastern Air Logistics Co., Ltd. introduced Legend Holdings and Global Logistic Properties as strategic investors to conduct the mixed-ownership reform. After the reform, a structure with each of the three parties holding 1/3 of the company's shares was formed, which further improved the corporate governance structure and the operating efficiency. A wholly state-owned enterprise is a non-corporate enterprise established in accordance with the Law on Industrial Enterprises Owned by the Whole People, and all the capital of the enterprise is state-owned capital. A wholly state-owned company is a corporate enterprise established in accordance with the Company Law, and 100% of the capital is state-owned. SASAC only supervises Grade A enterprises directly funded by the state.

5.3.8 Deepening reforms in fiscal, taxation, financial and other key areas

Page 26, Paragraph 5.24:

The Government Report discusses the loan prime rate mechanism.

- Please explain the methodology for which banks are combined, and how they are combined, to calculate loan prime rates.

Reply: The quoting bank submits the quotation to the National Inter-bank Funding Center based on the its loan interest rate to the premium clients by means of a medium-term lending facility (MLF) interest rate plus point formation. The National Inter-bank Funding Center removes the highest and lowest quotations to take the arithmetic average and rounds it to the nearest integer multiple of 0.05% to calculate the LPR.

- Of the banks whose loans factor into the prime rate, which banks have any level of state ownership and what is the level of state investment in these banks?

Reply: At present, on the basis of the original 10 national banks such as Industrial and Commercial Bank of China, Agricultural Bank of China, Bank of China, China Construction Bank and Bank of Communications, LPR quoting banks have added each 2 banks of Chengnan Commercial Bank, Rural

Commercial Bank, foreign banks (Standard Chartered Bank and Citibank) and private banks to 18 banks, which effectively enhanced the representativeness of LPR quotation. In the future, the People's Bank of China will guide the market interest rate pricing self-discipline mechanism to periodically evaluate and adjust LPR quotation banks based on the quotation quality.

- Please explain and detail any instances in which banks with majority state ownership provide loans below the calculated loan prime rate?

Reply: The relevant situation has been disclosed quarterly in the Monetary Policy Implementation Report. For details, please refer to the official website of the People's Bank of China.

6 THE WAY FORWARD

Page 27, Paragraph 6.3: Please explain what the Government Report means by "implement the UNFCCC and the Paris Agreement"? Will China seek to raise its commitments under its Nationally Determined Contribution? If so, how will it align its commitments with the energy reforms and reductions in coal use necessary to achieve net zero emissions by 2050?

Reply: It should be clarified that the Paris Agreement aims "to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century", rather than "to achieve net zero emissions by 2050". China has never committed to achieving "net zero emissions by 2050".

China has played an irreplaceable and key role in the conclusion of the Paris Agreement and is actively implementing the goals and requirements of the Agreement with actions. On 22 September 2020, Chinese President Xi Jinping announced that China aims to peak carbon dioxide emissions by 2030 and achieve carbon neutrality by 2060. The goals are fully consistent with the goals of the Paris Agreement, and show the greatest ambition of China. On 12 December 2020, Chinese President Xi Jinping further announced at the Climate Ambition Summit that China would lower its carbon dioxide emissions per unit of GDP by over 65% from the 2005 level, increase the share of non-fossil fuels in primary energy consumption to around 25%, and bring its total installed capacity of wind and solar power to over 1.2 billion kW.

As the largest developing country in the world, China still faces prominent unbalanced and inadequate development, and such problems as a coal-dominated energy structure, a heavy industry-dominated industry structure, and scientific and technological level to be improved. However, China is committed to the path of eco-friendly, green and low-carbon development, and will fulfill its commitments by actively assuming international responsibilities commensurate with its national conditions. In the near future, China will release the implementation plan and a series of supporting measures for peaking carbon dioxide emission in key fields and industries, continue to promote the adjustment of industrial and energy structures, and vigorously develop renewable energy. In addition, China will strongly support the green and low-carbon energy development of developing countries, and stop building new overseas coal power projects, so as to contribute to the global response to climate change.

UNITED STATES – FOLLOW-UP QUESTIONS

Summary

Page 12, Paragraph 17: The Secretariat Report notes that imports of "all solid waste products" have been prohibited as of 1 January 2021, but "[c]ertain recycling materials" may be still imported. Can China explain the scientific basis that it used to determine which categories of "recycling materials" are acceptable for importation and which categories are not acceptable for importation? What is China's policy regarding expansion of the list of "recycling materials" that is acceptable for importation? Can China explain why it discriminates between domestically sourced solid wastes and certain recycling materials, which are not prohibited, and imports of solid wastes and certain recycling materials, which are prohibited?

Member Answer: Reply to two questions above: According to the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste, raw materials derived from solid wastes which have been processed and treated comply with compulsory national product quality standards and pose no danger to public health and ecological safety, are not classified as solid wastes, and can be imported into China through normal product trade. Moreover, there is neither a list of "recycling materials" that are acceptable nor policy regarding expansion of the list. In accordance with the principles universally recognized by the international community, the proper disposal of domestically generated solid wastes is the responsibility and obligation of every country.

U.S. Follow-Up Question to Question on Page 12, Paragraph 17:

China has not answered the question "Can China explain why it discriminates between domestically sourced solid wastes and certain recycling materials, which are not prohibited, and imports of solid wastes and certain recycling materials, which are prohibited?" Please provide a response to this question.

Reply: Unlike ordinary raw material products, solid wastes have inherent pollution properties. Scrap materials and wastes are defined in diverse ways across countries, without unified understanding and standards among the international community. In particular, the definition of solid wastes in China follows the provisions of the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste, which is basically consistent with the legal meaning of wastes under the Basel Convention. Namely, wastes that can be used as raw materials are also classified as solid wastes.

As a developing country with the largest population in the world, China generates a large amount of solid wastes annually, and recycling of domestically generated wastes that can be used as raw materials is one of the key initiatives to solve the disposal of solid waste which is a emergent problem on environment. According to the principles universally recognized by the international community, the proper disposal of domestically generated solid wastes is the responsibility and obligation of every country. China has no obligation and no longer permits the disposal of what other countries claim as "recycling materials" while leaving environmental pollution behind at home.

Page 13, Paragraph 23: With regard to its "government guidance funds":

Please explain how the investment decisions of the guidance funds are consistent with the usual investment practice of private investors, including for the provision of risk capital. Please provide examples of specific equity investments that are consistent with the usual investment practice of private investors.

Member Answer: Reply to two questions above: The investment management and decision-making of government guidance funds are completely market-oriented. Government departments do not intervene in or participate in any investment project decisions of the funds. These funds were established in accordance with the Company Law of the People's Republic of China, and a fund governance structure was established for market-oriented operation. For example, the National IC Industry Fund is managed strictly in accordance with the relevant laws and regulations on private equity investment funds, and each investment requires a corresponding income.

U.S. Follow-Up Questions to Questions on Page 13, Paragraph 23: Do any government departments fund the National IC Industry Fund? If so, please identify them. Do these government departments have a role in investment decisions made by the National IC Industry Fund? If they have no role, who makes the investment decisions?

Do any state-owned or state-invested enterprises fund the National IC Industry Fund? If so, please identify them. Do these state-owned or state-invested enterprises have a role in investment decisions made by the National IC Industry Fund? If they have no role, who makes the investment decisions? Do any other state entities fund the National IC Industry Fund? If so, please identify them. Do these state entities have a role in investment decisions made by the National IC Industry Fund? If they have no role, who makes the investment decisions?

Reply: For the above three questions, the National IC Industry Fund is a corporate equity investment fund, which is not affiliated with any government departments. The Fund is completely market-oriented in investment management and decision-making. Same as other international private equity funds, it aims to make profits for its shareholders, and all investment activities are solely responsible to its shareholders. To optimize its interests, the Fund has put in place relevant binding or restrictive conditions for the invested projects, which are all regarded as business practices. Government departments do not interfere with or participate in any investment project decisions of the Fund. The specific sources of funds are disclosed by the Fund in accordance with legal and regulatory requirements. The company operates in accordance with the Company Law and other relevant laws, and has established its corporate governance system such as Shareholders' Meeting, the Board of Directors and the Board of Supervisors. The Shareholders' Meeting is the supreme authority of the company, and the Board of Directors executes the resolutions of the Shareholders' Meeting and decides on relevant major matters in accordance with the law. The senior management of the company is appointed by the Board of Directors and is responsible for the daily operation and management of the company. The Board of Supervisors oversees the directors and senior management in performing their duties. Both the provincial fund and the National IC Industry Fund are market-oriented funds with independent operations.

Page 15, Paragraph 34: The Secretariat Report notes that China's Made in China 2025 industrial plan remains China's main initiative for promoting many of China's manufacturing industries. Among other things, this industrial plan sets forth specific domestic market share targets for these Chinese industries to achieve by 2020 and 2025.

Please detail all of the policies and practices that China is using in an attempt to achieve the market share targets set forth in Made in China 2025.

Does China consider these policies and practices to be market-oriented? Please explain.

Member Answer: Reply to two questions above: The statement in the report that "'The Made in China 2025' initiative sets forth specific domestic market share targets for these Chinese industries to achieve by 2020 and 2025" does not conform to the fact. Some indicators of "The Made in China 2025" initiative are from academic advisory reports. They are predictive and guiding, are not linked to official policies or financial input, and are not compulsory. In fact, many countries have similar guiding indicators and schemes. "The Made in China 2025" initiative follows the principles of openness, fairness and competition, and applies to both domestic and foreign-invested enterprises equally. The Circular of the State Council on Several Measures Concerning Further Openness and Active Utilization of Foreign Investment issued in January 2017 clearly states that "'The Made in China 2025' initiative applies to both domestic and foreign-invested enterprises equally." A number of foreign enterprises have been involved in the implementation of "The Made in China 2025" initiative. China has always been an advocate, practitioner and promoter of globalization. China will continue to adhere to open and cooperative development, unswervingly implement "The Made in China 2025" initiative in an open environment, and work with other countries to achieve win-win results.

U.S. Follow-Up Questions to Questions on Page 15, Paragraph 34:

Please identify (including by using titles and links) the academic advisory reports that provided indicators for the Made in China 2025 industrial plan.

Reply: The relevant indicators of "The Made in China 2025" initiative were calculated by the preparers based on the research of public information at that time.

Is one or more of these reports issued by the National Manufacturing Strategy Advisory Committee ("NMSAC")? Is it correct that the notice setting out the Made in China 2025 industrial plan orders the establishment of NMSAC, which is to be responsible for "research[ing] the future of manufacturing development, strategic major issues, and provid[ing] consulting evaluation to major policies on the manufacturing industry"?

Reply: National Manufacturing Strategy Advisory Committee is a non-entity advisory body consisting of academicians and experts in industrial economy, specialized fields, industry associations and enterprise representatives organized by the Chinese Academy of Engineering and other research institutions. Every year, it spontaneously conducts research and investigation on forward-looking, strategic and long-term issues concerning the manufacturing industries, and puts forward advisory opinions and suggestions. The published relevant research reports can be found through the public website.

1 ECONOMIC ENVIRONMENT

1.2 Recent Economic Developments

1.2.3 Fiscal policy

Page 21, Paragraph 1.23: What is the average debt ratio of sub-central state-owned enterprises? What is the average debt ratio of other state-invested companies that might not meet the definition of a state-owned enterprise under Chinese law?

Member Answer: In recent years, the average debt ratio of sub-central state-owned enterprises has remained stable with a slight decline, with the debt structure within a reasonable range. The assets and liabilities of enterprises invested by state-owned enterprises shall not be included in the statistics of Chinese government departments.

U. S. Follow Up Questions to Question on Page 21, Paragraph 1.23:

V. The United States notes that China did not answer the question on the average debt ratio for sub-central state-owned enterprises. The question asks for a numerical figure not about the stability or reasonableness of the debt. Please provide the average debt ratio for sub-central state owned enterprises and please provide the average debt ratio for state owned enterprises broken down by province.

Further, China did not answer the question on the average debt ratio of state-invested but not state-owned companies. This question did not ask whether they were included in government statistics, but rather for the average debt ratio. Please provide the average debt ratio for companies in which the government is a direct or indirect investor, but that do not meet the definition of a state-owned enterprise.

Reply to the two questions above: As of the end of the August of 2021, the average debt ratio for sub-central state-owned enterprises reached 62.7%. The assets and liabilities of companies invested by state-owned companies are not included in the statistics of the Chinese government departments.

1.2.4 Structural measures

Page 22, Paragraph 1.31. Under the Belt and Road Initiative (BRI), launched in 2013, the Chinese Government seeks to connect nearly 140 countries and regions through rail lines, pipelines, highways, ports, and other infrastructure. As of March 2021, total expenditures under the BRI amounted to USD 640 billion. According an OECD study, infrastructure projects of the BRI may have an impact on the debt burden on recipient countries. A recent report for Global Development Center found that eight BRI recipient countries—Djibouti, Kyrgyzstan, Laos, the Maldives, Mongolia, Montenegro, Pakistan, and Tajikistan—are at a high risk of debt distress due to BRI loans. These countries will all face rising debt-to-GDP ratios beyond 50%, with at least 40% of external debt owed to China once BRI lending is complete. The IMF has scrutinized multiple aspects of the BRI, repeatedly warning of unsustainable debt levels, predatory lending, and the lack of project transparency.

What steps is China taking to ensure that BRI projects uphold internationally accepted best practices in infrastructure development and internationally based standards and financing so as not to cripple countries with unsustainable debt problems and the inability to finance maintenance and repair of infrastructure provided?

The BRI is allegedly plagued by an overall lack of transparency in publishing project details, selection criteria, financing terms and other related information. What steps is China taking to improve data sharing and increase transparency?

Member Answer: The "BRI" cooperation covers broad areas. The vast majority of the projects are obtained by enterprises through market competition. It is the project owner or host government

rather than the Chinese Government that determine how to operate and how to disclose project information.

To date, BRI projects have been dominated by China's state-owned enterprises. Is China willing to promote greater inclusivity in BRI projects? If so, what steps has China taken to do so?

Member Answer: China supports and guides market entities including private enterprises to contribute to the "BRI". In fact, private enterprises are also important forces participating in the "BRI". We have strengthened policy support, guidance and training for private enterprises in "going global", guided them to focus on risk prevention, and urged them to operate in good faith, abide by local laws and regulations, and follow universally accepted international rules and standards. In the next step, China will continue to support and guide private enterprises to improve their operation level for "going global", and participate in high-quality development of the "BRI".

U.S. Follow Up Questions to Questions on Page 22, Paragraph 1.

China notes that it "supports and guides" market entities, including the private sector, to contribute to the BRI. By what mechanisms or measures does China support and guide the private sector to contribute to the BRI?

Reply: Private enterprises are a vital force to participate in the joint contribution of "Belt and Road" initiative, but relatively inexperienced in overseas development. China attaches importance to strengthening the guidance and support for private enterprises, mainly by providing public information, enhancing the guidance for development and other ways to serve private enterprises to "going global". Chinese authorities have issued the guidelines which help promote private enterprises to pay attention to overseas risk prevention and control in "going global" strategy, urge them to comply with the law and operate in good faith, follow the generally accepted international rules and standards, continuously enhance brand awareness, actively fulfill their social responsibility, and steadily improve their competitiveness in the international market. The high-quality cooperation will facilitate mutually beneficial and win-win development with the countries concerned.

Does China "support and guide" market entities to increase transparency about project details, selection criteria, financing terms and other related information related to BRI projects? If not, why not?

Reply: The joint contribution of BRI is an open and inclusive economic cooperation initiative, and upholds the principle of achieving shared growth through discussion and collaboration. We welcome the participation of all countries around the world. In recent years, many US and European multinational companies have participated in the BRI through third-party market cooperation, and China has signed agreements or reached consensus through third-party market cooperation with France, South Korea, Singapore, Belgium, Portugal, Italy, Greece, Germany, the UK, Canada, and Japan among others. Specifically speaking at project level, it is generally up to the project owner or the host government to decide on the form of operation and how to disclose project information, rather than the Chinese government. We encourage the enterprises concerned to disclose project-related information where conditions permit, and to follow the philosophy of openness, greenness and integrity in project cooperation, with the aims of high standards, sustainability and benefiting people's livelihood, so as to meet the legal requirements where the project is located and the appropriate standards for development needs.

Please detail the policy support provided to private enterprises that go global as part of the BRI.

Reply: Regarding the outbound investments made by various enterprises in the implementation of "going global" strategy, China adheres to the principles of taking the enterprises as main body, market orientation, commercial basis, and in line with international practices. The enterprises make independent decisions, bear their own risks and are responsible for their own profits and losses. China pays attention to strengthen the guidance and support for private enterprises, mainly by providing public information and strengthening the guidelines for development.

2 TRADE AND INVESTMENT REGIMES

2.2 Trade Policy Framework and Objectives

2.2.2 Trade Policy Formulation and Objectives

Page 33, Paragraph 2.14 – 2.17 The Secretariat Report states that China has updated and revised several of its measures at the national and regional levels. Can China confirm whether any measures related to the following initiatives were included in its most recent subsidy notification under

Article 25 of the Agreement on Subsidies and Countervailing Measures or will be included in China's next subsidy notification?

The State Council's 2019 Guiding Opinions on Promoting High-quality Trade Development; The Pilot Free Trade Zones program; and The 2020 edition of the Catalogue of Encouraged Industries for Foreign Investment.

Member Answer: China submitted its subsidy notification to the WTO in strict accordance with the WTO Agreement on Subsidies and Countervailing Measures. If the subsidy policies involved in the implementation of the above-mentioned documents fall within the scope of notification, China will notify them to the WTO in the next step.

U.S. Follow Up Question to Question on Page 33, Paragraph 2.14-2.17:

The United States notes that China did not answer the question of whether or not these programs are included in its most recent subsidy notification. Are any measures related to these initiatives included in China's most recent subsidy notification? If they are, please indicate which programs in the notification are related to these initiatives. If they are not, why are they not included in China's most recent subsidy notification?

Reply: China has submitted its notifications to the WTO in accordance with the WTO Agreement on Subsidies and Countervailing Measures. If the subsidy programs involved in the implementation of the above documents fall within the scope of notification, they will be notified to the WTO in due course.

Page 33, Paragraphs 2.16 and 2.17: The Secretariat Report states that, since 2003, China has used Pilot Free Trade Zones (PFTZs) as a testing ground for nationwide investment liberalization and streamlined regulations of all types. As of 2020, China had 21 PFTZs in place. Recognizing that, in June 2018, China issued the first version of a standalone Foreign Investment Negative List (the "Special Administrative Measures on Access to Foreign Investment") and has revised it each year since then, how long of a pilot is China conducting via its PFTZs? Why does China continue to maintain and expand the number of PFTZs? If the PFTZs are meant to be "pilots," does that mean that the investment rights under the PFTZs are not permanent and may, at some point, be consolidated into the Foreign Investment Negative List to apply on a national basis?

Member Answer: Pilot Free Trade Zones (PFTZs) are test fields for China's independent reform and opening-up. The core task is institutional innovation. China will take the lead in promoting deeper reform and higher-level opening-up, and apply experience to a wider range, so as to explore ways to and accumulate experience for comprehensively deepening reform and opening up. Chinese President Xi Jinping stressed that China will never stop its reform and opening-up. China will give full play to the leading role of PFTZs and promote the building of a new higher-level system of an open economy.

U.S. Follow-up Question to Questions on Page 33, Paragraphs 2.16 and 2.17:

We seek clarification from China about whether the investment rights under the PFTZs are not permanent and may, at some point, be consolidated into the Foreign Investment Negative List to apply on a national basis.

Reply: The Negative List for Foreign Investment Access in the Pilot Free Trade Zone is based on the national opening measures, and it further puts forward more open pilot measures for pilot experimentation and experience exploration. For example, the Negative List of the Pilot Free Trade Zone (2018 version) first lifted the restriction of "prohibiting investment in radioactive mineral smelting, processing and nuclear fuel production", and after two years of implementation, the National Negative List for Foreign Investment Access (2020 version) lifted the relevant restrictions.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

Page 34, Paragraph 2.22: The Secretariat Report indicates that China's domestic support notification remains outstanding. Please explain China's policy on filing the required updated information on its domestic support programs.

Member Answer: China will submit a notification on domestic support for agriculture as soon as possible.

U.S. Follow-Up Question to Question on Page 34, Paragraph 3.22:

The United States thanks China for its response and would like to emphasize the critical importance of submitting notifications as quickly as possible and in an accurate and complete manner. The resulting transparency from timely and complete notifications is crucial to an open and predictable trading system. The United States looks forward to reviewing China's domestic support notification as soon as possible.

2.4 Investment Regime**2.4.1 Regulatory framework and market access**

Page 36, Paragraph 2.36: Article 28 of the Foreign Investment Law states that, for industries not included in the Foreign Investment Negative List, the investment administration "shall be conducted on the principle of equal treatment to domestic and foreign investment." Can China clarify what it means by "the principle" of equal treatment? Does it provide equal treatment of domestic and foreign investment in all cases?

Member Answer: For industries not included in the Foreign Investment Negative List, China accords the treatment to foreign investors and their investments no less favorable to that accorded to domestic investors and their investments. The state conducts a security review of foreign investment that impacts or may impact national security. Where the state has issued any other provisions on foreign investors' investment in the banking, securities, insurance, and other financial industries or the securities, foreign exchange, and other financial markets within China, such provisions shall prevail.

U.S. Follow up Question to Questions on Page 36, Paragraph 2.36:

The United States seeks clarification of China's response with regard to its treatment of financial services. China notes that for industries that are no longer included in the Foreign Investment Negative List, China accords no less favorable treatment to foreign investors and their investment than it accords to domestic investors and their investments. Financial services is no longer included in the Foreign Investment Negative List; therefore, it appears that foreign investors and their investments in those sectors should receive no less favorable treatment than domestic investors and their investments. However, in its answer, China also explains that, for financial services, other provisions relating to those sectors shall prevail. Do these "other provisions" provide that foreign investors and their investments are treated less favorably than domestic investors and their investments in any way? If so, why is that the case given that China's overarching guidance is that investment shall be conducted on the principle of equal treatment?

Reply: Since the announcement of a series of opening measures in the financial industry in 2018, the banking and insurance industry has removed the relevant equity restrictions on foreign investment in the original Negative List for Foreign Investment Access, so it is no longer included in the Negative List for Foreign Investment Access. At present, China's banking and insurance industry manages foreign investment according to the international practice of pre-establishment national treatment and negative list. National treatment for foreign investment shall be provided to the foreign investment that it is not included in the negative list of multilateral and bilateral free trade agreements and investment agreements. Since 2018, contents concerning banking and insurance in the negative list of multilateral and bilateral free trade agreements and investment agreements have been greatly reduced.

Page 37, Paragraph 2.45, and Page 38, Chart 2.1: In this section of the Report, the Secretariat discusses developments regarding China's Foreign Investment Negative List. Over the past three years, China has removed some restrictions from its Foreign Investment Negative List. However, unfortunately this element of the Report does not make clear that China does continue to prohibit or restrict foreign investment in several key sectors, including Internet and related services, cloud computing services, express delivery services, higher education services, news publishing services, film production, film distribution, medical institutions, legal services, market research firms and certain agriculture sector investment. For each of the identified sectors, can China explain (1) why it continues to maintain investment restrictions and (2) its policy on removing the remaining investment restrictions?

Member Answer: According to the Provisions on Guiding Direction of Foreign Investment (State Council Decree No. 346), foreign invested projects under any of the following circumstances shall be listed as prohibited ones: 1) projects endangering State security or damaging social and public interests; 2) projects causing pollution or damage to environment, jeopardizing natural

resources or impairing health of human body; 3) projects unfavorable to the protection and development of land resources as a result of occupation of large amount of arable lands; 4) projects endangering the safety of military installation or the work efficacy thereof; 5) projects involving the making of products by utilizing the unique craftsmanship or technology of our country; or 6) other circumstances provided for in laws and administrative regulations. Foreign invested projects under one of the following circumstances shall be listed as restricted ones: 1) projects with backward teleology; 2) projects without any benefit to the conservation of resources and the improvement of eco-environment; 3) projects involving the exploration and exploitation of any special mineral resource the exploitation of which shall, as provided for by the State, be carried out in a protective way; 4) projects involving the industry that is being opened up by the State step by step; or 5) other circumstances provided for in laws and administrative regulations.

U.S. Follow up Question to Question on Page 37, Paragraph 2.45, and Page 38, Chart 2.1:

China has stated publicly that it will continue to remove restrictions from its Foreign Investment Negative List as part of China's opening up. With that in mind, can China please provide more details on its policy on removing remaining foreign investment restrictions?

Reply: Relevant Chinese authorities are studying and formulating a new negative list for foreign investment access, and plan to further relax restrictions on foreign investment access.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

Page 46-47, Paragraph 3.8: The Secretariat Report states that "[d]uring the review period, the GACC issued various administrative measures for the inspection and/or quarantine of specific goods." With regard to Decree 248 and Decree 249, which the General Administration of Customs of China issued in 2021, various WTO Members have expressed concern about China's failure to adhere to its WTO transparency obligations, the scope of impacted commodities and the Decrees' requirements, which are neither clear nor well understood. In addition, the Decrees appear to propose onerous and redundant requirements that are already met by existing measures, and they do not clearly state what food safety risks have necessitated their issuance. Given the scope of impact of Decrees 248 and 249, what is China's view on delaying implementation of these Decrees until 2023 and immediately begin implementing its WTO transparency obligations?

Member Answer: In accordance with laws and administrative regulations, such as, the Food Safety Law of the People's Republic of China and the Regulation on the Implementation of the Food Safety Law of the People's Republic of China, China has organized the revision of regulations on the administration of safety of imported and exported food and the administration of registration of overseas imported food production enterprises. The Measures of the People's Republic of China for the Administration of Safety of Imported and Exported Food (General Administration of Customs No. 249) and the Provisions of the People's Republic of China on the Administration of Registration of Overseas Imported Food Production Enterprises (General Administration of Customs No. 248) promulgated on 12 April 2021 will come into force on 1 January 2022. Before the promulgation, China notified the WTO in accordance with the relevant rules, accepted comments of WTO members and adopted reasonable opinions and suggestions, so it conform to relevant WTO rules. General Administration of Customs No. 248 and No.249 have been published on the official website of General Administration of Customs. Enquiries are welcome. Where an overseas imported food production enterprise undergoes any change in its registration information during the validity period of registration, it shall handle procedures according to Article 19 of General Administration of Customs No. 248.

U.S. Follow-up Question to Question Page 46-47, Paragraph 3.8

What is the implementation period for the measure?

Reply: General Administration of Customs No.249 and General Administration of Customs No.248 were issued on 12 April 2021 and will be put in place on 1 January 2022.

3.2 Measures Directly Affecting Exports

3.2.2 Taxes, charges, and levies

Page 68, Paragraph 3.78 and Table 3.11: The Secretariat Report states that China continues to apply export duties on a wide range of products. It explains that, as of January 2021, "102 tariff lines (at the 8-digit level) were subject to statutory export duties, unchanged since 2015, while

75 tariff lines carried interim duties, down from 180 in 2017." Although the Secretariat Report does not discuss the panel and Appellate Body findings on China's export duties in DS394, DS395, DS398, DS431, DS432 and DS433, the United States notes that two panels and the Appellate Body found that paragraph 11.3 of part I of China's WTO Protocol of Accession commits China to eliminate all export duties unless specifically provided for in Annex 6 of the Protocol or applied in conformity with the provisions of Article VIII of the GATT 1994 and, further, that Article XX of the GATT 1994 is not available to justify a violation of this commitment. What is China's policy on eliminating these export duties?

Member Answer: According to Annex 6 of the Protocol on China's Accession to WTO, China can retain export tax on a small number of products, while other products shall not be subject to export tax. At present, the products subject to export tariffs are all in line with China's WTO accession commitments, and the export tariff rate shall not exceed the upper limit of China's WTO commitments.

U.S. Follow-Up Question to Question on Page 68 Paragraph 3.78 and Table 3.11:

The Secretariat's report identifies a total of 177 tariff lines (at the 8-digit level) that China continues to subject to export duties. China has responded by claiming that, at present, all of China's export duties are in line with China's commitments in Annex 6 of its Protocol of Accession to the WTO. The United States notes that Annex 6 only lists 84 tariff lines (at the 8-digit level) that China can continue to subject to export duties after its accession to the WTO. Can China explain how it justifies maintaining export duties on the additional 93 tariff lines (at the 8-digit level) that are not listed in Annex 6?

Reply: Due to the reversion of the World Custom Organization's tariff schedule, the adjustment of China's sub-headings and the gradual increase of China's tariff lines, the number of tariff lines subject to export duties is on the rise, but the products subject to export duties are all in line with China's commitments in Annex 6 of its Protocol of Accession to the WTO.

3.2.4 Export support and promotion

Page 72, Paragraph 3.101: The Secretariat Report explains that in China the value-added tax (VAT) may be rebated on exports, but exporters are generally entitled to VAT rebates lower than the VAT paid. It states that "four refund rates are in force: 13%, 9%, 6%, and 0%, with the proportion of tariff lines subject to each rebate rate being 61.2%, 18.9%, 0.1%, and 19.6%." In connection with the 2012 Trade Policy Review of China, the Secretariat Report noted (in paragraph 143 of Part III) that "[t]he difference between the two rates constitutes a levy on exports, which may in turn constitute assistance to downstream processing of the products affected, and could affect China's terms of trade." It added that "China adjusts VAT rebate rates as part of its industrial policies, to control, restrict, or otherwise 'manage' the export of certain products." What is China's view on the proposition that moving to a trade-neutral VAT system, in which input VAT is rebated in full for all exports, would allow the market, rather than the Chinese state, to play a decisive role in the allocation of resources? If not, please explain. Is China studying the possibility of adopting a VAT rebate policy pursuant to which the input VAT is automatically rebated in full for all exports, consistent with the policies prevailing in other WTO Members with a VAT system and how long would it take China to adopt and implement such a policy. Please explain.

Member Answer: it is clearly stated in paragraph 3.98 that "after the issuance by the Ministry of Finance (MOF) and the State Taxation Administration of the Announcement on Increasing the Export Tax Refund Rate of Some Products in 2020, the VAT rebate rate of all products, except for the high-pollution, high-energy consuming, and resource-based products, became equal to the applied rate.

U.S. Follow-Up Question to Question on Page 72, Paragraph 3.101:

China did not answer either of the United States' questions about the possibility of China moving to adopt a trade-neutral VAT system like other countries that maintain VAT systems. Can China respond to those questions?

Reply: Paragraph 3.98 clearly points out that "the Ministry of Finance and State Taxation Administration of the People's Republic of China issued an announcement to increase the export tax rebate rate of some products in 2020. After that, apart from high pollution, high energy consumption and resource-based products, the VAT rebate rate of other products shall be equal to the applicable tax rate."

3.2.5 Export finance, insurance, and guarantees

Page 73, Paragraph 3.108: The Secretariat Report states that "the bulk of export finance is provided by the China Export-Import Bank ... and the state-owned China Export & Credit Insurance Corporation (SINOSURE)." On its website, China Development Bank, under international business products, lists a buyer's credit as one of its product offerings. This product appears to be a loan provided to foreign importers or government agencies or banks of the importing country that can only be used to purchase Chinese equipment and should be linked to a specific export-related project. The loan requires SINOSURE credit insurance and Chinese content of at least 50%. Can China provide information on the financial terms and conditions of the buyer's credit program offered by China Development Bank?

Member Answer: The buyer's credit project contract of China Development Bank (CDB) is generally formulated based on a formatted text of the Asia Pacific Loan Market Association (APLMA) and compliant with loan market practices in the Asia Pacific region. For each project, CDB needs to conform to confidentiality clauses and requirements related to financing documents signed with the customer and shall not provide the financing documents to the outside.

U.S. Follow-up Question to Question on Page 73, Paragraph 3.108:

Please share specific information about the financial terms and conditions (interest rates, tenor, premium costs, Chinese content requirements, etc.) of the buyer's credit program offered by China Development Bank.

Reply: The export buyer's credit project contracts of China Development Bank (CDB) are generally based on the format text of the Asia-Pacific Loan Markets Association (APLMA), and comply with the loan market practices in the Asia-Pacific region. For each project, China Development Bank is required to comply with the confidentiality clauses and requirements related to the financing documents signed with clients, and shall not disclose financing documents.

Page 73, Paragraph 3.110: According to the Secretariat Report, China Eximbank offers "concessional loans ... to developing countries at rates lower than market interest rates and are usually tied to Chinese exports." The United States notes that, in China's questionnaire on export competition, it replied that Eximbank provides export financing for agricultural products. Does China Eximbank offer concessional loans to developing countries at rates lower than market rates for the export of agricultural products. If so, please provide a detailed description of the concessional loan program(s), and maximum repayment terms.

Member Answer: The Export-Import Bank of China provides domestic working capital loans and export order financing for Chinese agricultural product exporters. According to The Ministerial Decisions on Export Competitions reached by the WTO members at the Tenth Session of the Ministerial-level Meeting on December 19, 2015, the export credit for agricultural products does not include the agricultural product working capital loans offered to the exporters. Therefore, the working capital loan associated with agricultural products provided by the Export-Import Bank of China to exporters does not belong to the export credits for agricultural products; As for the agricultural export order financing provided in 2019 and 2020, the WTO agricultural export competition questionnaire has been completed as required.

U.S. Follow-Up Question to Question on Page 73, Paragraph 3.110:

The United States thanks China for its answer. Can China please provide two examples of Export-Import Bank of China's concessional loans for Chinese agricultural product exporters destined to developing countries?

Reply: The Export-Import Bank of China provides domestic working capital loans and export order financing for Chinese agricultural exporters. The interest rate will be determined by considering the comprehensive contribution of customers and various costs such as capital, risks, taxes and administrative expenses. In addition, it is determined according to the forecast of interest rate trend and market competition status, and based on the principle of matched risk and return. There is no preferential loan specifically for agricultural products.

Page 73, Paragraph 3.110: What are the longest repayment terms offered with China Eximbank's seller's credit support?

Member Answer: The Export-Import Bank of China will determine the credit repayment term of the export seller in line with the borrower's ability in operation and management, the borrower's credit status, capital turnover, project operation, etc.

U.S. Follow-up Question to Question on Page 73, Paragraph 3.110:

Please share specific information on the average longest repayment term offered with China Eximbank's seller's credit support.

Reply: The repayment period of export seller's credit of Export-Import Bank of China is determined according to the execution period of commercial contract for exports and the progress for Receipt of foreign exchange.

Page 74, Paragraph 3.111: What are China Eximbank's terms and conditions for the concessional loans, the preferential export buyer's credits, and the standard export credits?

Member Answer: The loan conditions will be determined for specific projects based on the market benchmark: on the basis of actuarial cost and risk quantification, with the goal of sustainable operation and be in line with the market rate of interest, overall considering the comprehensive contribution of customers and various costs such as capital, risk, tax and management expenses, predicting the trend of the interest rate, and determine according to market competition and the principle of risk-return matching.

U.S. Follow-up Question to Question 74, Paragraph 3.111:

Please share specific information about the financial terms and conditions (interest rates, tenor, premium costs etc.) of China Eximbank's concessional loans, preferential export buyer's credits, and standard export credits.

Reply: The loan conditions of specific projects shall be determined according to market benchmarks. The trend of interest rate shall be predicted based on actuarial cost and risk quantification, aiming at sustainable operation, consistent with market interest rate, taking into account the comprehensive contribution of clients and various costs such as capital, risk, taxes and administrative expenses. And the interest rate shall be determined according to the principle of market competition and matched risk and return.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 77, Paragraph 3.124: With regard to China's government guidance funds, the Secretariat Report notes that "these funds were in part privately funded." For each of the government guidance funds listed in Table 3.15, please identify what part or percentage of the fund is privately funded versus government funded.

Member Answer: The investment management and decision-making of government guidance funds are completely based on market principles, and government departments do not intervene or participate in the decision-making of any investment projects of the fund. The fund is established in accordance with the Company Law of the People's Republic of China and other laws, and its fund governance structure is also determined on the basis of such laws for market-based operation. China has not provided subsidies to any industry through the fund.

U.S. Follow-Up Questions to Question on Page 77, Paragraph 3.124

China provided the above response to several U.S. questions regarding its government guidance funds. This response does not answer the question asked above. The United States asks China to identify what part or percentage of the fund is privately funded versus government funded for each of the government guidance funds listed in Table 3.15.

For funding provided by the government, is that funding in the form of equity, grants, or loans?

Although China maintains that its government guidance funds, such as the National IC Investment Fund (IC Fund), is managed on market principles, one investor in the IC Fund reported that in the State Council regulation establishing the Fund, there are provisions for the Ministry of Finance to set aside additional sums of money to pay the fixed return on the preferred stock of the Fund if profitability falls below a certain target. Therefore, it appears that the Government may be compensating other investors in the IC Fund if a certain level of return is not reached. Please comment on how this is consistent with the IC Fund being managed pursuant to market principles.

Reply for above three questions: We are not in the know about the situation mentioned in above questions, therefore we are not in a position to comment on relevant guesses and rumors.

Page 78, Paragraph 3.125: In addition to the government guidance funds referenced above, the Secretariat Report notes the existence of several policy-related funds targeting, for example, Made in China 2025 industries and the integrated circuit industry, among others. Please provide additional information on each of the policy-related funds listed in Table 3.16, including:

What is the structure and purpose of the fund?

What forms of assistance are granted under the fund, including whether the fund provides export support or promotion?

Please explain why China asserts that the financial support provided through the fund does not constitute subsidies and therefore is not subject to the WTO's notification requirement.

Member Answer: The investment management and decision-making of government guidance funds are completely based on market principles, and government departments do not intervene or participate in the decision-making of any investment projects of the fund. The fund is established in accordance with the Company Law of the People's Republic of China and other laws, and its fund governance structure is also determined on the basis of such laws for market-based operation. China has not provided subsidies to any industry through the fund.

U.S. Follow-Up Question to Question on Page 78, Paragraph 3.125

The United States notes that China did not answer the question, which was about policy-related funds not government guidance funds. Please answer the initial question regarding the structure and purpose of, as well as the assistance provided through, the various policy-related funds cited by the Secretariat.

Reply: Policy-related funds operate in line with market rules, and the choice of investment projects shall be completely determined by the market.

3.3.2 Standards and other technical requirements

3.3.2.1 Overview

Page 79, Paragraph 3.133: The United States and other WTO Members continue to have significant concerns because the only means that China's National Medical Products Administration (NMPA) provides for cosmetics importers to establish conformity with good manufacturing practices via the new Cosmetics Supervision and Administration Regulation (CSAR) (G/TBT/N/CHN/1310), which entered into force on May 1, 2021, involves animal testing if the government of the exporter does not issue good manufacturing practices (GMP) export certificates.

Will China consider alternative means for cosmetics importers to meet NMPA's requirements for government-issued GMP export certificates such as statements of conformity from industry organizations or third-party programs under the ISO/IEC 17065 Conformity Assessment Standard that align with the ISO's GMP standard for cosmetics?

Will China ensure that NMPA, the State Administration for Market Regulation and the China National Accreditation Service for Conformity Assessment are transparent and report publicly which GMP certificates or production licenses they are accepting as demonstrating conformity?

Member Answer: Yes, China ensures that China National Accreditation Service for Conformity Assessment (CNAS) is transparent. In accordance with the requirements of relevant Chinese laws and regulations and national standards, relevant international standards and rules of IAF, ILAC and APAC, CNAS publishes the policies, procedures and rules on which its operation is based, publishes its accreditation results, and invites accredited stakeholders to fully participate in the decision-making and management process of CNAS. CNAS is regularly inspected by relevant Chinese authorities, and is regularly peer-reviewed by APAC, so as to ensure that the transparency of CNAS meets the requirements of relevant Chinese laws and regulations, national standards, relevant international standards and relevant rules of IAF, ILAC and APAC.

The Regulations on the Administration of Cosmetic Registration and Filing Materials (No.32, 2021) issued by National Medical Products Administration puts forward completely consistent requirements on the setting of animal experiment alternatives for safety evaluation of imported and domestic cosmetics. Based on the principle of ensuring the quality and safety of product production and WTO non-discrimination, in terms of toxicology test project requirements and exemption conditions, domestic and imported ordinary cosmetics manufacturers who have obtained the relevant qualification certification of production quality management system issued by the competent

government department of the host country (region) and the product safety risk assessment results can fully confirm the product safety may be exempted from submitting the toxicology test report of the product.

U.S Follow-up Question to Question on Page 79, Paragraph 3.133:

We appreciate the response from China, reaffirming its commitment to work via the China National Accreditation Service to align China's conformity assessment practices with the relevant international standards and rules, such as those employed by the International Accreditation Forum (IAF) and the ILAC. Via CSAR and its implementation regulations, China has said that cosmetics importers may be exempted from mandatory animal testing, if they can provide (1) a cosmetics safety assessment that meets the requirements of CSAR and (2) a GMP certificate issued by a government authority. As the U.S. government does not issue cosmetics GMP certificates, could China please clarify if it will accept a GMP certificate, provided via the U.S. IAF or ILAC signatories, that accredits U.S. conformity assessment bodies to use the ISO 17065 standard for conformity assessment to provide GMP certificates based upon the ISO 22716 cosmetics standard?

Reply: Pursuant to the Article 33 of the Regulations on the Administration of Cosmetic Registration and Filing Materials, except for exceptional circumstances, ordinary cosmetics manufacturers who have obtained the relevant qualification certification of production quality management system issued by the competent government department of the host country (region) and results of the product safety risk assessment can fully confirm the product safety may be exempted from submitting the toxicology test report of the product. Cosmetics filer or the domestic responsible person who files for the record shall be exempted from the submission of the product's toxicology test report if the filing materials meet the above said requirements.

3.3.2.3 Labelling and packaging

Page 83, Paragraph 3.154: The Secretariat Report details information from China's Food Safety Law and other laws regarding the labeling of pre-packaged foods.

Please describe any measures taken by China to ensure China's labeling requirements are consistent with the WTO SPS and TBT Agreements and, as appropriate, are harmonized with relevant international standards.

Member Answer: The market supervision department implements "indiscriminate" supervision on imported food and domestic food sold in the market in accordance with relevant laws and regulations such as the Food Safety Law and Regulations on the Implementation of Food Safety Law as well as national food safety standards, strictly abides by the bottom line of food safety and maintains a fair market order.

Follow-Up Question to Question on Page 83, Paragraph 3.154:

Could China provide more detail in responding to the above questions? What does "market supervision" entail? Could China please clarify how the regulations are implemented and how consistency with international standards and WTO obligations is ensured?

Reply: China's market regulators refer to the State Administration of Market Regulation (SAMR) as well as local market regulators. China earnestly fulfills its WTO obligations. China's Food Safety Law, Regulations on the Implementation of the Food Safety Law, and national food safety standards have been notified to the WTO as required. We have also carefully examined, responded to and taken into account the comments from relevant members.

Page 83, Paragraph 3.156: The United States continues to be concerned that new cosmetics labelling requirements introduced via the Cosmetics Supervision and Administration Regulation and its implementing measures potentially create unnecessary obstacles to trade.

Why is China requiring foreign labels on products to exactly match the required Chinese labelling, if the foreign language labelling does not conflict with the product safety and effectiveness information on the Chinese label?

Will China provide at least two years for imported, previously-registered cosmetics to comply with new labelling requirements, so as to allow companies to sell through inventory already in China?

Member Answer: First, the correspondence between Chinese and English labels. The Measures for the Administration of Cosmetic Labels (No.77, 2021) issued by National Medical Products Administration does not require that all contents of Chinese labels should be consistent with those of the original packaging labels, but only requires that the contents of product safety and efficacy

claims should be consistent with those of the original labels. Second, the problem of product transition period. Under the condition of the actual situation of the industry fully considered and avoiding the waste of packaging consumables, a reasonable transition period has been set for the industry. A two-year transition period has been given to products registered or filed before 1 May 2022. If labels are not marked according to the Measures, cosmetics registrants and filers shall complete the update of product labels before 1 May 2023 to ensure that they meet the provisions and requirements of the Measures.

U.S. Follow-up Question to Question on Page 83, Paragraph 3.156:

Why does China require that foreign companies' labelling regarding product safety and efficacy claims be "consistent" with China's requirements, rather than require that the labelling does "not conflict" with China's requirements? Does China allow other countries that may need it the ability to provide for variations in national versus international labelling?

Reply: According to Article 2 of the Measures for the Administration of Cosmetic Labels, the Measures is applicable to the labelling management of cosmetics manufactured and operated in China. Also, China does not require the contents of the affixed Chinese label should be identical to those of the original packaging labels, but only requires that the contents of product safety and efficacy claims should be consistent with those of the original labels. Therefore, China does not impose restrictions on the labeling which is mandatory by the regulations of the importing country (region) and does not conflict with Chinese laws and regulations. There is no such situation as mentioned in the U.S. concerns.

3.3.3 Sanitary and phytosanitary requirements

3.3.3.2 SPS measures

Page 86, Paragraph 3.166: The United States notes that China has made significant progress in establishing numerous pesticide maximum residue limits in a short period time. Currently, China does not have a formal registration process to establish import tolerances for pesticides that are not approved for use in China. The United States understands regulations for establishing import tolerances are currently under consideration by China.

Has China announced the implementation of an import tolerance policy?

Will the measure undergo public review; If so, when?

Member Answer: China never declares and will not formulate regulations for establishing import tolerances

U.S. Follow-up Question to Question on Page 86, Paragraph 3.166

Please share the technical justification for the response provided above.

Reply: China never declares and will not formulate regulations for establishing import tolerances.

Page 86, Paragraph 3.168: The Secretariat Report lists emergency measures that China notified in 2020 that were purportedly issued and implemented as preventative measures to stop COVID-19 transmission in cold-chain foods. However, these measures are not consistent with the guidance provided by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) such as FAO/WHO's FAO-WHO interim guidance: "COVID-19 and Food Safety: Guidance for competent authorities responsible for national food safety control systems," dated 22 April 2020, or FAO's "COVID-19: Guidance for preventing transmission of COVID-19 within food businesses," dated 2 August 2021. According to this guidance, current data indicates that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including SARS-CoV-2. In other words, SARS-CoV-2 is not a direct food safety concern. Like the FAO and the WHO, the U.S. Food and Agriculture Organization advises that "[c]urrent data indicates that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including SARS-CoV-2. In other words, SARS-Cov-2 is not a direct food safety concern."

In light of this guidance, please provide the science- and risk-based justification for restrictions on imported cold-chain foods related to COVID-19 prevention.

Does China disagree with the guidance provided by the FAO and the WHO and China's trading partners.

Member Answer: In order to effectively prevent Novel Coronavirus from being introduced through imported cold chain food, according to the joint prevention and control mechanism of the State Council, the State Administration for Market Regulation has raised requirements for the producers

and operators of imported cold chain food that they shall not process, produce or sell imported cold chain food without inspection and quarantine certificate, nucleic acid test certificate, disinfection certificate and traceability information. For the same batch of products tested positive in nucleic acid test, measures such as taking them off the shelves and stopping selling, and sealing up in special areas shall be implemented. The above measures comply with Article 42, Paragraph 1, Article 44 and Article 55 of the Law of the People's Republic of China on Prevention and Treatment of Infectious Diseases, Article 42, Paragraph 1 and Article 92, Paragraph 2 of the Food Safety Law of the People's Republic of China and other relevant laws and regulations, and are administrative acts according to law. The State Administration for Market Regulation will always strictly follow the deployment of the joint prevention and control mechanism of the State Council, and implement the relevant work requirements for pandemic prevention and control from the cold chain food.

U.S. Follow-Up Question to Question on Page 86, Paragraph 3.168:

In the original question, the United States asked China to provide the science- and risk-based justification for restrictions on imported cold-chain foods related to COVID-19 prevention. China did not do so. Instead, China stated that its restrictions are consistent with Chinese legal measures. Can China provide a science- and risk-based justification for its restrictions?

Reply: In order to prevent the risk of the COVID-19 being imported through imported cold-chain food, effectively guarantee food safety and people's lives and health, and maintain the safety of international trade supply chains, China has implemented measures for imported cold-chain food under the premise of following international standards and rules - risk monitoring, suspension of the import of products from companies that have a cluster of infections, and implementation of emergency preventive measures for overseas manufacturers of imported cold chain foods that have detected positive nucleic acid for the COVID-19. In this regard, some WTO members have expressed their concerns to China through several channels, and China is willing to share and exchange relevant information with the members concerned.

The Covid-19 pandemic has seriously jeopardized the safety and health of human lives, and has had a grave impact on the economic and social order and production of countries around the world. China has made great efforts to effectively control the pandemic in its territory, but still is exposed to significant risk of reintroduction of COVID-19 through importation. Since last year, some countries have lifted the lockdown despite the increased new cases, and people started working while still suffering from illness. As a result, many overseas manufacturing companies have reported clusters of infections among their employees. Chinese customs and local authorities have repeatedly detected positive nucleic acid for COVID-19 virus on the inner and outer packaging of imported cold-chain food products or on the product itself, which indicates deficiencies in the food safety management systems of some overseas food companies that export to China. In this context, the General Administration of Customs (GAC), in order to protect food safety and consumer health, has deployed emergency preventive measures to monitor the risk of imported cold chain foods, suspend the import of products from companies reported with clusters of infections, and apply a 1-week or 4-week suspension to overseas producers of imported cold chain foods that have tested positive for nucleic acid of the COVID-19. These measures have received proactive support and cooperation from many countries and establishments, and many of the exporters that experienced clusters of infections have suspended their exports to China voluntarily. Certainly, the establishments involved can resume their exports to China after taking measures to effectively eliminate the relevant risks and ensure food safety for their exports to China. China has notified the WTO of the above circumstances in an appropriate form.

COVID-19 is a new virus, and many of its epidemiological characteristics remain uncertain. Considering the global prevalence, high contagiousness, and high pathogenicity of Covid-19, China has taken corresponding emergency responses, which are important to prevent the risk of importation of Covid-19 virus through imported cold chain foods. On 17 October 2020, the Chinese Center for Disease Control and Prevention (China CDC) announced to the public that the live virus was detected on the outer packaging of imported cold-chain foods, which is the first time to confirm out of laboratory that COVID-19 can survive for a longer period of time on the outer packaging of items under special conditions of cold-chain transportation, suggesting that the virus has the possibility of cross-border importation over long distances with cold-chain items as the carrier. Given this situation, China has tightened the regulation of cold chain foods based on risk assessment, and the relevant practices conform to WTO rules. As a necessary measure to protect people's health, it does not undermine the normal operations of international trade.

China welcomes the entry of high-quality and safe food from all members and strictly abides by the rules of the World Trade Organization. At present, the global pandemic prevention and control is still in a critical period. China calls on relevant members to follow the guidelines issued by the FAO and the WHO to establish an effective food safety management system and take various preventive measures to prevent exported food from being infected by COVID-19. China is willing to maintain communication with members on related matters to ensure food safety from the source and enhance consumer confidence, and ensure the safety of the international food supply chain together with other members.

3.3.5 State trading, state-owned enterprises, and privatization

Page 97, Paragraph 3.199: The Secretariat Report notes that "State participation varies from wholly SOEs and majority state ownership to the State acting as another shareholder." How does the Chinese government currently decide on the appropriate level of state ownership in a particular company? What factors influence that decision?

Member Answer: Since 2018, positive progress has been made in SOE reform. State-owned enterprises have completed the corporate system restructuring in an all-round way, and their status as independent market entities has been further established on the institutional level. Central SOEs have completed the corporate system restructuring, and 96% of local SASAC-funded enterprises have also completed the corporate system restructuring. Stable progress has been made in the mixed ownership reform.

U.S. Follow-Up Question to Question on Page 97, Paragraph 3.199

The United States notes that China did not answer the question as to how it determines the level of state ownership in a particular company. Please detail how China makes determinations about how much ownership stake to retain in a company that has undergone mixed ownership reform.

Page 97, Paragraph 3.202: The Secretariat Report notes that the State-Owned Asset Supervision and Administration Commission (SASAC) is in charge of "contributing capital to ... SOEs under its management."

Please explain how SASAC makes its decisions on how to contribute capital.

Please explain how these decisions are consistent with the actions of a private investor.

Member Answer: SASAC is subordinate to the State Council. According to the Company Law, Law on the State-Owned Assets of Enterprises and other laws and regulations, based on the principle of separating government administration from enterprise management, separating government administration from state assets management, and separating ownership from management rights, SASAC performs investor duties on behalf of the State Council, contributes to the invested enterprise as a shareholder, injects capital acting on market principles and rule of law like other private investors, and has the right in major issues including benefiting from the return on assets and choosing managers. The supervision of enterprises by SASAC is based not on the supervision of administrative power, but on the rights of investors, and the SASAC does not interfere with the daily business decisions of enterprises. SASAC appoints and dismisses the heads of central SOEs under its supervision through legal procedures instead of directly appointing senior managers.

U.S. Follow Up Question to Question on Page 97, Paragraph 3.202

If, as China claims, "SASAC injects capital on market principles and rule of law like other private investors" then can China provide examples of instances in which SASAC has withdrawn its capital from an SOE?

Reply: The SASAC strictly follows the capital reduction procedures for enterprises in accordance with the law. Up to date, no capital reduction has occurred for the tier-one state-owned enterprise group. In the process of promoting mixed ownership reform of local state-owned enterprises, there have been cases of transfer of state-owned equity. According to media reporting, on 22 November 2019, Tianjin Yishang Group Co., a state-owned enterprise in Tianjin, transferred all its entire shares to the private enterprise, China Fangda Group for RMB 2,269 million.

Page 98 Table 3.24: Does the Agricultural Bank of China support any agricultural equipment exports? If so, what financial terms and conditions does it offer?

Member Answer: SOEs, private enterprises, foreign-funded enterprises, China-foreign joint ventures, etc. are all customer groups of commercial banks. On the premise of compliance with laws and regulations, commercial banks independently select customer groups according to their own

strategic planning, development orientation, risk preference, operation and management capabilities, etc., and issue credits and loans. The relevant decisions of commercial banks are market-oriented choices and behaviors in light of their own development situation.

U.S. Follow-up Question to Question on Page 98, Table 3.24:

China did not answer the question. Do any of the Agricultural Bank of China's credit and loan support cover equipment exports? Please provide specific information on the financial terms and conditions (interest rates, tenors, premium cost...etc.) of this type of support.

Reply: pursuant to the principle of marketization and rule of law, the Agricultural Bank of China determines the specific financing amount, term, interest rate, guarantee and among others according to the borrower's position in credit, business risk, market operation and other relevant factors.

Page 99, Paragraph 3.206: The Secretariat Report assesses that "[t]he importance of SOEs in China's economy, coupled with high amounts of financial support, may affect the functioning of market-oriented policies and practices. It would appear that SOEs in China often benefit from credits extended by state banks or other forms of financing, implicit grantees, capital injections, and preferential access to inputs." The United States agrees with this assessment, which is an assessment shared by many other WTO Members and by many experts who analyze China's economic and trade regimes. However, the Secretariat Report notes that the Chinese authorities object to this assessment and insist that SOEs in China receive no preferences at all. Can China explain why it considers that Chinese SOEs operate on the same terms and conditions as private enterprises?

Member Answer: The Chinese government attaches great importance to the fair and equitable participation of SOEs in market competition. SOEs have been integrated with the market economy and become the main entity independently engaging in market competition. They purchase and sell according to commercial considerations. They shall be subject to the same laws and rules as other enterprises in terms of access to funds, bankruptcy and competition legislation, and do not enjoy privileges.

U.S. Follow Up Question to Question on Page 99, Paragraph 3.206

Are SOEs provided loans from state-owned banks at the same rates as loans provided by state-owned banks to private enterprises?

Page 99, Paragraph 3.206: According to the Secretariat Report, it appears "that SOEs in China often benefit from credits extended by state banks." China disagrees with this view. Please explain how state banks determine the loan rate for SOE borrowers? How do they price the risk of lending to an SOE?

Member Answer: SOEs, private enterprises, foreign-funded enterprises, China-foreign joint ventures, etc. are all customer groups of commercial banks. On the premise of compliance with laws and regulations, commercial banks independently select customer groups according to their own strategic planning, development orientation, risk preference, operation and management capabilities, etc., and issue credits and loans. The relevant decisions of commercial banks are market-oriented choices and behaviors in light of their own development situation.

U.S. Follow Up Question to Question on Paragraph 3.206

The United States notes that China did not answer the question regarding how state banks determine the loan rate for SOE borrowers nor the question about how the price the risk of lending to an SOE. China asserts, without explanation, that these rates are market determined. Please answer the questions asked regarding how state banks determine the loan rate for SOE borrowers and how the price the risk of lending to SOEs.

Reply to the above two questions: Article 4 of the Law of the People's Republic of China on Commercial Banks stipulates that commercial banks shall work under the principles of safety, fluidity and efficiency, with full autonomy and assume sole responsibility for their own risks, profits and losses, and with self-restraint. Commercial banks shall carry out business in accordance with laws free from any interference by entities or individuals. Commercial banks shall bear civil legal liabilities independently with all their properties as legal persons. Also, article 35 of the Law stipulates that in offering loans to a borrower, a commercial bank shall strictly check the use of the loan by the borrower, the repayment ability of the borrower, and modes of repayment, etc. When granting loans,

a commercial bank shall separate the checking process with the actual lending, and make examination and approval level-by-level. According to this law, commercial banks in China independently determine the factors to be considered and the information collected in the process of credit risk assessment in accordance with the principles of marketization and rule of law, independently formulate relevant credit risk assessment procedures, and bear their own risks and profits and losses. Usually, when offering credit lines, a bank mainly pays attention to the following factors: whether the use of funds is compliant, the credit status of the entity (whether it is a debtor due to bad faith), financial statements, tax payment, profitability, trade habits, upstream and downstream customers, etc.

3.3.7 Intellectual property rights

3.3.7.5 Industrial property

3.3.7.5.8 Undisclosed information and trade secrets

Page 115, Paragraph 3.284: The Secretariat Report describes the legal framework for the protection of undisclosed information and trade secrets in China.

Why did China reject recommendations to reduce disclosures required at the time that cosmetics products and ingredients are filed under the new Cosmetics Supervision and Administration Regulation (CSAR) (G/TBT/N/CHN/1310 came into force on 1 May 2021) to only what is necessary for its regulatory obligations, so as to minimize the risks of unauthorized disclosures.

Will China provide an update on the plans of the National Medical Products Administration and the State Administration for Market Regulation (SAMR) to develop mechanisms and procedures to protect confidential business information and trade secrets marked as such by U.S. cosmetics and cosmetics ingredient companies, when cosmetics and cosmetics ingredients are registered or notified via the new Cosmetics Supervision and Administration Regulation (CSAR) (G/TBT/N/CHN/1310), which came into force on 1 May 2021?

Member Answer: For the question on trade secrets and intellectual property protection, according to the Cosmetics Supervision and Administration Regulation, to further regulate the registration and filing management of cosmetics and new cosmetic ingredients, Measures for the Administration of the Registration and Recordation of Cosmetics, Provisions for Administration of New Cosmetic Ingredient Registration and Recordation, and Provisions for Administration of Cosmetics Registration and Dossiers elaborate on the workflow and information requirements for the registration and filing of cosmetics and new ingredients. It requires the registrant and the filer to submit safety-related information, which is also the prevailing rule for the inspection of health-related product safety in other countries. Registration and filing Information submitted by enterprises such as a brief description of the production process, and raw materials production process, is not supposed to be publicly disclosed by the government. The disclosure of government information is a measure by the Chinese government to accept social supervision and protect the public's right to know. According to the Regulation on the Disclosure of Government Information, the administrative authorities shall not disclose government information that involves trade secrets, personal privacy, etc. where disclosure can cause damage to the legitimate rights and interests of third parties. Therefore, the question of damage to the trade secrets and intellectual property rights of enterprises does not apply.

China attaches great importance to the protection of trade secrets of enterprises. The trade secrets of parties concerned should be kept confidential as required by Article 47 of the Regulations on the Supervision and Administration of Cosmetics, and the Measures for the Administration of Registration and Recordation of Cosmetics issued on 7 January 2021. Having taken full account of the protection of intellectual property rights and trade secrets of enterprises, China proposed in the process of developing the relevant technical documents, that a summary of the basis for cosmetics efficacy claims should be submitted instead of the full text for the assessment of cosmetic efficacy claims; the technical requirements for the disclosure of new raw materials only contain basic information on raw materials, without requiring the disclosure of complete technical information. Regulatory authorities also strictly comply with the principle of protecting corporate trade secrets in the cosmetic registration and filing management.

For the question of submitting information related to the safety of cosmetic ingredients. Product safety is closely connected with the safety of raw materials, requiring registrants and filers in the application for registration, to clarify the safety related information of raw materials, which is an important measure to ensure product safety. Meanwhile, to facilitate cosmetic registrants and filers to fill out the safety-related information of raw materials, the National Medical Products Administration issued the Provisions for Administration of Cosmetic Registration and Dossiers, which

clearly states that if the raw material manufacturer has submitted safety-related information of raw materials in accordance with the requirements, the registrant and the filer only need to fill out the raw material submission code for relevance.

U.S. Follow up Questions to Question on Page 115, Paragraph 3.284:

Will China provide an update on the plans of the NMPA to develop mechanisms and procedures to protect confidential business information and trade secrets marked as such by U.S. cosmetics and cosmetics ingredient companies, so as to minimize the risks of unauthorized disclosures?

Will these mechanisms and procedures provide a means by which protections from unauthorized disclosures can be monitored and legally enforced within China and abroad?

Reply to the two questions above: There is no update at this time.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2 Agriculture

4.1.2.4 Policy instruments

4.1.2.4.3 Measures affecting exports

Page 126, Paragraph 4.18: According to the Secretariat Report, no data were available on food aid provided by China during the review period. The United States notes that in responding to the ECQ and AG-IMS, China stated that it has provided food aid through both multilateral and bilateral channels, but it has never notified Table ES:3 and NF:1. What is China's policy on providing these food aid notifications to the WTO?

Member Answer: In response to appeals from the international community and requests for emergency humanitarian assistance from the countries concerned, China has provided multi-bilateral emergency food aid to the countries concerned. The emergency food aid provided by the Chinese government is non-reimbursable and in full compliance with WTO regulations. It also requires the countries concerned to arrange the use of food aid provided by China in a manner consistent with WTO rules, and calls for the recipient countries not to monetize or re-export emergency food aid. The above-mentioned emergency food aid has played a positive role in alleviating the humanitarian crisis in the countries concerned and has received unanimous praise from the international community and the countries concerned.

Follow-Up Question to Question on Page 126, Paragraph 4.18:

The United States thanks China for its transparency by explaining its international food aid policy and that it adheres to WTO rules. Will China notify its international food aid donations (both bilateral and multilateral) on Tables ES:3 and NF:1, along with the above description, in future ECQ notifications? The United States reaffirms the importance of the notification process and its potential to provide the transparency for future discussions in the Committee on Agriculture.

Reply: In response to appeals from the international community and requests for emergency humanitarian assistance from the countries concerned, the Chinese government has provided food aid for many countries through bilateral and multilateral channels to help relevant countries cope with food shortages due to the COVID-19 pandemic and other causes. China's action has played a positive role in alleviating the humanitarian crisis in the countries concerned and has received unanimous praise from the international community and the countries concerned. The emergency food aid provided by the Chinese government is non-reimbursable and in full compliance with WTO rules. China requires the countries concerned to arrange the use of food aid provided by China in a manner consistent with WTO rules, and calls for the recipient countries not to monetize or re-export emergency food aid.

4.1.2.4.3 Internal measures

4.1.2.4.3.2 Price controls and market price support systems

Page 129-130, Paragraph 4.25: The Secretariat Report indicates that China has a minimum purchase price for rice and wheat meeting minimum requirements as part of its market price support systems.

With reports of corn and pork auctions, please confirm whether rice and wheat are the only commodities benefitting from a minimum purchase price support mechanism.

Member Answer: China only implements a minimum purchase price for rice and wheat in major producing areas.

Please provide the value levels of nationwide support issued for China's agricultural commodities by year.

Please explain why China has not calculated the level of support as the amount equal to total Chinese production of these commodities and the price support level guaranteed for each commodity.

Member Answer: China only implements a minimum purchase price for rice and wheat in major producing areas. China will soon submit a notification on domestic support for agriculture.

Follow-Up Question to Question on Page 129-130, Paragraph 4.25:

The United States thanks China for its response, but would seek clarification. Is China stating that it does not employ a minimum purchase price support mechanism for corn and pork? The United States looks forward to reviewing all of China's current agricultural support policies in its promised notification. The United States reaffirms the importance of the notification process and its potential to provide the transparency necessary for a strong, functioning agricultural trading system.

Reply: China only implements a minimum purchase price for rice and wheat in major producing areas.

4.1.3 Fisheries

4.1.3.1 Features and market developments

Page 133, Paragraph 4.34: The Secretariat Report states that between 2015 and 2019 there was a downward trend in employment, the number of fishing vessels, and the marine catch. However, efforts taken to address illegal fishing are not outlined in detail.

Is the reduction in employment, the number of fishing vessels, and the marine catch due to an increase in illegal fishing?

Member Answer: The reduction in employment, the number of fishing vessels, and the marine catch does not relate to illegal fishing.

How does this reduction compare to numbers from distant water fishing, which appear to be underreported?

Member Answer: During the period between 2016 and 2020, China did not approve any new distant water fishing enterprises or vessels, and kept the total number of its approved distant water fishing vessels around 2700. Requirements stipulated by the RFMOs on the limitation of the number and total tonnage of fishing vessels, stock-specific fishing quota and conservation and management measures relating to closed fishing areas and closed fishing seasons are strictly observed. The annual catch by China's distant water fleets has been stabilized at around 2.3 million tons.

U.S. Follow-Up Question to Question on Page 133, Paragraph 4.34:

According to China's official statistics, China's distant water fishing fleet consisted of 2,491 vessels in 2017 and increased to 2,705 by 2020. How can the number of licensed distant water fishing vessels increase if China did not approve any new distant water fishing vessels? Does China intend to keep the number of licensed distant water fishing vessels at around 2,700 vessels during the 14th Five-Year Plan period?

Reply: the number of China's distant water fishing vessels increased from 2,491 in 2017 to 2,705 in 2020. During this period, China did not approve any new distant water fishing vessels. The increased licensed distant water fishing vessels were all approved to be built before 2017, and it took time to build them and put them into use. According to the 13th Five-Year Plan, China kept the number of licensed distant water fishing vessels within 3,000. China intends to keep the number within 3,000 during the 14th Five-Year Plan period.

4.1.3.3 Legal, institutional, and policy framework

Page 135, Paragraph 4.37: According to the Secretariat Report, the Chinese authorities indicated that they are taking steps to introduce a total allowable catch system for fisheries. However, details about this system have not been released.

Please describe China's current fishery management system within its Exclusive Economic Zone (EEZ). What is the status of China's stocks within its EEZ? Is the status of China's stocks public information? If so, where can it be found?

Member Answer: China implements a total management system for marine fishery resources in waters under its jurisdiction and a "dual control" system for the number of fishing vessels and the power of main engines. Relevant Chinese research institutes continue to carry out investigations and assessments on fishery resources in exclusive economic zones and publicly release relevant scientific research achievements as appropriate.

U.S. Follow-Up Question to Question on Page 135, Paragraph 4.37:

Can China provide names and links to recent public assessments of China's fishery resources in exclusive economic zones?

Reply: Relevant information are released on the websites of institutes of the Chinese Academy of Fishery Sciences. Links to recent public information:

<http://www.ysfri.ac.cn/info/1108/36290.htm>

<http://www.ysfri.ac.cn/info/1108/36507.htm>

<http://www.ysfri.ac.cn/info/1108/36327.htm>

<http://www.ysfri.ac.cn/info/1108/36214.htm>

<http://www.ysfri.ac.cn/info/1108/35911.htm>

4.1.3.3 Government support to the fisheries sector

Page 136, Paragraph 4.40: The Secretariat Report states: "According to the authorities, the Government will shortly issue a new policy to terminate fuel and boat construction subsidies, with the last of these pay-outs being made at end-2020." Does this include fuel subsidies to distant water fleets flagged to China?

Member Answer: As stipulated in the Circular on Implementing Policy to Support Development of Fishery Sector to Promote High-Quality Development of Fishery Sector (Circular Cai Nong [2021] No. 41) issued in May 2021, China has abolished fuel subsidies which directly cover the cost of fishing, and redirected the subsidies towards supporting national marine ranching and fisheries infrastructure construction, boosting green and circular development of fisheries sector, enhancing compliance capability with respect to international obligations and promoting oceanic resources conservation. The new subsidies policy, featuring the objective of green development, is designed to incentivize fishermen to preserve fisheries resources, reduce fishing intensity and promote the sustainable utilization of marine fishery sources.

U.S. Follow-Up Question to Question on Page 136, Paragraph 4.40:

In Circular Cai Nong [2021] No. 41, can you confirm that, in Article 2.2.2, the phrase "abolish[ing] direct cost subsidies" refers specifically to abolishing the fuel subsidy program for fisheries? Are any other direct cost subsidy programs for fisheries also abolished pursuant to this measure?

Reply: The new round measures to support the development of fishery sectors feature in the green and sustainable orientation, the direct cost subsidies has been abolished and the fuel subsidy program and boat construction subsidies will no longer be put in place. In addition, the subsidy program will be coupled with administration of fishery sector and designed to incentivize fishermen to preserve fisheries resources.

4.1.3.4 Fisheries conservation measures

Page 136, Paragraph 4.43: According to the Secretariat Report, the Chinese authorities have stated that China has taken steps to limit illegal, unreported, and unregulated (IUU) fishing activities and to strengthen monitoring and control of the fisheries industry while undertaking investigations into and administering penalties for illegal fishing activity and enterprises.

Do China's anti-IUU fishing efforts apply to distant water fishing vessels that are owned and operated by Chinese companies but registered in and fly the flag of a third country? What laws and regulations apply to such vessels? Does China work with foreign countries and organizations to ensure that these vessels are properly monitored and controlled? If so, how?

Member Answer: China actively joins the relevant RFMOs, legally engages in offshore fishing activities under the jurisdiction of RFMOs, and effectively fulfills the obligations as a RFMO member. In recent years, China's compliance performance in offshore fisheries has ranked among the top RFMOs such as the IOTC, and the level of compliance has improved year by year. Since 2020, China has established a compliance evaluation mechanism for pelagic fishery enterprises to quantitatively evaluate the annual compliance performance of offshore fishing enterprises and their fishing vessels, and used the compliance evaluation results as the basis for implementing incentives and penalties.

As a member of eight RFMOs, China has supported the inclusion of illegal fishing vessels in the RFMO IUU fishing list, and cooperated with coastal countries to jointly combat illegal fishing activities. Bilateral fisheries dialogues and consultation mechanisms have been established the US, EU, Australia, New Zealand, Argentina and other countries to exchange experiences and practices in combating IUU fishing.

Does China keep records of distant water fishing vessels that are Chinese-owned and operated but registered in and fly the flag of a third country? How does China make this information available to international observers?

Member Answer: China has established regulatory regimes on distant water fisheries compatible with international norms. Regulations on Administration of Distant Water Fishery and the Management Measures for Monitoring of Distant Water Fishing Vessels' Position have been amended, and relevant implementing measures such as the Circular on Strengthening the Management of Transshipment on High Seas in Distant Water Fisheries and the Detailed Rules on Implementation of National Observer Administration on Distant Water Fisheries were issued. The licensing and approval system for distant water fisheries, as well as systems for data collection and reporting, fishing vessels' position monitoring and electronic fishing log books, are enforced and improved specifically for distant water fisheries. China prohibits distant water fisheries companies, vessels and crews from engaging in, supporting or assisting IUU fishing. With the strengthening of its overall regulatory systems, China is making continuous efforts to develop its distant water fishery sector in a regulated and orderly manner.

How many fishery access agreements, fishery cooperation agreements, fishery base agreements, and other fishery arrangements does China have with other countries? Do these agreements have provisions that ensure the sustainability of the stocks being fished?

Member Answer: China carries out cooperation in fisheries with many Asian countries including Malaysia and Thailand, many African countries including Mauritania and Ghana, South American countries including Argentina and Uruguay, and Pacific Island countries including Papua New Guinea and Micronesia, and holds regular bilateral fisheries dialogues with the United States, the European Union and Russia. Fisheries cooperation agreements take a variety of forms, ranging from intergovernmental agreements to business-to-government agreements to business-to-business agreements. The intergovernmental agreements and intergovernmental dialogues cover a number of topics, such as establishing regular meeting mechanisms, strengthening bilateral cooperation in areas such as trade, technology, and training, law enforcement supervision and information exchange, joint resource surveys, and cooperation in combating illegal fishing.

U.S. Follow-Up Question to Question on Page 136, Paragraph 4.43: Can China list all countries with which China has either business-to-government or intergovernmental agreements on fisheries?

Reply: Countries with which China has concluded intergovernmental agreements on fisheries include: Japan, Korea, Russia, the Philippines, Mauritania and Argentina.

4.2 Manufacturing

4.3 4.3.2 Selected subsectors

4.3.2.3 Iron and steel

Page 152, paragraph 4.116: The Secretariat Report notes that ongoing efforts in China to eliminate overcapacity in the steel industry are guided by government policies, specifically the Opinions on Reducing Overcapacity in the Steel Industry to Achieve Development by Solving Difficulties, which ostensibly prohibits the building up of new steel capacity. Under this policy, China planned to cut 150 million tons by 2020 to bring capacity closer to consumption. However, the OECD estimates that nominal crude steel making capacity in China continued to rise from 2018 levels, reaching approximately 1.12 billion metric tons in 2020. The OECD also found that approximately 39.4 million tons of capacity investments are planned or currently underway in China.

Does China agree that the need for government policy directives indicates that market forces are weak or nonexistent in China?

Member Answer: China does not agree with the statement that "China's market forces are weak or nonexistent". "Government policies and directives" is China giving decisive role to market in resource allocation and the specific embodiment of better playing government role. This assertion

reflects the consistent "double standard" approach of the United States, which on the one hand imposes the label of "market distortion and government subsidies" on the production and operation of Chinese steel enterprises following market principles, and demands that the Chinese government should strengthen its intervention and increase its efforts to reduce production overcapacity; on the other hand, it questions China's market power is weak or nonexistent.

U.S. Follow-Up Question to Question on Page 152, paragraph 4.116:

In its above response, China acknowledges that the Chinese government intervenes in the steel market through various policies and directives, but it claims that this intervention is only intended to ensure that resources are allocated in accordance with market principles. Ideally, in the United States' view, China would act like market economies and allow the market itself to dictate outcomes, rather than government intervention. After many years of severe and persistent excess capacity in China's steel industry, can China explain the efficacy of its intervention in the steel market in addressing this serious problem?

Reply: Excess capacity in the steel industry is a global problem, which have caused enormous difficulties for steel enterprises in developed, emerging and developing economies. China attached great importance to this problem and has taken initiatives to resolve excess capacity in the steel industry. Since 2016, China has been actively promoting the reduction of excess capacity in the steel industry by market-oriented and law-based means. As of 2020, China had reduced crude steel capacity by more than 150 million tons and clamped down "substandard steel" capacity of over 140 million tons. China has paid a huge price for reducing excess capacity in the steel industry, with 272,000 workers in the steel industry resettled. The cost has achieved remarkable results. In 2016, the whole industry made profits instead of suffering losses, and the losses of member enterprises of China Iron and Steel Association decreased to 20%, with a profit of more than RMB 30 billion. In the following four years, the steel industry maintained the profits at a relatively high level, and enterprises maintained a strong momentum of development. China has made an important contribution to the recovery of the global steel industry by reducing excess capacity in its steel industry.

4.4 Services

4.4.2 Telecommunications

4.4.2.2 Regulatory framework

4.4.2.2.5 Cloud computing

Page 170, Paragraph 4.213: The Secretariat Report notes that China does not allow any direct provision of cloud computing services by foreign-invested companies and that their only access is through the negotiation of contractual partnerships with Chinese companies, where the Chinese company applies for the licenses needed to supply cloud computing services. Please explain China's rationale for not liberalizing the cloud computing sector to allow for meaningful foreign participation?

Member Answer: At present, China is actively promoting the further opening up of the telecommunications sector in accordance with the requirements of develop new systems for a higher-standard open economy. On the basis of China's WTO commitments, China will study and explore the feasibility of relaxing the share ratio restriction of foreign capital in telecommunications field in pilot areas.

U.S. Follow up Question to Question on Page 170, Paragraph 4.213:

Can China please provide a more specific answer regarding cloud computing services as had been requested rather than the telecommunications sector more generally?

Reply: China has fully fulfilled its commitments to WTO regarding the telecommunications sector, and is studying further opening-up of the telecommunications sector, including cloud computing. In the next step, China will, in accordance with the requirements of the new system with high-level opening-up, promote the opening-up of relevant businesses and explore ways to relax the restrictions on the foreign equity ratio in pilot areas.

Page 170, Paragraph 4.213: What are the key barriers to the implementation of the 2017 Notice on Standardizing Cloud Service Market and Facilitating the Sound Development of the Industry?

Member Answer: Notice on Standardizing Cloud Service Market and Facilitating the Sound Development of the Industry has not been issued.

U.S. Follow up Question on Question on Page 170, Paragraph 4.213:

Has China permanently withdrawn this measure from consideration?

Reply: Notice on Standardizing Cloud Service Market and Facilitating the Sound Development of the Industry has not been issued. Future updates will be released without delay.

4.4.2.2.6 Cybersecurity

Page 170, Paragraph 4.214: The Secretariat Report notes that the Chinese authorities plan to develop further regulations regarding critical information infrastructure operators. Can China elaborate on this intention? Which regulations are under development, and how do they relate to the Cybersecurity Law, the Data Security Law, the Law on Personal Information Protection or any other relevant measures that China already has in place? What is the intended subject matter of the planned regulations regarding critical information infrastructure operators?

Member Answer: Strengthening the protection of key information infrastructure is international common practice. For example, the US, Germany, and Japan have enacted relevant laws to include important industries and fields into the scope of protection. According to the needs of China's situation and drawing lessons from the practices of other countries, the Cybersecurity Law stipulates the protection system of key information infrastructure. Regulation on Protecting the Security of Critical Information Infrastructure clarifies the scope and identification procedures of critical information infrastructure. Key information infrastructure refers to important industries and fields such as public communication and information services, power, traffic, water resources, finance, public service, e-government, and other critical information infrastructure which—if destroyed, suffering a loss of function, or experiencing leakage of data—might seriously endanger national security, national welfare, the people's livelihood, or the public interest. Chapter II of the Regulations stipulates that the competent departments and regulatory authorities of the above-mentioned important industries and fields, as protection departments, shall be responsible for formulating the identification rules of key information infrastructure, organizing the identification of key information infrastructure in their own industries and fields, and timely notifying the operators and the public security department of the State Council of the identification results. In the meanwhile, according to the relevant provisions of Article 31 of the Cybersecurity Law, the State encourages operators of networks outside the [designated] critical information infrastructure systems to voluntarily participate in the critical information infrastructure protection system.

U.S. Follow-up to Question to Question on Page 170, Paragraph 4.214:

In its answer, China notes that the Regulation Protecting the Security of Critical Information Infrastructure clarifies the scope of critical infrastructure and notes that important industries and fields, including "finance" are included under that rubric. What is the China's policy, including those of its financial services regulators, on providing further clarification regarding which financial services institutions qualify as critical information infrastructure operators (CIIOs)?

Reply: According to the Article 9 of the Regulation on Protecting the Security of Critical Information Infrastructure, protection departments shall formulate the identification rules for critical information infrastructure based on the actual situation in their own industries and fields. Article 10 provides that the protection departments are responsible for organizing the identification of the critical information infrastructure in their own industries and fields according to the identification rules, and notifying the operators of the results in a timely manner. The protection departments of the financial industry are responsible for formulating identification rules for critical information infrastructure in the financial industry and organizing the identification of critical information infrastructure operators in their own industry based on such rules.

4.4.3.2 Maritime transport

Page 175, paragraph 4.237: The Secretariat Report states: "In order to encourage qualified Chinese-funded international 'Flag of Convenience' ships to return to China, ships that were declared for import and were registered between September 2016 and September 2019 were exempt from customs duties and import VAT." Did China include the customs duties incentives referenced above in its most recent subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures?

Member Answer: China is studying on this issue.

U.S. Follow Up Question to Question on Page 175, Paragraph 4.237:

The United States notes that China did not answer this question. The United States asks that China respond to the question.

Reply: China is studying on this issue.

Page 176, Paragraph 4.242: The Secretariat Report indicates that, under the Ship Tonnage Tax Law, "Chinese taxable ships and taxable ships whose country of registry has signed treaties or agreements that mutually grant MFN treatment clauses of ship taxes and fees" receive preferential rates. It also notes that there are special tax exemptions for "fishing and breeding fishing boats." Can China explain the preferential rates given to some ships and the special exemptions for fishing and breeding fishing boats? Has China notified the incentives referenced above in its most recent subsidy notification under Article 25 of the Agreement on Subsidies and Countervailing Measures?

Member Answer: China is studying this issue.

U.S. Follow Up Question to Question on Page 175, Paragraph 4.242:

The United States notes that China did not answer this question. The United States asks that China respond to the question.

Reply: China is studying on this issue.

U.S. FOLLOW-UP QUESTIONS ON QUESTIONS REGARDING THE GOVERNMENT'S REPORT**3.2 Building a Highland for Foreign Investment****3.2.3 Actively expanding market access for foreign investment**

Page 9, Paragraph 3.16: The Government Report provides examples of foreign investment restrictions lifted in a number of sectors, including the purchase and wholesale of rice, wheat, and corn. Please explain China's rationale for maintaining foreign investment restrictions on crop seed breeding for rice and soybeans and on biotechnology development of planting seeds across several planting seed varieties.

Member Answer: Relevant departments are studying this issue. Expanding the opening up of seed industry is an important part of building a new pattern of comprehensive opening up of the country, which reflects China's firm determination to expand opening up. Expanding the opening up of seed industry is the objective need of deepening the structural reform of agricultural supply side, which will accelerate the introduction of foreign famous and excellent new varieties, the rapid development of characteristic crop industry and meet people's needs for characteristic agricultural products. China will further optimize the development environment of seed industry, welcome foreign investment in seed industry and carry out seed production and business activities according to law.

Follow-Up to Question on Page 9, Paragraph 3.16:

As reflected in the December 2020 Central Economic Work Conference communique and the February 2021 State Council Document No. 1, China has identified industrialization of biotechnology seed breeding as a top priority. Yet, as shown by the addition of genetically engineered planting seeds to the restricted list in the July 2021 draft update to the Catalogue of Technologies Prohibited or Restricted to be Imported, China is maintaining or even increasing relevant foreign investment restrictions. Can China explain this dichotomy?

Reply: Relevant departments are studying this issue. Expanding the opening up of seed industry is an important part of building a new pattern of comprehensive opening up of the country, which reflects China's firm determination to expand opening up. Expanding the opening up of seed industry is the objective need of deepening the agricultural supply-side structural reform, which will accelerate the introduction of foreign famous and excellent new varieties, the rapid development of characteristic crop industry and meet people's needs for characteristic agricultural products.

4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core**4.2.2 Deeply and fully participating in multilateral negotiations and discussions, and earnestly fulfilling the obligations as a WTO Member**

Page 15, Paragraph 4.20: On April 8, 2020, the United States sent a request to China's inquiry point for copies of several Chinese measures that did not appear to have been published. China refused to provide those measures to the United States. Instead, China indicated that it was not

obligated to share measures that were set to expire soon. Moreover, China's response was received more than one year after the request was submitted, well beyond the 30-day requirement (or 45 days in exceptional cases) for responding, as set out in Paragraph 2(C) of China's Protocol of Accession to the WTO. What is China's policy on making all requested measures available to WTO Members without regard to whether the measures being requested are currently in effect, expired, or set to expire?

Member Answer: China has always attached great importance to compliance with WTO rules, and has been fulfilling its related obligations under the WTO framework. China will respond to the formal requests of WTO members for trade policies as defined in the relevant provisions of the Accession Protocol in accordance with the requirements of its accession commitments.

U.S. Follow-Up Questions to Question on Page 15, Paragraph 4.20:

Can China explain why China did not respond in writing within 45 days to the U.S. inquiry point request made on April 8, 2020 as it was obligated to do under China's Protocol of Accession to the WTO? Why has China not provided the five legal measures listed below requested by the U.S. in its inquiry point request of April 8, 2020 or explained its position in writing to the United States:

1. *Notice of the General Office of the Ministry of Agriculture on Printing and Distributing the Implementation Plan for the Adjustment of the Distant Water Fishery Oil Price Subsidy Policy* (Nong Ban Yu [2016] No. 43)
2. *Notice of the General Office of the Ministry of Agriculture on Printing and Distributing the Implementation Plan for the Adjustment of the Domestic Fishery Fishing and Aquaculture Oil Price Subsidy* (Nong Ban Yu [2016] No. 65)
3. *Overall Plan for China's Distant Water Fishery Development (2001-2010)* (issued 2001)
4. *Reply of the State Council on the Establishment of the National Integrated Circuit Industry Investment Fund* (Guo Han [2014] No. 48)
5. *Notice of the Ministry of Finance on the Matter of the Exemption of the National Integrated Circuit Industry Investment Fund Co., Ltd. From the State-Owned Shares Social Security Transfer Obligation* (Cai Jian [2015] No. 776)

Why were none of these measures published in the MOFCOM Gazette as China was obligated to do under China's Protocol of Accession to the WTO?

Reply: China has always attached great importance to compliance with WTO rules, and has been fulfilling its related obligations under the WTO framework. China will respond to the formal requests of WTO members for trade policies as defined in the relevant provisions of the Accession Protocol in accordance with its accession commitments.

4.4 Building International Platforms for Opening Up and Cooperation

4.4.1 Promoting high quality cooperation for the Belt and Road Initiative

Page 18, Paragraph 4.37: The Government Report refers to the greening of the Belt and Road Initiative and the emergence of the Green Silk Road. Given this development, will the Chinese government instruct China Eximbank and SINOSURE to stop supporting certain energy projects such as fossil fuel projects (e.g., coal fire plants, etc.)?

Member Answer: China's president Xi Jinping announced at the general debate of the 76th UN General Assembly that China will vigorously support the development of green and low-carbon energy in developing countries, and will no longer build new overseas coal-fired power generation projects. This is another key initiative since China's declaration of peak carbon dioxide emissions and carbon neutrality, which is also an important action to promote the construction of the Green Silk Road. During the Belt and Road initiative construction, China will strictly implement the requirements of no longer building new overseas coal-fired power generation projects, and work with the co-constructing countries to respond to the global challenges of climate change together.

U.S. Follow-up Question to Question on Page 18, Paragraph 4.37:

Under this new directive, will China Eximbank and Sinosure stop providing export credit and insurance support to all overseas fossil fuel projects, including existing facilities?

Reply: China Eximbank and Sinosure will adhere to the philosophy of green development and promote transformation of their businesses with the aim of green development. They will resolutely implement what China's president Xi Jinping announced at the general debate of the 76th UN General Assembly.

5.3.4 Improving the property rights system and promoting the market-based allocation of production factors

Page 24, Paragraph 5.18: The Government Report notes that China's reform "to convert SOEs into standard companies has basically been completed."

Please explain and provide additional information on how much direct and indirect ownership the Chinese government maintains in these "standard companies."

How does the "reformed" governance structure provide independence from the Chinese government and ensure that these "standard companies" act consistently with commercial considerations?

What is the legal distinction between majority-owned SOEs and majority-owned "standard companies"?

Please detail the reform of enterprises via "mixed ownership reform" by providing specific examples of the level of ownership by the Chinese government both before and after the mixed ownership reform. In these examples, please also detail the other shareholders, besides the Chinese government, that are equity owners in these enterprises?

What enterprises are indirectly supervised by the State-Owned Assets Supervision and Administration Commission?

What enterprises are directly or indirectly supervised at the sub-central level of government?

Member Answer: China always adheres to the market-oriented reform of state-owned enterprises. In the process of the reform, China has continuously improved the modern enterprise system, established a sound corporate governance mechanism with statutory and transparent rights and liabilities, coordinated operation and effective checks and balances, clarified the functions and powers of the board of directors, improved the market-based operation mechanism, and continued to promote the reform of the state-owned assets regulation system dominated by capital management. The reformed enterprises operate in accordance with the Company Law and articles of association to serve the interests of shareholders. Shareholders shall appoint directors, supervisors and other senior executives to exercise their statutory and agreed rights in accordance with their shareholding ratios. As independent market entities, enterprises shall conduct production and operation independently, and shall not be directly controlled by the government. In accordance with the provisions of the Company Law, state-owned enterprises that have undergone the reform of the corporate system have set up such internal governance structures as the board of directors, the board of supervisors, and managers, and formulated corresponding articles of association. The internal decision-making, governance, operation and management have been further standardized, and the shareholders shall bear limited liabilities according to their respective shares. In the process of promoting the mixed-ownership reform, China has earnestly protected the property rights and interests of all kinds of investors and aroused the enthusiasm of all kinds of capitals to participate in the development of mixed ownership economy. For example, China Unicom, introduced such large Internet companies as Tencent, Alibaba, JD.com and Baidu as large strategic investors to innovate a new model of integration of the telecom industry with the Internet enterprises and low-cost user acquisition, thus realizing rapid development of industrial Internet services. In addition, Eastern Air Logistics Co., Ltd. introduced Legend Holdings and Global Logistic Properties as strategic investors to conduct the mixed-ownership reform. After the reform, a structure with each of the three parties holding 1/3 of the company's shares was formed, which further improved the corporate governance structure and the operating efficiency. A wholly state-owned enterprise is a non-corporate enterprise established in accordance with the Law on Industrial Enterprises Owned by the Whole People, and all the capital of the enterprise is state-owned capital. A wholly state-owned company is a corporate enterprise established in accordance with the Company Law, and 100% of the capital is state-owned. SASAC only supervises Grade A enterprises directly funded by the state.

U.S. Follow Up Questions to Questions on Page 24, Paragraph 5.18

How are companies who are partially owned by the government following mixed ownership reform considered under Chinese law?

Reply: The Company Law of the People's Republic of China stipulates that the organizational form of the company consists of two types: limited liability company and joint-stock company. The mixed ownership enterprise is the description of partial limited liability company and joint-stock company from the perspective of the nature of the company's capital by all sectors of the society, which is equally protected and bound by the Chinese laws and regulations.

How much ownership does the state retain in these enterprises?

Reply: In the process of mixed ownership reform, enterprises adhere to the principles of applying targeted policies tailored to local conditions and specific industries and enterprises. They can be independently run or controlled or joined in equity where appropriate. Depending on their own circumstances, they can determine a reasonable shareholding structure. In the case of commercial state-owned enterprises whose main businesses are in fully competitive industries and fields, the state-owned capital can hold absolute or relative shares, and those that require equity participation can also do so; at the same time, the shareholding ratio is not static and can be phased in and adjusted dynamically.

For example, in the example of Eastern Air logistics cited, is it correct to understand that the state maintains a 33.3% ownership in Eastern Air Logistics following mixed ownership reform?

Reply: Eastern Air logistics is a mixed ownership enterprise. To date, Eastern Airlines Industry Investment Co., Ltd., which is the subsidiary of state-funded enterprise China Eastern Airlines Group Co., Ltd., holds 40.50% of the equity of Eastern Air logistics, but it cannot be interpreted that the state holds 33.3% of the equity of Eastern Air logistics.

What is a "Grade A enterprise? Please provide a list of all Grade A enterprises. Please also provide details on all state funding provided to Grade A enterprises.

Reply: According to the Law of the People's Republic of China on the State-Owned Assets of Enterprises, Interim Measures for the Administration of Supervision of State-owned Assets of Enterprises, Interim Measures for Assessment of the Operational Performance of Persons in Charge of Central Enterprises and other relevant laws, regulations and rules, SASAC conducts annual and term performance assessment of the persons in charge of the enterprises under its supervision, and Grade-A enterprises are those with excellent performance assessment.

On 13 July 2021, SASAC announced the list of 47 Grade-A enterprises in 2020 on its website. See www.sasac.gov.cn for details

Are there other grades of enterprises? If so, please detail what these grades correspond to.

Reply: There are also Grade-B, Grade-C and Grade-D enterprises. China will disclose the relevant information in accordance with the Regulations of the People's Republic of China on Disclosure of Government Information and other regulations.

Is any state funding provided indirectly by the state to Grade A enterprises?

Reply: No state funding is provided indirectly by the state to Grade A enterprises.

5.3.8 Deepening reforms in fiscal, taxation, financial and other key areas

Page 26, Paragraph 5.24:

The Government Report discusses the loan prime rate mechanism.

Can China explain the methodology for which banks are combined, and how they are combined, to calculate loan prime rates?

Member Answer: The quoting bank submits the quotation to the National Inter-bank Funding Center based on the its loan interest rate to the premium clients by means of a medium-term lending facility (MLF) interest rate plus point formation. The National Inter-bank Funding Center removes the highest and lowest quotations to take the arithmetic average and rounds it to the nearest integer multiple of 0.05% to calculate the LPR.

Of the banks whose loans factor into the prime rate, which banks have any level of state ownership and what is the level of state investment in these banks?

Member Answer: At present, on the basis of the original 10 national banks such as Industrial and Commercial Bank of China, Agricultural Bank of China, Bank of China, China Construction Bank and Bank of Communications, LPR quoting banks have added each 2 banks of Chengnan Commercial Bank, Rural Commercial Bank, foreign banks (Standard Chartered Bank and Citibank) and private banks to 18 banks, which effectively enhanced the representativeness of LPR quotation. In the future, the People's Bank of China will guide the market interest rate pricing self-discipline mechanism to periodically evaluate and adjust LPR quotation banks based on the quotation quality.

U.S. Follow Up Questions to Questions on Page 26, Paragraph 5.24

What constitutes a "premium client" for the purposes of providing interest rates to the National Inter-bank Funding Center?

Reply: For commercial banks, a "premium client" generally refers to one with the best credit, the lowest risk and good operating conditions. It shall be defined at the discretion of financial institutions.

In its response, China notes that PBOC will "guide the market interest rate pricing self discipline mechanism to periodically evaluate and adjust LPR quotation banks based on the quotation quality." Does this authority include the ability to adjust the LPR rate itself or just the banks that constitute the rate?

Reply: The loan prime rate (LPR) is based on the loan interest rate that quoting banks offer their premium clients. The LPR quoting bank shall submit their quotations to the National Inter-bank Funding Center (NIFC) by adding a few basis points to the interest rate of open market operations (mainly referring to the medium-term lending facility (MLF) rate). The NIFC shall get the LPR by calculating the arithmetic average of the quotations after excluding the highest and lowest ones. The People's Bank of China shall guide the market interest rate pricing self discipline mechanism in strengthening the supervision and management of the LPR, periodically evaluate the quotation quality to determine the survival of the fittest, and strengthen incentives and constraints on quoting banks.

MEXICO

I. INFORME DE LA SECRETARÍA (WT/TPR/S/415)

2. REGÍMENES DE COMERCIO E INVERSIÓN

2.1. Marco general

(Pág. 35) 2.6. En principio, todas las normas relacionadas con el comercio formuladas por las autoridades a todos los niveles deben cumplir con los acuerdos comerciales internacionales en los que China es parte, incluido el Acuerdo de Marrakech por el que se establece la Organización Mundial del Comercio y sus acuerdos complementarios, el Protocolo de Adhesión de China y el informe del Grupo de Trabajo sobre la Adhesión de China. Los proyectos de ley y de reglamento a nivel de ministerio y departamento se publican en línea en chino durante 30 días como mínimo, para que el público pueda formular observaciones, salvo que el Consejo de Estado decida que se debe mantener su carácter confidencial. Las observaciones públicas pueden presentarse a través del sitio web del Ministerio de Justicia. En la Gaceta de Comercio Exterior y Cooperación Económica de China, editada por el Ministerio de Comercio (MOFCOM), se publican las leyes, los reglamentos y las normas de China relacionados con el comercio.

1. Se menciona que la consulta pública es de conformidad con el Reglamento sobre los Procedimientos para la Formulación de Normas, y el Reglamento sobre los Procedimientos para la Formulación de Reglamentos; en ese contexto, podrían describir a grandes rasgos los procedimientos para la formulación tanto de normas, como de reglamentos administrativos y especificar si existe algún procedimiento adicional o especial para aquellas que tengan un posible impacto en el comercio exterior.

Reply: China does not quite understand this question and would like to ask Mexico for further clarification. China has publicly released trade-related measures.

2. REGÍMENES DE COMERCIO E INVERSIÓN

2.4. Régimen de inversión

2.4.2. Procedimientos de examen y aprobación

(Pág. 49) 2.61. Las autoridades afirman que la SAMR ha estado trabajando con los ministerios y organismos competentes a fin de acortar el tiempo necesario para el proceso de registro de las empresas y simplificar los procedimientos. La SAMR ha proporcionado orientaciones a los departamentos gubernamentales locales competentes sobre la construcción de una plataforma unificada de servicios en línea para la constitución de empresas. Es posible tramitar en línea el registro de sociedades, la fabricación del sello oficial, la solicitud de facturas y la compra de equipo de control fiscal cumplimentando un solo formulario. Las autoridades indican que se tarda menos de cinco días hábiles en constituir una empresa en China.

2. En el informe se menciona la construcción de una plataforma unificada de servicios en línea para la constitución de empresas, ¿esta podrá ser usada por inversionistas extranjeros o sólo para nacionales que quieran crear una empresa? En caso de que pueda ser utilizada por inversionistas extranjeros, ¿podrá utilizarse en inglés?, ¿cuándo se tiene previsto su funcionamiento y en el sitio de qué dependencia se encontrará?

Reply: As of the end of 2020, all 31 provinces (autonomous regions, municipalities) and Xinjiang Production and Construction Corps have all put in place a unified platform of online services for incorporation of companies. Currently, foreign investors can apply for incorporation of companies on the online service platform in major cities such as Beijing and Shanghai. Next step, the State Administration of Market Supervision will continue to propel all the relevant local authorities to continuously improve the one-stop-shop online service platform, increase functions, make it more intelligent so as to provide better services for various market players, including foreign investors.

3. POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS

3.1. Medidas que afectan directamente a las importaciones

3.1.3. Aranceles

3.1.3.5. Exenciones o concesiones arancelarias

(Págs. 62-63) 3.36. Además, pueden aplicarse exenciones y reducciones de derechos de conformidad con las disposiciones establecidas en la reglamentación pertinente del Consejo de Estado a las mercancías importadas en zonas designadas, para empresas específicas o para usos específicos. Por ejemplo, los productos importados quedan exentos de derechos de importación y otros impuestos cuando entran en zonas especiales bajo supervisión aduanera. Se notificaron al

Comité de Subvenciones y Medidas Compensatorias de la OMC diversas exenciones de los derechos de aduana en vigor durante el período 2017-2018. No se dispone de información sobre posibles exenciones o reducciones de derechos de aduana introducidas desde 2019; las autoridades han indicado que no hay datos disponibles sobre los ingresos no percibidos como consecuencia de las concesiones o exenciones arancelarias aplicadas en ese mismo período.

3. De acuerdo a la Ley de Aduanas de China, Artículo 57, reducciones o extensiones se otorgarán a exportaciones o importaciones para áreas y empresas específicas, para propósitos específicos. ¿Podría China proporcionarnos más información sobre qué sectores y qué objetivos persiguió la aplicación de esta medida durante 2019 y 2020?

Reply: Article 57 of the Customs Law of the People's Republic of China stipulates that "Reductions and exemptions can be granted to imports and exports in specific areas, by specific companies, or for specific purposes. The scope and measures of specific tax reductions or exemptions shall be determined by the State Council. Imports enjoying tariff reductions or exemptions in accordance with this provision can only be used in specific areas, by specific companies, or for specific purposes. They shall not be used for other purposes without customs approval and payment of duties." The article does not stipulate that reductions or extensions should be granted to exports and imports in specific regions and by specific companies for specific purposes. It is recommend Mexico phrase the question so that it is clear to us.

3. POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS

3.1. Medidas que afectan directamente a las importaciones

3.1.6. Medidas antidumping, compensatorias y de salvaguardia

3.1.6.1. Medidas antidumping

(Pág. 71) 3.52. Como se señaló en exámenes anteriores, el MOFCOM es el organismo encargado de iniciar y realizar las investigaciones antidumping, así como de determinar la existencia de dumping, de daño y de la relación causal entre ambos. La Oficina de Medidas Comerciales Correctivas e Investigaciones del MOFCOM es responsable de las investigaciones y determinaciones antidumping y en materia de derechos compensatorios y salvaguardias (con la excepción de las investigaciones antidumping relativas a productos agropecuarios, en las que la investigación sobre la existencia de daño la llevan a cabo conjuntamente el MOFCOM y el Ministerio de Agricultura).

(Pág. 76) 3.68. Como se señaló en exámenes anteriores, el MOFCOM, y en concreto la Oficina de Medidas Comerciales Correctivas e Investigaciones, se encarga de investigar y determinar si se ha producido un aumento de las importaciones y si se ha causado daño. Si una investigación está relacionada con productos agropecuarios, la investigación y la determinación deben llevarse a cabo conjuntamente con el Ministerio de Agricultura. Los procedimientos de investigación no han variado desde entonces y se detallan en el informe del anterior examen de las políticas comerciales de China, como se detallan también las disposiciones en materia de salvaguardias establecidas en los ACR de los que China es signataria.

4. ¿Podría China indicar si el MOFCOM y el Ministerio de Agricultura deben emitir una única determinación a nombre de ambos organismos o cada uno puede emitir su determinación por separado?

Reply: According to the law, anti-dumping investigations involving agricultural products are conducted by the Ministry of Commerce in conjunction with the Ministry of Agriculture. The Ministry of Commerce is responsible for making a ruling based on the results of the investigation and announcing the ruling. The Ministry of Agriculture does not make a ruling.

5. En caso que se trate del segundo escenario, ¿es posible que el MOFCOM y el Ministerio de Agricultura lleguen a determinaciones contradictorias o al menos distintas? ¿Qué sucedería en ese caso?

Reply: There is no such scenario.

3. POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS

3.1. Medidas que afectan directamente a las importaciones

3.1.6. Medidas antidumping, compensatorias y de salvaguardia

3.1.6.2. Medidas compensatorias

(Pág. 74) 3.64. El número de investigaciones en materia de derechos compensatorios iniciadas por China y el número de medidas en vigor se han mantenido relativamente constantes en los cinco

últimos años (cuadro 3.9). Durante el período objeto de examen se iniciaron ocho investigaciones de ese tipo (desde 2018), y se puso fin a dos de ellas, a una por consideraciones de interés público y a la otra por la retirada de la solicitud por el solicitante (cuadro 3.10). En enero de 2019, China realizó un examen por extinción de las medidas compensatorias aplicadas al polisilicio de grado solar procedente de los Estados Unidos, examen que dio lugar al mantenimiento de los derechos definitivos impuestos en enero de 2020. En abril de 2019, China llevó a cabo un examen *rebus sic stantibus* de las medidas compensatorias aplicadas a los granos de destilación desecados con solubles procedentes de los Estados Unidos, examen que dio lugar al mantenimiento de las medidas iniciales.

6. ¿Podría China especificar qué consideraciones de interés público tomó en cuenta para poner fin a la investigación referida?

Reply: During the countervailing investigation of imported sorghum originating in the United States, the investigating agency believed that countervailing measures were not in the public interest after considering the situation reported by downstream users and decided to drop the investigation.

3. POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS

3.3. Medidas que afectan a la producción y al comercio

3.3.6. Contratación Pública

3.3.6.2. Marco jurídico e institucional

(Págs. 115-116) 3.212. La Ley de Contratación Pública y la Ley de Licitaciones se hallan actualmente en proceso de modificación. El proyecto de Ley de Licitaciones modificada se publicó en línea para que pudieran formularse alegaciones públicas del 3 de diciembre de 2019 al 1 de enero de 2020. El nuevo proyecto revisado, en el que se recogen esas alegaciones públicas, se ha sometido al examen del Consejo de Estado. Actualmente, el Ministerio de Justicia está organizando el examen legislativo del proyecto de texto modificado. Según la Nota Explicativa del proyecto, en virtud de la Ley de Licitaciones modificada, entre otras cosas: i) se redefinirá su ámbito de aplicación y se desreglamentarán las actividades de licitación en las inversiones privadas; ii) mejorará la transparencia de las actividades de licitación; iii) se ajustarán los plazos de los procedimientos de licitación a fin de mejorar la eficiencia; iv) se restringirá la utilización del criterio del precio más bajo en la valoración de las ofertas y se priorizará la evaluación del costo del ciclo de vida; v) se promoverá la licitación electrónica; vi) se aclararán las prescripciones en materia de licitación en los proyectos de asociaciones público-privadas; y vii) se potenciará la lucha contra la colusión en las licitaciones y la vigilancia de los resultados de los contratos. El proyecto de Ley de Contratación Pública modificada se publicó en línea para que pudieran formularse alegaciones públicas del 4 de diciembre de 2020 al 5 de enero de 2021. Según la Nota Explicativa del proyecto, en virtud de la Ley de Contratación Pública modificada, entre otras cosas: i) se ajustará el ámbito de aplicación de la Ley de Contratación Pública; ii) se dará pleno cumplimiento a los objetivos de la política de contratación pública mediante la inclusión de disposiciones sobre la promoción de la innovación y la protección de los intereses de los grupos vulnerables, y se especificarán las autoridades competentes y las medidas de aplicación pertinentes; iii) mejorarán y se aclararán los métodos y procedimientos de contratación pública; iv) mejorará el sistema de contratación pública; v) se fortalecerá la regulación de la demanda en la contratación pública; vi) mejorará la posición de las entidades contratantes; y vii) se simplificarán los procedimientos de calificación de los proveedores. Según las autoridades, con la revisión de las dos Leyes se coordinarán mejor los sistemas de contratación pública y de administración de licitaciones de China y se armonizará la aplicación de ambas Leyes.

7. Mexico would like to know what are the next steps for Government Procurement Law and the Tendering Law. Has the Ministry of Justice already reviewed the drafts amendments? Is there a timeline in place?

Reply: The Chinese government is actively advancing the revision of the Government Procurement Law and the Tendering Law. The timeline for the revision will be determined based on opinions of stakeholders in coordination with relevant departments.

3. POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS

3.3. Medidas que afectan a la producción y al comercio

3.3.6. Contratación Pública

3.3.6.3. Métodos de contratación y utilización de la contratación electrónica

(Pág. 118) 3.218. Durante el período objeto de examen, no se han introducido cambios en los métodos y procedimientos de contratación. La Ley de Contratación Pública, su Reglamento de

Aplicación y las Medidas Administrativas pertinentes establecen seis métodos de contratación: i) licitación pública; ii) licitación selectiva; iii) petición de precios; iv) negociación competitiva; v) consultas competitivas; y vi) contratación de proveedor único. Según datos facilitados por las autoridades, en 2019, la contratación mediante licitación pública representó el 78,31% de la contratación total, la licitación selectiva el 0,99%, la petición de precios el 1,41%, la negociación competitiva el 3,55% y la contratación de proveedor único el 6,19%. El valor de la contratación de proveedor único disminuyó de CNY 552.700 millones en 2017 a CNY 204.600 millones en 2019 (cuadro 3.27).

8. Mexico notes that in 2019, 78.31% of total procurement contracts were awarded through public tendering. Is there any limitation to the participation of foreign suppliers in this type of process?

Reply: The Foreign Investment Law promulgated in January 2020 stipulates that foreign-invested enterprises can participate in government procurement activities through fair competition in accordance with the law, and that the products produced and services provided by foreign-invested enterprises in China are treated equally in government procurement. Foreign companies can participate in Chinese government procurement activities on an equal footing in accordance with the law by incorporating companies in China.

9. In 2019, 0.99% of total procurement contracts were awarded through selective tendering. Could China provide more information of what were the principal exceptions used to apply this type of process?

Reply: Article 29 of the Government Procurement Law stipulates that selective tendering can be used for procurement of goods or services that meets one of the following criteria: (1) The goods or services are special and can only be purchased from a limited range of suppliers; or (2) the proportion of public tendering in the total value of government procurement projects would be too large.

II. INFORME DE CHINA (WT/TPR/G/415)

3. AVANCE HACIA UNA APERTURA DE ALTO NIVEL Y ESTUDIO DE NUEVAS PERSPECTIVAS DE COOPERACIÓN BENEFICIOSAS PARA TODOS

3.2. Creación de un entorno propicio para la inversión extranjera

3.2.2. Ampliación activa del acceso a los mercados para la inversión extranjera

(Pág. 11) 3.16. China ha acertado significativamente la Lista negativa sobre el acceso de las inversiones extranjeras. En junio de 2020, China publicó las Medidas Administrativas Especiales relativas al Acceso de la Inversión Extranjera (Lista Negativa) (edición de 2020). Desde 2017 China ha revisado cuatro veces la Lista negativa sobre el acceso de las inversiones extranjeras. En comparación con la edición de 2017, los artículos de la última Lista negativa nacional se han reducido de 63 a 33. A continuación se indican las principales modificaciones introducidas en las revisiones anteriores. Primero, en el sector de servicios, se elimina la restricción que limitaba la participación extranjera en las empresas de transporte ferroviario de pasajeros, los agentes de transporte marítimo internacional y las empresas de transporte marítimo internacional; y se suprime la prescripción reglamentaria de que la parte china posea la participación mayoritaria de control en las empresas conjuntas dedicadas a la construcción y explotación de redes de gasoductos y de tuberías para calefacción y suministro de agua, así como alcantarillado, en ciudades con una población superior a 500.000 habitantes, y en salas de cine e instituciones de corretaje de espectáculos. Segundo, en el sector manufacturero, se elimina la restricción que limitaba la participación extranjera en las empresas dedicadas a la fabricación de vehículos especiales, vehículos propulsados por energías alternativas y vehículos comerciales; y se levanta la prohibición de la inversión extranjera en la producción y transformación de minerales radiactivos y la producción de combustibles nucleares. Tercero, en el sector de la agricultura y la silvicultura, se eliminan las restricciones a la inversión extranjera en la compra y la venta mayorista de arroz, trigo y maíz; y se levanta la prohibición de la inversión extranjera en el desarrollo de recursos de fauna y flora silvestres.

Se menciona que la Lista negativa sobre el acceso de las inversiones extranjeras se redujo de 63 a 33 actividades. Si bien en el párrafo señalado se menciona cuáles son las actividades que se eliminaron, sería necesario saber cuáles son las actividades que aún se mantienen listadas. ¿Podría China señalarlas?

Reply: Please refer to the *Special Administrative Measures for Foreign Investment Access (Negative List) (2020 Edition)*.

3. AVANCE HACIA UNA APERTURA DE ALTO NIVEL Y ESTUDIO DE NUEVAS PERSPECTIVAS DE COOPERACIÓN BENEFICIOSAS PARA TODOS

3.2. Creación de un entorno propicio para la inversión extranjera

3.2.3. Ampliación del alcance de la inversión extranjera incentivada

(Pág. 12) 3.18. En junio de 2019, China publicó el *Catálogo de Sectores en los que se Incentiva la Inversión Extranjera (edición de 2019)*, con un total de 1.108 entradas. En ese instrumento se combinan las entradas de sectores incentivados que figuran en el *Catálogo de Sectores para la Orientación de la Inversión Extranjera con las entradas del Catálogo de Sectores Ventajosos para la Inversión Extranjera en las Regiones Central y Occidental de China*, de manera que se amplía significativamente el alcance de la inversión extranjera incentivada. En diciembre de 2020 se publicó el *Catálogo de Sectores en los que se Incentiva la Inversión Extranjera (edición 2020)*, que consta de 1.235 entradas, esto es, 127 entradas más que en la edición de 2019. La característica principal de esta edición revisada es que incentiva aún más la inversión extranjera en la fabricación avanzada, los servicios modernos y los sectores ventajosos de las regiones central y occidental.

10. En diversas ocasiones el reporte menciona la ampliación de las categorías de inversión extranjera incentivada y, en particular, el párrafo 3.18 menciona que dichas categorías pasaron de 1,108 entradas en la edición del 2019 del Catálogo de Sectores en los que se Incentiva la Inversión Extranjera a 1,235 en la edición del 2020. México quisiera conocer ¿cuáles son los incentivos que China otorga en general a los inversionistas extranjeros y algunos ejemplos de las actividades englobadas en dicho catálogo?

Reply: please see the SCM notification by China as contained in the WTO document G/SCM/N/372/CHN.

3. AVANCE HACIA UNA APERTURA DE ALTO NIVEL Y ESTUDIO DE NUEVAS PERSPECTIVAS DE COOPERACIÓN BENEFICIOSAS PARA TODOS

3.3. Cooperación innovadora en materia de inversión en el extranjero y consecución de beneficios mutuos y resultados ventajosos para todos los países receptores

3.3.1. Avances en la reforma del sistema de administración de las inversiones en el extranjero y mejora del sistema de servicios públicos para esas inversiones

(Pág. 12) 3.21. En enero de 2018, el Ministerio de Comercio y los ministerios y departamentos competentes publicaron conjuntamente las *Medidas Provisionales relativas a la Presentación de Información sobre las Inversiones en el Extranjero sujetas al trámite de Inscripción en el Registro o al procedimiento de Aprobación*. En marzo de 2018, la Comisión Nacional de Desarrollo y Reforma inició la aplicación de las *Medidas relativas a la Administración de las Inversiones en el Extranjero de las Empresas a fin de facilitar tales inversiones*. En mayo de 2019, el Ministerio de Comercio publicó las Normas de Aplicación de la Presentación de Información sobre las Inversiones en el Extranjero sujetas al trámite de Inscripción en el Registro o al procedimiento de Aprobación. Además, el Ministerio de Comercio ofrece anualmente un servicio público para ayudar a las empresas a comprender el entorno empresarial de los países receptores y a cumplir mejor las leyes y reglamentos de esos países. Entre esos esfuerzos cabe destacar la formulación y publicación de la *Guía para Países y Regiones sobre las Inversiones y la Cooperación en el Extranjero y el Informe sobre el Desarrollo de las Inversiones y la Cooperación Económica de China en el Extranjero*.

11. China menciona que anualmente su Ministerio de Comercio publica una Guía para Países y Regiones sobre las Inversiones y la Cooperación en el Extranjero y el Informe sobre el Desarrollo de las Inversiones y la Cooperación Económica de China en el Extranjero. ¿Quisiéramos conocer si China publica esta guía en un portal de acceso general, o se publica únicamente para ciertos destinatarios? Si se pone a disposición del público en general, ¿también cuenta con una versión en inglés?

Reply: China publishes the *Guide for Countries and Regions on Overseas Investment and Cooperation* and the *Report on Overseas Investment and Economic Cooperation Development of China* on the website of the Ministry of Commerce every year. At present, the two documents have no English versions.

COLOMBIA

Informe de la Secretaría - Documento WT/TPR/S/415**2. REGÍMENES DE COMERCIO E INVERSIÓN****2.1 Marco General.**

2.6 En principio, todas las normas relacionadas con el comercio formuladas por las autoridades a todos los niveles deben cumplir con los acuerdos comerciales internacionales en los que China es parte, incluido el Acuerdo de Marrakech por el que se establece la Organización Mundial del Comercio y sus acuerdos complementarios, el Protocolo de Adhesión de China y el informe del Grupo de Trabajo sobre la Adhesión de China.² Los proyectos de ley y de reglamento a nivel de ministerio y departamento se publican en línea en chino durante 30 días como mínimo, para que el público pueda formular observaciones, salvo que el Consejo de Estado decida que se debe mantener su carácter confidencial. Las observaciones públicas pueden presentarse a través del sitio web del Ministerio de Justicia. En la Gaceta de Comercio Exterior y Cooperación Económica de China, editada por el Ministerio de Comercio (MOFCOM), se publican las leyes, los reglamentos y las normas de China relacionados con el comercio.

Pregunta 1. Podría el Gobierno de China brindar mayor información sobre ¿Cuáles son los criterios del Consejo de Estado para mantener el "carácter confidencial de los proyectos de ley y reglamentos relacionados con el comercio" para no publicarlos durante 30 días como mínimo para observaciones del público?

Reply: In accordance with the *Procedures for the Formulation of Administrative Regulations*, the drafting authority shall publish the draft of the administrative regulations and their explanations to the public for comments, unless the State Council decides not to publish them. The time limit for soliciting opinions is usually no less than 30 days.

3.1.1.3 Facilitación del comercio

3.18 En febrero de 2020, la GACC promulgó 10 medidas encaminadas a hacer frente a los efectos de la epidemia y promover el crecimiento sostenido del comercio exterior con miras a reducir el impacto de la COVID-19 en la economía china y fomentar el crecimiento sostenido del comercio exterior al prevenir y controlar la epidemia... Además, en marzo de 2020, la GACC publicó la Lista de Medidas para Coordinar la Prevención y Control de Epidemias en los Puertos y Facilitar el Despacho de Aduana. Según se informa, esa lista contiene 50 medidas para aplicar las decisiones y disposiciones relativas a la prevención y el control de epidemias y la facilitación del despacho de aduana en los puertos, centradas en cuatro aspectos: i) prevenir la importación de casos de COVID-19; ii) facilitar el despacho de aduana; iii) reducir los costos de importación y exportación; y iv) garantizar el funcionamiento sin trabas de las cadenas industriales y las cadenas de suministro del comercio exterior.

Pregunta 2. ¿Podría el gobierno China ampliar la información acerca de las 50 medidas relativas a la prevención y el control de las epidemias? ¿Estas medidas se encuentran publicadas en un sitio web?

Reply: Please refer to www.customs.gov.cn.

3.2.4 Apoyo y promoción de las exportaciones

El Servicio para Empresas Chinas de Reclamaciones relativas a Operaciones Comerciales en el Extranjero presta a las empresas chinas servicios de tramitación de reclamaciones, asesoría, creación de bases de talentos y apoyo a las empresas emergentes.

Pregunta 3. El gobierno de Colombia desea conocer acerca de la implementación del servicio para empresas chinas de reclamaciones relativas a operaciones comerciales en el extranjero. En particular ¿Cuál entidad presta este servicio?, ¿Tiene algún costo para los empresarios?

² Consejo de Estado, Guo Ban Fa N°29, 2014, Aviso de la Oficina General del Consejo de Estado sobre la Mejora de la Compatibilidad de las Políticas Comerciales.

Reply: Established in 2006, the Overseas Commercial Complaint Service Center for Chinese Enterprises of the Ministry of Commerce is a window for the Ministry of Commerce to serve local communities and enterprises, providing policy information, guidance for consultation and other public services for free, mainly for Chinese enterprises to carry out overseas business activities.

3.3. Medidas que afectan a la producción y al comercio

3.122 Las notificaciones presentadas a la OMC y las respuestas dadas por China a las preguntas formuladas por otros Miembros no han permitido a la Secretaría tener una visión general clara de los programas de ayuda de China. En particular, las notificaciones no contienen información sobre los niveles de gasto en determinados sectores como el aluminio, los vehículos eléctricos, el vidrio, la construcción naval, los semiconductores, o el acero. No se ha facilitado a la Secretaría información sobre subvenciones después de las notificadas en 2019. En el Comité de Subvenciones y Medidas Compensatorias de la OMC, China suele responder a preguntas centradas en las notificaciones de subvenciones, pero no a las que se refieren a las políticas de subvención no abarcadas en las notificaciones. Las autoridades han indicado que, de conformidad con el Acuerdo sobre Subvenciones y Medidas Compensatorias de la OMC (Acuerdo SMC), no hay ninguna obligación de facilitar información por escrito sobre los programas que no figuran en las notificaciones de subvenciones.

Comentario. El gobierno de Colombia expresa su preocupación respecto a las afirmaciones de la Secretaría en relación con la dificultad que se presenta para conocer con precisión el alcance de los programas de ayuda y de subvenciones de China en general ni sobre las subvenciones no abarcadas en las notificaciones.

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

Pregunta 4. ¿El gobierno de China ha considerado alguna estrategia para robustecer el contenido de la información y transparencia sobre los programas de ayuda, en particular sobre las cuantías de las subvenciones centrales y subcentrales?

Reply: In recent years, China has been committed to enhancing the transparency of our subsidy policies and has submitted timely subsidy notifications covering both central and sub-central government levels. The latest subsidy notification submitted by China during the period from 2019 to 2020 includes a total of 71 subsidy policies at the central level and 374 subsidy policies at the sub-central level in 31 provinces, autonomous regions and municipalities directly under the Central Government, as well as 5 cities directly designated by the State Council. China's notification providing the subsidy amounts to the best of our ability. China hopes that the efforts and achievements made by China in the subsidy notification will be objectively evaluated by members.

Pregunta 5. ¿Podría el gobierno de China informar el término en el que la información de las subvenciones estará disponible de manera oportuna?

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

3.124. Además de los programas notificados, hay al parecer numerosas iniciativas para apoyar diferentes ramas de producción y atraer inversión extranjera. Los llamados "fondos gubernamentales de orientación", o fondos de inversión dirigidos por el Gobierno, utilizan recursos públicos para efectuar inversiones de capital en sectores que el Gobierno considera importantes (cuadro 3.15). La Secretaría no ha logrado obtener información clara sobre en qué consisten estos fondos. Algunos todavía se están creando, y no está claro cuál será su cuantía definitiva. De acuerdo con algunas fuentes externas, son financiados mayoritariamente por el Gobierno central y los Gobiernos locales, grandes empresas de propiedad estatal e instituciones financieras de propiedad estatal. La mayor parte de los fondos se utilizan para financiar procesos de fabricación avanzada, nuevos materiales y otras ramas de producción innovadoras. La información facilitada en el cuadro 3.15 no ha sido confirmada por las autoridades, que han considerado que no es pertinente para este examen. Afirman además que esos fondos son en parte de financiación privada, que no constituirían una subvención y que, por lo tanto, no estarían sujetos a notificación. Según las autoridades, no es necesario notificar estos fondos en el marco del Acuerdo SMC ya que la ayuda proporcionada mediante estos fondos no constituye una subvención.

Pregunta 6. Colombia desea conocer con mayor precisión las razones por las cuales el gobierno de China considera que los "fondos gubernamentales de orientación" y "los fondos de inversión dirigidos por el Gobierno" no constituyen una subvención.

Reply: The investment management and decision-making of the funds is completely market-based, and government departments do not interfere with or participate in any investment project decisions of the funds. The funds and their management structure are established in accordance with the Company Law of the People's Republic of China and other laws, and operate on a market basis.

En el párrafo 3.132, el Informe de la Secretaría menciona que " las cifras disponibles indican que China también siguió prestando un apoyo sustancial al sector pesquero. Además, una amplia proporción de la ayuda del Gobierno de China al sector se considera dirigida a la "creación de capacidad". Las autoridades han indicado que pronto se promulgará una nueva política pesquera".

Pregunta 7. ¿Puede China compartir mayores detalles sobre la nueva política pesquera que tiene previsto implementar?

Reply: The Ministry of Finance and the Ministry of Agriculture and Rural Affairs jointly issued the Circular on Implementing the Supportive Policy for High-quality Development of the Fishery Industry in May 2021. For detailed information, please refer to http://www.gov.cn/zhengce/zhengceku/2021-07/05/content_5622531.htm.

Pregunta 8. Se estima que China tiene alrededor de 17000 barcos pesqueros de transporte, de apoyo y de suministro en altamar. ¿Puede China proveer mayor información sobre el monto de recursos destinados a subvencionar este tipo de pesca, y mayor detalle sobre el tipo de subvenciones que otorga?

Reply: According to the statistics of the Chinese side, China has about 2,700 ocean fishing vessels, including about 1,500 working on the open sea. China doesn't have 17,000 fishing vessels on the open sea. Colombia is asked to provide the source of this number for China to check.

According to the Notice of Implementing Supportive Policies to Promote the High-quality Development of Fishery issued in May 2021, the direct subsidy for fuel, which takes place during fishery production, will be cancelled in 2021. The Notice, for the first time, gives priority to subsidy for fishery resources survey and maintenance and developing the capability of implementing international conventions. China assesses the annual convention performance of oceangoing fishery enterprises and their fishing vessels and determines the amount of subsidy based on the assessment, so as to propel the enterprises to keep improving their performance capability and support them in performing international conventions. At the same time, China supports global fishery resources survey and monitoring, and is working hard to provide scientific support for the maintenance and sustainable utilization of fishery resources in the open sea. This new policy on fishery subsidy is a major adjustment of China's domestic fishery support policies in response to the general trend of WTO's fishery subsidy negotiations. It is conducive to restoring the fishery resources and oceanic ecology and environment, and promoting the fishery sustainability worldwide.

Pregunta 9. ¿Cómo concibe China en la nueva política pesquera, la "creación de capacidad" desde el punto de vista ambiental, en relación a la preservación del recurso y al control de la pesca ilegal y la disolución o la reducción gradual de las subvenciones a la pesca dañina?

Reply: please check the reply for question No. 7.

Pregunta 10. ¿Los nuevos esfuerzos de la política pesquera contemplan el control de la pesca ilegal, se prevé un marco regulatorio para la preservación del recurso en la pesca de altamar?

Reply: China relentlessly combats IUU fishing through tightening regulations on distant water fishing vessels. In accordance with the Management Measures for Monitoring of Distant Water Fishing Vessels' Position amended in 2020, a distant water vessel shall report its position once every hour, so as to prevent any production activity beyond the permitted areas. It is more stringent than the international reporting standard of once every four hours. To prohibit transshipping and transporting of illegal catches, all high-seas transshipment activities shall be reported to China's fisheries

administrative authorities and the national observer system is rolling out gradually. China is committed to law enforcement on the high seas and contributes significant administrative resources to the crack-down of IUU fishing on the high seas. IUU fishing is punished with "zero tolerance". If relevant RFMOs made affirmative determinations that Chinese companies or fishing vessels engaged in, supported or provided assistance to IUU fishing, China's fishery administrative authority would punish the companies and vessels concerned by fining, disqualifying them for fisheries subsidies, suspending or revoking their distant water fishing licenses and/or blacklisting the captain and management personnel, etc.

China endeavors to conduct sustainable high seas fishing. In addition to fulfilling obligations by the relevant RFMOs, China has also fulfilled the obligation of due diligence as a flag state in some high seas areas where there are currently no RFMO, including voluntary fishing moratorium, monitoring on fishing vessels' position, limiting the number of fishing vessels, stringent supervision on high-seas transshipment, increasing communication with coastal state via information exchange and joint scientific research, etc. Since 2020, China has carried out independent fishing moratorium in the relevant waters of high seas of Southeastern Pacific and Southwestern Atlantic. Started as a pilot project, the voluntary fishing moratorium has been officially instituted as of 2021. During the fishing moratorium, all Chinese fishing vessels are prohibited from fishing so as to protect squid resources and their spawning groups. Moreover, China has actively assumed international obligations of conserving oceanic fisheries, by tracking and evaluating the effectiveness of the fishing moratorium in a timely manner, and sharing data and information with relevant stakeholders.

Pregunta 11. ¿Qué tipo de subvenciones se otorga al sector pesquero, cuál es la base para calcular el monto de la subvención, y cuáles son los montos de los programas de subvenciones en el período del examen?

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

En el párrafo 3.149, la Secretaría señala que "el sistema de certificación obligatoria de productos de China, que se aplica tanto a los productos nacionales como a las importaciones, tiene por objeto asegurar la conformidad de los productos con las prescripciones técnicas" Adicionalmente, afirma que "el sistema de CCC se basa en las normas nacionales obligatorias. Los productos enumerados en el Catálogo solo pueden salir de la fábrica o ser vendidos, importados o utilizados en otras actividades comerciales una vez certificados y etiquetados"

Pregunta 12. Colombia solicita a China aclarar si los productos de la actividad pesquera en el mar figuran en el catálogo obligatorio de productos de China.

Reply: Listing in the catalogue of compulsory products depends on whether the products in question concern security issues. Please provide detailed information on the products used for sea fishing.

3.3.3. Prescripciones sanitarias y fitosanitarias

3.3.3.2 Medidas sanitarias y fitosanitarias

Pregunta 13. Colombia solicita a China proveer mayor información acerca de las medidas sanitarias y fitosanitarias tomadas en el marco del covid 19. En particular, si considera o no flexibilizar perpetuar exigencias sanitarias y fitosanitarias que puedan tener repercusiones negativas en el comercio agrícola.

Reply: To protect people's life safety and health, China has taken necessary temporary preventive measures to strengthen the supervision of imported cold-chain food. The relevant practices have been in full compliance with international rules and have not had any negative impact on the food trade to China. COVID-19 nucleic acid sampling tests have been conducted on imported cold-chain foods and their packaging according to law to prevent the transmission and spread of COVID-19 through them. At the beginning, the samples of some imported food products, their exterior and interior packaging and inner walls of containers from some countries were tested positive for COVID-19 by China Customs. In 17 October, 2020, the Chinese Center for Disease Control and Prevention (China CDC) announced that live COVID-19 virus had been isolated from exterior packaging of imported aquatic products, which further confirmed that exposure to exterior packaging contaminated by live COVID-19 virus could lead to infection. China welcomes the export of high-quality and safe food to China, and China's attitude towards opening up and expanding imports is consistent and clear. However, as the global epidemic develops, consumers' concerns and doubts about the safety of the food supply chain have deepened. We believe that without consumer

confidence, there will be no market, and without market, there will be no trade. Under the current epidemic situation, we wish that the countries (regions) overseas that wish to export food to China may require the enterprises exporting foods to China to, according to the relevant guidelines issued by the United Nations Food and Agriculture Organization (FAO), do well in all preventive management measures to ensure that the foods exporting to China have not been contaminated by COVID-19. China is willing to work with relevant parties to jointly ensure the safety of the food supply chain, eliminate consumers' doubts, respond to consumers' concerns, ensure safe food supply and maintain market stability, so as to promote the healthy development of trade.

El Informe de la Secretaría de la OMC, párrafos 3.108 y 3.115, indica lo siguiente: "3.108. La mayor parte de la financiación¹⁰², el seguro y las garantías de las exportaciones corre a cargo de varias instituciones financieras públicas con el mandato de promover el comercio exterior y las inversiones transfronterizas. El grueso de la financiación de las exportaciones proviene del Banco de Exportación e Importación de China (Banco EXIM), que financia las exportaciones, y la Corporación de Seguros de Crédito y Exportación de China (SINOSURE), de propiedad estatal, que ofrece seguros de crédito a la exportación y garantías conexas. Las empresas de propiedad extranjera también pueden acceder a los servicios del Banco EXIM y SINOSURE. China no es miembro de la OCDE; no participa en el Acuerdo de la OCDE sobre directrices en materia de crédito a la exportación con apoyo oficial. Las autoridades indican que China siempre ha participado activamente en las consultas del Grupo de Trabajo Internacional sobre Créditos a la Exportación, incluido su grupo de trabajo técnico.

(...)

3.115. Durante el período examinado, China siguió ofreciendo incentivos y apoyo financiero a diferentes sectores y ramas de producción. Según las autoridades, con la aplicación de estas medidas se pretende acelerar la transformación y modernización de las ramas de producción tradicionales, impulsar las incipientes, estimular la innovación, fomentar el desarrollo de zonas remotas, mejorar la competitividad de las pymes y atraer IED. También se concedió ayuda destinada a la protección del medio ambiente, la reducción de emisiones y el ahorro energético. En general, la ayuda, en forma de transferencias directas y preferencias fiscales, la otorgan el Gobierno central o los Gobiernos locales. Las autoridades han indicado que no se conceden incentivos en forma de acceso al crédito". (Subrayado por fuera de texto original).

Como se puede observar, en el párrafo 3.115 se menciona que "Las autoridades han indicado que no se conceden incentivos en forma de acceso al crédito", sin embargo, en el párrafo 3.108 del mismo informe, la misma Secretaría precisó que "La mayor parte de la financiación, el seguro y las garantías de las exportaciones corre a cargo de varias instituciones financieras públicas con el mandato de promover el comercio exterior".

Pregunta 15. En efecto, Colombia desea conocer si existen diferencias entre las condiciones de financiación de las instituciones privadas y las públicas que expliquen el motivo por el cual en su mayoría las exportaciones cuentan con un financiamiento público, como podría ser el caso de unas tasas de interés más bajas por parte de los bancos con participación estatal.

Reply: Chinese SOEs are independent market entities. They have no institutional advantage over private businesses in the acquisition of credit. Whether a business can obtain credit and what credit rate it gets depends on its profitability, asset quality and development prospects. SOEs of poor performance (e.g. zombie enterprises) would find it hard to obtain credit.

Pregunta 16. Por favor aclarar por qué considera el Gobierno de la República Popular China que no se ofrecen incentivos de acceso al crédito para fomentar las exportaciones, y si las condiciones de los créditos otorgadas por el Banco de Exportación e Importación de China (Banco Exim) con participación estatal resultan más favorables que los otorgados por banco comerciales sin participación estatal.

Reply: The loan business of the Export-Import Bank of China operates according to market principles. In accordance with the Measures for the Supervision and Administration of the Export-Import Bank of China (Order No. 3 of 2017 by CBRC), the Export-Import Bank of China shall establish a market-oriented operational and restrictive mechanism. The principles and model of loan pricing of the Export-Import Bank of China are in line with the common practices of the banking industry.

El Informe de la Secretaría de la OMC, párrafo 3.122, indica lo siguiente:

"3.122. Las notificaciones presentadas a la OMC y las respuestas dadas por China a las preguntas formuladas por otros Miembros no han permitido a la Secretaría tener una visión general clara de los programas de ayuda de China. En particular, las notificaciones no contienen información sobre los niveles de gasto en determinados sectores como el aluminio, los vehículos eléctricos, el vidrio, la construcción naval, los semiconductores, o el acero. No se ha facilitado a la Secretaría información sobre subvenciones después de las notificadas en 2019. En el Comité de Subvenciones y Medidas Compensatorias de la OMC, China suele responder a preguntas centradas en las notificaciones de subvenciones, pero no a las que se refieren a las políticas de subvención no abarcadas en las notificaciones.¹¹² Las autoridades han indicado que, de conformidad con el Acuerdo sobre Subvenciones y Medidas Compensatorias de la OMC (Acuerdo SMC), no hay ninguna obligación de facilitar información por escrito sobre los programas que no figuran en las notificaciones de subvenciones". (Subrayado por fuera de texto original).

En relación con lo dicho en el párrafo 3.122 del Informe transcrito, Colombia se permite expresar su preocupación por la falta de una visión clara de los programas de ayuda de China que da a conocer la Secretaría de la OMC, a lo que hay que agregar que aún no se han notificado las subvenciones de los años 2019 y 2020 según el párrafo 3.121 del mismo Informe.

Pregunta 17. En relación con el párrafo 3.122 del Informe de la Secretaría de la OMC, resultaría pertinente precisar si la frase "las notificaciones no contienen información sobre los niveles de gasto" significa que no se presentó un cumplimiento de lo dispuesto en el numeral ii), párrafo 3 del artículo 25 del Acuerdo SMC, al no informar sobre la cuantía de la subvención.

Reply: In recent years, China has been committed to enhancing the transparency of our subsidy policies and has submitted timely subsidy notifications covering both central and sub-central government levels. The latest subsidy notification submitted by China during the period from 2019 to 2020 includes a total of 71 subsidy policies at the central level and 374 subsidy policies at the sub-central level in 31 provinces, autonomous regions and municipalities directly under the Central Government, as well as 5 cities directly designated by the State Council. China's notification providing the subsidy amounts to the best of our ability. China hopes that the efforts and achievements made by China in the subsidy notification will be objectively evaluated by members.

Sobre el tema, igualmente llama la atención que, en el mismo Informe de la Secretaría de la OMC, párrafo 3.120, se indique: *"En concreto, aportó información adicional sobre los beneficiarios y los criterios de admisibilidad de los programas. Sin embargo, en la mayoría de los casos no indicó el importe total del gasto y de los ingresos condonados; según las autoridades, ello se debió a la inexistencia de estadísticas sobre los gastos fiscales"*.

Pregunta 18. Lo anterior, debido a que, si las estadísticas sobre los gastos fiscales no existen y estas eran la única fuente para informar sobre la cuantía de la subvención, no se observa la manera en la que se podría cumplir a cabalidad con lo dispuesto en el artículo 25 del Acuerdo SMC sobre la notificación de las subvenciones otorgadas.

Reply: China does not currently have statistics on tax expenditures, and China has notified most of the amount of financial support.

En el párrafo 4.17 del Informe del Gobierno de la República Popular China se indica lo siguiente: "4.17. China considera que la reforma de la OMC debería aspirar a restablecer el funcionamiento normal de la Organización lo antes posible. En particular, los Miembros deben poner fin a la situación de estancamiento del Órgano de Apelación, frenar el unilateralismo y el proteccionismo, y abordar de forma prioritaria la inequidad de las normas sobre la agricultura, un problema antiguo nunca resuelto. En este sentido, entre las cuestiones más apremiantes se encuentran los elevados niveles de MGA de que disfrutaban los Miembros desarrollados y las legítimas peticiones de los Miembros en desarrollo sobre la constitución de existencias públicas con fines de seguridad alimentaria. A la luz de las lagunas y ambigüedades de las normas multilaterales vigentes respecto de las medidas comerciales correctivas, se deberían aclarar y mejorar aún más las normas relativas a las medidas compensatorias y las medidas antidumping, a fin de evitar el uso indebido y el abuso de las medidas comerciales correctivas. Entretanto, es necesario que las normas de la OMC se adapten a las realidades actuales y traten de obtener resultados en relación con nuevas cuestiones como la facilitación de las inversiones, el comercio electrónico, la reglamentación nacional en la esfera de los servicios y las mipymes". (Subrayado por fuera de texto original).

Pregunta 19. En relación con lo anterior, es de interés de Colombia conocer específicamente cuáles serían las lagunas y ambigüedades de las normas relativas a las medidas compensatorias y antidumping a las que se refiere la República Popular China.

Reply: Rules are the foundation for supporting and safeguarding open and non-discriminatory multilateral global trade mechanisms. Antidumping and countervailing duties are important part of negotiations about rules. Members of the WTO made arduous efforts for this, but there is still void and ambiguities in multilateral trade remedy rules, resulting in frequent inappropriate use of antidumping and countervailing duties. For example, the WTO Antidumping Agreement set out general guiding principles for sunset review. In practice, some antidumping measures have been enforced for 20 years or even more (some for more than 40 years), and become "permanent" measures, restricting foreign trade and impeding domestic industries from innovation and competition. Another example is that the Antidumping Agreement made no explicit provision on anti-circumvention rules, resulting in different approaches to the rules among WTO members. To make antidumping and countervailing duty policies predictable, protect stakeholders' legitimate rights and interests, and avoid adverse impacts of the measures on international trade order and members' domestic industries, it is necessary to clarify and improve related rules.

INFORME DEL GOBIERNO - DOCUMENTO WT/TPR/G/415

5. PROFUNDIZACIÓN DE LA REFORMA EN TODOS LOS ÁMBITOS Y CREACIÓN DE UN SISTEMA DE MERCADO DE ALTO NIVEL

5.1.2 Desarrollo impulsado por la innovación, y optimización y modernización de la estructura industrial

5.3. China ha potenciado continuamente la innovación como elemento central del proceso de modernización. Las plataformas de innovación se establecen con rapidez. Se fomenta que las empresas, como principales promotoras de la innovación, aumenten su inversión en I+D, al tiempo que el Gobierno ofrece incentivos de política que se aplican a todos los sectores. Se observa un progreso constante de nuevos tipos de infraestructura, como la 5G, los centros de datos, la computación en la nube y la Internet industrial. El sector industrial se moderniza con tecnologías digitales e inteligentes. A nivel nacional se están creando zonas experimentales de economía digital para promover el desarrollo impulsado por la innovación. Se adoptan medidas para fomentar nuevas formas de negocios en la economía digital. Desde el último examen, China ha dedicado esfuerzos a promover la creación de empresas y la innovación en todo el territorio nacional. Las experiencias de innovación y reforma se reproducen y aplican en todo el país. China ha celebrado la Semana Nacional de la Actividad Empresarial y la Innovación Masiva. Y se están construyendo centros de demostración de innovaciones e iniciativas empresariales.

Pregunta 20. ¿Podría el gobierno de China compartir información acerca de las estrategias implementadas para la transferencia de experiencias de innovación y reforma en todo el país?

Reply: Since 2016, the State Council has approved the building of 120 demonstration bases for innovation and entrepreneurship in two batches. Some of the bases are in a specific city, and some are in universities, research institutes and businesses. They are the sources of the most dynamic innovation and development momentums. Statistics showed that the bases incubated an average of 10,000 high-tech companies every year, and have seen rapidly growing startups. In December 2020, the General Office of the State Council released the Circular on Establishing the Third-batch of Demonstration Bases for Innovation and Entrepreneurship. For more information, click <http://www.gov.cn/zhengce/zhuti/shuangchuang/index.htm>.

5.2.1 Aceleración de la aplicación de las principales estrategias regionales y de las estrategias coordinadas de desarrollo regional, y mejora de la distribución del desarrollo entre regiones.

5.6. China presta mayor atención a las ventajas comparativas regionales y promueve el desarrollo urbano y rural integrado. Avanza en el desarrollo coordinado de la región de Beijing-Tianjin-Hebei, en la planificación y construcción de alto nivel y alta calidad de la Nueva Área de Xiongan, en la construcción de la Área de la Gran Bahía de Guangdong-Hong Kong-Macao y en el desarrollo integrado del Cinturón Económico del Yangtsé. China sigue impulsando el desarrollo de la región occidental a gran escala, nuevos avances en la revitalización del nordeste de China, el desarrollo de alta calidad de la región central y la modernización acelerada de la región oriental. Al mismo tiempo,

China ha prestado apoyo a las antiguas zonas de base revolucionaria y a las zonas de minorías étnicas para acelerar su desarrollo, y ha fortalecido el desarrollo de las zonas fronterizas.

Pregunta 21. ¿Podría el gobierno de China compartir información acerca de las principales estrategias implementadas para promover el desarrollo de las regiones? ¿Qué tipo de ayuda provee el gobierno central a las regiones, en particular a las zonas de minorías étnicas para acelerar su desarrollo?

Reply: Chinese strategies for regional development can be found on the website of the National Development and Reform Commission: <https://www.ndrc.gov.cn/?code=&state=123>.

China is perfecting the differentiated regional support policies to help ethnic regions enhance their capability of self-improvement based on local resources and conditions. It has given stronger support to ethnic regions in infrastructure construction and industrial restructuring to promote the high-quality and high-efficiency development of agriculture and animal husbandry, improve living and working conditions in rural areas, and increase the wealth of farmers and herdsmen. It has also pushed for development and opening-up in border areas to continuously increase the ethnic groups' sense of gain, happiness and security.

En el párrafo 1.3, China plantea su compromiso y activa participación en la gobernanza mundial y la firme defensa del sistema multilateral de comercio al igual que su contribución a que la "globalización económica sea más abierta, inclusiva, equilibrada y beneficiosa para todos".

De manera complementaria, en el párrafo 4.17 China invita a "abordar de forma prioritaria la inequidad de las normas sobre la agricultura, un problema antiguo nunca resuelto. En este sentido, entre las cuestiones más apremiantes se encuentran los elevados niveles de MGA de que disfrutaban los Miembros desarrollados y las legítimas peticiones de los Miembros en desarrollo sobre la constitución de existencias públicas con fines de seguridad alimentaria".

Finalmente, en el párrafo 4.24 se menciona que "China ha cumplido plenamente sus obligaciones de notificación en virtud de todos los Acuerdos de la OMC"

Colombia como país en desarrollo, considera que en las negociaciones en curso, en especial, las de la reforma a la agricultura y el disciplinamiento de subvenciones a la pesca, y en el restablecimiento del liderazgo de la OMC para promover un comercio abierto y equilibrado, la transparencia es un principio fundamental que exige el firme compromiso de todos sus miembros.

Tanto el gobierno de la China como la Secretaría de la OMC en su Informe WT/TPR/415, refieren que China ha hecho esfuerzos para cumplir sus obligaciones de notificación en los distintos Acuerdos de la OMC. Sin embargo, en opinión de Colombia, existen rezagos en materias de gran envergadura, como los apoyos internos a la agricultura y los programas mediante los cuales se brinda un apoyo directo a sectores y actividades específicas en forma de subvenciones.

Pregunta 22. Por lo anterior y dada la importancia de dar fiel cumplimiento a los compromisos en materia de transparencia, y la necesidad de contar con información actualizada para las negociaciones, Colombia agradece a China informar si ha pensado en un plan de contingencia para ponerse al día con las notificaciones pendientes.

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China for subsidies to the fisheries sector, and China will submit the notification of agricultural domestic support soon.

En la sección 5.2.3 el gobierno de China refiere que desde 2018 "ha seguido avanzando en la reforma estructural relacionada con la oferta en el sector agrícola. La producción, la elaboración y la venta de productos agropecuarios se han integrado de forma significativa. Se han potenciado aún más las diversas funciones del sector agrícola. Al mismo tiempo, China está decidida a mejorar las políticas en materia de subvenciones agrícolas. Su sistema de subvenciones agrícolas, al igual que el correspondiente mecanismo de incentivos y desincentivos, tiene una orientación ecológica y aspira a promover el uso racional de los recursos agrícolas y la protección del medio ambiente"

Pregunta 23. Colombia agradece a China, brindar información sobre las acciones que está tomando para mejorar las políticas en materia de subvenciones agrícolas, orientadas a lograr el objetivo de promover el uso racional de los recursos agrícolas.

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China for the subsidy policy, and China will submit the notification of agricultural domestic support soon.

Pregunta 24. Adicionalmente, Colombia agradece a China compartir información referida a las estrategias que aplica con base en el "Dictamen sobre la Promoción Integral de la Revitalización del Medio Rural y la Aceleración de la Modernización Agrícola y Rural", adoptada en enero de 2021 y las funciones y objetivos de la Administración Nacional de Revitalización del Medio Rural, constituida formalmente en febrero de 2021.

Reply: The National Administration for Rural Vitalization is reshuffled from the former State Council Leading Group Office of Poverty Alleviation and Development. The National Administration for Rural Vitalization is under the supervision of the Ministry of Agriculture and Rural Affairs. Inaugurated on February 25, 2021, the National Administration for Rural Vitalization is responsible for the consolidation of the poverty reduction achievements and the implementation of the rural vitalization strategy.

En la sección 5.3.5, párrafo 5.18 se menciona que "China está decidida a seguir impulsando la reforma de las empresas de propiedad estatal. Desde el último examen, la reforma de las empresas de propiedad estatal ha sido extensa e intensa, lo que ha permitido alcanzar logros importantes. China promueve la reforma orientada al mercado de las relaciones competitivas en sectores como la energía, los ferrocarriles, las telecomunicaciones y los servicios públicos".

Pregunta 25. Colombia agradece a China informar, cuáles de las reformas institucionales enunciadas están dirigidas a las empresas estatales agrícolas.

Reply: The institutional reform mentioned in this question doesn't concern state-owned agricultural companies yet.

Pregunta 26. Así mismo, según información del gobierno de China, "en 2020, las importaciones y exportaciones de las empresas estatales representaron el 14,3% en el total de las importaciones y exportaciones. Colombia agradece informar cuál ha sido la participación de las empresas estatales agrícolas en el comercio exterior y en la inversión extranjera y en qué áreas o cadenas productivas.

Reply: Central agricultural enterprises are free market entities. As such, they engage in international trade and overseas investment in a broad range of areas, including agriculture, forestry, animal husbandry and fishery, based on their own strategic plans and market principles.

UKRAINE**PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT (WT/TPR/S/415)****SUMMARY****Page 11 (Para 11)**

The Report mentions a new Foreign Investment Law that was adopted with the aim of, *inter alia*, improving China's business environment for foreign investors and ensuring that they participate in market competition on an equal basis. The legislation stipulates that investors are protected against expropriation, restrictions on cross-border remittances, IPR infringement, and forced transfer of technology.

Question:

1. Could China kindly provide more information on recent legislative amendments, taken place with the adoption of the Foreign Investment Law, in particular in terms of the protection of property rights of foreign-invested enterprises and strengthening services for foreign investors?

Reply: China has continued its efforts to clean up and cancel policies and regulations that are inconsistent with the Foreign Investment Law. For example, in December 2020, China repealed the Regulations on Foreign Investment in Civil Aviation Industry and its six supplementary regulations. China's Ministry of Commerce, in conjunction with the State-owned Assets Supervision and Administration Commission of the State Council, the State Taxation Administration, the State Administration for Market Regulation, China Securities Regulatory Commission and the State Administration of Foreign Exchange, intends to revise the Measures for the Administration of Strategic Investment in Listed Companies by Foreign Investors (hereinafter referred to as the "Measures"). The Measures include defining its scope of the application, increasing the investment methods, significantly lowering the investment threshold, deepening the reforms to streamline the government, delegate power, and improve government services, and adopting new regulatory methods such as information reporting, self-regulation and information disclosure. The draft revision for public comments and the draft instructions were released for public comments last year. At present, the Ministry of Commerce is working with relevant departments to further revise and improve the draft revision based on public comments.

1 ECONOMIC ENVIRONMENT**1.3 Developments in Trade and Investment****1.3.2 Trends and patterns in FDI****Pages 27-29 (Para 1.47)**

According to information, presented in Table 1.6, inward foreign direct investment by financial intermediation sector amounted to USD 7.13 billion or 5.2% of total FDI in 2019.

Questions:

2. Ukraine would appreciate to know what countries are the most interesting for China in terms of FDI into the financial intermediation sector.

Reply: China sincerely welcomes qualified financial institutions and investors from various countries to tap into the Chinese capital market, seize the opportunity to expand the breadth and depth of investment and business launch in China, and jointly enjoy the dividends from sound and stable growth of China's economy.

3. What factors are considered for such FDI?

Reply: Foreign direct investment needs to comply with the relevant provisions of Chinese laws, regulations and rules.

4. What financial intermediations in particular are the most attractive for FDI?

Reply: China sincerely welcomes qualified financial institutions and investors from various countries to tap into the Chinese capital market, seize the opportunity to expand the breadth and depth of investment and business launch in China, and jointly enjoy the dividends from sound and stable growth of China's economy.

2 TRADE AND INVESTMENT REGIMES

2.3 Trade Agreements and Arrangements

2.3.1 WTO

Page 34 (Para 2.22)

The Report notes that during the review period, China submitted various notifications to the WTO (Table A2.1). Nevertheless, some notifications, including those on state trading enterprises and domestic support, remain outstanding. According to the authorities, China is preparing new notifications.

Question:

5. Could China, please, identify the state of play regarding its notification process and indicate when it is going to submit outstanding notifications to the WTO?

Reply: China has already submitted the notification on state trading and will submit the notification on domestic support soon.

2.4 Investment Regime

2.4.1 Regulatory framework and market access

Page 36 (Para 2.36)

The Report informs that the Foreign Investment Law (FIL) grants national treatment to foreign investments in industries outside the Special Administrative Measures on Access to Foreign Investment. As we understand the FIL, the authorities established two types of negative lists - National Negative List and PFTZ negative list.

Questions:

6. Could China, please, specify the difference between National Negative List and PFTZ negative list?

Reply: First, the scope of application is different. The National Negative List sets out the areas in which foreign investors are restricted and prohibited from investing in China. PFTZ negative list specifies the areas in which foreign investors are restricted and prohibited from investing within scope of China's pilot free trade zones. Second, the degree of openness is different. In the 2020 version, for example, the PFTZ negative list contains 30 special management measures, three fewer than the national version. PFTZs are more open to foreign investment in seven areas, including corn breeding, aquaculture fishing, publication printing, Chinese herbal medicine, value-added telecommunication, cultural performances, and education.

7. Ukraine would like to know the rationale for the necessity for China to retain two types of negative lists.

Reply: PFTZs are a pilot ground for China to promote reform and opening up on its own, serving as new pacesetters of opening up to the outside world. As some areas are not ready to be opened in the country, they should first be piloted in the PFTZ for stress testing and then promoted across the country after their conditions are well developed. In 2013, China's first negative list of foreign investment access was formed in PFTZs, fundamentally changing the original "case-by-case approval" model of foreign investment management. The first list created the conditions for the national reform of the foreign investment management system in 2016. In 2017, based on the experience of implementing the negative list in PFTZs, the national version of the negative list for foreign investment access was launched, with the role of PFTZs as a pilot ground fully highlighted. Compared with the national version, the PFTZ negative list is more open, continuously giving full play to the role of a pilot ground.

8. Does China use such negative lists in bilateral investment treaties with other countries?

Reply: Foreign investors and investment activities that comply with the provisions of the Foreign Investment Law shall be subject to the negative list of foreign investment access in accordance with the law. The use of the negative list under the framework of bilateral treaties is determined depending on the specific content of the treaties.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

3.1.1.3 Trade facilitation

Page 49 (Para 3.18)

The report describes developments in the field of trade facilitation. Article 12 of the Agreement on Trade Facilitation envisages provisions on customs cooperation between parties and, from our point of view, should enhance bilateral cooperation in this sphere.

Questions:

9. Ukraine would appreciate if China could provide information on bilateral customs cooperation, which has been established to facilitate exchange of information on customs valuation.

Reply: China is willing to carry out bilateral cooperation and exchange with WTO members on customs valuation techniques. Please contact the international cooperation department of the General Administration of Customs of China (GACC) for its suggestions on specific cooperation mechanisms.

10. Could China, please, describe the mechanism for such customs cooperation?

Reply: China is willing to carry out bilateral cooperation and exchange with WTO members on customs valuation techniques. Please contact the international cooperation department of the General Administration of Customs of China (GACC) for its suggestions on specific cooperation mechanisms.

3.1.3 Tariffs

3.1.3.4 Preferential rates

Page 53 (Para 3.33)

The Report states that China applies preferential tariffs under its preferential trade agreements (PTAs).

Questions:

11. Could China, please, provide information on preferential trade agreements, their structure and scope of the products?

Reply: China joined the Asia-Pacific Trade Agreement (APTA) under the auspices of the Economic and Social Commission for Asia and the Pacific in 2001. At present, China has made tariff concessions on more than 2,000 tariff lines of products, mainly including fish, vegetables, tea, chemical products, textile and clothing, footwear, iron and steel products, motor vehicle parts, machinery, electronics and instruments.

12. Does China have any reciprocal PTAs?

Reply: According to the Transparency Mechanism for Regional Trade Agreement, WT/L/671 and the Transparency Mechanism for Preferential Trade Agreement, WT/L/806 of WTO, preferential trade agreements are non-reciprocal in nature.

3.1.4 Other charges affecting imports

3.1.4.1 Value added tax (VAT)

Pages 55-56 (Para 3.38)

According to the Report, VAT accounted for 39.5% of total tax revenue in 2019 (up from 39.1% in 2017). In May 2018, VAT tiers were reduced to 16%, 10%, and 6% (from 17%, 11%, and 6% in 2017). Effective from April 2019, VAT was further reduced to 13%, 9%, and 6% (Table 3.4).

Table 3.4 presents information on VAT exemptions, including on "self-produced agricultural products sold by agricultural producers".

Questions:

13. Would China kindly elucidate what mechanism of VAT exemption is used in the agricultural sector: exemptions on transactions for the supply of only self-produced agricultural products or exemptions from VAT for business entities that supply mentioned agricultural products?

Reply: Please refer to the notification on subsidy submitted by China, and the notification on domestic support for agriculture which will be submitted by China soon.

14. What are particularities of tax credits formation on transactions for the supply of agricultural products?

Reply: Please refer to the notification on subsidy submitted by China, and the notification on domestic support for agriculture which will be submitted by China soon.

15. What was the influence of VAT reduction on increase in tax revenues to the budget and on decrease of VAT avoidance cases?

Reply: The implementation of tax relief policies for taxpayers is conducive to reducing the tax burden of enterprises, stimulating the innovation and vitality of market players, improving their operational efficiency and promoting the sustainable growth of tax revenue.

3.2 Measures Directly Affecting Exports

3.2.3 Export prohibitions, restrictions, and licensing

Page 69 (Para 3.80)

Under the Report, export restrictions, including prohibitions and licensing requirements are in place on a variety of items, as highlighted in China's WTO notification in 2019 on its quantitative restrictions.

Questions:

16. Could China kindly confirm that notified quantitative restrictions, indicated in notification G/MA/QR/N/CHN/5/Rev.1 are still in place?

Reply: Please refer to the latest notification of quantitative restrictions submitted by the China.

17. If so, does the Chinese Government plan to remove export restrictions on agricultural products in 2022-2023?

Reply: No such plan currently.

18. Could China kindly clarify what is the purpose for introducing and maintaining TRQ on export and import of wheat?

Reply: China has a large population, and wheat is one of the staple food crops. China therefore has to consider the balance of wheat supply and demand to ensure food security.

Page 70 (Para 3.84)

According to the Report the value of exports of goods subject to export licensing stood at USD 63.86 billion in 2020, up from USD 39.50 billion in 2017.

Question:

19. Could China kindly elaborate on reasons for an increase in the value of exports of goods subject to export licensing?

Reply: The reason is due to the increase in the demand for related commodities and the increase in the prices of some commodities subject to export license management.

Page 70 (Para 3.87)

The Report mentions the amendments to the 2020 Catalogue that added 23 new items to the list subject to export restrictions, including technologies related to drones, production of space materials, design and construction of large-scale high-speed wind tunnels, and aerospace bearings and lasers.

Question:

20. Could China kindly explain the reasons behind the increase of export restrictions?

Reply: National interests are inseparable from the concept of national security. Legislative purposes for export control of major countries lay store by the maintenance of national security and the protection of national interests. The main purpose for increasing the above-mentioned export control

items is to formulate and adjust control lists in line with the internationally-accepted practices, which will be disclosed in a timely manner.

3.3.1 Incentives

Page 79 (Para 3.132)

It is mentioned in the Report about China's substantial support to its fisheries sector and plans of the authorities to issue a new fisheries policy soon.

Question:

21. Could China, please, inform more about the new fisheries policy and what goals and measures it will envisage?

Reply: For specific reference: In May 2021, China's Ministry of Finance and Ministry of Agriculture and Rural Affairs issued the Notice on Implementing Support Policies for Fishery Development and Promoting High-Quality Development of Fisheries (Cainong [2021] No. 41). The main directions of support are as follows: (i) Subsidy funds for fishery development are mainly used to support key projects incorporated into national planning and the renovation of facilities and equipment for fisheries safety production. (ii) Other general transfer payments are used to support local governments in coordinating and promoting the high-quality development of local fisheries. During the 14th Five-Year Plan period, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs will conduct a mid-term evaluation of the implementation and effectiveness of policies across the country. According to the results of the evaluation and changes in the situation, they will dynamically adjust the scale of funds in all parts of the country.

3.3.3 Sanitary and phytosanitary requirements

3.3.3.1 Legal, institutional, and policy framework

Pages 84-85 (Para 3.160)

The Report describes legal and institutional changes on sanitary and phytosanitary (SPS)-related issues occurred during the review period.

Questions:

22. Considering amendments to the rules, in particular regarding safety indicators, used in the course of importation of sunflower-seed oil in the territory of China, Ukraine would appreciate detailed clarifications about new requirements on this matter.

Reply: China has not made any changes to the registration procedures for exporters of imported feed of plant origin. According to the regulations of China, the competent department of the exporting country shall inspect the relevant exporters and recommend them to China after ensuring that they meet the requirements of China on inbound animal and plant quarantine and the provisions of bilateral protocols. China will audit the exporters and register them after they pass the audit.

23. Would China also clarify new measures, implemented due to amendment of procedure for registration of exporters of plant-based feeds, in particular sunflower meal, soya meal, sugar beet pulp, rapeseed meal?

Reply: China has not made any changes to the registration procedures for exporters of imported feed of plant origin. According to the regulations of China, the competent department of the exporting country shall inspect the relevant exporters and recommend them to China after ensuring that they meet the requirements of China on inbound animal and plant quarantine and the provisions of bilateral protocols. China will audit the exporters and register them after they pass the audit.

Page 86 (Para 3.164)

The Report informs on establishing cooperation on SPS-related issues with the relevant authorities in trading partners.

Question:

24. Could China kindly advice on possible ways of establishing direct communication between Chinese and Ukrainian competent authorities, responsible for SPS-related issues, to cooperate more effectively?

Reply: China is open to the issue of establishing direct communication between the two countries' sanitary and phytosanitary authorities. The General Administration of Customs of China (GACC)

maintains regular communication and contacts with the officials in charge of SPS issues at the Embassy of Ukraine in China, exchanging information on market access and the quality and safety of different agro-food products, and holding bilateral meetings at different levels. China expects the Ukrainian side to provide contact information of its sanitary and phytosanitary authorities in the hope of establishing direct communication channels between GACC and them, to further exchange information and discuss cooperation on related matters .

3.3.5 State trading, state-owned enterprises, and privatization

Page 97 (Para 3.196)

The Report states that "China provided its last full notification on state trading enterprises (STEs) in 2018. The authorities indicate that a new notification would be submitted before mid-July 2021. The legislation regulating state trading has not changed since 2014, nor have the reasons for maintaining this practice or the products subject to it. According to the authorities, state trading remains in place to ensure a stable supply and price of the products concerned, ensure food security, and protect exhaustible and non-recyclable natural resources and the environment."

Questions:

25. Could China kindly indicate when it will submit its new notification on state trading enterprises?

Reply: China has submitted the notification.

26. Could China also kindly elaborate on its plans to reform the state trading policy?

Reply: Please refer to the latest notification of state trading submitted by China.

3.3.6 Government procurement

3.3.6.7 Accession to the GPA and other international cooperation

Page 106 (Para 3.229)

The Report mentions that China became an Observer in the WTO Committee on Government Procurement in 2002. It initiated its GPA accession negotiation in 2007. During the review period, significant progress was made on the accession. China submitted its 6th revised market access offer on 20 October 2019.

Question:

27. Ukraine would appreciate if China could make an update on the process of its accession to the Government Procurement Agreement after the introduction of its sixth revised market access offer in 2019.

Reply: The Chinese government is working hard to join the GPA at an early date. When China submitted the seventh bidding list to WTO for accession to the GPA, the bidding was of a roughly equivalent level to that of GPA participants. In May 2020, China submitted the Chinese Government Procurement Report (updated in 2020) to WTO, which comprehensively reflected the reform of its legal system for government procurement. While advancing the bidding negotiations, China has promoted the legal revision negotiations simultaneously. In June 2021, China provided to WTO its replies to the list of questions asked by EU and Australia about China's 7th bidding list for accession to GPA and Chinese Government Procurement Report (updated in 2020).

3.3.7 Intellectual property rights

3.3.7.2 Institutional reforms and IP-related policies

Page 107 (Para 3.236)

It is stipulated in the Report, that the China National Intellectual Property Administration (CNIPA) published the Plan for Further Implementation of the National Intellectual Property Strategy to Accelerate the Construction of an Intellectual Property Power Country in May 2020.

Questions:

28. How National Intellectual Property Strategy of China is envisaged to be incorporated into China's national development strategy?

Reply: The Chinese government has attached great importance to the work of intellectual property rights and has incorporated the relevant content of intellectual property rights into the overall national development plan and other schemes accordingly. The Outline of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development and the Long-Range Objectives Through

the Year 2035, approved by the National People's Congress in March 2021, proposes "implementing the national strategy of strengthening intellectual property rights". In Chapter 7 of Part II, a whole section is devoted to the task of "improving the system of IPRs protection and application". The number of high-value invention patents per 10,000 people is included in the 20 main indicators of economic and social development in the 14th Five-Year Plan period. The recently issued Outline for Building a Country with Strong Intellectual Property Rights (2021-2035) sets the goal of building a IPR powerhouse with Chinese characteristics and at the world level, emphasizing that "we should take a strategy-led approach to conduct comprehensive planning, highlight key areas and major needs, and promote the deep integration of intellectual property rights with the economy, science and technology, culture, society and other aspects.

29. Whether technical assistance has been sought and provided by the WIPO and/or other international organizations to help formulate CNIPA Policy in China?

Reply: In 2018, China invited a panel of experts from the World Intellectual Property Organization (WIPO) to conduct research in carrying out a ten-year evaluation of implementing the Outline for National Intellectual Property Strategy. The expert panel investigated the implementation of IPR strategy in Beijing and Shanghai, visited relevant enterprises and innovation and start-up bases, and held a number of symposiums. The recommendations by the expert group provided useful references for China to formulate the Outline for Building a Country with Strong Intellectual Property Rights (2021-2035).

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2 Agriculture

Page 125 (Para 4.11)

The Report mentions policy objectives in agriculture set out in the 14th Five-Year Plan for Economic and Social Development, which included implementing the strategy of rural revitalization, strengthening the use of industry to supplement agriculture, and promoting the formation of a new type of urban-rural relationship between industry and agriculture.

Question:

30. Could China, please, specify the Chinese policy in the field of modernizing agricultural sector according to the 14th Five-Year Plan for Economic and Social Development, in particular, concerning establishment of modern agricultural industrial parks and developing new business models (i.e. leisure agriculture, rural tourism, and rural e-commerce) and functioning of a new type of urban-rural relationship between industry and agriculture?

Reply: The Ministry of Agriculture and Rural Affairs and the Ministry of Finance launched a national modern agricultural industrial park construction program in 2017. Built mainly at the county level, national modern agricultural industrial parks are based on large-scale intensive breeding and planting to promote the integrated development of "production, processing and technology", gather modern production elements and market entities, upgrade the whole industry, increase the value of the whole industry chain, and fully implement the methods of green production. Innovative integration of science and technology and the mechanism of uniting and helping farmers are the "engines" that drive rural industrial revitalization and agricultural modernization.

Page 125 (Para 4.12)

Under the Report, the Ministry of Agriculture and Rural Affairs issued a 2020-25 National Plan for Rural Industrial Development in July 2020. The Plan sets out the goals and revenue targets for rural industrial development over the period, with priorities including upgrading agricultural product processing industries, expanding rural speciality industries, improving agricultural tourism, developing new-type rural service industries, promoting synergies between vertical integration of agriculture and rural industries development, and advancing entrepreneurship and innovation in rural areas.

Question:

31. Could China, please, clarify measures to be implemented in the field of agricultural policy according to the National Plan for Rural Industrial Development (2020-2025)?

Reply: China has implemented a rural leisure tourism program. From 2018 to 2020, a total of 656 Chinese beautiful leisure villages with obvious local characteristics, excellent service facilities, fine folk customs, and strong brand effects were promoted.

4.2 Mining and Energy

4.2.2 Energy

4.2.2.1 Overview including environmental policy

Page 142 (Para 4.64)

The Report notes, that China issued the Regulations on Carbon Emission Trading (Trial) and the Implementation Plan on National Carbon Emission Trading Quota Determination and Distribution for 2019-2020 (Power Generation Industry) in December 2020. The Regulations provided a list of key emitters in the power generation industry that are included in the quota management, as well as the specific requirements for quota allocation and compliance, and officially launched the first compliance cycle of the national carbon market.

Questions:

32. Would China kindly elucidate if there are any plans to apply this system to the goods imported by China? If so, to which commodities will it be applied? What mechanism will be applied?

Reply: According to Administrative Measures for Carbon Emission Permit Trading (For Trial Implementation), greenhouse gas emitters, which comply with the following criteria, shall be included in the list of key greenhouse gas emitters (hereinafter referred to as "key emitters"):

(I) They are engaged in such industries that are covered by China Carbon Emission Trade Exchange (CCETE).

(II) Annual greenhouse gas emissions total 26,000 tons of carbon dioxide equivalent.

In accordance with the relevant provisions of the Ministry of Ecology and Environment, the provincial-level ecology and environment authorities shall develop the list of key emitters within their administrative jurisdictions, report to the Ministry of Ecology and Environment, and make the relevant information public. The provincial-level ecology and environment authorities shall refer to gross carbon emission quota recognition and allocation plans formulated by the Ministry of Ecology and Environment, allocate the prescribed annual carbon emission quotas to key emitters within their administrative jurisdictions. Key emitters, organizations and individuals, which comply with the relevant national trading rules, are trading entities in China Carbon Emission Trade Exchange (CCETE).

Visit http://www.gov.cn/zhengce/zhengceku/2021-01/06/content_5577360.htm for details.

4.4 Services

4.4.1 Financial services

4.4.1.3 Recent regulatory developments

4.4.1.3.7 Developments in the fintech industry

Page 167 (Para 4.196)

The Report states, that on 31 December 2020, the US fintech company PayPal completed a stake acquisition deal that makes it the first foreign company to offer digital payment services in China. PayPal acquired a 30% stake in Gopay, a Chinese provider of electronic payment services, more than a year after its purchase of 70% of Gopay, making it the sole owner.

Question:

33. Could China, please, provide more details about the PayPal operational model in China and the list of services the company provides in China?

Reply: In September 2019, with the approval of the People's Bank of China, PayPal became actual controller of Gopay Information Technology Co., Ltd. (hereinafter referred to as "Gopay") through Paypal Information Technology (Shanghai) Co., Ltd., a foreign-funded investment company invested and established in China. Gopay obtained Payment Business License in December 2011, and its business scope includes Internet payment, mobile phone payment, prepaid card issuance and acceptance (Hainan Province, Shaanxi Province, Yunnan Province, Hunan Province and Beijing). The payment services, provided by Gopay in China, include transfer of monetary funds between payers and payees via public networks or private networks; issuing and accepting prepaid value of goods or services purchased from entities other than the issuers under specific carriers and forms within the scope of the permitted business areas.

PART II: QUESTIONS REGARDING THE Report BY CHINA(WT/TPR/G/415)
3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.1 Promoting the High-Quality Development of Trade

3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services

Page 8 (Para 3.9)

Under the Report, China actively promotes well-regulated, healthy and sustainable development of cross-border e-commerce and other new forms and modes. China has established 105 cross-border e-commerce pilot zones in five batches, guided the local authorities to build test grounds, promoted business model innovation, and created a fair, open and transparent development environment.

Questions:

34. What are the main policy areas implemented in the field of cross-border e-commerce support?
 35. Could China further explain the characteristics of the cross-border e-commerce pilot areas?
 36. What is the methodology for implementing the policies in the fields of logistics, payments, and customs procedures in the pilot areas noted above?

Reply to 34-36: Since 2015, the Chinese government has approved the establishment of 105 comprehensive pilot zones for cross-border e-commerce (hereinafter referred to as "comprehensive pilot zones") in five batches. Overall, the comprehensive pilot zones have played an increasingly prominent role in the development of foreign trade, featuring a new highlight of foreign trade growth, a new channel for innovation and start-up, and a new dynamic force for transformation and upgrading.

In encouraging and supporting the development of cross-border e-commerce, China's Ministry of Commerce, in conjunction with relevant departments, has been exploring innovations, continuously strengthening top-level design, improving support policies, optimizing the development environment, and enhancing the level of development. The Ministry of Commerce has guided the comprehensive pilot zones to build a policy framework with "six systems and two platforms" as the core, replicating and promoting 36 mature experiences and practices in 12 areas.

On July 5, 2021, the General Office of the State Council issued the Guidelines on Accelerating the Development of New Forms and Models of Foreign Trade, proposed to improve the development of cross-border e-commerce support policies; advance the construction of comprehensive pilot zones; support the development of independent stations, building tools and other platforms for subdivided services; provide the convenient management of trade payment and settlement; strengthen developing industry organizations and fostering professional talent; and promote the development of new forms and models of foreign trade in a healthy, sustainable and innovative manner.

Page 8 (Para 3.10)

The Report mentions that China issued the Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services to promote the transformation, upgrading and high-quality development of foreign trade.

Question:

37. Could China, please, provide some information on the preliminary results of this Pilot Program after the 1st year of implementation, what are the challenges and the main achievements so far?

Reply: Over the past year, China has achieved significant results in the comprehensive deepening of the pilot work. The Overall Plan for Comprehensively Deepening the Pilot Program of Innovative Development of Trade in Services proposed 122 tasks and initiatives, with 100-odd implemented. The rest long-term work has also made important progress. The pilot areas continue to lead the reform, opening up and innovative development of China's trade in services, serving as a pacesetter in the high-quality development of the trade in services.

3.2 Building a Highland for Foreign Investment

3.2.2 Actively expanding market access for foreign investment

Page 9 (Para 3.17)

The Report informs that China further opens up its financial services.

Questions:

38. What is the share of privately owned factoring companies in the overall number of factoring companies in China?

Reply: According to incomplete statistics, as of the end of 2020, there were 8,553 legal entities of commercial factoring companies in China.

39. Are there any privately owned factoring companies with foreign capital? If yes, what instruments are used to monitor and to analyze factoring companies with FDI?

Reply: According to incomplete statistics, there are 405 commercial factoring companies registered with foreign capital in China. Of them, 396 are registered in US dollars, 8 in Hong Kong dollars and 1 in euros. In terms of supervision, China treats all types of commercial factoring companies equally and strengthens supervision and management mainly through off-site supervision and on-site inspection. Commercial factoring companies are required to submit statement information on a regular basis, while on-site inspection is conducted according to the problems in off-site supervision and risk supervision requirements.

40. Is there a regulation adopted specifically for such factoring firms?

Reply: China does not have any regulatory rules specifically for commercial factoring companies with FDI. As the supervisory rule-making authority for commercial factoring companies, China Banking and Insurance Regulatory Commission (CBIRC) issued the Notice of the General Office of China Banking and Insurance Regulatory Commission on Strengthening Supervision and Administration of Commercial Factoring Enterprises (CBIRC Office [2019] No. 205) in 2019. The Notice instructs all areas to strengthen the supervision of commercial factoring companies when relevant matters are being handled and after they have been handled and promote the healthy development of the commercial factoring industry in six aspects including practicing legal compliance, strengthening supervision and management, steadily promoting classification for handling, strictly controlling market access, implementing supervisory responsibilities and optimizing business environment. In addition, local supervisory departments have also issued a series of rules for the supervision of commercial factoring companies in their provinces, autonomous regions and municipalities directly under the central government.

3.5 Developing High-Standard Pilot Free Trade Zones and Free Trade ports

3.5.1 Promoting high-quality development of pilot free trade zones

Pages11-12 (Para 3.27)

According to the Report, China has successively set up 10 pilot free trade zones since 2018 and, currently, a total of 21 pilot free trade zones have yielded positive results on further reform and opening up in terms of promoting liberalization and facilitation of trade and investment, enabling financial services to boost real economy and transforming government functions.

Questions:

41. Why were Free Trade Zones established as a pilot? Will they be functioning on a regular basis in future?

Reply: PFTZs are a pilot ground for China's reform and opening up. The core task is institutional innovation. In promoting deeper reform and higher level of openness on a pilot basis, China has been promoting such a practice in a larger scale after gaining experience, exploring ways to deepen reform and expand openness and accumulating relevant experience. President Xi Jinping stressed that China's reform and opening up will not stop. China will play the leading role of PFTZs and develop new institutions for a higher-level open economy.

42. What are the priority sectors that will benefit from the newly created Free Trade Zones?

Reply: Building PFTZs, including the newly established ones, is meant to provide an open, transparent and excellent business environment for all kinds of market entities set up in PFTZs by implementing a series of pilot initiatives in the liberalization and facilitation of investment and trade, financial services for the real economy, and the transformation of government functions.

43. Could China provide more details about the system of public services in Free Trade Zones?

Reply: PFTZs are committed to improving the effectiveness of government services by taking the lead in the reform separating permits from the business license and constantly facilitating the establishment of market entities. They provide quality public services for market entities by

strengthening the transparency in government affairs and promote the "Internet plus government services" initiative.

44. What are the underlying criteria in the geographical location of Pilot Free Trade Zones? Are these Free Trade Zones created on an industry-specific basis?

Reply: PFTZs are established according to the needs of China's reform and opening up, after comprehensive assessment and demonstration. There are 21 PFTZS across the country, covering coastal, inland and border areas. According to the functional positioning, resource endowment and industrial base, each PFTZ carries out the corresponding reform in transforming government functions and promoting the liberalization and facilitation of trade and investment. In addition, with differentiated pilot contents, PFTZs have explored ways to deepen the overall reform and expand openness and accumulated relevant experience.

EL SALVADOR

Sección 2 ESFUERZOS CENTRADOS EN LA NUEVA ETAPA DE DESARROLLO, APLICACIÓN DE LA NUEVA FILOSOFÍA DE DESARROLLO Y PROMOCIÓN DE UN NUEVO PARADIGMA DE DESARROLLO DE ALTA CALIDAD

Párrafo 2.1 Esfuerzos centrados en la nueva etapa de desarrollo 2.1. En 1978, China tomó la decisión sin precedentes de llevar a cabo un proceso de reforma y apertura. Tras más de 40 años de reforma y apertura, China ha iniciado una nueva singladura hacia la plena construcción de un país socialista moderno. Aspira a conjugar la gran estrategia de renovación global de la nación china con los profundos cambios que no se habían visto en el mundo desde hacía un siglo. China elabora el esbozo del 14º Plan Quinquenal de Desarrollo Económico y Social y Objetivos a Largo Plazo hasta el Año 2035, y emprende un nuevo rumbo hacia la meta del segundo centenario, que representa la entrada de China en una nueva etapa de desarrollo...

P// Podría China brindar mayor información sobre el 14º Plan Quinquenal de Desarrollo Económico y Social y Objetivos a Largo Plazo hasta el Año 2035, especialmente en relación con los componentes de comercio e innovación?

Reply: The Outline of the 14th Five-Year Plan for National Economic and Social Development and the Long-Range Objectives Through the Year 2035 has made overall arrangements for the high-quality development of trade during the 14th Five-Year Plan period, which mainly includes:

1. Promote domestic and international circulation and the coordinated development of import and export: we will cut tariffs and government instituted transaction costs, and promote the diversification of import sources; and optimize the quality and structure of exports; and optimize the plan for the international market; and innovatively develop service trade, promote the pilot creation of an open platform for innovative development of service trade, and improve trade digitization.
2. Buile a new open economy system: we will comprehensively improve the level of opening to the outside world, promote liberalization and facilitation of trade and investment, continue to deepen opening-up based on the flow of goods and production factors, and steadily expand institutional opening-up based on rules, regulations, management, and standard.
3. Participate in the reform and development of the global governance system and uphold and improve the multilateral economic governance mechanism: we will maintain the multilateral trade system, actively participate in the reform of the World Trade Organization (WTO); and implement the strategy of upgrading free trade zones and build a global network of high-standard free trade zones; and optimize the layout of the FTZs, promote the implementation of the Regional Comprehensive Economic Partnership (RCEP) Agreement; and raise the standards of the development of FTZs and promote the negotiation and signing of agreements on even more high-level FTAs and regional trade.

CANADA**Page 9, paragraph 3.16:**

It is noted that China has revised its *Special Administrative Measures (Negative List) for the Access of Foreign Investment (2020 edition)*. In its revision, China removed the restriction on foreign shareholding ratio in railway passenger transport companies, international shipping agents and international maritime transport companies.

Questions:

1. Could China confirm the current maximum ratio that a foreign shareholder can own in a Chinese railway company?

Reply: According to the Special Administrative Measures (Negative List) for the Access of Foreign Investment (2020 edition), there is no restriction on foreign shareholding ratio in railway transport companies.

2. Can a railway line itself be foreign-owned, or does the liberalization only apply to concession contracts to operate railway lines?

Reply: Since 2018, restrictions on foreign investment in trunk railway networks and railway passenger transport companies have been lifted from the Negative List.

3. Are there any other sector-specific restrictions on foreign investment and participation in the supply of rail transportation in China?

Reply: The Negative List lists the special administrative measures for the access of foreign investment. Fields not on the Negative List shall be administered under the principle of equal treatment to both domestic and foreign investment.

Page 11, paragraph 3.24:

It is noted that in terms of services and investment, the overall level of openness of all parties to the Regional Comprehensive Economic Partnership Agreement (RCEP) is significantly higher than their WTO commitments, and the RCEP adopts a negative list approach to investment liberalization.

Question:

4. Will China be converting its positive list under Annex II (Schedule of Specific Commitments for Services) of the RCEP to a full negative list, and if so, on what timeline?

Reply: According to the RCEP Agreement, eight member states including China that have adopted a positive list for their commitments on trade in services promise to switch to a negative list within six years after the Agreement comes into force (within 15 years for Laos, Cambodia and Myanmar).

Page 12, paragraph 3.35:

It is noted that for the Hainan Free Trade Port, a negative list for cross-border services trade is adopted. In the area of investment liberalization, market access is significantly expanded with less prohibitions and restrictions, highlighting the principle of "entry unless on the list".

Question:

5. Is China considering extending the expanded market access for foreign investment in the Hainan Free Trade Port to other ports or areas within China (i.e. municipalities, provinces), or nationally?

Reply: The Special Administrative Measures for Cross-Border Service Trade at Hainan Free Trade Port (Negative List) (2021 Edition) was officially released in July 2021 and came into force on 26 August. China is taking the lead in formulating a national negative list for cross-border trade in services, which will be promulgated and implemented in accordance with the unified deployment of the State Council in due course.

Page 13, paragraph 4.1: Fully Supporting Global Cooperation on Combating COVID-19 with Concrete Actions:

The report notes that China is jointly addressing the challenges posed by the pandemic: In August 2021, the FAO/WHO updated its guidance document "COVID-19: Guidance for preventing transmission of COVID-19 within food businesses" which reaffirmed that COVID-19 is not a direct

food safety concern. Despite this conclusion, China's disputed COVID-19 emergency cold-chain import measures remain in place and continue to impede trade in food and agricultural products.

Question:

6. Can China please elaborate when and how it will change its COVID-19 emergency import measures to reflect the scientific consensus embodied in the FAO/WHO guidance?

Reply: In order to effectively prevent Novel Coronavirus from being introduced through imported cold chain food, according to the joint prevention and control mechanism of the State Council, the State Administration for Market Regulation has raised requirements for the producers and operators of imported cold chain food that they shall not process, produce or sell imported cold chain food without inspection and quarantine certificate, nucleic acid test certificate, disinfection certificate and traceability information. For the same batch of products tested positive in nucleic acid test, measures such as taking them off the shelves and stopping selling, and sealing up in special areas shall be implemented. The above measures comply with Article 42, Paragraph 1, Article 44 and Article 55 of the Law of the People's Republic of China on Prevention and Treatment of Infectious Diseases, Article 42, Paragraph 1 and Article 92, Paragraph 2 of the Food Safety Law of the People's Republic of China and other relevant laws and regulations, and are administrative acts according to law. The State Administration for Market Regulation will always strictly follow the deployment of the joint prevention and control mechanism of the State Council, and implement the relevant work requirements for pandemic prevention and control from the cold chain food.

Page 14, paragraph 4.12:

It is noted that 142,000 expired CCC certificates were renewed in 2020 and that, in so doing, China recognized and accepted the conformity assessment results of the mutual recognition systems established through multilateral or bilateral channels.

Questions:

7. Could China clarify under which multilateral mutual recognition system(s) the conformity assessment results were accepted?

Reply: Such international mutual recognition systems as IECEE and IECEX.

8. Could China indicate whether the use of these system(s) to renew CCC certificates is a new practice?

If so, could China indicate if the use of multilateral mutual recognition system(s) will be used consistently in future to renew CCC certificates?

Reply: It is not a new practice.

Page 15, paragraph 4.20:

China strictly abides by the WTO rules when making and implementing economic and trade policies, so as to ensure the stability, transparency and predictability of those policies.

Questions:

9. What considerations have prevented China from signing on the U.S.' revised transparency proposal (JOB/GC 204/Rev.6-JOB CTG/14/REV.6), which was proposed at the General Council in July 2021?

Reply: China believes that the transparency proposal should cover all areas, including goods, services and intellectual property rights. Besides, in terms of improving transparency, positive incentives shall dominate, and China does not support punitive measures involving the basic rights of members.

Page 16, paragraph 4.27:

As a member of the WTO Informal Working Group on MSMEs, China has always actively participated in relevant consultations. In this regard, China strongly supports cooperation among WTO members on MSMEs issues such as information exchange, sharing best practices and trade facilitation. China also endorsed the Buenos Aires Declaration on Trade and Women's Economic Empowerment and is a participant of the WTO Informal Working Group (IWG) on Trade and Gender.

Questions:

10. What types of initiatives would China like to see brought forward under the WTO Informal Working Group on MSMEs?

Reply: In the context of global COVID-19 pandemic and world economic upheaval, we need to further unblock channels for information exchange for SMEs worldwide, establish a free, fair, non-discriminatory, transparent, foreseeable and open trade and investment environment, and facilitate MSMEs' access to the international market and integration into the global supply chain.

11. Does China have experience cooperating in other multilateral fora on MSMEs and if so, can China provide examples?

Reply: In recent years, China has constantly carried out dialogues, forums and exhibitions on policies and measures, trade and investment, best practices, and scientific and technological innovation of MSMEs in such multilateral international organizations as APEC and BRICS, aiming to create a favorable environment for their internationalization. China Private-Owned Business Association has carried out exchanges and cooperation with the World Association for Small and Medium Enterprises (WASME).

12. How would China like to advance this work moving forward and what are China's interests within the IWG?

Reply: During the 14th Five-Year Plan period, China will continue to adhere to market-oriented and law-based reform, create a more favorable development environment for SMEs, and publicize policies to ensure that favorable policies are sent to SMEs timely. In addition, China will work with other countries to strengthen multilateral and bilateral cooperation among SMEs, stay committed to the path of openness, inclusiveness and win-win cooperation, and facilitate SMEs' access to the international market and integration into the global supply chain. China will exchange policies, information and experience with the WASME on private laborers and small and micro enterprises.

Page 20, paragraph 4.49:

As part of its contribution to the implementation of the UN 2030 agenda for sustainable development, China has sought to help other developing countries reduce poverty by providing assistance in the construction of rural public facilities, sharing experiences in the conservation of agriculture and forestry, and offering technology transfer.

Question:

13. Can China provide examples where the country shared its experience in the conservation of forestry with other developing countries?

Reply: China has actively shared its effective desertification control technology and experience with other countries, and organized and implemented multiple research and training programs on desertification control technology and comprehensive control of soil erosion. An international technical assistance and exchange platform for desertification and land desertification prevention and control has been established in Gansu, and 36 "international training courses on desertification control technology and desertification control in China" have been held. In 2006, the first "training course on desertification control in Arab States" was held in Ningxia, and 12 courses have been held so far. China has also carried out cooperation with African countries in afforestation and forestry research to enhance its capacity in forest resource administration. In order to ensure the talent support for the sustainable development of developing countries, China has organized training programs in agriculture, forestry, animal husbandry and fishery to train more technical talents for other developing countries.

Page 21, paragraph 5.4:

It is noted that China has undertaken supply-side structural reform for the iron and steel sector through market-oriented, law-based systematic and structural approaches.

Question:

14. Could China please elaborate what supply-side structural reform policies have been implemented and how these have impacted the overall capacity of the country's iron and steel sector?

Reply: During the "13th Five-Year Plan" period, China has reduced its crude steel capacity by more than 150 million tons, and implemented equal or reduced capacity replacement for new smelting projects in the steel industry. Any planned or ongoing capacity investment in China needs to be premised on reducing more capacity, and there is no condition for the continued rising of China's crude steel capacity.

Page 23, Part V. paragraph 5.11

On the topic of IPR protection, the report notes that "the Civil Code, officially implemented on 1 January 2021, provides an important institutional basis for strengthening IPR protection," and "the Copyright Law, amended in November 2020, improves the concepts and systems related to works and rights, and scales up the penalty on infringement."

Questions:

- 15.** Can China elaborate on the details of the amendments to the Copyright Law, and the policy rationale behind such changes?
- 16.** Do any of the amendments correspond to exceptions to the rights of creators or other flexibilities, for example exceptions to facilitate a consumer's right to repair goods such as agricultural machinery?

Reply for 15 and 16: The Copyright Law of the People's Republic of China was amended for the third time in accordance with Decision on Amending the Copyright Law of the People's Republic of China on 11 November 2020, and officially came into force on 1 June 2021. The amended Copyright Law strengthens the punishment of infringements, stipulates video works, reasonably expanded broadcasting rights, revises the definition of works, and improves relevant systems of ownership, restriction and exception of cooperative works. In addition, the newly revised Civil Code of the People's Republic of China, which took effect on 1 January 2021, provides an important system for strengthening IPR work. The Amendment (XI) to the Criminal Law of the People's Republic of China, which took effect on 1 March 2021, increases the statutory prison term for crimes of copyright infringement and intensifies the crackdown on copyright infringement. The newly revised Copyright Law partially modifies the restrictions and exceptions on creators' rights. For details, please refer to Article 24 of the Copyright Law. It has nothing to do with the right to repair goods such as agricultural machinery.

Page 24, paragraph 5.3.5 (5.18)

China notes the launch in 2020 of a three-year action plan of SOE reform.

Question:

- 17.** Could China indicate when it will publicly release the plan?

Reply: The Three-year Action Plan for SOE Reform (2020-2022) was deliberated and adopted at the 14th Meeting of the Central Committee for Deepening Overall Reform on 30 June 2020.

Page 25, paragraph 5.3.5 (5.18)

China notes the mixed ownership reform of central SOEs.

Questions:

- 18.** Does China intend to permit the levels of private ownership in SOEs that can rise to the level of blocking or controlling stakes?

Reply: In the process of promoting the mixed-ownership reform, China adheres to the principles of "implementing policies depending on different regions, industries and enterprises, letting State-owned capital play the role of the sole investor, the controlling shareholder or merely a shareholder wherever suitable, refraining from 'match-making', applying the same policy to all SOEs and setting specific timelines". For specific enterprises, appropriate ownership structures shall be determined based on the positioning and classification of enterprise functions. For all commercial SOEs whose core business belongs to industries and fields of sufficient competition, state-owned capital may be the absolute or relative controlling shareholder, or be merely a shareholder if necessary. In addition, the ownership structure of mixed-ownership enterprises is not fixed, and will be adjusted dynamically based on the distribution of state-owned capitals, industrial development and corporate strategies. The adjustment will be implemented step by step.

19. Does China intend to permit the same level of participation for domestic private enterprises and foreign private enterprises?

Reply: The Chinese Government always supports the equal participation of domestic private capitals, foreign capitals and other types of social capitals in the mixed-ownership reform of SOEs. The Measures for the Supervision and Administration of the Transactions of State-Owned Assets of Enterprises (Order No. 32 of the State-owned Assets Supervision and Administration Commission of the State Council and the Ministry of Finance in 2016) and the Measures for the Supervision and Administration of State-owned Equities of Listed Companies (Order No. 36 of the State-owned Assets Supervision and Administration Commission of the State Council, the Minister of Finance and the China Securities Regulatory Commission in 2018) explicitly require that the transfer of state-owned property rights, the increase of registered capital and shares, and the transfer of state-owned equities of listed companies shall be carried out openly on the capital market, so as to ensure the market-based asset pricing and transparent operations. Furthermore, the above documents stipulate that the transfer of property rights shall, in principle, not establish qualifications and conditions in respect of transferee, or such establishment shall not contain any content with clear orientation or violating the principle of fair competition, so as to provide equal opportunities for the participation of domestic private capitals, foreign capitals and other types of social capitals in the mixed-ownership reform.

Page 25, Paragraph 5.19:

It is noted that "China promotes the market-oriented reform of the competitive links in such industries as energy, railway, telecommunications and public utilities. China steadily advances the reform of mixed ownership, promotes the mixed ownership reform of enterprises in fully competitive industries and fields, and steadily explores the mixed ownership reform in key sectors such as electricity, oil, natural gas, railways, civil aviation, telecommunications and military industry. In 2020, China officially launched three-year action plan of SOE reform, starting a new boom in SOE reform."

Question:

20. As the examples given of this SME development promotion seem to focus on the energy sector, could China elaborate on whether similar measures are applicable to or developed for other sectors of the economy?

Reply: China understands that the context is the mixed ownership reform of SOEs. Please further clarify the relationship between the question and the context.

21. Could China elaborate on what specific measures are being undertaken to implement mixed ownership reforms in the rail and civil aviation sectors?

Reply: China has been steadily advancing market-oriented reform in sectors subject to natural monopoly, such as railways and rail transit, separating network and operation, and opening up competitive businesses in light of the characteristics of different industries, so as to promote market-oriented allocation of public resources. For SOEs in important industries and key fields involving national security and lifelines of the national economy, such as railways and civil aviation, the National Development and Reform Commission takes the lead in promoting the pilot and demonstration of mixed-ownership reform and introducing eligible private capitals as shareholders to develop a mixed-ownership economy.

22. Does China have any further plans to reduce state involvement in the transportation sector as part of its ongoing SOE reform efforts?

Reply: The Civil Aviation Administration of China has been implementing the three-year action plan for SOE reform, mainly targeting the enterprises affiliated to civil aviation administrative institutions. The purpose is to establish a modern enterprise system, enhance the vitality and efficiency of enterprises, and enhance their role in ensuring the development of the industry. In the future, China will adopt a classified way to promote the SOE reform in the transport industry: Important communication infrastructure and hub transportation infrastructure will remain wholly state-owned or state-holding, and eligible non-state enterprises will be allowed to participate in the construction and operation through franchising and government procurement of services in accordance with the law; In the fields of major river channels, oil and natural gas pipelines, and power grids, network and transport will be separated, and main and auxiliary industries will be separated. The pipeline

networks subject to natural monopoly will be wholly owned or absolutely controlled by the state, and competitive businesses will be equally accessible for non-state capitals; In such fully competitive fields as express delivery and containers, all kinds of capitals will be actively introduced to realize diversity of equities and fair market competition in accordance with market-based and law-based requirements.

Page 26, Paragraph 6.2:

It is noted that China will pursue high-quality development through higher-standard opening-up, and as part of this, the negative list for foreign investment access will be further shortened to treat all enterprises registered in China on an equal footing. It is also noted in paragraph 6.2 that the *Negative List for Cross-border Trade in Services* will be introduced, and reform and innovation in trade and investment liberalization and facilitation will be deepened. According to news reports, Chinese President Xi Jinping made an announcement in a video address to the Global Trade in Services Summit of the 2021 China International Fair for Trade in Services (CIFTIS) that China will introduce the idea of a negative list for cross-border services trade nationwide.

(<https://news.cgtn.com/news/2021-09-02/President-Xi-Jinping-addresses-global-trade-in-services-summit-13eopRZ7Tc4/index.html>)

Questions:

23. Could China confirm what sectors will be targeted for the next shortening of the negative list for foreign investment access?

Reply: It is proposed in the Outline of the "14th Five-Year Plan" that China will promote the opening of related businesses in the fields of telecommunications, internet, education, culture, and medical care in an orderly manner. Relevant Chinese authorities are working on a new negative list for foreign investment access.

24. Could China confirm the anticipated timeline, as well as actions and measures to be taken, for the introduction of the *Negative List for Cross-border Trade in Services*. Further, could China elaborate on the scope (i.e. national, regional, local) and sectors that will be included?

Reply: The Special Administrative Measures for Cross-Border Service Trade at Hainan Free Trade Port (Negative List) (2021 Edition) was officially released in July 2021 and came into force on 26 August. China is taking the lead in formulating a national negative list for cross-border trade in services, which will be promulgated and implemented in accordance with the unified deployment of the State Council in due course.

Page 26, paragraph 6.2:

Since its last trade policy review, China has further promoted the development of small and medium-sized enterprises and private businesses.

Questions:

25. How are SMEs defined for the purposes of statistical and policy analysis?

Reply: In order to promote the development of SMEs, in accordance with the Law of the People's Republic of China on the Promotion of Small and Medium-Sized Enterprises, approved by the State Council, the Ministry of Industry and Information Technology, the National Bureau of Statistics, the National Development and Reform Commission and the Ministry of Finance jointly issued the Provisions on Criteria for Classifying Small and Medium-sized Enterprises (Gong Xin Bu Lian Qi Ye [2011] No. 300), which stipulates the criteria for classifying micro, small and medium-sized enterprises in different industries.

26. Please provide statistics on; 1) the percentage of businesses that are SMEs; 2) percentage of total employment generated by SMEs; and 3) percentage of all exports and imports for SMEs, and the total number of SMEs that are exporting and importing).

Reply: China released full-caliber data on MSMEs in China Economic Census Yearbook 2018.

27. Does China collect statistics on SME ownership by diverse groups (e.g. women, youth, ethnic minorities, etc.)? If so, please provide that information.

Reply: No.

28. Does China include provisions in its trade agreements that support SMEs in cross-border trade (e.g. cooperation, investment, etc.)? If so, please provide an overview of these provisions.

Reply: China has included provisions on SMEs in its free trade agreements with the Republic of Korea, Peru, Chile, Singapore and New Zealand to encourage the contracting parties to conduct cooperation and exchanges, so as to provide a favorable trade environment for SMEs. In the Regional Comprehensive Economic Partnership Agreement (RCEP) signed in 2020, there is a chapter about SMEs to promote parties to the RCEP Agreement to strengthen their support for and input into SMEs and encourage SMEs to make more positive use of the RCEP Agreement and the economic cooperation projects created by it, so as to enable SMEs better and faster integrate into regional value chains and supply chains.

29. Do women and underrepresented groups in China face unique barriers to participating in international trade?

Reply: Equal participation in economic activities and fair enjoyment of economic resources are the basic conditions for women's survival and development. There are no specific obstacles restricting women's participation in international trade when women and vulnerable groups participate in international trade in China. In promoting the strategic adjustment of economic structure and the reform and innovation of transforming the mode of economic development, China fully protects women's economic rights and interests, and promotes women's equal participation in economic development and equal enjoyment of the results of reform and development.

30. Does the government of China have any programs in place to support these underrepresented groups in business and international trade? If so, please describe.

Reply: The recently issued Outline for Women's Development in China (2021-2030) announced specific policies and measures to encourage women to participate in economy and trade and promote women's entrepreneurship.

31. Does China conduct impact assessments for their FTAs and if so, what process or framework does China use?

Reply: Since the FTAs came into force, Chinese embassies and consulates in FTA partners and relevant component authorities have been following the implementation of the FTAs. Meanwhile, we have actively solicited opinions from local governments, business associations and enterprises. On this basis, China has held Free Trade Agreement Joint Committee Meetings with its FTA partners regularly to communicate and negotiate on the implementation of FTAs.

32. Does China have a national strategy or program to support the internationalization of MSMEs?

Reply: Yes. The Law of the People's Republic of China on the Promotion of Small and Medium-Sized Enterprises, and the Five-Year Action Plan for Promoting the International Development of Small and Medium-sized Enterprises (2016-2020) issued by the MIIT and the Bank of China contain the contents of promoting the internationalization of SMEs.

a. If so, what are some of the key components of the strategy or program?

Reply: Please refer to the Law of the People's Republic of China on the Promotion of Small and Medium-Sized Enterprises and the Five-Year Action Plan for Promoting the International Development of Small and Medium-sized Enterprises (2016-2020) for details.

b. If so, does the strategy or program give consideration to MSMEs owned and/or led by women, ethnic minorities, youth, persons with disabilities or other underrepresented groups?

Reply: Please refer to the Law of the People's Republic of China on the Promotion of Small and Medium-Sized Enterprises for details. China has included provisions on SMEs in its free trade agreements with the Republic of Korea, Peru, Chile, Singapore and New Zealand to encourage the contracting parties to conduct cooperation and exchanges, so as to provide a favorable trade environment for SMEs. In the Regional Comprehensive Economic Partnership Agreement (RCEP) signed in 2020, there is a chapter about SMEs to promote parties to the RCEP Agreement to

strengthen their support for and input into SMEs and encourage SMEs to make more positive use of the RCEP Agreement and the economic cooperation projects created by it, so as to enable SMEs better and faster integrate into regional value chains and supply chains.

Secretariat Report – China

Page 14, paragraph 28:

It is noted in the report that important infrastructure projects implemented by SOEs are not covered by the Government Procurement Law.

Question:

1. Could China provide information on the value of infrastructure projects implemented by SOEs that are not covered by the Government Procurement Law?

Reply: The government procurement stipulated in China's Government Procurement Law refers to the behavior of state organs, public institutions, and social organizations at all levels to use financial funds in purchasing goods, construction works and services within the centralized procurement catalogue formulated according to law or above the procurement quota standard. At present, China has not collected data on the value of infrastructure projects implemented by state-owned enterprises.

Page 33, paragraph 2.14:

The report noted that the Government continues to promote its vision to expand international trade, in part through the Belt and Road Initiative, which in part aims to promote cultural and educational exchanges.

Question:

2. How does China see its recent "Double Reduction" education policy as being in alignment with the vision of expanding international trade?

Reply: The general goal of ease the burden of excessive homework and off-campus tutoring for students undergoing compulsory education is divided into two aspects. On the campus, the quality of school education and teaching and service level have been further improved, the homework arrangement has been more rationally and reasonably designed to ensure the after-school service of the school basically meets the needs of students, and students learn better on the campus. Off the campus, the tutoring service offered by off-campus training institutions has been comprehensively standardized, irregularities in off-campus tutoring of disciplines have been basically eliminated, and the popularity of off-campus tutoring has gradually cooled down.

Pages 36-37, paragraphs 2.35-2.42:

This section describes the changes brought by China's Foreign Investment Law, which entered into force in March 2019. A new provision (Article 40) aims to allow China to take corresponding measures against any country or region that takes any "discriminatory, prohibitive, restrictive or other similar measures" against China.

Question:

3. Will China provide further clarity on what "discriminatory" or "restrictive" measures are of concern, and could potentially lead to corresponding measures by China?

Reply: China shall abide by WTO rules and make decisions according to the specific measures taken by relevant members.

Page 36, paragraph 2.38:

It is noted that China's Foreign Investment Law and its Implementing Regulations accord domestic companies and foreign-invested enterprises equal treatment regarding access to government funding arrangements, land supply, tax abatement or exemption, qualification licensing, standard setting, project application, or human resource policies, as well as in participation in government procurement, protection of intellectual property, and licensing formalities.

Question:

4. Can China further clarify how such commitments will be implemented, administered and enforced, including through associated legislation?

Reply: Since its accession to the WTO, China has earnestly fulfilled its commitments and acted on the non-discrimination principle of the WTO. At present, many laws and regulations, such as Foreign

Investment Law, Regulations on the Implementation of the Foreign Investment Law and Government Procurement Law, have relevant provisions to ensure the equal treatment of foreign-invested enterprises. The implementation of these laws and regulations continuously guarantees the equal treatment of foreign-invested enterprises.

Page 37, paragraph 2.41:

It is noted that under China's 2019 Foreign Investment Law, legal liability shall be pursued in case of any IPR infringement. In addition, the FIL prohibits government officials from forcing foreign investors to transfer their technology by administrative means; it also requires the authorities to keep confidential any trade secret of foreign investors that they may become aware of during the performance of their duties.

Question:

5. Does Chinese legislation prohibit any types of investment requirements that compel transfer of technology, including an implicit understanding that a foreign investor transfer technology to a joint venture partner?

Reply: There is no relevant laws or regulations that compel foreign investors to transfer their technology in China.

6. Have there been any cases of legal liability being pursued against authorities for having failed to withhold technology-related trade secrets of foreign investors? If yes, can China please provide details about the cases?

Reply: The Foreign Investment Law clearly stipulates that the trade secrets of foreign investors and foreign-invested enterprises known by Chinese administrative organs and their staff while performing their duties shall be kept confidential according to laws, and shall not be disclosed or illegally provided to others. If disputes arise therefrom, the people's court will provide relief according to law. According to incomplete statistics, there have been no such cases so far.

7. Is China aware of any circumstances where local authorities or government officials coerced a tech transfer from an investor? Have there been administrative determinations or court decisions in relation to compliance with Article 22 of the Foreign Investment Law? If so, could China share these or otherwise provide details?"

Reply: According to the Foreign Investment Law and its implementation regulations, China encourages technical cooperation in the process of foreign investment based on voluntary principle and commercial rules. The conditions of technical cooperation shall be determined by all investors through equal consultation in accordance with the principle of fairness, and administrative organs and their staff shall not use administrative means to forcibly transfer technology. China has also revised the Regulations on Technology Import and Export and laws and regulations on intellectual property to actively created a good legal environment and market environment for foreign investment under the guidance of strong and simultaneous protection of intellectual property rights.

Page 38, Box 2.1:

As part of Box 2.1 (Main changes in the 2019 National Negative List for foreign investments and the 2019 Encouraged Catalogue), the following activities were added to the encouraged category: **Services** - Development of cold-chain logistics, e-commerce, construction and operation of special railway lines, etc.

Question:

8. Could China explain what is meant by "special railway lines" and provide additional information on the extent to which foreign investment is now permitted and encouraged in this area?

Reply: According to the provisions of the Railway Law, special railway lines refer to branch lines managed by enterprises or other units that connect with national railways or other railway lines.

Page 38 and 39, Box 2.1:

The Secretariat Report contains a table detailing the main changes in the 2019 National Negative List for foreign investments and the 2019 Encouraged Catalogue. It is noted that, in the Government of China's National Negative List and Catalogue of Industries for Guiding Foreign Investment, the

exploration, mining and mineral processing of rare earths, radioactive minerals, and tungsten have all been added to the list of activities where foreign investment is prohibited.

Question:

- 9.** Could China provide details on the rationale for adding "Exploration, mining and mineral processing of rare earths, radioactive minerals, and tungsten" to the Prohibited category in the National Negative List for foreign investments?

Reply: In recent years, there are no new items in the Negative List for the Access of Foreign Investments. The 2018 Negative List includes the prohibition of "investment in exploration and exploitation of tungsten, molybdenum, tin, stibium and fluorite", "investment in exploration, exploitation and ore dressing of rare earths" and "investment in exploration, exploitation and ore dressing of radioactive minerals", while the content is reduced to the prohibition of investment in "exploration, exploitation and ore dressing of rare earths, radioactive minerals and tungsten" in the 2019 Negative List.

Page 39-40, Box 2.2:

As part of Box 2.2 (Main changes in the 2020 National Negative List for foreign investments and the 2020 Encouraged Catalogue), the following activities were removed from the restricted category: **Manufacturing** - Manufacturing of commercial vehicles – requirement that foreign investment should not exceed 50%. However, Canada notes that on page 149, paragraph 4.98 of the WTO Secretariat Report, it is indicated that *"In the automotive industry, Chinese parties must hold no less than 50% in the manufacturing of passenger vehicles.⁵⁹ In addition, a foreign investor may establish no more than two joint ventures in China to manufacture the same type of vehicles."* These restrictions are also confirmed on page 189, Table A2.3 (Industries in which FDI was/is restricted, 2019 and 2020) of the WTO Secretariat Report.

Question:

- 10.** What is the effect of removing the restriction for manufacturing of commercial vehicles from the 2020 National Negative List, and will the foreign investment and joint venture restrictions noted elsewhere in the WTO Secretariat Report continue to apply to certain types of vehicles?

Reply: The Negative List for the Access of Foreign Investments (2020 Edition) stipulates that "The share of Chinese investors of vehicle manufacturing companies should be not less than 50%, except for special vehicle, new energy vehicle, and commercial vehicle companies. A foreign company can establish two or fewer joint ventures to produce similar vehicle products in China. (In 2022, the restriction of foreign share ratio in passenger car manufacturing and the restriction of the same foreign company can establish two or fewer joint ventures in China to produce similar vehicle products will be removed.)"

Page 40, Box 2.2:

In the 2020 version of the Government of China's National Negative List and Catalogue of Industries for Guiding Foreign Investment, the construction and operation of airport towers has been added to the list of activities where foreign investment is prohibited.

Question:

- 11.** Could China explain its rationale for adding this activity to the list of activities where foreign investment is prohibited?

Reply: Considering that the Market Access Negative List stipulates that institutions not designated by the government are prohibited from investing in air traffic management systems. It is no longer listed in the 2020 edition of the Negative List for the Access of Foreign Investments. In order to further emphasize that towers are not included in airport construction and operation, the construction and operation of airport towers are included in the Negative List for the Access of Foreign Investments.

Page 41, paragraph 2.50:

It is noted that *"On 18 June 2020, the State Council decided to temporarily adjust and implement the Regulations on Customs Affairs Guarantees, the Regulations on Import and Export Tariffs, the Regulations on International Maritime Transportation, the Regulations on the Inspection of Ships and Offshore Facilities, and the Regulations on the Administration of Domestic Water Transport, until 31 December 2024."*

Question:

12. Could China further explain what was done to "temporarily adjust" these regulations? Does it mean that they no longer apply, and if so, what impact does this temporary adjustment have on foreign participation in the Chinese transportation sector?

Reply: To support the construction of Hainan Free Trade Port, the State Council decided to temporarily adjust the relevant provisions on the implementation of five administrative regulations including the Regulations on Customs Affairs Guarantees within Hainan Free Trade Zone from 18 June 2020 to 31 December 2024. This is a temporary adjustment to some provisions of relevant laws and regulations.

Page 42, paragraph 2.54:

It is noted that Chinese authorities state that the contents and scope of foreign investment information reporting shall be determined by the principle of real necessity.

Question:

13. As the principle of real necessity is not defined in the Measures for Reporting of Information on Foreign Investment, issued by Government of China, would China be able to provide its understanding of what constitutes real necessity, as applied in this case to the contents and scope of foreign investment information?

Reply: In order to facilitate the investment of foreign-invested enterprises, China officially implemented the Foreign Investment Law and its regulations in 2020, cancelled the examination and approval and filing of the establishment and change of foreign-invested enterprises in the commercial department, and implemented the foreign investment information reporting system. China issued the Notice on Matters Concerning the Reporting of Information on Foreign Investment, which clarifies the reporting subject, content and process of foreign investment information.

Page 42, Part 2, paragraph 2.54:

China has been regularly updating its National Negative List for foreign investment in an effort to open additional sectors of its economy to foreign investment. However, sectoral regulators remain responsible for issuance of operating licenses and other approvals in many sectors.

Questions:

14. Can China explain how it ensures that the delays in or refusals to issue sector-specific approvals and licenses administered by the ministries and agencies of the Government of China, other than MOFCOM in sectors open to foreign investment in accordance with the Foreign Investment Negative List do not defeat the purpose of the Negative List in expanding market access for foreign investors?

Reply: China continues removing and abolishing policies and regulations inconsistent with the Foreign Investment Law. According to the Foreign Investment Law and its implementation regulations, if a foreign investor invests in an industry or field where license is required in accordance with the law, unless otherwise provided by laws or administrative regulations, relevant competent department shall review the application for license filed by the foreign investor based on the same conditions and procedures as those for domestic investment, and shall not set discriminatory requirements on foreign investors in terms of license conditions, application materials, review links and time limit for review. All departments shall abide by the Foreign Investment Law and other laws and regulations.

Page 42-43, paragraph 2.59:

It is noted that *"Pursuant to the Circular on the Establishment of a System for Security Review of Acquisition of Domestic Enterprises by Foreign Investors, foreign investments in Chinese domestic enterprises might be subject to national security review if the FDI is deemed to have an influence on national security. It applies only to certain types of foreign M&A transactions. The Circular provides for the scope, content, working mechanism, and procedures for the M&A security review, and it creates a unified and standardized security review system for M&A activities conducted by foreign investors"*.

Questions:

15. Could China confirm how "national security" is defined? Does the process apply to mergers and acquisitions in all sectors? Are there monetary thresholds that trigger a review?

Reply: In 2020, China issued the Measures for the Security Review of Foreign Investment, which listed the situations where security review of foreign investment is required.

16. Is the national security review linked to the process for notifying mergers and acquisitions set out in section 3.3.4.1.4, page 92-93 of the WTO Secretariat Report?

Reply: No.

Page 44, paragraph 2.68:

It is mentioned that in response to the COVID-19 pandemic, several relief measures were taken or announced by China, including shortening the negative list on foreign investment, expanding the catalogue of industries where foreign investment is encouraged, encouraging financial institutions to increase foreign trade loans, and encouraging commercial insurance companies to offer short-term export credit insurance and lower premium rates.

Questions:

17. Which industries would have foreign investment encouraged?

Reply: In December 2020, China released the Catalogue of Industries to Encourage Foreign Investment (2020 Edition), which contains 1,235 items to further expand the scope of encouraged foreign investment, with the key focusing on manufacturing, producer services and the central and western regions. Refer to <http://wzs.mofcom.gov.cn/article/n/202012/20201203026619.shtml> for item details.

18. Are these measures expected to be phased out as the COVID-19 pandemic comes to an end, or will they remain in place?

Reply: China will continue to take coordinated steps to advance major foreign investment projects, fully implement the negative list management system for foreign investment access, improve the facilitation of filing foreign investment projects, protect the legitimate rights and interests of foreign investment, and improve services for foreign investment. China is in favor of increasing financial supports from banking and insurance institutions on all types of foreign trade enterprises, including wholly foreign-owned and Sino-foreign joint ventures. Relevant policies and measures have been introduced before the outbreak of COVID-19 pandemic and are equally applicable to all types of foreign trade enterprises. The reintroduction of relevant requirements in the context of COVID-19 is aimed at encouraging banking and insurance institutions to actively fulfill their social responsibilities and better support foreign trade enterprises of all types to cope with the short-term impact of the epidemic through financial services. Relevant measures are no different from those before the epidemic and relevant measures will continue to be effective at and after the outbreak of COVID-19.

Page 49, Box 3.1

It is noted that the GACC will provide more timely assistance to businesses (especially micro, small, and medium-sized enterprises (MSMEs)) with import/export problems.

Question:

19. With regard to MSMEs and in particular, women-owned businesses, what assistance is China providing to women MSMEs in regard to problems they may encounter with import/export?

Reply: Women are an important force for economic, trade and social development. The number of women-owned/operated enterprises (including micro, small and medium-sized enterprises) is increasing, playing an important role in promoting economic development as well as import/export. In view of the difficulties facing different groups of women in employment and entrepreneurship, China has introduced supportive policy measures including implementing small guaranteed loans to encourage women's employment and entrepreneurship financial discount policy to foster and promote the employment of tens of millions of women, vigorously developing industries such as domestic services and handmade knitting to provide services for urban and rural women to start businesses or find jobs locally or in other places, implementing female college students employment and entrepreneurship supportive programs to provide employment training, entrepreneurship

guidance, trainee positions, carrying out "Sunshine Project" to improve the quality of rural female labor force and their skills in entrepreneurship and employment. The Women's Federations has organized and trained more than 100,000 women e-commerce leaders, helping more than 15 million women increase their income and wealth. A service system of "Internet + Women's Entrepreneurship" has taken shape, where 55% of Internet entrepreneurs are women, many of which are engaged in small, medium and micro businesses.

Page 53, paragraph 3.1.3.3 – Bound Tariffs:

While all tariffs were bound at ad valorem rates, applied MFN tariffs on 37 tariff lines are non-ad valorem. At the time of China's previous Trade Policy Review, the authorities indicated that ad valorem equivalents do not exceed the bound tariff rate in practice, as the lower rate is applied.

Question:

20. Could China confirm whether it continues its practice to apply the lower rate where non-ad valorem applied MFN tariffs exceed the bound (ad valorem) tariff rate?

Reply: After China's accession to WTO, the specific tariff (ad valorem equivalent) implemented over the years have been strictly in accordance with China's WTO commitment to the ad valor tax rate conversion, and the specific tariff rate is recalculated regularly to ensure that the actual tariff rate does not exceed the ad valorem tax level of China's commitment.

Page 53, paragraph 3.1.3.4 – Preferential rates:

China applies preferential tariffs under its preferential (PTAs) and regional trade agreements (RTAs). Hong Kong, China and Macao, China face the lowest average tariff duties, followed by Chile and New Zealand. The share of duty-free tariff lines in China's RTAs ranges between 0.04% (RTAs with Hong Kong, China and Macao, China) and 6.6% (Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)). Canada notes that China offers preferential treatment under its different bilateral and regional trade agreements. The Working Party Report on China's Accession to the WTO, Paragraph 91, reads as a Most-Favoured Nation (MFN) forward commitment, stating that "the representative of China confirmed that for wood and paper products, the same rates of duty, including the rates applied under a preference programme, customs union or free-trade area, would be applied to all imports of wood and paper products. The Working Party took note of this Commitment." Under existing Free Trade Agreements (FTAs), China provides duty-free access for Singapore on all wood and paper products, which has not to date been extended to other WTO Members on an MFN basis.

Question:

21. When will China extend preferential access on wood and paper products to all WTO Members on an MFN basis?

Reply: At present, China has reduced import duties on wood and paper products through the interim import tariff rates, which are applicable to all WTO members.

Pages 57-58, paragraph 3.41:

It is noted that since 2014, the automobile purchase tax has been exempted for certain new energy vehicles (NEVs), and this exemption will remain in place until end-2022.

Question:

22. Does China plan to extend the NEV tax exemption beyond 2022?

Reply: The NEV purchase tax exemption policy will expire on 31 December 2022. China will, by combining the national policy orientation, the development of the new energy vehicle industry, and the requirements from national tax reduction and fee reduction deployment etc., study the new energy vehicle purchase tax policy as a whole.

Page 60, paragraph 3.46 – Import Prohibitions:

Since 1 January 2021, imports of all solid waste products have been prohibited, and the previous regime for allowing imports of certain wastes under licensing conditions has been terminated. During the review period, questions and concerns about China's changes to measures restricting and prohibiting imports of solid waste were raised in the WTO Committee on Import Licensing by the European Union, the United States, Canada, the Republic of Korea, Australia, and Japan. Concerns related to, inter alia, the impact of these measures on global recycling processing capacity, and the

apparent non-application of the same bans and restrictive contaminant standards to domestically sourced solid wastes. China was urged to ensure transparency by notifying measures, both introduced and planned, and to consider less trade-restrictive measures. In response, China has drawn attention to, inter alia, pollution in China and the imperative of limiting the negative effects of solid waste. Certain recycling materials for brass, iron-steel materials, copper, and cast aluminium alloys may be imported if they meet the required standards.

Canada notes that high-quality scrap products are a valuable raw material for Chinese customers involved in various manufacturing sectors and a key component of a strong circular economy that ultimately helps to reduce waste.

Questions:

- 23.** Has China considered measures to limit the impact of this prohibition on global recycling processing capacity? If so, please explain these measures in detail.
- 24.** Has China considered applying the same bans and restrictive contaminant standards to domestically sourced solid wastes?

Reply: Solid waste treatment and disposal is a common issue faced by all countries in the world and each country shares a common responsibility in reducing solid waste pollution, and should strive to improve its capacity for solid waste treatment and recycling, rather than transferring solid waste pollution to other countries. As a developing country with the largest population in the world, the Chinese government has made great efforts to promote ecological progress, actively promote green and sustainable development and meet the people's growing need for a beautiful ecological environment. While doing a good job of its own solid waste treatment and disposal, the prohibition on solid waste import is an inevitable choice made by China to effectively safeguard the safety of the national ecological environment and the health of its people. At present, prohibition on the solid waste import has become a legal system in China, and relevant departments of the Chinese government will resolutely implement the requirements of relevant legal systems and policy documents. In accordance with the universally recognized principles of the international community, the proper disposal of solid waste generated in one's own country is the responsibility and obligation of each country, and has nothing to do with national treatment.

Page 60, paragraph 3.46 – Import Ban for Wood Pellets for Energy Production:

We note that China has used this measure to ban all imports of wood pellets for energy production. However, as produced in Canada, wood pellets are not a waste, are not recycled material and are not a contaminated product. To justify its ban, the most trade-restrictive form a technical regulation can take, China cited environmental objectives, notably in their response to Canada's question on this subject at the TBT Committee in February 2021. However, Canada sees no logical link between banning wood pellets for energy production and the protection of the environment. On the contrary, Canadian wood pellets can contribute to China's goal of enhancing environmental protections. Wood pellets are a renewable, low-carbon resource and switching energy production from coal to wood pellets has the potential to reduce GHG emissions.

Questions:

- 25.** Canada reiterates that it does not wish to dispute China's willingness to protect the environment, including by limiting harmful impacts resulting from contaminated waste material. But, considering that wood pellets are made from pure forest fibre, such as logging residuals (small diameter stems and branches) and residues (sawdust) from logs being converted into lumber in sawmills, and present the environmental benefits potentials cited earlier, could China explain the logical link between its measure (banning wood pellets) and its stated objective (the protection of the environment)?
- 26.** If China considers that wood pellets for energy production, as a potential substitute for coal, would be harmful for the environment, could China detail the scientific evidence it used to make that determination and provide the testing methodology it is using to determine whether materials are contaminated?
- 27.** What considerations has China given to Canada's request to exempt wood pellets from the list of contaminated materials, given that they are neither contaminated nor waste materials?
- 28.** How has China ensured that its ban on wood pellets is not more trade restrictive than necessary to meet China's environmental and health protection objectives?
- 29.** ISO standard 17225-2:2021 lists wood pellet produced from by-products and residues from wood processing industry as a "solid biofuel". On which international standard has China based its measure to categorise wood pellets as a "waste"?

Reply for 25-29: Canada's understanding of China's policy on pollution prevention and control from imported solid waste is appreciated. China is a large country in agriculture and forestry, which produces a large amount of agricultural and forestry residues every year. In order to properly handle and dispose of agricultural and forestry residues, including wood pellets, the central and local governments support their harmless treatment and disposal. In addition, previous inspection and quarantine cases show that the source of imported wood refuse is complex, and there is a risk of carrying foreign pests. Pests intercepted by quarantine include insects, nematodes, weeds and fungi. To sum up, China clearly prohibits the import of wood refuse for the purpose of burning.

Pages 62-63, paragraphs 3.53 – 3.56:

During the period of review, China introduced three sets of Rules: the Rules on Interim Review of Dumping and Dumping Margins; the Rules on Questionnaires in Anti-Dumping Investigations; and the Rules for Hearing of Anti-dumping and Anti-Subsidy Investigations. The reports mentions that China is currently preparing a notification to the WTO for these rules.

Question:

30. Canada notes that all three Rules came into force in the first half of 2018, i.e. over two years ago. Can China explain why it has not yet complied with its obligation to notify changes to its trade remedy laws and regulations? Can China indicate when it will submit its notification to the WTO?

Reply: The notification is in preparation.

Page 63, paragraph 3.55:

The report notes that there were changes to the Rules on Questionnaires applicable in anti-dumping investigations, including "setting out the conditions for applying facts available."

Question:

31. Would China provide more detail on these changes, particularly the changes to the use and application of facts available?

Reply: Article 25 of the Rules for Anti-dumping Investigations by Questionnaires stipulates that where an interested party fails to submit any necessary information as required within a prescribed period or significantly obstructs an investigation, the Investigation Authority may make a preliminary ruling or a final ruling based on the facts already obtained and the best information available. China's regulations are consistent with those of the WTO.

Page 70, Part 3, paragraph 3.86

Article 4 of the Regulations on Administration of Import and Export of Technologies, referring to the Catalogue of Technologies Restricted or Forbidden for Export, states that the import and export of technology shall conform to the country's industrial policy, among others. China's export restrictions or prohibitions of certain technologies based on industrial policy would appear to be inconsistent with GATT Article XXI.

Questions:

32. Could China explain how these policies align with GATT Article XXI or other WTO commitments?

33. Among the Catalogue of Technologies' Prohibited List items are the rare earth's refining, processing, and utilization technologies. Could China explain how this prohibition is aligned with GATT or other WTO commitments?

Reply for 32-33: The Catalogue of Technologies Restricted or Forbidden for Export is formulated, adjusted and promulgated by Ministry of Commerce jointly with relevant departments of the State Council in accordance with the Foreign Trade Law of the People's Republic of China and the Regulations of the People's Republic of China on Administration of Import and Export of Technologies. The Catalogue of Technologies Restricted or Forbidden for Export aims to standardize the administration of technology export, promote scientific and technological progress as well as economic and technological cooperation with foreign countries, and safeguard national economic security. The items in the catalogue are relevant to national security and conform to international practice.

Page 71, Part 3, paragraph 3.91/3.93:

China's Export Control Law is anchored in "the maintenance of national security and interests ...".

Questions:

34. Considering that "national interests" is a novel concept in international export controls, can China explain how it defines "national interests" in this context?

Reply: National interests are inseparable from the concept of national security. The legislative purposes of major international countries' export control all mention safeguarding national security and safeguarding national interests.

35. Could China confirm if all goods that are under the export control regime have been notified to the WTO Council for Trade in Goods?

Reply: After the promulgation of the Export Control Law, for better implementation of the law and enhancement of its operability, the Chinese government is accelerating the formulation and revision of supporting regulations and improving the control list. Relevant information will be released in due course. Legislative procedures will be carried out in accordance with the Legislation Law and other relevant laws and regulations.

Page 71-72, paragraphs 3.90-3.95 - Export prohibitions, restrictions, and licensing:

On 17 October 2020, the Standing Committee of the NPC passed the Export Control Law, which entered into force on 1 December 2020. Under Article 2 of the Law, export control refers to "prohibitions or restrictions on transfer of controlled items from the territory of the People's Republic of China to overseas and the provision of controlled items by any citizen or incorporated or non-incorporated organization of the People's Republic of China to any foreign organization or individual". The Law defines "controlled items" to include dual-use items (with both civilian and military applications), military products, and nuclear products. In addition, "controlled items" include "other goods, technologies, services that are related to the maintenance of national security and interests and the implementation of international obligations such as non-proliferation". It also requires exporters to provide documentation establishing the intended end-use and end-user for the controlled items to be issued by the end-user or the Government at the end-user's location... In addition to the established control lists, the new legislation authorizes export control authorities to list items for "temporary controls" for a provisional period of up to two years before determining whether to list the items on a control list. ...The authorities indicate that China is in the process of formulating supporting regulations and shall release further regulations at a later stage... Under the Law, China may take measures reciprocally, according to the actual circumstances, if any country or region "abuses" its export control measures in ways that endanger China's national security and interest.

Questions:

36. Can China advise when the supporting regulations will be published and whether it will provide an opportunity for other WTO Members and foreign stakeholders to provide comments?

Reply: After the promulgation of the Export Control Law, for better implementation of the law and enhancement of its operability, the Chinese government is accelerating the formulation and revision of supporting regulations and improving the control list. Relevant information will be released in due course. Legislative procedures will be carried out in accordance with the Legislation Law and other relevant laws and regulations.

37. Pending publication of the regulations, can China provide detailed information on the application of the Export Control Law and how it is currently being implemented?

Reply: The Export Control Law has come into force. Pending the promulgation of new regulations, contents that do not conflict with the law in existing regulations shall continue to be implemented, and the existing control list shall continue to be effective.

38. What resources are available to help businesses familiarize themselves with the requirements of the Export Control Law?

Reply: Enterprises can check relevant laws and regulations on the official website of the Ministry of Commerce. After the implementation of the Export Control Law, the Ministry of Commerce revised and issued the Guiding Opinions of Ministry of Commerce on Establishing the Internal Compliance Mechanism for Export Control by Exporters of Dual-use Items, and at the same time issued the

Guidance of Internal Compliance of Export Control of Dual-use Items to provide compliance reference and guidance for exporters.

39. Can China provide further information on the criteria used to determine the items to be listed on a "temporary control list"?

Reply: For better enforcement of law and the enhancement of its operability, the Chinese government is accelerating the formulation and revision of supporting regulations to further refine relevant provisions.

40. Given China's very broad approach to "national security and interests", can China explain and provide examples of what it considers as "abuse" of export control measures under the Export Control Law? In addition, can China provide information on what type of countermeasures can be considered under the Export Control Law?

Reply: China has always maintained that practical measures should be taken to promote international cooperation in materials, equipment and technologies for the purpose of peace, especially to avoid restrictive measures that are inconsistent with the international obligations undertaken. Therefore, the Chinese government, based on extensive suggestions from various parties and in order to better safeguard national security, has set up reciprocal provisions in the Export Control Law against foreign abuses of export control measures, which is in line with the basic norms of international relations, WTO rules and internationally accepted practices. In accordance with the Export Control Law, the Chinese government will continue to deepen multi-bilateral cooperation and exchanges in the field of export control, participate in international rule-making, and work together with other countries to make positive contributions to the non-proliferation of weapons of mass destruction and to the protection of world peace and security.

Page 75, paragraph 3.115:

The report indicates that China does not grant incentives in the form of access to credit. However, an OECD report from 2021 on below-market finance found that, across many sectors, industrial firms based in China were more likely than their peers in other countries to have access to below-market borrowing. The OECD's 2019 Economic Survey of China also found that a third of all bank lending in China attracts interest rates that are equal to or below the country's lending benchmark.

Question:

41. Can China provide information on which policies and programs it has in place to facilitate access to below-market credit for certain of its industrial firms?

Reply: Commercial banks in China can independently select customer groups and conduct credit allocation according to their own strategic planning, development positioning, risk preference and management capacity. The relevant decision is a market-based choice made by of the commercial banks based on their actual development status and is a market-based behavior.

Page 76, paragraph 3.122:

It is noted that the notifications submitted to the WTO and the replies provided by China to questions asked by other WTO Members did not enable the Secretariat to have a clear overall picture of China's support programmes.

Question:

42. Could China give a specific indication of when it expects to provide a current and comprehensive accounting of its domestic support programs?

Reply: China will soon submit a notification of its domestic support programmes.

Page 76-77, Part 3: 3.3.1: Incentives; paragraph 3.123:

The report acknowledges China's position that the Government does not intervene in SOE's financing, operation, and management.

Question:

43. Can China explain the role of the Communist Party of China committees within SOEs and extent to which these committees participate in the management of the enterprise?

Reply: The Chinese government comprehensively promotes law-based governance and focuses on the active role of the Rule of Law in the modernization of the national governance system and governance capacity. The Constitution of the People's Republic of China, as the fundamental law of the country, clearly stipulates that the leadership of the CPC is the most essential feature of socialism with Chinese characteristics, and also provide that the state-owned enterprises have the right to operate autonomously within the scope of laws. The Company Law stipulates that organizations of the CPC shall be established in companies to conduct Party activities in accordance with the provisions of the Constitution of the Communist Party of China (CPC).

Page 77, paragraph 3.124:

In paragraph 3.124, it is mentioned that government guidance funds or government-guided investment funds are in place to support different industries and attract foreign investment. These funds appear to be mostly financed by the central and local governments, large SOEs and state-owned financial institutions. However, China has refused confirming information gathered by the Secretariat on these funds (Table 3.15) stating that "the information is not relevant to this Review". Canada recalls that transparency is a fundamental pillar of the WTO system and that the Trade Policy Review Mechanism is meant to allow a better understanding of the policies and practices of each Member. As such, information on measures supporting industries that China considers important is relevant to this Review irrespective of whether or not these measures constitute specific subsidies for the purpose of the notification requirement under Article 25 of the ASCM.

Question:

44. During the period of review, what were the government guidance funds or government-guided investment funds in place? Could China please provide information on the objectives of each fund, the source of their funding, their size, their management, and the targeted sectors.

Reply: The funds set up by the Chinese government in accordance with market-based principles is operated completely according to such market principles and is a fully independent market entity, with its investment management and decision-making completely market-based. The government departments do not interfere with or participate in any investment decisions of the funds. The funds are also set up and structured in accordance with the Chinese Company Law and other laws, operating in a market-based manner.

Page 77, paragraph 3.124:

It is noted that "government guidance funds", or government-guided investment funds, use public resources to make equity investments in industries that the Government considers important, with specific examples set out in Table 3.15 (Government guidance funds).

Questions:

45. Could China provide greater clarity on the scope of its "government guidance funds", particularly those that cover the transportation sector?

Reply: The funds set up by the Chinese government in accordance with market-based principles is operated completely according to such market principles and is a fully independent market entity, with its investment management and decision-making completely market-based. The government departments do not interfere with or participate in any investment decisions of the funds. The funds are also set up and structured in accordance with the Chinese Company Law and other laws, operating in a market-based manner.

46. On what basis has China determined that these programs are not subsidies within the meaning of the *WTO Agreement on Subsidies and Countervailing Measures* and do not need to be notified?

Reply: The funds set up by the Chinese government in accordance with market-based principles is operated completely according to such market principles and is a fully independent market entity, with its investment management and decision-making completely market-based. The government departments do not interfere with or participate in any investment decisions of the funds. The funds are also set up and structured in accordance with the Chinese Company Law and other laws, operating in a market-based manner. China also does not provide subsidies to any industry through the funds.

Page 79, paragraph 3.129:

The report notes that, in the wake of the COVID-19 pandemic, measures taken by regional governments included "extending government procurement to support SMEs".

Question:

47. Could China please provide additional information on how government procurement was extended to support SMEs?

Reply: In 2011, the Ministry of Finance (MOF) and the Ministry of Industry and Information Technology (MIIT) jointly issued the Interim Measures on Promoting the Development of Small and Medium Enterprises through Government Procurement (Cai Ku No. 181, 2011) to expand the portion of government procurement contracts for SMEs through measures such as set-aside policy and evaluation preferences., etc. Since the implementation of the measures, more and more SMEs have actively participated in government procurement activities, and now the amount of government procurement awarded to SMEs accounts for more than 70% of the total amount of government procurement. In December 2020, the Ministry of Finance, together with the Ministry of Industry and Information Technology, studied and revised the Interim Measures on Promoting the Development of Small and Medium Enterprises through Government Procurement, and issued the new Measures on Promoting the Development of Small and Medium Enterprises through Government Procurement (Cai Ku No. 46, 2020). With the revised Measures, relevant policies and measures have been improved.

Page 79, paragraph 3.133:

It is noted that the revised Standardization Law established a disclosure system for the self-declaration of enterprise standards.

Question:

48. Could China provide details on how this disclosure system functions and how many times it has been used to self-declare enterprise standards?

Reply: The newly revised Standardization Law clearly puts forward that the state should implement the system of self-declaration and supervision of enterprise standards. Enterprises can log in to the public service platform of enterprise standard information anytime and anywhere, and disclose the implemented standards. As of October 2021, more than 340,000 enterprises have published more than 2.04 million standards on the enterprise standard information public service platform, covering more than 3.46 million products.

Page 81, Paragraph 3.144:

The report notes that "among the national standards that correspond to the relevant international standards, 92.4% of mandatory standards and 91.4% of voluntary standards were adoptions or adaptations of international standards." Canada is aware that China is leading a number of ISO Technical Committees related to minerals and metals.

Question:

49. Could China provide details on which ISO minerals/metals standards they have not adopted, and why?

Reply: China has always valued the adoption of international standards, and the field of minerals/metals is one of the key areas for China to adopt international standards, and now the international standards that have been transformed and are being transformed have reached 70% of the total number of ISO mineral/metal standards. It has been found that a small number of ISO standards are not suitable for application in China due to their inconsistency with China's domestic geographical conditions and environmental factors, unsuitable test environment, lack of corresponding products, and non-conforming technical conditions., etc.

Page 83, Part III, Trade Policies and Practices by Measure; Labelling and packaging; paragraph 3.154:

The report notes that the labels and instructions must comply with the provisions of the Food Safety Laws and other relevant laws.

Question:

50. Could China please provide a list as well as internet links for the 'other relevant laws' and administrative regulations that impact labels and instructions of imported pre-packaged food or food additives?

Reply: For Measures for Supervision and Administration of Food Labelling, there are still some issues being studied, communicated, and coordinated, and the legislative procedure will be accelerated after an agreement is reached.

Page 83, Part III, Trade Policies and Practices by Measure; Labelling and packaging; paragraph 3.157:

The report states, "The draft Measures for Supervision and Administration of Food Labelling, published by the SAMR in November 2019, have not yet been adopted by the legislature."

Questions:

- 51.** Could China provide a timeline for when the new Measures for Supervision and Administration of Food Labelling will be adopted?
- 52.** Will China notify the WTO of the adoption of the Measures for Supervision and Administration of Food Labelling and if so, when?
- 53.** As well, could China provide a list of all laws and administrative regulations that will change upon adoption of the Measures for Supervision and Administration of Food Labelling and specify how these laws and regulations will change?

Reply: For Measures for Supervision and Administration of Food Labelling, there are still some issues being studied, communicated, and coordinated, and the legislative procedure will be accelerated after an agreement is reached.

Page 84, Part III, paragraph 3.159:

The report states, "As set out in the Food Safety Law, local food safety standards may be developed and published by the health administrative departments of provinces, autonomous regions, or municipalities directly under the Central Government for local specialties without national food safety standards. These must be reported to the health administrative department of the State Council for recordation and must be immediately repealed after the relevant national food safety standards are issued. "

Question:

54. Could China explain how they will ensure that the development of local food safety standards in the absence of national food safety standards will not create confusion and misinterpretation.

Reply: The Food Safety Law of the People's Republic of China stipulates that imported food, food additives, and food-related products should comply with China's national food safety standards. The national food safety standards basically cover food trade categories in China. The Food Safety Law of the People's Republic of China provides for local food safety standards. The provincial health administrative departments can develop and release local food safety standards only for "local specialties" in China and for those without national food safety standards.

55. Could China explain how Importers would be aware that a local or national food safety standard has entered into force.

Reply: National food safety standards issued by the State Council's health administrative departments and local food safety standards released by provincial health administrative departments have been marked respectively with their release date and implementation date.

56. Request Could China confirm that imported products will be required to meet the local food safety standards in the absence of a national food safety standard. If the local food safety standards will apply to imported products, could China explain how trading partners will be made aware of these import requirements.

Page 85, paragraph 3.161:

The report notes that under China's Food Safety Law and implementing regulations – which contain provisions on traceability of food and agricultural products sold in China – food producers should hold primary accountability for food safety.

Question:

57. Could China provide a definition of a food producer, as there are many people responsible for food safety along the agricultural production chain. In addition, could China provide clarification of which aspects of food safety accountability are distributed across the production chain with respect to food and agricultural products sold in China?

Reply: Item (I) of Article 2, Paragraph I, of the Food Safety Law stipulates that those engaging in food production and processing (hereinafter referred to as food production), and food sales and catering services (hereinafter referred to as food business operation) within the People's Republic of China shall abide by this Law. Therefore, food producers refer to units and individuals engaged in food production and processing, food sales and catering services. In addition, according to Article 2, Paragraph II, of the Food Safety Law, this Law shall also be applicable to the marketing of edible agricultural products. The Food Safety Law and the Regulation on the Implementation of the Food Safety Law stipulate in detail the main responsibility of food safety that food producers shall perform.

Page 85, Part III, paragraph 3.162:

Canada recalls that China's 13th Five-Year Food Safety Plan (2016-20) set out the priority goals and associated tasks to improve food safety governance and the development of the food industry.

Question:

58. Has China developed a new five year food safety plan to cover the years of 2021-26? Does China have any planned upcoming sanitary and phytosanitary regulatory initiatives not referenced in the TPR reports that will impact Canadian exports of agriculture, forestry, or aquatic products?

Reply: The State Administration for Market Regulation is formulating the Modernization Plan of Market Regulation during the 14th Five-Year Plan, which includes work on food safety. In addition, in May 2019, the Opinions of the CPC Central Committee and the State Council on Deepening Reform and Strengthening Food Safety (hereinafter referred to as the Opinions) was issued. The Opinions analyzed the situation of food safety, clarified the guiding ideology, basic principles and overall objectives of food safety work, focused on establishing the strictest standards, implementing the strictest supervision and accountability, imposing the strictest punishment, ensuring due responsibilities of producers and operators, promoting the high-quality development of the food industry, improving the ability of food safety risk management, promoting the social co-governance of food safety, and strengthening organizational leadership, etc. The Opinions put forward a series of policy measures and deepening reform requirements based on the reality, and aiming at treating both the symptoms and root causes. Centering on people's concern, the Opinions arranged and carried out the crucial actions of food safety assurance project construction, and concentrated on solving the outstanding problems in the current food safety field. The Opinions put forward the short-term goals in 2020 and the medium-and long-term goals in 2035, aiming at treating both the symptoms and root causes, with the latter as the core. By 2020, a food safety supervision system based on risk analysis and supply chain management will be initially established, and the overall level of food safety will basically adapt to the goal of building a well-off society in an all-round way. By 2035, the national governance system and governance capacity in the field of food safety will be basically modernized.

Page 86, Part III, paragraph 3.165:

The report notes that China submitted 165 notification to the SPS Committee during the review period. Canada submitted a number of comment letters on China's SPS notifications during the review period. However to date, Canada has only received a response to one letter.

Question:

59. Could China please explain how it implements the SPS Committee Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7) (G/SPS/7/Rev.4)?

Reply: China's sanitary and phytosanitary legislation fully fulfilled the transparency obligations of WTO and conformed to the provisions and requirements of WTO SPS Agreement. In the legislative process, the domestic compliance assessment was carried out in the draft stage, and WTO members were notified to make comments, giving other members sufficient period for transition and comment. After that, the comments from members will be taken into full consideration and appropriate modifications and adjustments will be made to relevant measures. In a word, China fully considered the principles and provisions of SPS Agreement in the legislative process, and China's SPS-related

measures fully met the relevant requirements of WTO SPS Agreement from substantive content to legislative procedures.

60. Canada requests that China provides a response to Canada's comment letters on notifications

- G/SPS/N/CHN/1149;
- G/SPS/N/CHN/1150;
- G/SPS/N/CHN/1164;
- G/SPS/N/CHN/1173;
- G/SPS/N/CHN/1192

Reply: G/SPS/N/CHN/1150 is the external notification of China's National Food Safety Standard Maximum Levels of Contaminants in Foods (GB2762). Canada's comments have been well received and will be studied with other domestic and foreign comments.

61. Canada would appreciate if China could provide a timeline within which it will respond to Canada's comments. Canada looks forward to receiving responses from China.

Reply: China's relevant measures are in line with the SPS agreement. After receiving comments from members, China will take it seriously for consideration and revise/adjust relevant measures where appropriate.

Page 86, Part III, paragraph 3.167:

We note that the Secretariat Report indicates that "In 2020, the GACC issued the Announcement on Adjusting the Supervision Requirements for Certain Imports and Exports. This is aimed at optimizing the port business environment and reducing the burden on enterprises through removing certain SPS-related reporting, registration, certification, inspection, and other regulatory requirements."

Question:

62. What specific measures are being affected through this announcement, and when will those changes take effect?

Reply: In 2020, the Announcement on Adjusting the Supervision Requirements for Certain Imports and Exports issued by GACC cancelled the supervision requirement of submitting the detection records of toxic and harmful substances in fruits to the local customs when registering outbound fruit orchards and packaging factories. This measure can reduce the entrusted testing time and shorten the time limit for registration. The announcement took effect on 28 August 2020.

Page 86-87, Part III, paragraph 3.168:

The report notes that "In order to prevent the reintroduction of the COVID-19 virus through imported cold-chain food and to protect the health and safety of consumers, the GACC implemented emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid results."

Canada recalls that the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) guidance document entitled "*COVID-19: Guidance for preventing transmission of COVID-19 within food businesses*", updated in August 2021, reaffirmed that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including SARS-CoV-2. There is also no recommendation of environmental sampling and testing for COVID-19 in food processing facilities or on food.

Since June 2020, China has implemented measures, that have resulted in a number of trading partners' meat establishments suspended from exporting to China, including Canada. Canada is concerned that China's COVID-19 measures are creating unnecessary trade disruptions. Canada is also concerned with the lack of clarity and predictability with China's reinstatement process for establishments suspended due to China's COVID-19 related SPS measures.

Questions:

63. The updated FAO/WHO guidance reconfirms that food and food packaging does not present a risk of transmission of COVID-19. How is China taking this updated guidance into account for their COVID-19 related SPS measures?

Reply: In order to effectively prevent Novel Coronavirus from being introduced through imported cold chain food, according to the joint prevention and control mechanism of the State Council, the State Administration for Market Regulation has raised requirements for the producers and operators

of imported cold chain food that they shall not process, produce or sell imported cold chain food without inspection and quarantine certificate, nucleic acid test certificate, disinfection certificate and traceability information. For the same batch of products tested positive in nucleic acid test, measures such as taking them off the shelves and stopping selling, and sealing up in special areas shall be implemented. The above measures comply with Article 42, Paragraph 1, Article 44 and Article 55 of the Law of the People's Republic of China on Prevention and Treatment of Infectious Diseases, Article 42, Paragraph 1 and Article 92, Paragraph 2 of the Food Safety Law of the People's Republic of China and other relevant laws and regulations, and are administrative acts according to law. The State Administration for Market Regulation will always strictly follow the deployment of the joint prevention and control mechanism of the State Council, and implement the relevant work requirements for pandemic prevention and control from the cold chain food.

64. Will China remove their COVID-19 related SPS measures based on the updated FAO/WHO guidance, and what are the timelines for the removal of these measures?

Reply: In order to effectively prevent Novel Coronavirus from being introduced through imported cold chain food, according to the joint prevention and control mechanism of the State Council, the State Administration for Market Regulation has raised requirements for the producers and operators of imported cold chain food that they shall not process, produce or sell imported cold chain food without inspection and quarantine certificate, nucleic acid test certificate, disinfection certificate and traceability information. For the same batch of products tested positive in nucleic acid test, measures such as taking them off the shelves and stopping selling, and sealing up in special areas shall be implemented. The above measures comply with Article 42, Paragraph 1, Article 44 and Article 55 of the Law of the People's Republic of China on Prevention and Treatment of Infectious Diseases, Article 42, Paragraph 1 and Article 92, Paragraph 2 of the Food Safety Law of the People's Republic of China and other relevant laws and regulations, and are administrative acts according to law. The State Administration for Market Regulation will always strictly follow the deployment of the joint prevention and control mechanism of the State Council, and implement the relevant work requirements for pandemic prevention and control from the cold chain food.

65. Canada once again requests that China share with WTO Members any scientific evidence they have that suggests there is a risk of transmission of COVID-19 through food, food packaging or food handling.

Reply: China has adopted necessary temporary preventive measures to strengthen supervision over imported cold chain food to protect people's live and health. Relevant practices fully comply with international rules and have not had a negative impact on food trade exported to China. China has conducted sample nucleic acid test on the imported cold chain food and its packaging according to law, aiming at preventing COVID-19 from transmitting through cold chain food. In the early stage, General Administration of Customs detected positive nucleic acid on Novel Coronavirus in food products, inner and outer packaging and container inner wall samples imported from some countries. On 17 October 2020, Chinese Center for Disease Control and Prevention announced that live viruses of COVID-19 were separated from the outer packaging of imported aquatic products, further confirming that contact with the outer packaging contaminated by live viruses of COVID-19 can cause infection. China welcomes the export of high-quality and safe food to China, and our attitude of opening wider to the outside world and expanding imports is consistent and clear. However, with the development of the global epidemic, consumers' concerns the safety of the food supply chain have deepened. We believe that consumer confidence is the cornerstone of market, and there is no trade without market. Under the current epidemic situation, overseas countries (regions) hoping to export food to China are required to take various preventive management measures to ensure that food exported to China is not contaminated by COVID-19 according to the relevant guidelines issued by [United Nations Food and Agriculture Organization](#) (FAO). China is willing to work with relevant parties to ensure the safety of food supply chain, respond and dispel consumers' concern, ensure the safe supply of food and maintain market stability, so as to promote the healthy development of trade.

It is paramount that Members base any SPS measures taken to control COVID-19 on sound scientific principles and an assessment of risks, taking into account risk assessment techniques developed by the relevant international organizations, and that these SPS measures are not sustained without sufficient scientific evidence. Canada reiterates its request that China provide the scientific justification for their COVID-19 related SPS measures and the scientific justification for maintaining COVID-19 related measures despite the updated guidance from FAO/WHO.

Question:

- 66.** Canada requests that China provide a summary of its assessment of risks, taking into account the risk assessment techniques developed by the relevant international organizations, that serves as the basis for their COVID-19 related SPS measures.
- 67.** How was China's assessment of risk updated to take into account the scientific evidence outlined in the August 2, 2021 guidance from the FAO/WHO?
- 68.** How is China considering the SPS measures put in place by the exporting countries to prevent the contamination of COVID-19 on exports?
- 69.** How was this information taken into account during the development of China's COVID-19 related SPS measures?
- 70.** Canada requests details from China on any reviews conducted on the national controls put in place to control COVID-19 domestically. As well, could China please explain the alignment between its domestic COVID-19 controls and controls on imports to prevent any discrimination between domestic products and imports?

Reply for 66-70: The effectiveness of COVID-19 epidemic prevention and control in China has attracted worldwide attention, which not only effectively safeguarded the lives and health of Chinese people, but also provided Chinese experience for the world. "Prevention on both people and stuff" is one of the important experiences. China has carried out systematic and continuous monitoring and evaluation on the risk of cold chain food contaminated by COVID-19 and virus transmission. Through comprehensive analysis of monitoring data of tens of millions of foods and their packaging, combined with the traceability evidence of several epidemiological investigations in COVID-19 pandemic, it is judged that cold chain food and its packaging may become the carrier of COVID-19 transmission because they are contacted by infected cases of COVID-19 during production and processing, and low temperature is good for the survival of COVID-19; In the absence of effective protection, frequent close contact with the outer packaging or means of transport contaminated by live virus of COVID-19 may lead to human infection. Accordingly, China has formulated a series of technical guidelines for COVID-19 epidemic prevention and control for cold chain foods, put forward operational guidelines for the protection requirements of related production, transportation and consumption processes involved in cold chain food, and make adjustment according to the development of epidemic situation, so as to maximize the scientificity and accuracy of "prevention on stuff" work and effectively maintain and consolidate the effectiveness of epidemic prevention and control work in China. The epidemic-related measures taken by China have scientific basis, and relevant risk assessment has been carried out, which is in line with the relevant provisions of the WTO SPS Agreement and the relevant requirements of WHO/FAO. Facts have proved that the measures taken by China have achieved good results, and China looks forward to working with other WTO members to win the fight against the epidemic.

- 71.** Canada requests that China provide additional information and clarity on its reinstatement process for foreign establishments suspended due to China's COVID-19 related SPS measures. In particular, Canada requests the following information:
- What are China's expected timelines to reinstate suspended establishments that are eligible to resume exports to China?
 - Could China please provide clarity on the process it is undertaking to reinstate foreign establishments suspended due to China's COVID-19 related SPS measures in a timely fashion? Furthermore, how does China plan to carry out this activity while ensuring there is no undue delay?

Reply: China has adopted necessary temporary preventive measures to strengthen supervision over imported cold chain food to protect people's live and health. Relevant practices fully comply with international rules and have not had a negative impact on food trade exported to China. China has conducted sample nucleic acid test on the imported cold chain food and its packaging according to law, aiming at preventing COVID-19 from transmitting through cold chain food. In the early stage, General Administration of Customs detected positive nucleic acid on Novel Coronavirus in food products, inner and outer packaging and container inner wall samples imported from some countries. On 17 October 2020, Chinese Center for Disease Control and Prevention announced that live viruses of COVID-19 were separated from the outer packaging of imported aquatic products, further confirming that contact with the outer packaging contaminated by live viruses of COVID-19 can cause infection. China welcomes the export of high-quality and safe food to China, and our attitude of opening wider to the outside world and expanding imports is consistent and clear. However, with the development of the global epidemic, consumers' concerns the safety of the food supply chain

have deepened. We believe that consumer confidence is the cornerstone of market, and there is no trade without market. Under the current epidemic situation, overseas countries (regions) hoping to export food to China are required to take various preventive management measures to ensure that food exported to China is not contaminated by COVID-19 according to the relevant guidelines issued by [United Nations Food and Agriculture Organization](#) (FAO). China is willing to work with relevant parties to ensure the safety of food supply chain, respond and dispel consumers' concern, ensure the safe supply of food and maintain market stability, so as to promote the healthy development of trade.

Page 87, Part III, paragraph 3.169:

The report notes that "eight new STCs were raised in the SPS Committee, regarding...(ii) administrative measures for registration of overseas manufacturers of imported food;...and (viii) delays in approving requests for new listings or reinstatements of export establishments."

With regards to the STC on administrative measures for registration of overseas manufacturers of imported food, Canada and other Members continue to raise concerns that China's new regulations (Decree 248 and Decree 249) will negatively impact international trade. Questions still remain regarding the implementation of these Decrees. Responses provided by China do not provide sufficient clarity for Canada to understand how to comply with the measures. Therefore, Canada continues to request that China delay implementation of the new Decrees for 18 months to provide a reasonable timeframe for trading partners to adjust and avoid unnecessary trade disruptions.

With regards to the STC on delays in approving requests for new listings or reinstatements of export establishments, Canada and other Members continue to experience significant undue delays in China's approval procedures for food products and establishments seeking to export to China. Canada continues to wait for China to update lists of approved Canadian products and facilities eligible to export to China. As well, there are also a number of Canadian establishments that are still waiting for approval from China to be added to the list of establishments eligible to export. The excessive delays, lack of transparency, and the failure to provide a rationale of approval procedures for foreign export establishments results in significant uncertainty and disruption for Canadian exports.

Questions:

- 72.** Canada once again requests that China provide a clear explanation of the timelines for the publication of all the implementation guidelines or supporting documents for Decrees 248 and 249. Canada notes the importance of these documents for trading partners to ensure that they will meet the requirements under the Decrees.
- 73.** Canada urges China to delay the implementation of Decrees 248 and 249 for 18 months to allow both governments and industry to fully understand and comply with the new requirements contained in the Decrees. Will China delay the implementation date of Decree 248 and Decree 249 to provide trading partners with sufficient time to adjust to the new requirements and prevent unnecessary trade disruptions?
- 74.** Canada recalls that a number of Canadian products, establishments, and facilities are waiting for China to update their lists to be eligible for exports. Canada requests that China provide clear timelines for the acceptance of all Canadian food and food products, establishments and facilities awaiting approval and/or registration by China. As well, Canada requests that China provide a timeline for the publication of these lists without undue delay.
- 75.** Canada recalls that a number of Canadian products, establishments, and facilities are waiting for China to update their lists to be eligible for exports. Canada requests that China provide the reason why Canadian products or establishments have not been approved.
- 76.** Canada recalls that a number of Canadian products, establishments, and facilities are waiting for China to update their lists to be eligible for exports. Canada requests that China provide a clear explanation of the undue delays of these approval procedures.

72-76 Reply: The safety of imported food has a bearing on people's health and life safety, and is a major livelihood issue. According to the Food Safety Law of the People's Republic of China and its implementation regulations as well as other laws and administrative regulations, China revised the original two regulations on the safety management of import and export food and the registration management of overseas production enterprises of imported food and released Measures of the People's Republic of China for the Administration of Safety of Imported and Exported Food (Order No. 249 of the General Administration of Customs of the People's Republic of China) and Provisions of the People's Republic of China on the Administration of Registration of Overseas Imported Food Production Enterprises (Order No. 248 of the General Administration of Customs of the People's Republic of China) on 12 April 2021, which were implemented from 1 January 2022.

Before their release, China made a notification according to the relevant rules of the World Trade Organization (WTO), accepted the comments of WTO members, and adopted reasonable opinions and suggestions, which are in line with the relevant rules of WTO. Article 2 of Decrees No. 248 and No. 249 of the General Administration of Customs has defined the scope of application of the two regulations. In the near future, China will interpret Measures of the People's Republic of China for the Administration of Safety of Imported and Exported Food (Order No. 249 of the General Administration of Customs of the People's Republic of China) and Provisions of the People's Republic of China on the Administration of Registration of Overseas Imported Food Production Enterprises (Order No. 248 of the General Administration of Customs of the People's Republic of China) in a proper way, please stay tuned. Order No.248 of the General Administration of Customs will not affect the implementation of bilateral protocols. If there is another agreement between the relevant countries (regions) and China on the registration method and application materials, the agreement between both parties shall prevail.

Page 87, paragraph 3.169

Canada notes that eight new specific trade concerns (STC) were raised against China in the SPS Committee during the review period, including one related to the delays in approving requests for new listings or reinstatements of export establishments.

Question:

77. Can China please describe the actions its taken to address this STC to date?

Reply: China implements the system of market access and enterprise registration for meat and aquatic products in strict accordance with domestic laws and regulations. Only products from enterprises that meet the requirements after evaluation and examination can be exported to China. There have been cases of fake certificates in Canada, and some issues have been found in Canadian meat products imported to China, and in January of this year, the COVID-19 nucleic acid was detected positive in Canada's import aquatic products. China hopes that Canada will strengthen the supervision of its export institutions and enterprises in accordance with the relevant requirements of the bilateral agreement, SPS agreement and WHO/FAO, ensure the safety of products exported to China, and take practical actions to increase the confidence of Chinese consumers in related Canadian products. China conducts an orderly risk assessment of the agricultural and food product quarantine access applications submitted by various members and reviews the enterprises so as to ensure that relevant products meet China's requirements for quarantine of imported animals and plants, prevent the introduction of the epidemic, and ensure the facilitation and sustainability of agricultural and food products trade while risks are under control.

Page 88, Part III, paragraph 3.171:

The report notes that "Reportedly in 2018, MARA amended the regulations on safety assessment, import approval, and labelling of agricultural GMOs; apparently these regulations provide for additional in-country trials and studies on new biotech events as part of the dossier submission process."

Questions:

- 78.** Based on the Secretariat Report, Canada could not discern the relevant WTO notification associated with these amendments that are to be submitted to the WTO SPS Committee to allow trading partners the opportunity to comment and have their comments taken into account.
- 79.** Could China please confirm the WTO notification associated with these amendments and provide the web link to the final regulations?
- 80.** Could China please provide further details on the amendments brought to its regulations on the safety assessment, import approval, and labelling of agricultural GMOs in 2018? What new requirements were introduced with the 2018 amendments?
- 81.** Canada respectfully requests that China elaborate on how the amendments regarding additional in-country trials and studies impact the timelines for China's approvals of GMO events.

78-81 Reply: In 2018, the Ministry of Agriculture and Rural Affairs did not revise the relevant laws and regulations on the safety management of agricultural genetically modified organisms.

Page 97, Trade Policies and Practices by Measure; 3.3.5 State trading, state-owned enterprises, and privatization; paragraphs 3.196/3.197:

The Secretariat report notes that China has indicated that its full notification on its state-trading enterprises would be submitted to the WTO "before mid-July 2021". Given that China's state trading

enterprises have exclusive rights to import certain key agricultural products, such a notification would improve transparency in the operation of these entities.

Question:

82. Could China provide an update on when it expects to submit a notification to the Working Party on State Trading Enterprises?

Reply: China has submitted the notification on state-owned trade.

Page 99, Part 3: Trade policies and practices by measure; 3.3: Measures affecting production and trade; 3.3.5 State trading, state-owned enterprises, and privatization; paragraph 3.206:

The report acknowledges China's position that its SOEs operate under market conditions with no privileges granted by the Government. However, government-led restructuring of SOEs leads to creation of entities of size and scope that would not likely occur under normal market conditions.

Question:

83. Can China explain how it intends to mitigate the market distortions created through these actions, including effects on competition with private firms in international markets?

Reply: After more than 40 years of reform and opening up, China has continuously created a market environment in which all kinds of enterprises use resource elements equally according to law, participate in competition openly and fairly, and are equally protected by law. State-owned enterprises have been integrated with the market economy across the board. China's state-owned enterprises, like private enterprises and foreign-owned enterprises, are independent market entities. They engage in commercial activities based on commercial considerations and participate in competition on an equal footing. Whether in China or other countries, state-owned enterprises shall strictly abide by local laws. [Anti-Monopoly Law of the People's Republic of China](#) applies equally to all enterprises, and treats foreign-owned enterprises, foreign enterprises, state-owned enterprises and private enterprises equally.

Page 102, paragraph 3.215:

The report notes that authorities have been promoting the use of public-private partnerships (PPP) in investments in infrastructure and public utilities. It further notes that foreign investors are allowed to participate in PPP projects and there are already numerous such cases in practice.

Questions:

84. Would China have any statistics concerning the value of PPP projects undertaken in infrastructure and public utilities?

85. Could China please provide examples of or further information on foreign investor participation in PPP projects?

Reply: Please refer to <http://www.cpppc.org/gjjcsszk.jhtml>.

Page 103, paragraph 3.219:

On the matter of e-procurement, it is noted in the report China planned to fully implement e-tendering by the end 2020.

Question:

86. Could China please clarify what, if anything, remains to be implemented with regards its e-tendering plans?

Reply: Please refer to "Internet plus Tendering/Procurement" Action Plan (2017-2019) http://www.gov.cn/xinwen/2017-02/28/content_5171770.htm.

Page 104, paragraph 3.221:

It is noted in the Report that: "China maintains buy-national policies in government procurement. Article 10 of the Government Procurement Law provides that unless the subject matter cannot be obtained within the territory of China or cannot be obtained with reasonable commercial terms, or the procurement is for use outside the territory of China, the procuring entities shall procure domestic goods, services, and construction works".

Question:

87. Could China please provide information on how "domestic goods, services, and construction works" are defined?

Reply: At present, there is no definition standard for domestic goods, construction and services, nor relevant identification work has been carried out in field of government procurement. The Foreign Investment Law enacted in January 2020 clearly stipulates that the state ensures that foreign-invested enterprises participate in government procurement activities through fair competition in accordance with the law, and that products and services provided by foreign-invested enterprises in China are treated equally in government procurement in accordance with the law.

Page 104, paragraph 3.222:

The Report notes that "foreign-invested enterprises can participate in government procurement activities through fair competition; products produced and services provided by foreign-invested enterprises within the territory of China shall be treated equally in government procurement".

Question:

88. Could China please provide examples of or information on the value or share of procurements activities by foreign-invested enterprises?

Reply: China has not conducted special statistics on the procurement of foreign-invested enterprises.

Page 104, paragraph 3.223:

The report notes that China issued new Measures on Promoting the Development of Small and Medium Enterprises through Government Procurement (MOF Circular Cai Ku No. 46, 2020) on 18 December 2020 and that the new Measures provide more details on the SME contract set-aside policy.

Questions:

89. Could China please provide information on how SMEs are defined?

Reply: According to the Administrative Measures for Promoting the Development of Small and Medium-Sized Enterprises through Government Procurement (Caiku [2020] No. 46), stricter conditions have been attached on small and medium-sized enterprises enjoying government procurement policies on the basis of meeting Provisions on Criteria for Classifying Small and Medium-sized Enterprises (No .300 [2011] of the Ministry of Industry and Information Technology). The term "small and medium-sized enterprises" as mentioned here refers to medium-sized enterprises, small enterprises and micro-enterprises established within the territory of the People's Republic of China according to law and determined according to the Provisions on Criteria for Classifying Small and Medium-sized Enterprises, except those who are the same person in charge of large enterprises or have direct holding and management relations with large enterprises. Individual industrial and commercial households that meet the criteria of small and medium-sized enterprises shall be regarded as small and medium-sized enterprises in government procurement activities.

90. Could China please clarify whether foreign and/or foreign-invested SMEs are eligible for the SME contract set-asides?

Reply: China has not joined the GPA, nor has it signed agreements with other countries or regions to open its government procurement market to foreign suppliers. The Foreign Investment Law enacted in January 2020 clearly stipulates that the state ensures that foreign-invested enterprises participate in government procurement activities through fair competition in accordance with the law, and that products and services provided by foreign-invested enterprises in China are treated equally in government procurement in accordance with the law. Foreign enterprises can participate in Chinese government procurement activities on an equal footing according to law through enterprises registered in China.

Page 105, paragraph 3.227:

The report notes that to address the COVID-19 pandemic, China established "green channels" for government procurement in relation to the prevention and control of the pandemic.

Question:

91. Could China provide specific example of "green channels" established?

Reply: To address the COVID-19 pandemic, the Ministry of Finance issued the Notice on Facilitating Procurement for Pandemic Prevention and Control, establishing the "green channels" for government procurement in relation to the prevention and control of the pandemic. State institutions, public institutions, and social organizations at all levels that apply government budgetary funds to procure commodities, engineering projects, and services for pandemic prevention and control are allowed to be free from the methods and procedures stipulated in the Government Procurement Law and procure imported supplies without government approval.

Page 106, paragraph 3.229:

The report notes that progress has been made since the last TPR towards China's accession to the WTO Agreement on Government Procurement (GPA), including its 6th revised market access offer in October 2019.

Question:

92. Is it China's intention to continue accelerating the negotiation process to accede to the GPA?

Reply: The Chinese government is committed to joining the GPA as soon as possible. China's 7th bid for GPA accession submitted to the WTO in October 2019 has been roughly comparable to the level of the participating parties. In May 2020, China submitted to the WTO the Country Report on Government Procurement in China (Update in 2020), which comprehensively reflected the reform of China's legal system on government procurement. While advancing the negotiation on bid, the negotiation on legal adjustment should be promoted simultaneously. In June 2021, China submitted to the WTO its response to the 7th bid from the EU and Australia for China's accession to the GPA and the list of issues in China's National Report on Government Procurement (Update in 2020), which demonstrated with concrete actions China's sincerity in joining the GPA and its determination to uphold the multilateral trading system. It is not enough to rely on China's unilateral efforts to join the GPA, it actually depends to a large extent on the positions and expectations of the participants. China always believes that the sooner China joins, the sooner all parties will benefit. It is hoped that The GPA participants will offer price to China in a pragmatic way based on the current situation and long-term perspective, so as to reach mutually beneficial and win-win negotiation results on China's accession to the GPA at an early date.

Page 106, paragraph 3.3.6.7 – Accession to the GPA and other international cooperation:

Canada notes China's stated priority to conclude its GPA accession before liberalizing its government procurement market through bilateral/regional tracks.

Question:

93. Given that China aspires to modernize its existing FTAs and has expressed interest in acceding to other FTAs that have high standard rules and ambitious market access commitments, when does China intend to conclude its GPA accession process?

Reply: please refer to the reply to question 92.

Page 107, paragraph 3.236:

It is noted that one of the 100 measures under The Plan for Further Implementation of the National Intellectual Property Strategy is to "ensure that decisions to grant awards or to promote or appoint staff in universities are not *solely* [emphasis added] based on patent filings and grant rates".

Question:

94. Can China confirm whether patent filings and grant rates will continue to be one of the factors considered for decisions on grant awards, and university staff appointments and promotions?

Reply: China will earnestly implement the Plan for Further Implementation of the National Intellectual Property Strategy to speed up the construction of intellectual property rights power propulsion plan goal for the construction of the intellectual property system in colleges and universities, and in policies of title promotion, performance appraisal, post appointment, project concluding, talents evaluation and scholarship judgment. It will resolutely put an end to simply take the amount of patent applications and authorizations as the assessment content, while increase the weight of the performance of patent conversion in the evaluation.

Page 109, paragraph 3.250:

It is noted that: "amendments to the Trademark Law entered into force in November 2019. The objectives of these amendments are to curb bad-faith applications ..."

Questions:

95. Can China provide any information or data concerning the effectiveness of these amendments with respect to reducing bad-faith trademark applications and registrations, such as concerning applications rejected or registrations invalidated on the basis of bad faith behaviour?

Reply: China National Intellectual Property Administration strictly implements Article IV of the Trademark Law, which stipulates that a bad faith application for trademark registration for a purpose other than use shall be rejected. Earlier move has been made in cracking down against trademark hoarding, and the proliferation of malicious trademark registration has been curbed to a certain extent, which has reduced the time cost and economic cost of enterprises' rights protection through follow-up procedures, enhanced the confidence of enterprises in protecting intellectual property rights, and formed a powerful deterrent to potential malicious registration behaviors. The governance of trademark registration order from the source has achieved initial results.

96. Are there any specific criteria that a foreign company must meet to establish the legal standing needed to bring forward a case under the trade secrets provisions of the amended Anti-Unfair Competition Law?

Reply: Chinese courts equally protect IPR of right holders from all countries according to law and focus on strengthening the judicial protection of trade secrets of Chinese and foreign right holders. The Civil Procedure Law of the People's Republic of China and other relevant laws and regulations provide the conditions for filing lawsuits.

Page 111, paragraph 3.263:

It is noted that: "The CNIPA also amended the Patent Examination Guidelines in order to clarify the examination standard in patent applications involving artificial intelligence and other new industries. The amendment entered into force in February 2020."

Questions:

97. Can China provide further information on how examinations standards were clarified for patent applications involving artificial intelligence technologies?

98. Can China elaborate on the policy rationale behind these changes, and how they were developed?

99. Do these amended examination standards also cover patent applications in which the invention process was assisted by or conducted by artificial intelligence technologies?

97-99 Reply: Section 6 is added in Chapter 9, Part II of Guidelines for Patent Examination, which came into effect on 1 February 2020. The general principles of examination were established in Section 6.1 "Examination Benchmarks". First, the principle of overall consideration of claims; Second, to clarify whether the claims belong to the rules and methods of intellectual activities; Third, to clarify whether the claims belong to the review standards of technical schemes; Fourth, to further clarify the principle of relevance consideration in creative judgment. At the same time, Guidelines for Patent Examination explains and illustrates the concept of "mutual support and interaction in function".

Page 114, Paragraph 3.280:

The Secretariat report mentions the role of the National Forestry and Grassland Administration (NFGA) regarding the protection of plant varieties.

Questions:

100. Could China provide an update on NFGA's planned revision of the Implementation Regulation of the Forestry Law?

Reply: The revised Forestry Law came into effect on 1 July 2020. The corresponding Implementation Regulations of the Forestry Law is still under revision.

101. If there are international trade implications to the updated provisions, could China confirm that it plans to notify the measures for comment, pursuant to the WTO TBT Agreement?

Reply: The Implementation Regulations of the Forestry Law is still under revision.

Page 115, paragraph 3.283:

It is noted that: "The authorities started reviewing the Regulations on the Protection of New Varieties of Plants in 2019. The Supreme People's Court plans to issue a judicial interpretation on the Provisions on Application of Law in the Trial of Disputes over New Plant Variety Rights in 2021."

Question:

102. Can China confirm whether these measures are being undertaken with a view to acceding to the UPOV 1991 treaty?

Reply: The judicial interpretation of new plant varieties issued by the Supreme People's Court this year is made in accordance with the existing laws of China, and some of its provisions are made with reference to relevant contents of the International Convention for the UPOV 1991 treaty.

Page 115, paragraphs 3.285/3.286:

It is noted that: "The Anti-Unfair Competition Law, as amended in 2019, contains revised provisions on trade secrets. Article 9 defines "trade secrets" as "technical information, business operation information, and other commercial information that are not known to the public, have commercial value, and for which the trade secret owner has adopted corresponding measures to maintain its confidentiality ... [and] The amendment adds new types of trade secret infringements, particularly the acquisition of trade secrets through "cyber invasion... [and] ... expands the scope of persons who are subject to the provisions of trade secret infringement to include all individual and legal persons..."

Questions:

103. Can China confirm whether the definition of "trade secret owner" under the amended Anti-Unfair Competition Law, and the corresponding availability of remedies under the Law, can include foreign companies, including those without a formal market presence in China, if they are subject to the acquisition of trade secrets through "cyber invasion" by any "individual or legal persons" in China?

Reply: Equal protection according to law is the basic guideline for the judicial protection of IPR in China. Foreign companies can protect trade secrets in China through judicial procedures in accordance with the provisions of the Law of the People's Republic of China Against Unfair Competition on the protection of trade secrets and relevant provisions of the Civil Procedure Law of the People's Republic of China and the Law of the People's Republic of China on the Legal Application Regarding Foreign-related Civil Relations.

104. Are there any specific criteria that a foreign company must meet to establish legal standing needed to bring forward a case under the trade secrets provisions of the amended Anti-Unfair Competition Law?

Reply: Please refer to the reply to question 96.

Page 116, Part 3: Trade policies and practices by measure; 3.3.7 Intellectual property rights; 3.3.7.5.8 Undisclosed information and trade secrets; paragraph 3.288:

Question:

105. How does China decide what is the scope of necessary information to be disclosed when applying for licenses from the government?

Reply: According to the Law on Administrative Licenses, the implementation and results of an administrative license shall be made public, except for those involving state secrets, trade secrets or personal privacy. Without the consent of the applicant, the administrative organ and its staff and the personnel participating in the expert evaluation shall not disclose the business secrets, undisclosed information or confidential business information submitted by the applicant, unless otherwise stipulated by law or involving national security or major social and public interests; Where the administrative organ discloses the aforesaid information of the applicant according to law, the applicant is allowed to raise objections within a reasonable time limit.

Page 116, paragraph 3.290:

The report indicates that "in China, IP holders have the possibility of bringing action against the infringer either directly in a court or by requesting the competent administrative authority to handle the case. An administrative resolution is not necessary prior to the judicial resolution."

Questions:

106. Can China explain the difference in procedure between cases dealt with by governmental authorities (at the administrative level) and cases dealt with by the courts?

107. Are there any incentives or other considerations for IP holders to choose to go one particular route when bringing an action for infringement?

106-107 reply: Article 65 of the Patent Law provides that, without the permission of the patentee, disputes arising from executing his/her patent, that is, infringement of his/her patent rights, the parties shall negotiate to resolve. If the parties are unwilling to negotiate or negotiation fails, the patentee or the interested party may take legal action in the people's court, or may request the competent patent management department to solve. If the competent department finds the infringement established, it can order the infringer to immediately stop the infringement. The parties may appeal against the decision to the people's court within fifteen days from the date of receiving the notice of the decision in accordance with the Administrative Procedure Law of the People's Republic of China. In the case that the infringer does not take legal action and does not stop the infringement, the competent patent management department can apply to the people's court for compulsory execution. At the request of the party concerned, the competent patent management department may mediate the amount of compensation for infringement of patent rights. If mediation fails, the party concerned may take legal action in the people's court according to the Civil Procedure Law of the People's Republic of China.

Actions by the competent patent management department and the people's court to handle patent infringement disputes according to law are different approaches to resolve the dispute. The parties may seek corresponding remedies in accordance with the law.

Page 125, Trade Policies by Sector: Agriculture, Forestry, and Fisheries; Internal measures; Support measures; paragraph 4.11:

The Secretariat in its report mentions China's 14th Five Year Plan policy objectives, which include "implementing the strategy of rural revitalization, strengthening the use of industry to supplement agriculture, and promoting the formation of a new type of urban-rural relationship between industry and agriculture. The authorities state that steps to implement the goals/reforms contained in the above-mentioned plans include promotion of large-scale construction of high-standard farmland, demarcation of functional areas of grain production and essential production areas for agricultural products, strengthened innovation in agricultural science and technology, and promotion of whole-process mechanized production of major crops. Additionally, support is being given to establishing modern agricultural industrial parks and townships and industry clusters, and developing new business models (i.e. leisure agriculture, rural tourism, and rural e-commerce). Other areas of focus include encouraging clean agricultural production, developing a three-year action plan to protect and restore the rural environment, promoting rural culture, and improving transport infrastructure, utilities, and public service delivery."

Questions:

108. Could China describe the activities associated with "large-scale construction of high-standard farmland, and how China plans to define "functional areas of grain production and essential production areas"?

Reply: According to the General Rules for Construction of High Standard Farmland, the construction of high standard farmland is the construction activities of land leveling, soil improvement, irrigation and drainage, field roads, farmland protection and ecological environment maintenance, farmland transmission and distribution, and other engineering construction to improve farmland production conditions, eliminate major limiting factors, and enhance the quality of arable land, and ensure its efficient utilization.

109. Could China provide information and budgetary amounts of national and sub-central agricultural programs that have been introduced so far under the 14th Five Year Plan?

Reply : At the national level, please refer to China's Domestic support. At sub-central level, there's no such information.

Page 127, paragraph 4.22; and, page 128, Table 4.9:

The Secretariat report mentions that support programmes covering the period 2017-18 were notified by China under the Agreement on Subsidies and Countervailing Measures (SCM Agreement). The only new notified programme introduced in 2018 was the subsidy for a new round of returning cultivated land to forests and grassland. In addition, in Table 4.9 below, the Secretariat notes that "Forestry-related subsidies are not included in this table, with the exception of those related to turning cultivated land into forest."

Question:

110. What other forest sector subsidies have been introduced by China since its last TPR?

Reply: Please refer to the latest notification of subsidies submitted by China.

Page 130, Trade Policies by Sector: Agriculture, Forestry, and Fisheries; Internal measures; Support measures; paragraph 4.26:

The Secretariat in its report states that "Grain reserves of maize, rice, soya beans, and wheat are maintained by the Central Government and local governments; according to the authorities, the reserves are used only to cope with major natural disasters or other emergencies."

Question:

111. Could China explain how it establishes the volumes for its grain reserves and the prices at which it acquires these stocks?

Reply: The number and scale of government grain reserves are determined by the overall consideration of population, production, consumption, trade and other factors, and adjusted according to changes in the situation at the appropriate time. Reserve grain purchase prices are generally determined by enterprises in line with the market.

112. Could China explain how long these stocks are held and how they are disposed in the absence of a natural disaster or emergency?

Reply: Under normal circumstances, reserve stocks generally remain relatively stable. At the same time, a balanced rotation of reserves is implemented to ensure the quality of reserves and storage safety.

113. Could China indicate which level of government covers the storage costs of these stocks?

Reply: The finance departments at the same level are responsible for the expenditure of the government reserves.

Page 136, paragraph 4.40:

It is mentioned that "the Government will shortly issue a new policy to terminate fuel and boat construction subsidies." It is also noted that "China is a major player in the distant water fisheries segment."

Questions:

114. Can China elaborate on this statement and describe whether this termination applies to subsidies provided from the central/local governments or both?

115. Will China provide alternative subsidies to replace these subsidies?

Reply for 114-115: In May 2021, the Ministry of Finance and the the Ministry of Agriculture and Rural Affairs issued the Circular on the Implementation of Fishery Development Support Policies to Promote the High-Quality Development of Fisheries, with the following main support directions. (i) Fisheries development subsidies mainly support the key projects incorporated into national key projects and the upgrading and replacement of fishery facilities and equipment to promote safe production, and other aspects. (ii) Other general transfer payments mainly support local governments to coordinate the promotion of high-quality development of fisheries in the local region. During the "14th Five-Year Plan" period, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs will conduct a mid-term evaluation of the implementation and effectiveness of the policy

throughout China, and according to the results of the evaluation and changes in the situation, make dynamic adjustments to the scale of local funds.

116. Would termination of fuel and boat construction subsidies affect China's distant water fishing capacity?

Reply: During the "13th Five-Year Plan" period, China has exercised strict control over the scale of deep-sea fishing vessels, and no new pelagic fishery enterprise and vessel has been approved during the period of 2016-2020, and the total number of deep-sea fishing vessels was controlled at about 2,700. China strictly complies with the system of vessel number and tonnage quotas for fishing vessels and fishing quotas for fish species in each RFMO, and strictly enforces the conservation and management regulations regarding closed areas and closed periods. The pelagic fishing production is mainly determined by RFMO quotas and resource management requirements of fishing countries, and the fishing production was stabilized at about 2.3 million tons from 2016 to 2020. The scale will continue to be controlled during the "14th Five-Year Plan" period. China believes that fuel subsidies are the most harmful subsidies, which are not conducive to the conservation and sustainable utilization of global fisheries resources, and should be eliminated, and all WTO members shall be encouraged to eliminate fuel subsidies that benefit marine capture fisheries.

Pages 137-140, Paragraphs 4.2 to 4.2.2

The report's sectoral review of the trade policies of China's mining sector makes no reference to environmental consideration, in contrast to the report's review of China's energy sector, which immediately follows after.

Question:

117. Could China elaborate on its environmental regulations/standards when it comes to mining/mineral exploitation, processing, and production, especially with regard to processes that are of particular environmental concern, such as those related to rare earth minerals?

Reply: China has developed sound emission standards for pollutants in mining, processing and production. In terms of ferrous metal smelting, emission standards for pollutants from Iron Ore Mining and Beneficiation Industry (GB 28661) and a series of emission standards for iron and steel smelting have been issued. In the field of nonferrous metal smelting, the Emission Standards for Pollutants from Lead and Zinc industries (GB 25466), Emission Standards for Pollutants from Copper, Nickel and Cobalt Industries (GB 25467), Emission Standard for Pollutants from Magnesium and Titanium Industry (GB 25468), Emission Standards for Pollutants from Tin, Antimony and Mercury Industries (GB)30770), Rare Earth Industry Pollutant Discharge Standard (GB 26451) etc. have been issued, which cover standards on pollutant discharge from mining to subsequent smelting process, playing an important role in promoting green and sustainable development of the industry and environment quality improving.

Page 140, paragraph 4.56: The report notes that China's energy consumption structure continued to change during the review period, as the proportion of coal declined, accounting for 57.7% of the total energy consumption, down from 63.8% in 2015. Petroleum accounts for 18.9%, natural gas accounts for 8.1%, and primary electricity and other energy such as hydropower, nuclear power, and wind power account for 15.3%.

Question:

118. As China is diversifying its energy mix, will there be greater consideration for ESG standards and performance of the countries from which China imports fossil fuels? Will China demonstrate preference for oil producers with higher ESG standards?

Reply: China conducts its own fossil energy imports by enterprises on commercial principles, under the framework of laws and regulations, industrial environmental protection and other policies, as well as WTO rules. China supports enterprises to actively promote and practice carbon reduction and environmental protection measures while carrying out normal oil and gas trade. Reportedly, there are currently no oil and gas trade policies and constraints at the Chinese government level regarding ESG ratings.

Page 142, paragraph 4.66:

The report notes that China implemented a new environmental tax policy aimed at promoting environmental protection and reducing pollution.

Question:

119. Can China share additional details on how this tax applies to the different sectors within its energy mix?

Reply: Since January 2018, the Environmental Protection Tax Law of the People's Republic of China has been officially implemented, and Article 10 specifies the emissions of taxable air pollutants, water pollutants and solid waste and decibels of noise, as well as the calculation method and order. In April 2021, in order to further implement the Environmental Protection Tax Law of the People's Republic of China, the Ministry of Ecology and Environment, together with the Ministry of Finance and the State Taxation Administration, issued the Announcement Issuing Pollutant Discharge Coefficients and Material Balance Methods for Taxable Pollutant Discharges Subject to Environmental Protection Tax (No. 16 of 2021), which provides for the calculation methods of emissions of taxable pollutants for pollutant emitters that do not have monitoring conditions.

Page 150, paragraph 4.107:

It is noted that *"The Automobile Mid- and Long-term Development Plan (launched in 2017) is the main strategic plan to promote the auto industry. The Plan aims to, inter alia, improve the innovation system and promote the development of key areas, such as NEVs, smart network cars, and energy-saving cars. The Plan also emphasizes the importance of strengthening international cooperation."*

Question:

120. Could China provide additional information on financial support for the automotive sector provided under the Automobile Mid- and Long-term Development Plan, including the overall amount, areas targeted, and eligibility of foreign entities?

Reply: The Plan is of a guiding nature and does not involve specific subsidy policies.

Page 151, Paragraph 4.112:

The report notes that in 2016, the Government launched the Robotics Industry Development Plan (2016-2020).

Question:

121. Can China elaborate on which sub-sectors had success under the Robotics Industry Development Plan (2016-2020), and in which sub-sectors there remain development gaps?

Reply: For the intelligent transformation needs of domestic manufacturing industry, robotics companies continue to innovate products and solutions, and industry applications gradually extend to furniture, food, metallurgy, construction, textiles, casting, forging, ceramics and sanitary ware and other traditional industries, which effectively solved the enterprise labor difficulties, as well as harsh environments and high-risk operations and other industry problems. However, there are still development gaps in the fields of automobiles, electronics and other fields that require high levels of robot technology, and in the fields of medical care, helping the elderly and disabled, and other fields that require high levels of robot safety and interactivity.

Page 154, paragraph 4.128:

It is noted that *"The Made in China 2025 initiative considers shipbuilding as one of its 10 priority sectors. The Plan has the overarching strategic objective to make China strong in high-end shipbuilding. Furthermore, in the context of the 13th Five-Year Plan for Economic and Social Development, the MIIT unveiled in December 2016 the Shipbuilding Industry Deepening Structural Adjustment, Accelerating Transformation and Upgrading Action Plan (2016-20), outlining the reform and transformation upgrade needed for the shipbuilding industry."*

Canada also notes that page 13, paragraph 23 of the WTO Secretariat Report indicates that China's WTO notifications do not contain information on expenditure levels in certain sectors, including shipbuilding.

Questions:

122. Is China able to confirm the overall amount of incentives and financial support provided for the domestic shipbuilding industry?

Reply: The Shipbuilding Industry Deepening Structural Adjustment, Accelerating Transformation and Upgrading Action Plan (2016-2020) is a government guiding document and does not provide direct incentives and financial support to the domestic shipbuilding industry.

123. In addition to the Made in China 2025 initiative, could China identify and provide additional information on the specific programs, funds, and other mechanisms it is using to support the domestic shipbuilding industry?

Reply: No more information is available at this time.

Page 155, paragraph 4.133:

It is noted that "In 2019, a plan to merge the country's two largest state-owned shipbuilders – the China State Shipbuilding Corp. (CSSC) and the China Shipbuilding Industry Co. (CSIC) – was announced. The authorities state that as at March 2021, the joint reorganization of the CSSC and the CSIC had not yet been completed."

Questions:

124. What was the rationale for this merger, and what is the current anticipated timeline for its completion?

Reply: The SASAC website announced to the public in October 2019 that CSSC and CSIC implemented a joint reorganization. The implementation of restructuring is conducive to resolving structural contradictions such as overcapacity, better implementing the requirements of supply-side structural reform, is conducive to the concentration of research and development resources, improving the level of ship development and manufacturing, and has positive significance for the development of enterprises. The reorganization and integration of CSSC and CSIC is required to pass international anti-monopoly review. Since the announcement of restructuring matters to the public, the enterprise has been steadily promoting related matters. Please pay attention to the enterprise business change registration for specific information.

125. Is China's legal framework for competition (as outlined in Section 3.3.4.1, pages 89-94 of the WTO Secretariat Report) being taken into account as part of this merger process?

Reply: The two are not directly related.

126. Can China provide further information on the current breakdown of state-owned, domestic, and foreign private entities in China's shipbuilding sector?

Reply: No relevant information is available.

Page 158, paragraph 4.145:

China continued to reform its financial sector during the review period. While a number of licensing and prudential regulations were adopted or amended, several measures were taken to liberalize financial activities and to further promote foreign participation in the banking, insurance, pension fund management, and securities industries. As regards the opening of the financial market, in July 2019, the FSDC announced a package of 11 reform measures covering: (i) credit rating by foreign-invested companies; (ii) foreign participation in asset management; (iii) steps to encourage foreign financial institutions to invest in wealth management subsidiaries of Chinese commercial banks; (iv) foreign participation in pension fund management; (v) foreign participation in currency brokerage; (vi) lifting the foreign ownership cap on life insurance companies; (vii) lifting the restrictions on foreign ownership in insurance asset management companies; (viii) relaxing the entry restrictions on foreign-invested insurance companies; (ix) lifting foreign ownership limits on securities companies, futures companies, and fund management companies; (x) allowing foreign invested financial institutions access to Type-A underwriting licences in the interbank bond market; and (xi) allowing foreign institutional access to inter-bank bond markets.

Questions:

127. Does China have intentions to revise its WTO Schedule of Specific Commitments to reflect its recent financial services liberalization?

Reply: China is ready to discuss further liberalization of relevant services with other parties within the framework of multilateral negotiations on market access for trade in services.

128. Have these changes resulted in changes in the level of foreign participation in the Chinese financial sector?

Reply: In recent years, with the implementation of a number of initiatives to open up the capital market to the outside world, the proportion of foreign investors' shareholdings has been increasing. Next, the CSRC will continue to unswervingly expand the opening of the capital market to the outside world, and further enhance the convenience of foreign participation.

Page 170, paragraph 4.214:

It is noted China's cybersecurity law requires that personal information and other 'important data' be stored within the mainland of China, which can increase cost of compliance. As well, is it noted that China's cybersecurity law also stipulates conditions about a security assessment of locally stored data.

Questions:

129. Could China provide information on the costs of retention of 'important' data?

130. Could China explain what a "security assessment of locally stored data" might entail and related costs?

Reply for 129-130: Article 21 of the Data Security Law provides that China establishes a data classification and grading protection system. According to the importance of data in economic and social development as well as once tampered with, destruction, leakage, illegal access, or illegal use, the degree of harm caused to national security, public interests or the legitimate rights and interests of individuals and organizations, China protects data in a classified and grading manner. Based on the national data security coordination mechanism, China coordinates relevant departments to develop an important data directory and strengthen the protection of important data. Data related to national security, the lifeblood of the national economy, important people's livelihood, and major public interests belong to the national core data, with a more stringent management system implemented. In accordance with the data classification and grading protection system, all regions and departments should determine the directory of important data for themselves as well as relevant industries and fields, with the data included in the directory for key protection. The classification and grading protection system is implemented to ensure unambiguity, consistency and stability of data regulatory environment.

Page 171, paragraph 4.217:

The Encryption Law was also enacted on 26 October 2019 and came into effect on 1 January 2020. It encourages enterprises to voluntarily apply to qualified testing and certification agencies for the testing and certification of their commercial encryption products. However, testing and certification might be mandatory for certain commercial encryption products and services that may affect "national security, national welfare and people's livelihood, and society's interest" and shall be included in the Catalogue of Critical Network Equipment and Network Security-specific Products.

Questions:

131. Could China please define what products involving "national welfare", "people's livelihood" and "the society's interest" are?

Reply: The implementation scope of mandatory testing and certification system is limited, only applicable to the commercial cryptography products involving national security, national economy and people's livelihood and social public interests, meanwhile, the management scope is clearly defined through the product catalogue prepared, which will not pose unnecessary restrictions on the market and industry.

132. Could China clarify which international standards will be the basis for China's technical regulations regarding commercial cryptography?

133. How will China ensure that that all stakeholders can participate in the creation of commercial cryptography standards?

Reply: The Standardization Law provides that the development of standards should be widely consulted to ensure the standards to be scientific, normative and timely and to improve the quality of standards. Foreign enterprises are welcome to participate in the standard development in accordance with the law. The National Information Security Standardization Technical Committee (SAC/TC 260) is responsible for the development of cryptography-related standards, and its WG3 Cryptography Standards Working Group is responsible for the research and development of cryptographic algorithms, cryptographic modules, and key management standards. National

Information Security Standardization Technical Committee encourages enterprises, universities, research institutes, testing and certification institutions and users to join the working group voluntarily to improve the participation and breadth of standard development and give full play to the main role of enterprises; at the same time, the standard is open for public consultation for 60 days during the development process to encourage all sectors of society and related parties to actively study and submit their opinions. Guiding Opinions on Further Strengthening the Administration of Industrial Standards requires that industry standards should protect foreign-invested enterprises to participate equally in the development of industry standards in accordance with the law.

134. Could China please indicate whether core and ordinary cryptography (as referenced in People's Republic of China's Cryptography Law) will, along with commercial cryptography, also be subject to the new regulations?

Reply: Both core and ordinary cryptography are subject to The People's Republic of China's Cryptography Law.

135. Could China please indicate how the scope of application definition in its Cryptography Law will ensure only legitimate objectives pertaining to cryptographic goods will be pursued? Could China please provide precise definitions of core, ordinary and commercial cryptography products referenced in the Law?

Reply: The Cryptography Law stipulates that commercial cryptography products shall be subject to testing and certification, mainly voluntary testing and certification, and only commercial cryptography products involving national security, national economy and people's livelihood, and social public interests shall be subject to compulsory testing and certification. For the definitions of core, common and commercial cryptography, please refer to Chapter 2 Core and Ordinary Cryptography and Chapter 3 Commercial Cryptography of the People's Republic of China's Cryptography Law for details.

136. Could China please indicate when the Regulations on the Administration of Commercial Cryptography will be opened for public comments again and when China plans to notify the measure to the WTO TBT Committee?

Reply: Regulation on the Administration of Commercial Cipher Codes (Revision) has been included in the State Council's legislative work plan for 2021. The revision of the Regulation on the Administration of Commercial Cipher Codes will follow the principles of law, democracy and science, adhere to openness and transparency, scientific evidence in the revision process, widely solicit opinions, and guarantee the participation of stakeholders in the revision activities through legal channels.

Page 172, paragraph 4.220:

Following the entry into force of China's Cybersecurity Law, Canada understands that China has released the Critical Information Infrastructure (CII) Security Protection Regulations in Aug 2021. The draft Revised Measures on Cybersecurity Review was released in July 2021 for public comments. China also implemented the provision of the Cybersecurity Law concerning national security review requirements for CIIOs purchasing certain network products and services. This was made through the Measures on Cybersecurity Review, and was jointly adopted on 27 April 2020 (effective 1 June 2020) by the CAC and 11 other government agencies. The Measures seek to implement Article 35 of the Cybersecurity Law, which established a cybersecurity review requirement on network products and services procured by CIIOs. Purchases of network products or services with a potential effect on national security are subject to the cybersecurity review system outlined under the Measures. Such network product and services include core network devices, high-performance computers and servers, mass storage devices, large databases and application software, network security devices, cloud computing services, and other network products and services that have a significant impact on the security of the critical information infrastructure.

Questions:

137. In the Measures on Cybersecurity Review, could China please provide defined criteria that operators of Critical Information Infrastructure are to use in assessing a security threat?

Reply: Measures for Cybersecurity Review (revised draft for comment) has been released in July this year for public comments, the relevant content and so on is under improvement, welcome continued attention.

138. Could China please explain how the Measures on Cybersecurity Review provide for WTO TBT Agreement consistent legitimate objectives, National Treatment, MFN and notification?

Reply: Strengthening cybersecurity and data security management is not only necessary to maintain personal information security and national security, but also a common practice of all countries, and many countries have already taken legal and administrative measures in this regard. Insisting on opening up to the outside world is a basic state policy of China, and China will, as always, welcome foreign products and services to enter the Chinese market in compliance with Chinese legal requirements.

139. With respect to the revised Measures on Cybersecurity Review, could China elaborate on the criteria that CII operators and data processors are to use in assessing whether a cyber security review is triggered?

Reply: Measures for Cybersecurity Review (revised draft for comment) has been released in July this year for public comments, the relevant content and so on is under improvement, welcome continued attention.

140. The Data Security Law sets requirements for entities processing 'important data' and transferring it across borders. With a view to better understanding the legitimate objectives of the Law and the risks of non-fulfilment, can China please provide more clarification regarding the meaning of 'important data'?

Reply: Please refer to the reply to question 130.

141. Could China please provide clarification of how the inclusion, in the Data Security Law, of language on reciprocal Chinese actions, to address other countries' discriminatory actions, is consistent with the TBT Agreement's obligations?

Reply: Strengthening cybersecurity and data security management is not only necessary to maintain personal information security and national security, but also a common practice of all countries, and many countries have already taken legal and administrative measures in this regard. Insisting on opening up to the outside world is a basic state policy of China, and China will, as always, welcome foreign products and services to enter the Chinese market in compliance with Chinese legal requirements.

142. In order to provide clarity and predictability, will China include a clear definition of 'Critical Information Infrastructure', which is referenced in both the draft cybersecurity measure and the draft Data Security Law?

143. Will China publish a list of CII after CII are designated?

Reply for 142-143: Critical Information Infrastructure (CII) Security Protection Regulations provides a clear definition of critical information infrastructure. Critical information infrastructure refers to critical network facilities, information systems in public communications and information services, energy, transportation, water conservancy, finance, public services, e-government affairs, national defense science and technology industry and other important industries and fields, as well as other important network facilities, information systems once damaged, losing function or suffering data leakage, may seriously jeopardize national security, livelihood, public interest. Chapter II of the Regulations provides that the competent departments and regulatory departments of the above-mentioned important industries and fields shall, as the protection work department, be responsible for the development of critical information infrastructure identification rules, organizing the identification of the critical information infrastructure of the industry and the sector, timely notification of the results to the operator, and notify the State Council public security departments.

Page 171-172, paragraph 4.219:

[...] China published for public comment the first draft of the Personal Information Protection Law, the country's first comprehensive law regulating, inter alia, the processing of PI.¹²⁴

Questions:

144. Could China please explain how the law ensures that the degree of data accuracy and update timeliness required is limited to that which is commensurate with the risk of non-compliance?

145. How will China ensure that the measure is proportionate to the use the data will have?

146. How will China ensure that the measure is sufficiently precise that firms can reasonably and consistently comply with it?

147. Will China provide a clearer definition of what constitutes 'accuracy' and 'timeliness of updates'?

Reply for 144-147: After the implementation of the Personal Information Protection Law, the focus will be on the following aspects: First, personal information processors fulfill their obligations to protect the security of personal information. This includes the development of internal management systems and operational procedures, regular compliance audits of personal information activities, and the fulfillment of personal information leakage notification and remediation obligations. Second, the departments performing personal information protection duties perform their duties in accordance with the law. This includes conducting publicity and education on personal information protection, guiding and supervising personal information processors to carry out personal information protection work, receiving and handling complaints and reports related to personal information protection, organizing the assessment of personal information protection of applications and other personal information and publishing the assessment results, and investigating and handling illegal personal information activities. Third, the national cyberspace department plans and coordinates relevant departments to promote relevant personal information protection work. This includes the development of specific rules and standards for the protection of personal information, the development of special rules and standards for personal information protection for small personal information processors, handling sensitive personal information and new technologies and new applications such as face recognition and artificial intelligence, improving the personal information protection complaints and reporting mechanisms. By improving the personal information protection system, preventing and punishing infringements on the rights and interests of personal information, strengthening publicity and education on personal information protection and other means to form a good environment where the government, enterprises, relevant social organizations and the public participate in the protection of personal information, and to promote the smooth implementation of the law.

Page 175, paragraph 4.240:

It is noted that China's Cabotage regime includes both domestic ownership and registry requirements, and that domestic water transport operators may not use foreign-flagged ships unless they obtain permission to temporarily operate a foreign-flagged vessel, which is subject to time and voyage limits. It is also noted that with respect to the latter, eight foreign-flagged vessels have been temporarily permitted to operate in China's waters between 2018 and 2020.

Questions:

148. Could China indicate how many domestic water transport operators sought permission to operate foreign-flagged vessels in China's waters in the reporting period, and which activities they sought to undertake (e.g. transport of goods or towing)?

Reply: From 2018 to 2020, there are 8 foreign vessels temporarily engaged in China's domestic waterway transport, involving 3 domestic waterway transport operators, mainly engaged in heavy cargo, dangerous liquid cargo transport, etc.

149. Could China indicate whether the foreign-flagged vessels permitted to operate in China's waters must also be owned by a Chinese company?

Reply: There is no requirement in the current regulations that vessels temporarily engaged in domestic waterway transportation in China must be owned by Chinese companies.

150. Could China explain whether there are any fees or costs required from domestic water transport operators using foreign-flagged vessels in China's waters, and whether the foreign-flagged vessel must pay any fees or costs associated with the activity? If there are additional fees and costs, how are they calculated?

Reply: The use of foreign vessels for domestic waterway transportation is a purely operational market practice, and the Chinese transport authorities have no additional regulations on this.

151. Could China indicate if there are proscribed timelines or average timelines for decisions when domestic water transport operators seek permission to use foreign-flagged vessels in China's waters?

Reply: According to the Provisions on the Administration of Domestic Waterway Transport, approved by the Ministry of Transport, waterway transport operators can charter foreign vessels between ports in the People's Republic of China to engage in no more than two consecutive voyages or a period of 30 days of temporary transport.

Page 175, paragraph 4.241:

It is noted that China recently revised regulations on foreign investment in international shipping and international shipping agency services.

Question:

152. Could China indicate how much foreign investment in international shipping and international shipping agency services has occurred since it revised its regulations in this area?

Reply: There is no relevant statistics data available.

Page 176, paragraph 4.244:

It is noted that *"The authorities state that no state-owned ports are operated by third parties (including foreign companies) under concession agreements. There are no restrictions on the share ratios of FDI in investment in Chinese ports. Information was not available as to whether there is any foreign investment in Chinese ports in practice. Various SOEs provide port services."*

Questions:

153. Could China indicate whether there is foreign investment in China's ports, and if so, which specific ports and under what conditions?

Reply: China has many ports with foreign investment components, in line with the relevant laws and regulations on foreign investment, the specific investment conditions belong to the content of corporate business negotiations, and there is no uniform requirements.

154. Could China provide more information on which SOEs provide port services, as well as which port services they provide?

Reply: Port enterprises provide port handling, warehousing, tugboat operations and other services in accordance with the the Law on Ports, the Provisions on the Administration of Port Operations.

Page 176-177, paragraph 4.246:

It is noted that *"According to the Catalogue of Central Determined Prices and the Regulation on Port Charges, port operating service charges are divided into market-regulated price, government-guided price, and government pricing. Among them, the government-guided and government-priced port charges are decided by the MOT and the NDRC. Market-set port charges, such as port handling lump sum charges, may be set by port operators themselves."*

Question:

155. Could China confirm if these port charges are applied to domestic and foreign entities on a non-discriminatory basis?

Reply: Chinese port charges are applicable to domestic and foreign entities and there is no discrimination.

Pages 201-203, Table A4.2

Table A4.2 lists several measures notified by China that are maintained by several coastal provinces.

Questions:

156. Can China elaborate on the ways in which the subsidy program in the fifth entry listed on page 202 (titled: "Fund for marine and fishery development (Xiamen City)") promotes distant water fisheries?

Reply: Please refer to the notification of subsidies that China has already submitted.

157. Can China provide more details on the eligibility requirements for distant water fishing enterprises under the subsidy program in the sixth entry listed on page 202 (titled: "Fund for distant water fishery development (Rizhao City)") as well as under the seventh entry listed on page 202 (titled: "Fund for distant water fishery (Qingdao City)")?

Reply: Please refer to the notification of subsidies that China has already submitted.

DOMINICAN REPUBLIC

Página 30 en su párrafo 1.42, referente a las exportaciones de servicios:

- ¿A qué se debe el aumento constante de las exportaciones de servicios durante el período 2015-2019?

Reply: From 2015 to 2019, the Chinese service industry developed by leaps and bounds. The added value of the Chinese service industry increased from CNY34.9745 trillion in 2015 to CNY53.4233 trillion in 2019, with an average annual growth rate of 11.2%. This laid a solid industrial foundation for the development of China's trade in services.

- ¿Cuáles iniciativas o medidas ha implementado el Gobierno para fomentar dichas exportaciones, duración de éstas, cuántas empresas se han beneficiado y de que sectores?

Reply: The Chinese service industry has continuously gained ground in opening-up. Since 2013, opening-up of the service industry has become an important part of the construction of nationwide pilot free trade zones (such as China (Shanghai) Pilot Free Trade Zone). In 2015, a comprehensive pilot campaign for expanding the opening-up of Beijing service industry was launched, which gave impetus to China's further opening-up in the fields of finance, science & technology, information, culture & creativity and business services. In 2016, China launched a pilot campaign for innovation and development of trade in services, accelerated the expansion and opening-up of transportation, education, medical care, finance, professional services and other fields, sharpened complementary advantages in sync with the pilot free trade zones, and developed a strategic platform for China's service sector to open to the outside world in the new era. The abovementioned measures vigorously propelled the rapid development of China's trade in services.

Página 36 en su párrafo 2.6, sobre las normas relacionadas con el comercio:

- ¿Cuáles criterios considera el Consejo de Estado para mantener una norma confidencial?

Reply: China has announced trade-related measures in accordance with WTO rules and its accession commitments.

- ¿Estas normas son notificadas a la OMC?

Reply: China has announced trade-related measures in accordance with WTO rules and its accession commitments.

Página 83 en su párrafo 3.102, relacionado a las exportaciones de las zonas francas experimentales:

- ¿Cuáles productos o servicios se están exportando bajo este régimen?

Reply: Pilot free trade zones are a experimental field for China's independent reform and opening-up. The purpose of building pilot free trade zones is to explore ways and gain experience for comprehensively deepening reforms and expanding opening-up by implementing a series of pilot measures in terms of liberalization and facilitation of investment and trade, financial services for the real economy, transformation of government functions, among others. Situated in different locations, various pilot free trade zones are characterized by different resource endowments and industrial structures. Therefore, different major commodities or services are exported by these pilot free trade zones. These pilot free trade zones serve as a window for China to open wider to the outside world. Enterprises from all over the world are welcome to seek business opportunities in the pilot free trade zones across China.

- ¿Qué porcentaje de empleos se ha generado en estas zonas francas durante el período sujeto de examen?

Reply: Up to now, these pilot trade zones have not conducted special statistics on their employment rates as yet.

Página 86 en su párrafo 3.115, referente a los incentivos y apoyo financiero a diferentes sectores y ramas de producción:

- ¿Cuáles ayudas en forma de transferencias directas se han otorgado?

Reply: Please refer to the latest subsidy notification submitted by China.

- ¿Cuál ha sido el impacto y/o resultados de la aplicación de estas medidas?

Reply: Please refer to the latest subsidy notification submitted by China.

- ¿Qué tipos de sectores y ramas de producción han sido beneficiados?

Reply: Please refer to the latest subsidy notification submitted by China.

Página 86 en su párrafo 3.124, sobre los llamados "fondos gubernamentales de orientación", o fondos de inversión dirigidos por el Gobierno:

- ¿Cuál es el objetivo de estos fondos, cuáles sectores de la rama productiva son apoyados y qué requisitos debe cumplir una empresa para beneficiarse de estos?
- ¿Qué resultados socioeconómicos se prevén lograr con la implementación de estos fondos?
- ¿Se beneficiaron las empresas extranjeras en las mismas condiciones que las empresas nacionales?
- ¿Tienen una duración establecida?
- ¿Puede una institución gubernamental hacer uso de estos fondos?

Reply: China established the government guidance funds in accordance with market-based principles. The investment management and decision-making of the funds is completely market-based, and government departments do not interfere with or participate in any investment project decisions of the funds. The funds and their management structure are established in accordance with the Company Law of the People's Republic of China and other laws, and operate on a market basis. China does not provide subsidies to any industry through the funds.

Página 177 en su párrafo 4.126, sobre la Política de Promoción del Desarrollo de Alta Calidad del Sector de los Circuitos Integrados y el Sector de los Programas Informáticos:

- ¿En qué consisten las medidas sobre apoyo a la investigación y el desarrollo?

Reply: Please refer to Subsidy Notification G/SCM/N/372/CHN submitted by China.

- ¿Qué acciones se han implementado para motivar a empresas extranjeras a invertir en China en áreas de investigación y desarrollo?

Reply: China constantly optimizes the business environment for foreign-funded enterprises. Domestic and foreign-funded enterprises are treated equally without discrimination according to relevant policies.

- ¿Qué medidas se contemplan en la política "Go Global"?

Reply: China is a staunch supporter of economic globalization and trade liberalization. The worldwide semiconductor enterprises and various types of funds are welcome to start up businesses or make investments in China.

DOMINICAN REPUBLIC – ADDITIONAL QUESTIONS

3.1.3 ARANCELES

3.1.3.4 Aranceles preferenciales

Pág. 61

Párrafo 3.34. "China también otorga un trato arancelario preferencial a las importaciones procedentes de PMA que han establecido relaciones diplomáticas con ella y ultimado el canje de notas diplomáticas. En febrero de 2021, China aplicaba aranceles nulos al 97% de las líneas arancelarias de 41 PMA. Los PMA y China han presentado al Comité de Normas de Origen de la OMC comunicaciones relativas a las tasas de utilización de las exportaciones de los PMA en el marco del arreglo comercial preferencial de China para los PMA."

- 1. ¿Estaría en disposición de considerar el gobierno de China la aplicación de trato arancelario preferencial también para las importaciones de países en desarrollo pertenecientes al Grupo ACP que han establecido relaciones diplomáticas con ella y ultimado el canje de notas diplomáticas?**

Reply: The relevant preferential tax rate is only applicable to the least developed countries, and China does not currently consider expanding the scope of application.

3.2 Medidas que afectan directamente a las exportaciones

3.2.4 Apoyo y promoción de las exportaciones

Pág. 83

Párrafo 3.102. "La promoción de las exportaciones puede adoptar también la forma de exenciones de los derechos de importación para determinados productos (sección 3.1.3). Aparte de su función primordial como terreno de prueba para las reformas de política, las zonas francas experimentales han atraído a empresas que exportan. Desde 2013, China ha establecido un número creciente de zonas francas experimentales en todo el país; actualmente hay 31. En la Zona Franca Experimental de Shanghái, por ejemplo, los beneficios a que pueden acogerse las empresas consisten en un tipo reducido del impuesto sobre la renta de las sociedades del 15% (frente al tipo ordinario del 25%) durante cinco años en sectores como los circuitos integrados, la inteligencia artificial, la biomedicina y la aviación civil; la reducción del impuesto sobre la renta de las personas físicas para el personal extranjero de las empresas de la Zona Franca Experimental; y la simplificación de los trámites aduaneros para las importaciones y exportaciones de la Zona Franca Experimental."

- 2. ¿Las autoridades de China están contemplando la posibilidad de incrementar los beneficios para los inversionistas extranjeros que se instalen en las zonas francas experimentales, así como la inclusión de otros sectores además de los ya existentes (circuitos integrados, la inteligencia artificial, la biomedicina y la aviación civil)?**

Reply: The Pilot Free Trade Zone is a testing ground for the Chinese government's independent reform and opening up. It aims to provide an open, transparent and excellent business environment for all kinds of market players, including foreign investors, through early and pilot trials in investment and trade liberalization and facilitation, financial services for the real economy, and transformation of government functions.

Pág. 88

Párrafo 3.124. "Además de los programas notificados, hay al parecer numerosas iniciativas para apoyar diferentes ramas de producción y atraer inversión extranjera. Los llamados "fondos gubernamentales de orientación", o fondos de inversión dirigidos por el Gobierno, utilizan recursos públicos para efectuar inversiones de capital en sectores que el Gobierno considera importantes (cuadro 3.15). La Secretaría no ha logrado obtener información clara sobre en qué consisten estos fondos. Algunos todavía se están creando, y no está claro cuál será su cuantía definitiva. De acuerdo con algunas fuentes externas, son financiados mayoritariamente por el Gobierno central y los Gobiernos locales, grandes empresas de propiedad estatal e instituciones financieras de propiedad estatal. La mayor parte de los fondos se utilizan para financiar procesos de fabricación avanzada, nuevos materiales y otras ramas de producción innovadoras. La información facilitada en el cuadro 3.15 no ha sido confirmada por las autoridades, que han considerado que no es pertinente para este examen. Afirman además que esos fondos son en parte de financiación privada, que no constituirían una subvención y que, por lo tanto, no estarían sujetos a notificación. Según las autoridades, no es necesario notificar estos fondos en el marco del Acuerdo SMC ya que la ayuda proporcionada mediante estos fondos no constituye una subvención."

- 3. ¿Qué resultados debe cumplir una empresa para beneficiarse de estos?**
- 4. ¿Cuáles son los criterios o razones por las cuales China considera que estos fondos, no se consideran subvenciones, por lo que son compatibles con el Acuerdo SMC?**

Reply to 3 and 4: The funds established by China based on the market-oriented principle operate in full accordance with the market principle and are completely independent market players. Their investment management and decision-making are market-oriented, and government authorities do not intervene and participate in any investment project decision-making of the funds. The funds are also founded and established in accordance with the Company Law of the People's Republic of China and other laws to carry out market-oriented operations. Relevant policies treat domestic and FIEs equally.

PHILIPPINES

PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT

I. ECONOMIC ENVIRONMENT

Para 1.35 (Page 24)

China's merchandise exports increased every year between 2016 and 2019, to attain a peak of nearly USD 2.6 trillion in 2020 (Chart 1.1 and Table A1.2). In the first half of 2020, export levels fell due to the COVID-19 pandemic, but China's share of global manufacturing exports rose to a record high in the second half of the year. Exports received a boost because China was the first manufacturing power to resume operations after the first wave of international shutdowns, and it is the world's bigger producer of protective health equipment, such as masks and surgical gowns, and electronics related to working from home.

Question:

1. What is the share of export of protective health equipment and electronics related to working from home to the total export of China? How much did China's export of these products increase since the pandemic began?

Reply: Masks and protective clothing were subject to statistics as separate independent tax numbers in March 2020. From April to December 2020, masks and protective clothing accounted for 2.6% of the export value over the same period. The annual export of "tablet computers" and laptops in "electronic products" was RMB 797.59 billion in 2020, a year-on-year increase of 20.9%, accounting for 4.4% of the total export value in 2020.

Para 1.44 (Page 27)

Services imports grew from USD 436 billion in 2015 to USD 506 billion in 2019, but fell to USD 380 billion in 2020. Travel is traditionally by far the most important individual category, though its share had already declined before the pandemic, followed by transport services and business services. While the contribution of travel and construction services decreased, the relative importance of telecommunications, computer and information services, and of charges for the use of intellectual property grew over time.

Question:

2. What is the reason for such decline in travel during pre-pandemic times?

Reply: As pointed out in the Secretariat report, before the pandemic, China's trade in services increased from USD 436 billion in 2015 to USD 506 billion in 2019. During the period, the imports of knowledge intensive services of China such as telecommunications, computers and information services continued to grow, and the opening-up of the financial industry boosted the rapid growth of imports of financial services. In contrast, the proportion of imports of traditional services such as travel and transportation in China's trade in services as a whole showed a relative decline.

Para 1.48 (Page 29)

China continues to be a significant investor abroad, although annual outward flows have dropped considerably since 2017. The most important destinations are Hong Kong, China; the British Virgin Islands; Singapore; the United States; and Indonesia (Table 1.7). Projects under the BRI play an important role for outward investment. The most important sectors for China's FDI abroad are leasing and business services, manufacturing, financial intermediation, and wholesale and retail trade (Table 1.8).

Question:

3. What is the reason for such decline in the outflow of FDI? Is there a complete list of projects benefitting from China's investments under the BRI?

Reply: In the review period, the foreign direct investment of China fluctuated to a certain extent, which was the result of the joint action of many factors and was a kind of normal trade and investment. Generally speaking, the structure of the foreign direct investment of China has continuously been optimized. Meanwhile, Chinese foreign investors' investment behavior is more rational and prudent, and they always pay more attention to the quality and efficiency of investment. It is foreseen that China's foreign direct investment will present a steady, orderly and healthy development trend in the future. For the project information of the BRI, please refer to the BRI website (<http://www.zgydyl.org/>).

II. TRADE AND INVESTMENT REGIMES

Para 2.19 (Page 34)

During the review period, as reflected in several measures, China attached great importance to addressing climate change issues. The authorities indicate that the country implements an active national strategy on climate change and has achieved positive results through a series of measures, such as industrial restructuring, energy structure optimization, energy conservation and efficiency improvement, the establishment of a carbon emissions trading market, and expanding the forest carbon sink. They also expect that China will reach a peak in carbon dioxide emissions before 2030 and carbon neutrality before 2060.

Question:

4. Please cite evidences to support claim that China has achieved positive results in addressing climate issues. By how much did carbon emissions decrease over the recent years?

Reply: China has taken a series of measures to adjust the industrial structure, improve the energy structure, save energy and improve energy efficiency, and made positive progress in addressing climate change. Through preliminary calculation, it can be found that China's carbon emission intensity in 2019 is 51.9% of that in 2005, a decrease of about 48.1% compared with that number in 2005, which has gone beyond the action goal of controlling greenhouse gas emission by 2020 and a decrease of 40%-45% compared with that in 2005, which is equivalent to a cumulative reduction of carbon dioxide emission of about 5.7 billion tons, basically reversing the rapid growth trend of carbon dioxide emission. Therefore it has made great contributions to the global response to climate change.

Para 2.29 (Page 35)

On 15 November 2020, China and 14 other countries signed the Regional Comprehensive Economic Partnership (RCEP) Agreement.¹⁵ The Agreement has provisions on trade in goods; rules of origin; customs procedures and trade facilitation; sanitary and phytosanitary measures; standards, technical regulations, and conformity assessment procedures; trade remedies; trade in services; temporary movement of natural persons; investment; intellectual property; e-commerce; competition; small and medium-sized enterprises (SMEs); economic and technical cooperation; government procurement; institutional provisions; and dispute settlement. It has four market access annexes (schedules of tariff commitments, schedules of specific commitments for services, schedules of reservations and non-conforming measures for services and investment, and schedules of specific commitments on temporary movement of natural persons).¹⁶ In general, tariffs on 90% of tariff lines will be eliminated; regarding trade in services, some participating signatories made commitments in over 100 sectors/subsectors. In addition, participating countries adopt a negative list approach to make commitments on investment in non-services sectors. The RCEP Agreement will take effect 60 days after its ratification by at least six Association of Southeast Asian Nations (ASEAN) and three non-ASEAN signatories.

Question:

5. By how much are China's exports and imports expected to grow in the years following entry into force? What is the expected net effect of the RTA on China's GDP? How is this expected to affect economic growth in the following years?

Reply: The completion of the RCEP FTA means that about one-third of the global economy will form an integrated market, which would not only promote further opening of China's trade in goods, services and investment, but also significantly improve the overall business environment in the region, enhance the trade creation effect brought about by FTAs, and promote the development of regional economic integration in East Asia. China has not yet measured the specific numbers.

Para 2.30 (Page 35)

On 26 January 2021, the Protocol to Upgrade the Free Trade Agreement between China and New Zealand was signed; it has not yet entered into force. The Upgrade Protocol revised the original agreement in five areas (rules of origin, customs procedures and trade facilitation, technical barriers to trade, trade in services, and cooperation); furthermore, it added e-commerce, government procurement, competition policy, and environment and trade chapters to the Agreement.

Question:

6. When is entry into force expected and what are the terms of this FTA?

Reply: In the Protocol to Upgrade the Free Trade Agreement between China and New Zealand, the two countries have made commitments to further liberalization in the areas of trade in goods, trade in services and investment, as well as commitments to enhance cooperation in e-commerce, competition policy, government procurement, environment and trade, which will further deepen pragmatic cooperation between China and New Zealand in various fields and improve both the interests of enterprises and the welfare of the peoples of the two countries. The Protocol will enter into force on the 60th day after the date of the exchange of written notifications between the parties confirming that the domestic legal procedures necessary for entry into force have been completed, or such other period as agreed by the parties in their written notifications.

Question:

7. By how much are China's exports and imports to and from New Zealand expected to grow in the years following entry into force? What is the expected net effect of the FTA on China's GDP? How is this expected to affect economic growth in the following years?

Reply: China has not yet measured the specific numbers.

Para 2.33 (Page 36)

On 15 January 2020, China and the United States signed the China-United States Phase 1 Economic and Trade Agreement.¹⁸ It contains provisions related to, *inter alia*, intellectual property, technology transfer, trade in food and agricultural products, and financial services.

Question:

8. When is entry into force expected and what are the terms of this FTA?

Reply: On January 15, 2020 (EST), China and the United States signed the Economic and Trade Agreement between the Government of the People's Republic of China and the Government of the United States of America in Washington, D.C. For the Agreement text, please see: <http://www.mofcom.gov.cn/article/ae/ai/202001/20200102930845.shtml>.

Question:

9. By how much are China's exports and imports to and from the United States expected to grow in the years following entry into force? What is the expected net effect of the FTA on China's GDP? How is this expected to affect economic growth in the following years?

Reply: In 2020, China's exports of goods to the United States denominated in US dollars increased by 7.9%, much higher than the growth rate of China's overall exports of 3.6%; and while China's total imports fell by 0.8%, its imports from the United States still achieved a rapid growth of 9.8%. Therefore, it can be predicted that China and the United States will continue to grow with close economic and trade relations. The characteristics of China's economy with sufficient potential, good resilience and large room for development have not changed.

Para 2.34 (Page 36)

China continues to grant unilateral preferences to least developed countries (LDCs). According to the authorities, since 2015, it has implemented zero tariffs on 97% of taxable items for LDCs that have established diplomatic relations with China and completed the exchange of diplomatic notes. As at end-August 2020, 39 LDCs had been given unilateral preferences. Bangladesh, Burkina Faso, and Kiribati were added to the list of beneficiaries on 1 July 2020, 1 September 2018, and 1 August 2020, respectively. Since 1 January 2020, Equatorial Guinea has been excluded from the list, as it "graduated" from the LDC category in June 2017.

Question:

10. Which LDCs have benefitted from zero tariff on 97% of taxable items?

Reply: China provides zero-tariff to products under 97% of all tariff lines exported to China from the LDCs that have established diplomatic relations with China. Up to now, China has provided the above-mentioned treatment to 42 LDCs that have exchanged diplomatic notes, boosting greatly the exports from the LDCs to China. Since 2008, China has been the major export market for the LDCs, importing about one fourth of their total exports.

Para 2.36-2.38 (Page 36)

2.36. The FIL grants national treatment to foreign investments in industries outside the Special Administrative Measures on Access to Foreign Investment (National Negative List) through the "pre-establishment national treatment and negative list management system", under which foreign investors and their investments are to be granted treatment no less favourable than that granted to domestic investors and their investments at the establishment stage (FIL, Article 4). Article 28 of the FIL stipulates that "for industries outside of the National Negative List, the investment administration shall be conducted under the principle of equal treatment to domestic and foreign investment". Furthermore, the FIL's Implementing Regulations require that FIEs and wholly Chinese-invested enterprises be equally treated in such aspects as government funding arrangements, land supply, tax and fee reduction and exemption, qualification licensing, development of standards, project applications, and human resource policies.

2.37. The authorities state that the system was developed after being implemented in PFTZs and was expanded nationwide in 2016, followed by the adoption of the National Negative List in 2017.

2.38. The FIL and its Implementing Regulations also accord domestic companies and FIEs equal treatment regarding access to government funding arrangements, land supply, tax abatement or exemption, qualification licensing, standard setting, project application, or human resource policies. In addition, FIEs are accorded equal treatment under the FIL in, *inter alia*, participation in government procurement, protection of intellectual property, and licensing formalities. Article 10 of the FIL provides that foreign companies may comment on new legislation and administrative rules concerning foreign investment.

Question:

11. By how much is this expected to increase foreign investments into China?

Reply: In recent years, China has promoted the implementation of high-standard investment liberalization and facilitation policies, and expanded foreign investment market access and the scope of foreign investment encouragement. We have introduced and implemented the Foreign Investment Law, improved services to foreign enterprises, increasing our market appeal to foreign investors. From January to August 2021, foreign direct investment into the Chinese mainland, in actual use, surged 27.8% year on year to USD 113.78 billion.

Para 2.62 (Page 43)

China offers various tax incentives to FIEs to promote sectors deemed beneficial to the development of its economy. Most equipment imported to be used in projects in sectors listed in the Catalogue of Encouraged Industries may benefit from customs duty exemptions. Goods listed in the Catalogue of Products Imported for Foreign Investment Projects and Not Eligible for Tax Exemption and in the Catalogue of Imported Major Technical Equipment and Products Not Eligible for Tax Exemption (last revised in 2019 and entered into force on 1 January 2020) are excluded from this treatment.

Question:

12. Please provide more details on the tax incentives and customs duty exemptions. What is the criteria to qualify for such?

Reply: Please refer to the notification on subsidies submitted by China (G/SCM/N/372/CHN).

Para 2.63 (Page 43)

In September 2018, the Ministry of Finance, the State Taxation Administration, the NDRC, and MOFCOM jointly issued the Notice on Widening the Scope of Application of Temporary Waiver for Withholding Income Tax for Overseas Investors Using Distributed Profits for Direct Investments (Cai Shui No. 102, 2018). According to the Notice, the scope of application of the favourable tax policy put in place in 2017 (Cai Shui No. 88, 2017) was expanded from encouraged FIPs to all non-prohibited FIPs and areas. Under the Notice, profits derived by foreign investors from resident companies in China are entitled to a tax deferral incentive and will not trigger withholding tax if the investors reinvest the profits in any non-prohibited FIPs.

Question:

13. What is the effective period of this temporary waiver and what is the criteria to qualify for the tax waiver?

Reply: The document was jointly issued by the Ministry of Finance, the State Taxation Administration, the National Development and Reform Commission and the Ministry of Commerce and has been

promulgated and implemented since January 1, 2018. There is no expiration time limit for the policy. For details, please refer to this document.

III. TRADE POLICIES AND PRACTICES BY MEASURE

Para 3.26 (Page 51)

With respect to agriculture, the main decreases in tariff rates can be found under food preparations. The tariff average under HS Chapter 16 (preparations of meat and fish) dropped from 10.4% in 2017 to 5.5% in 2021, and the maximum tariff rate dropped from 23% to 12%. The tariff average under HS Chapter 19 (preparations of cereals, flour, starch, or milk) dropped from 17.5% in 2017 to 9.0% in 2021, and the maximum tariff rate dropped from 30% to 10%. Under HS Chapter 20 (preparations of vegetables, fruit, or nuts), the tariff average dropped from 20.1% in 2017 to 6% in 2021.

Question:

14. What is the reason behind the decline in tariff rates on food preparations?

Reply: China unswervingly pursues the opening strategy featuring mutual benefits and win-win situation. In 2018, China initially reduced tariffs for four times, involving more than 3000 tax items. The total tariff decreased from 9.8% to 7.4%, including daily consumer goods with strong demand from the people.

Para 3.30 (Page 53)

Between 2017 and 2021, average tariff rates decreased across all HS sections except for 03 (fats and oils) and 19 (arms and ammunition). The most significant drops were seen in HS Sections 04 (prepared food, beverages); 11 (textiles and articles); 12 (footwear and headgear); 14 (precious stones, etc.); 17 (transport equipment); 20 (miscellaneous manufacturing); and 21 (works of art, etc.) (Chart 3.2).

Question:

15. What is the reason behind the decrease in average tariff rates in HS Sections 04, 11, 12, 14, 17, 20, and 21?

Reply: Please refer to the reply of question 12.

Para 3.34 (Page 53)

China also grants preferential tariff treatment to imports from LDCs that have established diplomatic relations with China, and completed the exchange of diplomatic notes. By February 2021, China had implemented zero tariffs on 97% of tariff lines for these 41 LDCs. Submissions have been made by LDCs and China to the WTO Committee on Rules of Origin regarding utilization rates of LDC exports under China's LDC preferential trade arrangement.

Question:

16. What is the net effect on China's GDP? How does this affect China's economic growth?

Reply: China has been the largest export market of the least developed countries in the world since 2008. By absorbing the exports of the least developed countries, China has made positive contributions to their growth, helping them better integrate into the multilateral trading system and enjoy the fruits of economic globalization. In turn, products from the least developed countries have also played a positive role in China's economic development.

Question:

17. Is China expected to grant the same preferential tariff treatment to imports from more LDCs in the coming years? If so, how is this expected to affect China's economic growth?

Reply: Please refer to the reply of question 9.

Para 3.1.4.1 (Page 55)

In 2019, VAT accounted for 39.5% of total tax revenue (up from 39.1% in 2017). In May 2018, VAT tiers were reduced to 16%, 10%, and 6% (from 17%, 11%, and 6% in 2017).⁴² Effective from April 2019, VAT was further reduced to 13%, 9%, and 6% (Table 3.4).

Question:

18. How did the reduction in the VAT rates affect the share of VAT in the total tax revenue?

19. What is the net effect of this reduction in VAT rates to China's GDP? How did this affect consumption, exports, imports, and total tax revenue?

Reply to the two questions above: Reduction of VAT rate is a major measure in further alleviating the business burden and motivating the market vitality. It is a significant reform for choice for tax system improvement and optimizing income distribution structure, and it makes a major choice of the macro policies to support steady growth, safeguard employment and adjust the structure.

Para 3.66 (Page 66)

During the review period, China did not initiate any new safeguard investigations. As indicated in the previous Review, China imposed a safeguard measure on sugar on 22 May 2017. China notified to the WTO that the measure would remain in force for three years (i.e. until May 2020). China did not notify an extension of the safeguard measure. On 16 October 2018, Brazil requested consultations with China pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) on certain Chinese measures concerning imports of sugar. This request covers: (i) China's 22 May 2017 safeguard measure on imported sugar; (ii) China's administration of its TRQ for sugar; and (iii) China's so-called "automatic import licensing" system for out-of-quota sugar. The European Union, Thailand, and Guatemala requested to join the consultations.⁸⁵ A panel has not been established as of the writing of this report.

Question:

20. What is the reason behind imposing a safeguard measure on sugar?

Reply: The Ministry of Commerce of China, upon the application of the domestic industry, initiated a safeguard measure investigation on imported sugar products (hereinafter referred to as "investigated products"). The investigation authorities investigated whether the quantity of imported investigated products has increased, whether the increase has caused any damage to the domestic industry and the extent of the damage (if any), the causal relationship between the increase in the quantity of imported products and the damage. The investigation authorities ruled that the increase in the quantity of imported sugar has caused serious damage to the Chinese sugar industry and there was a causal relationship between the increase in the quantity of imported products and the serious damage. Therefore, China decided to take safeguard measures on imported sugar.

21. What countries were affected by this and how do the safeguard measures vary per country?

Reply: According to Announcement No.26 [2017] of the Ministry of Commerce, all the import operators shall pay the corresponding customs duties at the customs of the People's Republic of China according to the tariff for the safeguard measures when they import sugar products beyond the tariff quota, effective from May 22, 2017. Sugar imports from developing countries and regions are exempted from this measure as long as the market share of any of these suppliers remains below 3% and the national total share is no more than 9%. An exemption list was included in the annex of the Announcement. Within the three-year period of the safeguard measures, if the share of imports of the excluded developing countries (regions) exceeds 3% in a given year, the safeguard measures may be applied to their products from the following year. According to Announcement No.58 [2018] of the Ministry of Commerce, since the import share of countries (regions) with import shares below 3% in the aforementioned exemption list exceeded 9% in aggregate, it was decided that starting from August 1, 2018, the list was canceled and safeguard measures were applied to all out-of-quota sugar imports.

Para 3.97 (Page 72)

Exporters are entitled to VAT rebates.

Question:

22. What is the qualification to be entitled to VAT rebates?

Reply: At present, all export enterprises in China can apply the export tax rebate system according to relevant regulations.

23. How did the VAT rebates affect China's economic growth over the recent years? How did the VAT rebates affect China's exports? What is the net effect of total exports less VAT rebates?

Reply: VAT rebate enables Chinese enterprises to participate in international market competition on a fair position. On the whole, tax rebates for products in export and taxes collection in import constitute a neutral institutional arrangement conducive to the formation of a fair environment for market competition.

Para 3.235 (Page 107)

In 2019, the CNIPA, together with other relevant authorities responsible for the Innovation Policy, issued the Notice on Further Strengthening Intellectual Property Pledge Financing, which implements support measures to improve the service system of IP pledge financing, strengthen service innovation, enhance risk management, and improve supporting measures. It also establishes an online channel to facilitate the registration of patent pledges. In 2020, there were 12,039 patent and trademark pledge financing cases, totalling CNY 218 billion in loans, an increase of 43.8% for patents and 43.9% for trademarks from 2019.

Question:

24. How does the IP Pledge Financing work? Who may qualify for the same?

Reply: In IP pledge financing, commercial banks accept pledge of property rights in registered trademarks, patents, copyrights and other IPRs legally owned by an individual, enterprise or other organization, which can be transferred in accordance with law, to grant loans or provide other credit in accordance with laws and regulations and relevant credit policies. Therefore, individuals, enterprises or other organizations that pledge their own or others' legally owned property rights in intellectual property that can be transferred according to law and meet the credit conditions of commercial banks can obtain IP pledge financing from commercial banks.

Para 3.246 (Page 108)

The National Copyright Administration administers copyright registration nationally. In the case of computer software, the Copyright Protection Centre of China registers copyrighted works.

Question:

25. Why is the registration of computer software different from other works? Is there a sui generis system of protection for computer software?

Reply: In order to promote the development of China's software industry and improve the innovation ability and competitiveness of China's IT industry, the state copyright administrative department encourages software registration and provides protection for registered software.

Para 3.294 (Page 118)

During the review period, copyright surveillance of large-scale video, music, and literature websites, as well as online storage service providers, was strengthened. In 2018 and 2019, early warnings for 14 batches of key works, and 139 films and television works, were issued. These were reaffirmed by resident and non-resident right holders. The authorities have actively implemented outreach and training activities on enforcement and produced specific publications to inform the public.

Question:

26. What are early warnings? How does China enforce these early warnings if the online platform or intermediate service provider is not located in China?

Reply: In accordance with the National Copyright Administration of China's Opinions on Further Strengthening Copyright Supervision of Works Distributed on the Internet and the work plan for copyright supervision, an early warning list of key works for copyright protection will be issued regularly based on the authorization of works reported by rights holders. Relevant ISPs shall take the following protection measures for key works in the list: ISPs directly providing content shall not provide works in the list without permission; ISPs providing storage space shall prohibit users from uploading works in the list; Relevant ISPs shall expedite the processing of notifications from rights holders of works in the list regarding the removal of related content or disconnection of links. The local copyright supervisory authorities shall issue early warning notices to the major ISPs in the region and increase copyright supervision. Unauthorized illegal dissemination of key works in the warning list through information networks should be quickly investigated and strictly punished according to law.

IV. TRADE POLICIES BY SECTOR

Para 4.34 (Page 133)

During the period between 2015 and 2019, there was a downward trend in employment, the number of registered fishing vessels, and the marine catch. Aquaculture production remained relatively stable (Table 4.13).

Question:

27. What is the reason behind the downward trend in employment, the number of registered fishing vessels, and the marine catch?

Reply: The main reasons for the decline of the above three indicators are: First, the Chinese government has promoted the reduction of marine fishing vessels and transition to other industries, as well as the implementation of the total management system of offshore fishery resources. Second, the fishing industry involves a large number of tough jobs. With China's economic and social development, the labor force has more options, making the fishing industry less attractive.

Para 4.48 (Page 138)

China continued to liberalize its mining sector during the review period. For example, the 2019 National Negative List and Pilot Free Trade Zones (PFTZs) Negative List removed foreign investment prohibitions on the exploration or mining of molybdenum, tin, antimony, and fluorite. In the 2018 PFTZ Negative List, the measure that oil and natural gas exploration and development shall be restricted to equity joint ventures or contractual joint ventures was abolished, and the same measure was abolished nationally in 2019. No modification pertaining to mining was made to the 2020 editions of National and PFTZ Negative Lists. The only foreign investment limitation in mining consists of prohibition of foreign investment in the exploration, exploitation, and processing of rare earths, radioactive minerals, and tungsten.

Question:

28. Did liberalizing the mining sector, particularly removing the foreign investment prohibitions on the exploration or mining of molybdenum, tin, antimony, and fluorite, generate inward FDIs into the sector? Are there special policies, requirements or incentives in place for potential investments or investors in mining?

Reply: For the details, please refer to the negative list for the foreign investors and the Catalogue of Industries for Encouraging Foreign Investment (2020 edition).

Para 4.55 (Page 140)

Regarding trade in mineral resources, according to the Catalogue of Commodities Subject to the Administration of Export Licences for 2020, exports of certain mineral products, including coal and oil (excluding lubricating oil), are subject to an export quota and an export licence, while exports of rare earth minerals, tin and tin products, tungsten and tungsten products, molybdenum and molybdenum products, antimony and antimony products, indium and indium products, coke, lubricating oil, and fluorite are subject to an export licence."

Question:

29. What is the rationale of China for imposing export quota and export licensing on certain mineral resources? Did this policy encounter concerns from trading partners, particularly under WTO rules (GATT)?

Reply: Quota management has been implemented for the export of some resource mineral products, mainly to ensure national economic security and make rational full use of relevant resources; The administration of export licenses for certain mineral resources is mainly for the purpose of rational allocation of resources, standardization of the order of export operations and safeguarding of national economic interests and security.

Para 4.56 (Page 140)

China is the world's largest energy producer and consumer. In 2019, its total primary energy production was 3.97 billion tonnes of standard coal equivalents (SCEs). The energy self-sufficiency rate was 78.5%. China's energy consumption structure continued to change during the review period, as the proportion of coal declined, accounting for 57.7% of the total energy consumption, down from 63.8% in 2015. Petroleum accounts for 18.9%, natural gas accounts for 8.1%, and

primary electricity and other energy such as hydropower, nuclear power, and wind power account for 15.3%.

Question:

30. China's current energy mix is still heavily sourced on coal, and its pledge to have carbon dioxide emissions peak by 2030 and to achieve carbon neutrality by 2060 would at least mean significant shift to renewable sources of energy. What is the target energy mix by 2030 to achieve this goal?

Reply: By 2030, non-fossil energy makes up approximately 25% of one-time energy consumption, and wind-power and photovoltaics of more than 1.2 billion kW will be developed.

31. It only mentioned China's carbon dioxide emissions target to peak by 2030, but the level is not specified. Is the country still heading to maintaining its commitment of over 65% carbon intensity reduction as conveyed in its latest 2020 Nationally Determined Contribution (NDC) pronouncement?

Reply: China will stick to this series of targets. By 2030, carbon dioxide emission per Chinese unit GDP will decrease by over 65% compared with that in 2005, non-fossil energy will make approximately 25% of one-time energy consumption, and the total installed capacity of wind power and solar power will hit more than 1.2 billion kW.

Para 4.63 (Page 142)

In December 2017, China launched the construction plan for the National Carbon Emission Right Trading Market (Power Generation Industry) to start building its National Carbon Emission Trading System. According to the plan, the power generation industry will be the first to carry out transactions on the national carbon market, which will be gradually expanded to other industries. In 2018, the work of responding to climate change was adjusted and incorporated into the mandates of the newly formed Ministry of Ecology and Environment.

Question:

32. The report states that power generation will be the first to carry out transactions on the national carbon market and it will be gradually expanded to other industries. What other sectors or industries are being considered? Is there an official timeline as to when each of the additional sectors will be included in the national carbon market? What measures has the government undertaken to encourage or promote reduction in carbon emission and participation in the market? How successful is the national carbon market so far?

Reply: In July of this year, the national carbon market initiated officially the on-line transactions, and has achieved active results. During the first performance period, 2162 of the key emission entities in the power generation industry were included, covering an annual carbon dioxide emission of around 4.5 billion tons, making up approximately 45% of the national figure in this regard. Up until 30 September 2021, the accumulated quota transactions on the national carbon market has been 17.649 million tons, with the accumulated transaction amount having been RMB 801 million. The construction of China's carbon emissions trading market is in its infancy, and relevant laws and regulations are still being explored and improved. In the future, the capacity of the carbon emissions trading market will be gradually expanded depending on the operations of the market. Meantime, China will also actively promote reductions in carbon emissions with various policy measures, and actively engage itself in promotion of market-oriented mechanisms of energy consumption entitlement trading and green power trading, etc.

For next step, China will, based on the sound operations of the carbon market in the power generation industry, expand the market's industrial coverage. To encourage the market involvement and fully exert the market mechanism's significant functions in curtailing the green-house gas emissions, the Chinese side will continue to promote constructions of the national carbon market policy system, infrastructure and its technical regulation system.

33. What other sectors/ industries are targeted to be included in the carbon trading market? Is there any timeline on when the market will be expanded to include these additional sectors?

Reply: Capacity expansion of the carbon emissions trading market will need a comprehensive study, with no specific timetable available for the time being.

Para 4.66 (Page 142)

On 1 January 2018, China implemented a new environmental tax policy aimed at promoting environmental protection and reducing pollution.

Question:

34. What has been achieved so far by the new environmental tax policy which was launched in 2018? Was it effective?

Reply: On December 25, 2016, the Environmental Protection Law of the People's Republic of China was passed at the 25th Session of the Standing Committee of the 12th National People's Congress (NPC), and was officially implemented starting January 1, 2018. For the past three years since the start of levying the environmental protection tax, operations of the tax system was stable and smooth, and the rigidity of law enforcement was being steadily increased, with gradual appearance of green effects. The income and scale of environmental protection tax is basically stable, and the "vanguard" role of green tax is increasingly important, which has contributed to strengthening the improvement of ecological environment and winning the battle of pollution prevention and control. The tax departments and ecological and environmental departments nationwide have fully implemented the environmental protection tax law, realized the expectation of regulation of "Three Enhancements, Three Incentives and Three Reductions", and promoted the ecological civilization and green development drive. 1. Realize the "Three Enhancements" in law enforcement rigidity, tax orientation and synergistic benefits. 2. Fulfill the "Three Incentives" of cleaner production, centralized treatment and recycling. 3. Achieve the "Three Reductions" of excessive discharge rate, pollution discharge and environmental cost of GDP.

Over the past three years, the over standard rate of on-line pollution monitoring has decreased from 11.32% in 2018 to 9.74% in 2020, indicating the obvious regulation effect of the environmental protection tax; The decreases in the annual average of sulfur dioxide and nitrogen oxide emissions of major air pollutants declared by taxpayers were 3.5% and 3.1% respectively, and the increases in the annual average of chemical oxygen demand and ammonia nitrogen emissions of major water pollutants were 3.8% and 3.3% respectively. The area and proportion of blue sky and white clouds, clear water and green banks have increased significantly, and the environment has improved notably year by year.

Para 4.92 (Page 148)

China is the world's largest producer of industrial goods. In 2018, with a total value-added amounting to some USD 4 trillion, the Chinese manufacturing sector accounted for 28% of global manufacturing output.⁵⁴ The sector is an important driver of China's economy, despite its shrinking contribution to the country's GDP. Its share as a percentage of GDP stood at 27.2% in 2019, down from 29% in 2015. Additionally, its share in private sector employment was around 15.4% in 2018.⁵⁵ In 2019, manufactured products accounted for 95.4% of China's exports (up from 93.7% in 2016) and 66.5% of its imports (up from 64.9% in 2016).

Question:

35. What is the reason behind the decline in the percentage share of the manufacturing industry in China's total GDP?

Reply: In recent years all the way, the proportion of China's manufacturing industry in GDP has shown a downward trend. The decrease in the proportion of manufacturing industry is the objective and direct result of the changes in the stage of the economic and social development and industrial transformation and upgrading of China. Now, China has in fact entered into the late stage of industrialization, with a decrease in the proportion of manufacturing industry and an increase in the proportion of service industry, which is consistent with the historical experience of developed countries. At the same time, industrial upgrading has led to the refinement of the division of labor. The R&D, design, logistics, marketing and other links originally belonging to the manufacturing industry are separated from the manufacturing industry to become independent producer services and to be statistically included in the service industry, which will also lead to the further decline of the proportion of the manufacturing industry from the statistical perspective. Meanwhile, the overall quality and efficiency of the Chinese domestic manufacturing industry is not high, and the problem of imbalance and insufficiency in development is still prominent. The supply structure has not yet been able to meet the demands of consumption upgrading, while other industries show too high return on investment, resulting in a "siphon" effect on capital and talent, which inhibits the development of the manufacturing industries. An overall downward trend is formed in the share of the manufacturing industries.

Para 4.93 (Page 148)

The authorities consider that China's performance in manufacturing is largely attributed to its increasing integration in global value chains, driven by factors including trade and investment liberalization, abundant and productive labour, a large domestic market, high-quality infrastructure, and innovation. However, the long-term sustainability of the sector may face environmental challenges and excess capacity. Firms in this sector may consistently face low capacity utilization rates, as well as incurring losses. Nevertheless, the authorities state that, currently, there is no excess coal production capacity in China; since 2016, it has closed more than 1 billion tonnes of outdated coal production capacity, and the proportion of outputs of large-scale coal mines with or above 1.2 million tonnes per year has exceeded 80%. They also state that the steel, cement, aluminium, and chemicals sectors have sound profitability levels, and they consider that there is no excess capacity in these industries.

Question:

36. What is China's policy on environment with respect to pollutant industries, such as steel and chemicals? Further, how did China address the sustainability of the manufacturing sector given environmental challenges and concerns on excess capacity, specifically, for steel and shipbuilding?

Reply: China has been leading the world in promoting the ultra-low emission transformation and environmental emission of the steel industry. During the period of "the 14th Five Year Plan", China will continue to deepen the supply-side structural reform, consolidate the achievements in reducing overcapacity in the steel industry, and promote the high-quality development of relevant industries. Meanwhile, China encourages shipbuilding enterprises to vigorously accelerate the transformation of green and intelligent manufacturing, strengthen the research and development of green and intelligent ships, and support the efforts to resolve overcapacity through legalized and market-based measures, so as to promote their sound and sustainable development.

Para 4.101 (Page 149)

China is the largest automobile market worldwide, both in terms of demand and supply. According to the results of the national survey of industries above a certain scale⁶⁰, the production volume of automobiles in 2018 and 2019 was around 27.8 million and 25.7 million, respectively.

Question:

37. What the top countries from which China imports automobiles, automotive parts, and components?

Reply: According to 2019 trade data, the top five countries importing automobiles (chassis included) to China were Germany, Japan, the United States, Slovakia and the United Kingdom, while the top five importing automobile parts were Germany, Japan, South Korea, the United States and Mexico.

38. What the top countries to which China exports automobiles, automotive parts, and components?

Reply: According to 2019 trade data, the top five countries exporting automobile parts from China were the United States, Japan, South Korea, Mexico and Germany, while the top five countries exporting automobile (chassis included) were Mexico, Saudi Arabia, the United States, Africa and Chile.

39. What is the automobile industry's percentage share in China's GDP?

Reply: According to *the Statistical Communique of the People's Republic of China on the 2020 National Economic and Social Development*, the 2020 automobile output in China is 25.325 million. At present, there are no statistics on its proportion of GDP.

Para 4.3.2.5 (Page 154)

The Made in China 2025 initiative considers shipbuilding as one of its 10 priority sectors. The Plan has the overarching strategic objective to make China strong in high-end shipbuilding. Furthermore, in the context of the 13th Five-Year Plan for Economic and Social Development, the MIIT unveiled in December 2016 the Shipbuilding Industry Deepening Structural Adjustment, Accelerating Transformation and Upgrading Action Plan (2016-20), outlining the reform and transformation upgrade needed for the shipbuilding industry.

Questions:

40. Why is China shifting to high-end shipbuilding and what types of ships/vessels are these in the shipbuilding segment? Is there a guiding study or policy behind this shift?

Reply: The gradual transformation of shipbuilding industry in China from low end to medium and high end results from the scientific and technological progress and the continuous improvement of basic capacity of shipbuilding industry in China, and it is also the basic natural law of industrial development. High-end products of ships mainly include high-tech and high value-added ships such as large liquefied natural gas (LNG) ships and super large container ships. We encourage shipbuilding enterprises to strengthen scientific research, so as to provide more and better products for the society and realize their own sound development.

Para 4.197 (Page 167)

China is the world's largest telecommunications market in terms of mobile, fixed-telephone, fixed-broadband, and mobile broadband subscriptions.¹¹¹ In 2020, information, communication, and computer services accounted for 16.5% of total services exports (14.3% in 2019) and 8.7% of total services imports (5.3% in 2019).

Question:

41. What is the telecommunication industry's percentage share in China's GDP?

Reply: According to the Statistical Communique of the People's Republic of China on the 2020 National Economic and Social Development, the total amount of 2020 telecom services in China is RMB 13675.8 billion. At present, there are no statistics on its proportion of GDP.

Para 4.200. (Page 168)

Foreign ownership participation in telecom companies (2019): In the basic telecoms sector, the proportions of overseas public shares of China Telecom, China Mobile, and China Unicom were 17.15%, 27.28%, and 20.1%, respectively. By end-2020, a total of 395 foreign-invested enterprises had entered China's telecoms market, mainly engaged in information services and e-commerce-related businesses.

Questions:

42. In the report, a total of 395 foreign-invested enterprises had entered China's telecoms market, mainly engaged in information services and e-commerce-related businesses by the end of 2020. May we request for information on the incentives provided by the Government of China to foreign investors in the telecommunications sector? Are there also subsidies/ incentives provided to those investing in less developed areas/ last mile connectivity?

Reply: China will strictly fulfill the commitments for the accession to the WTO and welcomes qualified foreign telecom service providers to provide services in China. For the less-developed areas, one of major measures in telecommunications is to shorten the "digital gap" between the urban and rural areas. Related departments of China research and formulate the Universal Service Compensation Mechanism of telecommunications, which gives strong support to telecommunication enterprises in speeding up the provision of information service and guarantee to the poor areas particularly.

Para 4.225 (Page 173)

By law, all e-commerce operators, except individuals who sell their own agricultural products or handicrafts or who carry out sporadic and small transactions, are required to obtain a business license. E-commerce operators must fulfil their taxation obligations and could enjoy preferential tax treatments according to relevant laws and regulations.

Question:

43. What is the threshold volume or amount of sales considered as "sporadic and small transactions"?

Reply: On March 15, 2021, the State Administration for Market Regulation issued the Regulation for Online Transaction Supervision to provide guidelines for implementing the E-commerce Law, effective on May 1, 2021. According to Article 8 of the regulation, online transaction operators must not violate laws, regulations or decisions of the State Council, or engage in unlicensed operations. In addition to circumstances not required to be registered per Article 10 of the E-commerce Law of the People's Republic of China, online transaction operators shall register as market entities

according to law. For online orders of cleaning, washing, sewing, hairdressing, home moving, key making, plumbing, home appliance and furniture repair and maintenance and other labor activities for the convenience of the public not needing to be licenses according to law, individuals engaged in such activities do not need to register per Article 10 of the E-commerce Law of the People's Republic of China. Individuals engaged in online transaction activities, with annual transactions not exceeding RMB 100,000, do not need to register per Article 10 of the E-commerce Law of the People's Republic of China. For the same operator opening multiple online stores in the same platform or different platforms, the online transactions of different stores are calculated as a whole. Individuals engaged in sporadic and small transaction activities subject to administrative licensing according to law shall register as a market entity according to law.

Para 4.227 (Page 173)

Article 17 of the E-commerce Law further fosters consumer protection by requiring e-commerce operators to disclose truthful, accurate, and timely information concerning commodities or services and to avoid engaging in misleading and deceptive practices.

Question:

44. What practices are considered misleading and deceptive practices in e-commerce? Are there any stipulations on sanctions for misleading and deceptive practices in e-commerce?

Reply: On March 15, 2021, the State Administration for Market Regulation issued the Regulation for Online Transaction Supervision, effective on May 1, 2021. According to Article 14 of the regulation, online transaction operators must not violate the Law of the People's Republic of China Against Unfair Competition, or engage in unfair competition that disrupts the order of market competition or harms the legitimate rights and interests of other operators or consumers. For details, see: http://www.gov.cn/zhengce/zhengceku/2021-03/16/content_5593226.htm. In terms of legal liability, Article 85 of the E-Commerce Law, Article 43 of the Regulation for Online Transaction Supervision, and Article 20 of the Law Against Unfair Competition provide for penalties for misleading and deceptive practices.

Para 4.230. (Page 173)

Regarding foreign business, the E-commerce Law provides that China shall encourage cross-border e-commerce (CBEC) development. In practice, the authorities have been promoting CBEC (activities of purchasing or selling products via online shopping across national borders). On 27 April 2020, the State Council issued the Approval of the Establishment of Integrated Pilot Areas for Cross-border E-commerce in 46 Cities and Areas (Guo Han No. 47, 2020). This brought the total number of CBEC pilot zones to 105. In December 2019, the authorities extended the List of Goods under Cross-border E-commerce Retail Importation to allow more foreign goods to be delivered to Chinese consumers through the CBEC retail importation programme.

Question:

45. The E-commerce Law provides that China shall encourage cross-border e-commerce (CBEC) development. In this regard, as MSMEs continue to be less represented in the global trade³, can China share some best practices on how it enables/supports MSMEs to participate in cross-border e-commerce? Does the government provide incentives to these MSMEs? If yes, what are these incentives?

Reply: First, we have significantly reduced the specialization threshold of international trade, so that a large number of SMEs that "lacked knowledge, capital and capability" could become operators of the new trade model. More than 30,000 enterprises have brought their filing to the online comprehensive service platform in the cross-border e-commerce pilot zone. Since this year, the platform has seen over 5,000 newcomers. Secondly, through policy innovation, we have enabled some products that had difficulties in going global to be sold in the world market more conveniently and efficiently. At the same time, innovations in import processes have allowed more foreign quality products to enter the domestic market through online shopping. Third, the long-tail effect. By integrating fragmented demand and developing the part of market that traditional trade failed to reach, we have cultivated new growth drivers of foreign trade.

In order to support the medium and small-sized enterprises in participating in cross-border e-commerce, China has introduced a series of tax policies. For example, the tax exemption policy for

³ OECD, 2020.

VAT without a ticket is temporarily implemented if the goods under the supervision of "single window" platform in China (Hangzhou) Cross-Border E-Commerce Comprehensive Pilot Zone comply with requirements, which is also promoted to those comprehensive pilot zones with the approval of the State Council. Preferences to the tariff, VAT at import link and consumption tax are provided to the imported goods within the single trade limit among those retail imported goods in cross-border e-commerce.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORT

I. INTRODUCTION

Para 1.3 (Page 4)

In 2020, the sudden COVID-19 pandemic ravaged the world and the global economy fell into a deep recession. China has fully supported global cooperation on combating COVID-19. It has made contributions to maintaining the stability of the global industrial chains and supply chains, and building a global health community for mankind. China has been upholding the principle of pursuing shared benefits through consultation and collaboration, and promoting Belt and Road cooperation with all parties. China actively participates in global governance, firmly supports the multilateral trading system, and resolutely opposes unilateralism and protectionism. China further advances the building of free trade areas, continuously improves the level of South-South cooperation, and makes economic globalization more open, inclusive, beneficial to all, balanced, and win-win.

Question:

46. Can China provide specific examples of measures, policies, or initiatives undertaken in its response to COVID-19 which are contributory to global cooperation on combating COVID-19, such as on vaccine development and supply chain integration, among others?

Reply: Since the outbreak of COVID-19, China has been taking a positive attitude toward global cooperation in vaccine supply, encouraging various vaccine R&D entities to strengthen international exchange in vaccine development, production and use, and maintaining close communication with international organizations such as the WHO, the Global Alliance for Vaccines and Immunisation and the Coalition for Epidemic Preparedness Innovations.

First, the list of vaccine products available for foreign export has been announced, in which four vaccine products produced by Chinese enterprises have been included. Secondly, we supported vaccine manufacturers to apply for inclusion in the Emergency Use List (EUL) of the World Health Organization (WHO). At present, WHO has included the relevant vaccines of Sinopharm and Kexing Biopharm in the EUL.

For example, in late May 2021, BRICS Vaccine R&D Center-China Center was launched by Sinovac Research and Development Co., Ltd. The center will work with countries from the BRICS and other parts of the world to cooperate with universities, research institutions, disease control institutions and industries through online and offline approaches to monitor epidemic changes and virus mutations, facilitate vaccine research and commercialization, and discuss vaccine application strategies. It invites outstanding scientists worldwide to join the team, so as to advance the construction of a global R&D system and platform, and strengthen international R&D collaboration in developing and testing vaccines and other pharmaceutical products.

As of early October 2021, China has provided more than 1.4 billion doses of vaccines to more than 110 countries and international organizations through donations, exports, and joint production. China has launched vaccine co-production initiatives in 11 countries and will do so together with more developing countries. Chinese companies also produce vaccines for some foreign countries, helping to boost global vaccine production capacity.

II. GROUNDING ITS EFFORTS IN THE NEW DEVELOPMENT STAGE, APPLYING THE NEW DEVELOPMENT PHILOSOPHY, AND FOSTERING A NEW DEVELOPMENT PARADIGM SO AS TO PROMOTE HIGH-QUALITY DEVELOPMENT

Para 2.4-2.5 (Page 5)

2.4. First, China carried out COVID-19 prevention and control and pursued economic and social development in a coordinated way, and achieved continuous and stable recovery of the economy.

2.5. In 2018, the GDP reached RMB 91,928.1 billion, an increase of 6.7% over the previous year. In 2019, the GDP stood at RMB 98,651.5 billion, an increase of 6.0%. In 2020, the GDP amounted to RMB 101,598.6 billion, an increase of 2.3%, and the total economic output crossed RMB 100 trillion threshold. In 2020, 11.86 million new jobs were created; the disposable income per

capita of urban and rural residents grew by 2.1% in real terms, which was basically in line with economic growth; and the registered urban unemployment rate was 4.2%.

Question:

47. How did China generate 11.86 million in employment in 2020 alone immediately following the direct impact of the COVID-19 pandemic?

Reply: In the whole year of 2020, the urban employment of China increased by 11.86 million, above the annual target. The urban survey unemployment rate averaged 5.6%, below the expected regulation target. First, introduce new ways to develop the employment guarantee mechanism to promote the resumption of work and recovered production of enterprises. Establish a 24-hour labor scheduling guarantee mechanism in time for key enterprises to help tens of thousands of key enterprises engaged such as pharmaceutical material production solve the urgent need of the employment of more than 1 million people. Second, implement the policy combining "reduction, postponement, exemption, rebate and subsidy", effectively alleviate the difficulties and pressure of enterprises and stabilize the employment stock. In the whole year, the burden of enterprises was reduced by RMB 1.54 trillion in the three social insurances of pension, unemployment and work-related injury, and RMB 104.2 billion was returned for job stabilization through unemployment insurance. Third, make every endeavor to broaden employment channels and keep the employment of key groups stable. At the end of last year, the overall employment rate of college graduates was over 90%, and the total number of migrant workers restored to 98.2% of the previous year. The number of domestic poor workers reached 32.43 million, with an increase of 10% over that in the previous year. Fourth, optimize public employment services, carry out actions to improve vocational skills, and improve the efficiency of supply and demand matching. Organize and carry out a series of activities such as one-hundred-day online recruitment for millions of job seekers and one-hundred-day free online skill training, and provide more than 100 million people with various employment services.

48. What recovery plans and/or programs were put in place and how were they carried out immediately and effectively?

Reply: In response to the pandemic impact, China has carried out related work in the following aspects to promote enterprises in their resumption of work and production. First, implement tax reduction and exemption policies and social insurance fee reduction and exemption policies. Second, reduce the electricity price for the general industrial and commercial fields and cancel the port construction fee. Third, improve the efficiency and level of resumption of work and production by focusing on pandemic prevention materials, daily necessities, public services, public utilities and high-tech industries. Fourth, focus on small and medium-sized enterprises, implement the special action of digital energy enabling for small and medium-sized enterprises, and help enterprises to adopt cloud working style, use the cloud applications, and make transformation and upgrading.

III. PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

Para 3.2 (Page 6)

Facing the complicated and profound changes in domestic and international environment, in November 2019, China issued the *Guiding Opinions on Promoting the High-quality Development of Trade*, which called for speeding up the transformation from the opening up based on flows of goods and factors of production to the opening up based on rules and related institutions, vigorously optimizing trade structure, enhancing the balanced and coordinated development of trade, and promoting orderly and free flow of production factors, efficient allocation of resources and in-depth integration of domestic and international markets to realize the high-quality development of trade.

Question:

49. Please provide more information on how the *Guiding Opinions on Promoting the High-Development of Trade* has helped speed up exports and imports. Has this led to any concrete trade measures?

Reply: The Guiding Opinions of the CPC Central Committee and the State Council on Advancing the High-quality Development of Trade has played an important role in promoting the high-quality development of China's foreign trade and helping China's trade partners to share the opportunities and achievements of China's trade development.

(1) We have enhanced trade innovation capacity to create sound business environment and promote the innovative development of foreign trade. New business models and forms have prospered, with the number of cross-border e-commerce pilot zones jumping to 105, more than 1,800 overseas warehouses for enterprises being built in the pilot zones, and the number of pilot market procurement trade mode increasing to 31.

(2) We have promoted the optimization of foreign trade structure. We have continuously optimized international and domestic market layout, business entities, commodity structure and trade patterns. We have continue to develop the traditional markets such as those of developed economies while expanding into emerging markets.

(3) We have further expanded opening up to share our development achievements with other countries. China has actively expanded imports and held a high-standard China International Import Expo to fully stimulate the import potential. The cumulative merchandise imports are expected to exceed 22 trillion U.S. dollars in the next 10 years. In 2020, on the basis of ensuring domestic epidemic prevention and control, China had made efforts to export epidemic prevention materials to more than 200 countries and regions, which has significantly promoted international cooperation in fighting against the COVID-19.

Para 3.3-3.4 (Page 7)

3.3. Since the last review, China has further streamlined import administration procedures and continuously lowered import tariffs. In November 2018, China lowered the import duties on 1,585 tariff lines covering mechanical and electrical equipment, parts and raw materials, etc. In each January from 2019 to 2021, China implemented interim import tariff rates, which are lower than the MFN tariff rates of over 700 items of goods, including some advanced equipment, spare parts, resource products and pharmaceutical raw materials. In each July from 2019 to 2021, China actively fulfilled its commitments on concessions for tariff reductions in the Information Technology Agreement (ITA) expansion, and implemented the 4th, 5th and 6th round of tariff reduction for certain information technology products. By 2010, China had fulfilled all of its WTO accession commitments for tariff reduction, reducing the average tariff level to 9.8%. After further self-initiated tariff reduction, China's average tariff level stood at 7.5% at the beginning of 2021.

3.4. On 4 November 2020, China set up ten demonstration zones on import promotion, including Shanghai Hongqiao Central Business District and Jinpu New Area in Dalian, Liaoning, covering the eastern, central, western regions as well as the old industrial base in Northeast China. These zones include sea, land and air ports, reflecting the dynamism and potential of China's import. The demonstration zones are designed to play an important role in four aspects. First, facilitating import and tapping import potential through innovation and reduction of institutional costs. Second, expanding the import of technical equipment and raw materials and promoting the deep integration of imports and industries. Third, increasing the supply of domestic high-quality goods, and leading and creating domestic demand with high-quality supply. Fourth, focusing on the import distribution centres as conditions permit and giving play to the exemplary role of the centres to surrounding areas.

Question:

50. Does China have any plans in the short-term to engage its non-FTA trade partners in bilateral FTA negotiations? If so, how does China's self-initiated tariff reduction on various products factor into its plans on engaging trade partners in bilateral and/or further regional trade agreements?

Reply: China actively supports the construction of the African Continental Free Trade Area (AfCFTA) and continues to conduct free trade negotiations with African countries and regions with such an intention. In recent years, China has taken the initiative to reduce tariffs several times, and the total tariff level has now been cut to 7.5%. At the same time, China is vigorously weaving a global network of high-standard FTAs, and is expecting to sign free trade agreements with more trade partners intending to join. Whether it's a tariff reduction initiated by China or a negotiated free trade agreement, the goal is to further expand openness, tear down trade barriers and promote trade liberalization and facilitation.

51. What is the impact of China's import promotion initiatives on its domestic industries, noting that these industries may potentially be manufacturing of intermediate goods since the expansion of importation of technical equipment and raw materials are among the targeted activities? Are there any mitigating measures in place to ensure that its domestic industries are not compromised by such promotion programs?

Reply: The Chinese market has constantly expanded its opening to the outside world. More foreign high-quality products and services are welcome to enter the Chinese market to better meet the ever-improving consumption needs of domestic customers. For example, China has held the China International Import Expo for three consecutive years, which aims to promote opening and global exchange through active measures, which is conducive to deepening the supply side structural reform, expanding medium and high-end supply, enabling customers to experience and enjoy global good goods without going abroad, and better meet the people's needs for a better life. So, it is an effective carrier to promote high-quality economic development. The Expo is conducive to all countries to share development opportunities in China, expand cooperation space and tighten ties of interest. It is a practical move to boost the construction of a community with a shared future for mankind.

52. Please provide more information on the import administration procedures that have been streamlined

Reply: China will continue to optimize the procedures for import license management, and ensure the latest conditions can always be reported to the Import License Committee in a timely manner.

Para 3.5 (Page 7)

In January 2020, China notified measures implementing *the Trade Facilitation Agreement (TFA)* to the WTO ahead of schedule, including measures like "Exchange of Information", "Provision of Information" and "Establishment and Publication of Average Release Times". So far, China has fully implemented the measures stipulated in the TFA.

Question:

53. Please provide more details on the trade measures implemented.

Reply: China has informed the WTO of its implementation of the Agreement on Trade Facilitation, and has repeatedly shared its own measures and achievements in implementing the agreement with the WTO Trade Facilitation Committee. For details, it is advised to visit the relevant pages of the WTO website.

Para 3.32 (Page 11)

Since the last review, China has signed free trade agreements (FTAs) with Mauritius and Cambodia respectively, signed protocols on upgrading FTAs with Singapore and New Zealand respectively, and signed Protocol of the Second Phase of FTA with Pakistan. China-Mauritius FTA came into effect on 1 January 2021, which is the first FTA signed between China and an African country. The protocol upgrading China-Chile FTA came into effect in March 2019. In addition, in December 2018, the Mainland of China signed the Agreement on Trade in Goods under the Closer Economic Partnership Arrangement (CEPA) with the Hong Kong Special Administrative Region and the Macao Special Administrative Region respectively. In November 2019, the Mainland of China signed the Agreement Concerning Amendment to the CEPA Agreement on Trade in Services with the Hong Kong Special Administrative Region and the Macao Special Administrative Region respectively.

Question:

54. How is this expected to affect China's trade relations with the rest of Africa?

Reply: The China-Mauritius Free Trade Agreement is the first free trade agreement signed between China and an African country. The conclusion and entry into force of the agreement will further enhance the level of mutually beneficial cooperation between China and Mauritius, promote China-Africa cooperation and contribute to the construction of a closer China-Africa community of common destiny.

After the agreement taking effect, in the field of trade in goods, the proportion of product tax items that China and Mauritius finally achieve zero tariffs has reached 96.3% and 94.2% respectively. In trade in services, both sides have also promised to open up more than 100 sub-sectors. And in the field of investment, this is the first time that China has upgraded the original investment protection agreement with an African country. Moreover, the two sides have also reached agreements in many fields, such as economic and technical cooperation, rules of origin, trade remedies, and technical barriers to trade. The China-Mauritius Free Trade Agreement will create a more open, transparent and easy business environment for enterprises, improve the well-being of the two peoples, help the

economic recovery after the pandemic, and play a good demonstration role in deepening China-Africa cooperation.

55. Does this open up greater opportunities for China in terms of trade in the African region?

Reply: Please refer to the reply of question 52.

Para 3.25 (Page 11)

Up to now, China has signed 19 free trade agreements with 26 countries or regions, in which over 90% of China's tariff lines are or will reduce to zero. Currently, there are 12 ongoing negotiations for new FTAs or upgrading existing ones, including China-Japan-Republic of Korea FTA, China-Gulf Cooperation Council FTA, China-Sri Lanka FTA, China-Israel FTA, China-Norway FTA, China-Republic of Moldova FTA, China-Panama FTA, China-Palestine FTA, the Second Phase of China-Republic of Korea FTA, the upgrading of China-Peru FTA, and the follow-up talks for the upgraded China-Singapore FTA, and the China-Belarus Agreement on Trade in Services and Investment.

Question:

56. How are these expected to affect China's net exports and its overall economy?

Reply: Through the Free Trade Agreement, China and its trading partners could work together to reduce and remove trade and investment barriers, expand two-way market access, establish a stable, transparent and predictable institutional framework for bilateral trade and investment, reduce the import and export costs of intermediate products, enhance the competitiveness of enterprises, and provide customers with more diversified choices. In 2020, the import and export volume between China and its free trade partners realized an increase of 3.2% year-on-year, 1.3 percentage points higher than the growth rate of the total import and export volume over the same period.

V. DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM

Para 5.11 (Page 23)

First, China steadily pushes forward the legislation on IPR protection. The Civil Code, officially implemented on 1 January 2021, provides an important institutional basis for strengthening IPR protection. The Copyright Law, amended in November 2020, improves the concepts and systems related to works and rights, and scales up the penalty on infringement. The Trademark Law, amended in April 2019, effectively regulates bad-faith trademark registration and applications that are not for use, and strengthens the protection of the exclusive right to trademark use. The Patent Law, amended in October 2020, increases the compensation for infringing patents, improves the burden of proof, and establishes the patent term compensation system, so as to further strengthen patent protection. In addition, the Anti-unfair Competition Law, amended in April 2019, introduces the punitive compensation system for infringement of trade secrets to further strengthen the protection of trade secrets.

Question:

57. How do the amendments in the Trademark Law effectively regulate bad faith registrations and strengthen the protection of exclusive right to trademark?

Reply: On April 23, 2019, the Standing Committee of the National People's Congress adopted a decision on amending the *Trademark Law of the People's Republic of China*, and the amended provisions have come into effect since November 1, 2019. The amendment mainly includes two aspects: first, new rules regulating malicious registration, cracking down on malicious applications, hoarding registration and other illegal acts have been added, which provides that "malicious trademark registration applications that are not for the purpose of use shall be rejected" and serve as a cause for filing trademark opposition and declaring registered trademarks invalid; besides, the obligations of the agency, as well as the penalties for malicious registration and malicious litigation were clarified in the amendment. Secondly, new rules regarding the penalties for infringement of exclusive trademark rights have been added and the cost of violation has been significantly raised. On the basis of the punitive compensation system established in the Trademark Law, the infringement compensation amount for malicious infringement of exclusive trademark rights has been increased from one to three times the amount to one to five times the amount, and the maximum amount of statutory compensation has been increased from three to five million yuan. In addition, the disposal of counterfeit registered trademarks and the materials and tools mainly used for the manufacture of counterfeit registered trademarks is clarified. Third, special crackdown actions

were carried out. Over the past three years, the State Intellectual Property Office has continued to crack down on patent applications not aimed at protecting innovation and malicious trademark registrations not aimed at use. As of May 2021, a total of over 150,000 cases of malicious registration of hoarded trademarks were rejected and 220,000 irregular patent applications were confirmed.

Para 5.14 (Page 23)

Third, China actively carries out law enforcement actions to protect IPRs. China organizes special law enforcement actions for IPR protection, focusing on key areas such as e-commerce, food and drug, and software, as well as key places such as exhibitions and imports and exports. Since 2018, six government departments have been jointly launching campaigns targeting counterfeit and shoddy food in rural areas. In 2019, China National Intellectual Property Administration issued the 2019 Action Plan for Special Actions on IPR Protection to guide local law enforcement. The State Administration for Market Regulation and China National Intellectual Property Administration jointly issued the Iron Fist Action Plan for Intellectual Property Enforcement 2019, which cracked down hard on violations of trademarks, patents and geographical indications, and investigated and dealt with more than 70,000 illegal cases.

Question:

58. Does China address the proliferation of counterfeit products in online platforms?

Reply: China attaches great importance to management of counterfeit products. First, we have improved the relevant rules and regulations. We have developed and introduced the *Measures for the Supervision and Administration of Online Trading*, specifying the registration of online business entities, the main responsibility of online platform operators, consumer rights protection and other issues, which has brought into being an online trading market governance system of multiple participants, efficiency and coordination, and regulated operation. We also promoted the amendment of provisions of intellectual property protection in the *E-commerce Law*. Second, we have strengthened the supervision and law enforcement regarding online transactions. Giving full play to the Inter-Ministerial Joint Conference on Online Market Supervision, and taking special actions for online market supervision, we have cracked down on counterfeiting and other illegal acts in accordance with the law, and promoted the improvement of online product quality. Third, we have urged the platforms to take responsibilities. We have guided the platforms to strengthen management and self-discipline, effectively fulfill their legal responsibilities and obligations in ensuring product quality, so as to promote the healthy development of the platform-based economy.

CHILE**WT/TPR/S/415- Informe de Secretaría OMC****3 POLÍTICAS Y PRÁCTICAS COMERCIALES, POR MEDIDAS****3.1 Medidas que afectan directamente a las importaciones****3.1.2 Normas de origen****Párrafo 3.22, pág. 57**

Las normas de origen preferenciales se aplican de conformidad con lo especificado en los diversos acuerdos preferenciales suscritos por China. También se emplean para otorgar un trato preferencial a las importaciones procedentes de los países menos adelantados (PMA). En general, entre los criterios utilizados para determinar el origen figuran los siguientes: cambio de la clasificación arancelaria; si el producto se ha obtenido totalmente en una parte; valor de contenido regional; operación de elaboración; u otros requisitos. La mayoría de los acuerdos de libre comercio (ALC) prevén la posibilidad de acumulación bilateral. Desde el anterior examen de China se han notificado a la OMC normas de origen de los ALC suscritos con Chile; Macao, China; y Georgia. Las principales características de todas las normas de origen preferenciales de China en vigor se describen en el informe elaborado por la Secretaría para el examen anterior de China. A fin de facilitar el despacho conforme a la reglamentación aduanera, China amplió sus sistemas de redes electrónicas en relación con el origen, que permiten transmitir en tiempo real datos electrónicos relativos a los certificados de origen; los sistemas abarcan actualmente 16 países y regiones en el marco de 13 ACR.

Pregunta: El párrafo 3.22 indica que "la mayoría de los acuerdos de libre comercio (ALC) prevén la posibilidad de acumulación bilateral". Al respecto, Chile agradecería a China indicar si cuenta actualmente con disposiciones de Acumulación Extendida o Acumulación Diagonal en sus acuerdos comerciales, junto con compartir información respecto a cómo opera - y características desde la perspectiva de la fiscalización - de la acumulación extendida en la práctica comercial de China.

Reply: China has not fully adopted diagonal accumulation rule yet.

3.1.3 Aranceles**3.1.3.3 Aranceles consolidados****Párrafo 3.32, pág. 61**

Cuando China pasó a formar parte de la OMC, consolidó el 100% de sus aranceles a tipos ad valorem comprendidos entre el 0% y el 65% para los productos agropecuarios (según la definición de la OMC) y entre el 0% y el 50% para los productos no agropecuarios. El promedio aritmético de los tipos consolidados actuales es del 9,6% (el 15,1% para los productos agropecuarios y el 8,8% para los no agropecuarios); los tipos consolidados finales se tienen que aplicar para 2023 a más tardar. Si bien todos los aranceles se consolidaron a tipos ad valorem, los aranceles NMF aplicados a 37 líneas arancelarias son a tipos no ad valorem. Cuando se realizó el anterior examen de China, las autoridades indicaron que, en la práctica, los equivalentes ad valorem no son superiores a los tipos consolidados, puesto que se aplica el tipo más bajo.

Pregunta: De acuerdo con el párrafo 3.32, si para un producto el arancel NMF aplicado es de carácter no ad valorem, pero el arancel consolidado de dicha mercancía es ad valorem, el resultado será un arancel NMF compuesto; es decir, conformado por un componente específico (dependiente del volumen), sujeto a un nivel de arancel ad valorem máximo (equivalente al consolidado). Al respecto, Chile agradecería a China indicar si existe algún Reglamento o Ley interna en China que vele que este principio sea respetado en la práctica, además de la Lista relativa a las mercancías de China del Anexo del GATT.

Reply: After joining WTO, the specific tariff (ad valorem equivalent) imposed by China has always been transformed from the ad valorem tariff that China promised while joining WTO, to ensure that the tariff actually imposed will not exceed what China has promised. The transformation is based on the average import price of the latest year provided by the customs. However, for certain tax items, China has excluded them from influences of some factors including no import record in a certain year or excessive fluctuation of import price. Every year, China publishes Import and Export Tariff of the People's Republic of China, which lists specific tariff, compound tariff and other tariffs. The document can be obtained from the "Policy Publish" section of website of Chinese Ministry of Finance Tariff Department: <http://gss.mof.gov.cn/gzdt/zhengcefabu>.

3.1.6 Medidas antidumping, compensatorias y de salvaguardia**3.1.6.1 Medidas antidumping****Párrafo 3.53, pág. 71**

El marco jurídico para la realización de investigaciones antidumping y la aplicación de medidas antidumping sigue estando constituido por la Ley de Comercio Exterior, el Reglamento Antidumping y varias normas publicadas, algunas de ellas provisionales. Durante el período objeto de examen, tres de esas normas fueron modificadas (véase infra); no se han introducido otros cambios en los procedimientos antidumping, que se tratan en detalle en algunos exámenes anteriores de China. Según las autoridades, China está preparando una notificación a la OMC relativa a esas normas modificadas. En 2018, China notificó a la OMC sus Normas Provisionales para la Aplicación de las Resoluciones de la Organización Mundial del Comercio relativas a Diferencias sobre Medidas Comerciales Correctivas, que entraron en vigor el 29 de julio de 2013.

Pregunta: De acuerdo al párrafo 3.53, el marco jurídico de las medidas antidumping en China incluye normas publicadas, siendo algunas de ellas provisionales. Al respecto, Chile agradecería a China compartir las razones de porqué algunas normas son provisionales.

Reply: The three new regulations currently being revised by China are not provisional rules. The other provisional rules were made around 2002.

Pregunta: El mismo párrafo menciona que China está preparando una notificación a la OMC relativa a esas normas modificadas. Al respecto, Chile agradecería a China indicar cuando se realizaría la notificación de dichas normas.

Reply: The notification is in preparation.

Párrafo 3.54, pág. 71

El 4 de abril de 2018, el MOFCOM promulgó las Normas relativas al Examen Intermedio sobre la Existencia de Dumping y los Márgenes de Dumping (Normas relativas al Examen Intermedio), en sustitución de las Normas Provisionales relativas al Examen Intermedio sobre la Existencia de Dumping y los Márgenes de Dumping que llevaban en vigor desde 2002. En virtud de esas Normas se introdujeron diversos cambios. En primer lugar, se mejoraron y aclararon las disposiciones relativas a los derechos y obligaciones del organismo investigador y de las partes interesadas, en particular: i) se aclaró el plazo para la presentación de una solicitud de examen periódico con el fin de brindar la oportunidad de presentar dicha solicitud en circunstancias especiales; ii) se aclaró que los exportadores y los fabricantes deben presentar pruebas que demuestren la necesidad de un examen; iii) se aclaró el plazo de que dispone la rama de producción nacional para solicitar la presentación de pruebas durante el examen; iv) se aclaró que el exportador/productor puede presentar una solicitud de examen intermedio; y v) se eliminó la disposición según la cual el examen periódico no está completo como lo está un examen automático de fin del período. En segundo lugar, se adoptaron procedimientos de examen periódico y prescripciones en materia de plazos más claros y más estrictos para asegurar la eficiencia de las investigaciones. En tercer lugar, se incorporaron disposiciones para estar en conformidad con las normas de la OMC (por ejemplo, mejorando la descripción de las encuestas por muestreo y la divulgación antes de la resolución definitiva).

Pregunta: De acuerdo al párrafo 3.54, se introdujeron varios cambios a la normativa relativas al Examen Intermedio en materia de medidas antidumping en China. Entre ellos, se indica que "se aclaró que los exportadores y los fabricantes deben presentar pruebas que demuestren la necesidad de un examen". En relación con ello, Chile agradecería a China indicar los parámetros que se tendrían a la vista para probar si las pruebas presentadas por los exportadores y los fabricantes serían suficientes para demostrar la necesidad de un examen.

Reply: Article 6 of the Rules on the Mid-Term Review of Dumping and Dumping Margin provides that, To file an application for mid-term review, an exporter or manufacturer shall submit the following evidence materials: (a) the name, address and other relevant circumstances of the applicant; (b) the domestic sales data of the applicant within 12 months prior to filing of the application; (c) the applicant's data of export to China within 12 months prior to filing of the application; (d) the various adjustments that must be made for calculating the dumping margin and the preliminary calculation results of the dumping margin; (e) the reasons for the continuity of the significant changes in the normal value, export prices and dumping margin; and (f) other contents that the applicant deems necessary to explain. The Anti-Dumping Agreement of the People's Republic

of China stipulates that the application for mid-term review requires demonstration of necessity. The principles set forth in the Chinese regulations are consistent with the Agreement.

Párrafo 3.56, pág. 72

El 4 de mayo de 2018 entraron también en vigor las Normas de 2018 relativas a las Audiencias en el marco de Investigaciones Antidumping y Antisubvenciones. Estas Normas sustituyeron a tres normas por las que se regían esas audiencias desde 2002. Las modificaciones introducidas se referían a lo siguiente: i) la creación de un procedimiento de audiencia unificado (ya no se hace distinción entre los diferentes tipos de investigaciones (investigaciones antidumping, investigaciones en materia de derechos compensatorios e investigaciones sobre la existencia de daño)); ii) la mejora de las disposiciones de procedimiento y la aclaración de los derechos y obligaciones del organismo investigador y de las partes interesadas (también con respecto al examen por dicho organismo de la necesidad de confidencialidad, su notificación de la celebración de audiencias a través de anuncios en línea, su explicación de los motivos por los que no se celebra una audiencia y la concesión a las partes interesadas de la oportunidad de expresar sus opiniones); iii) la introducción de procedimientos de audiencia y de prescripciones en materia de plazos más claros y más estrictos; y iv) el establecimiento de disposiciones compatibles con las normas de la OMC en relación con los derechos de las partes interesadas a exponer al organismo investigador sus opiniones/razones por otros medios si no están físicamente presentes en la audiencia.

Pregunta: De acuerdo al párrafo 3.56, se introdujeron cambios a "las Normas de 2018 relativas a las Audiencias en el marco de Investigaciones Antidumping y Antisubvenciones" en China. Entre ellos, se indica "la creación de un procedimiento de audiencia unificado (ya no se hace distinción entre los diferentes tipos de investigaciones (investigaciones antidumping, investigaciones en materia de derechos compensatorios e investigaciones sobre la existencia de daño))". Al respecto, Chile agradecería a China aclarar si el procedimiento común para los tres tipos de investigaciones para las audiencias contempla participación solamente de las partes interesadas a la investigación, o si es participación de público amplio. Adicionalmente, Chile agradece a China compartir cualquier información adicional sobre el procedimiento de audiencia unificado que pueda proporcionar.

Reply: Article 13 of the Rules on the Hearings for Anti-Dumping and Countervailing Investigations provides that interested parties have the right to register for hearings in accordance with the time limits and manner prescribed by the investigating authority. No party has the obligation to attend the hearing. Failure to attend the hearing does not prejudice the legitimate right of the interested party to express its views and state its reasons to the investigating authority through other means.

Párrafo 3.60, pág 73-74

Las medidas antidumping más antiguas de China en vigor se refieren al caucho cloropreno de la República de Corea, los Estados Unidos, el Japón y la Unión Europea; los cables de fibra óptica monomodo, de dispersión sin cambios, de la República de Corea y el Japón; la fécula de patata (papa) de la Unión Europea; el nonilfenol de la India y el Taipei Chino; el papel para condensadores electrolíticos del Japón; y el bisfenol A de la República de Corea, el Japón, Singapur y el Taipei Chino.

Pregunta: En relación con las medidas antidumping más antiguas de China que se encuentran en vigor, mencionadas en el párrafo 3.60, y considerando que algunas de ellas se han extendido por más de 15 años, Chile agradecería a China compartir si ha considerado actualizar su procedimiento de exámenes por expiración.

Reply: Article 49 of Anti-Dumping Regulation of the People's Republic of China provides that after the anti-dumping measures have taken effect, the Ministry of Commerce may, with justifiable reasons, decide to review the necessity of continuing the anti-dumping duties; it may also decide to review the necessity of continuing the anti-dumping measures after a reasonable period of time, at the request of the interested party and after reviewing the corresponding evidence provided by the interested party. And the implementation time of China's measures is shorter than the implementation time of the measures of the main member countries applying trade remedies.

3.2 Medidas que afectan directamente a las exportaciones

3.2.1 Procedimientos y requisitos aduaneros

Párrafo 3.74, pág. 77

Tras el brote mundial de COVID-19, China puso en marcha una serie de medidas de facilitación del comercio y en materia de cumplimiento con miras, entre otras cosas, a contener la COVID-19, mantener las corrientes comerciales de suministros médicos y reducir al mínimo la perturbación

causada por la COVID-19. Se adoptó un plan de emergencia destinado a simplificar aún más los procedimientos aduaneros, incluidas las inspecciones y la cuarentena, y a reducir los derechos portuarios. En febrero de 2020, la GACC adoptó 10 medidas para ayudar a los nuevos importadores y exportadores a superar los desafíos relacionados con la pandemia, entre ellas la simplificación de los procedimientos de registro de empresas y los trámites de despacho, la optimización de los servicios de control y certificación previos a la exportación, y el suministro de información mercantil actualizada.

Pregunta: El párrafo 3.74 menciona entre las medidas adoptadas por la GACC en febrero de 2020 para ayudar a los nuevos importadores y exportadores a superar los desafíos relacionados con la pandemia, la optimización de servicios de control y certificación previos a la exportación. Al respecto, Chile agradecería a China compartir información y características sobre la capacidad de fiscalización o vigilancia física con que cuenta para asegurar el cumplimiento de los requisitos en la materia de parte de sus socios comerciales. Adicionalmente, Chile agradecería si China pudiera compartir información respecto al porcentaje de envíos que es inspeccionado, en relación con el total de ellos.

Reply: Please further elaborate on this question, especially what exact certification services?

Párrafo 3.75, págs. 77 y 78

Las autoridades han impuesto también medidas más estrictas de control a las empresas dedicadas a la exportación de equipos de pruebas de la COVID-19 y otros dispositivos médicos. El 31 de marzo de 2020, el MOFCOM, la GACC, y la Administración Nacional de Productos Médicos publicaron el Anuncio Nº 5, 2020, sobre las Medidas para Garantizar la Exportación Ordenada de los Suministros Médicos; posteriormente, el 25 de abril de 2020, el MOFCOM, la GACC y la Administración Estatal de Reglamentación del Mercado (SAMR) publicaron el Anuncio Nº 12, 2020, sobre el Refuerzo de la Reglamentación de la Calidad de los Suministros Exportados para Luchar contra la COVID-19. En los Anuncios se introdujo un nuevo procedimiento de verificación de la calidad para la exportación de productos médicos, en particular el requisito de presentar un certificado válido de registro del dispositivo médico en China. Además, los exportadores deben acreditar que los productos cumplen las normas de calidad del país importador.

Pregunta: En relación con las medidas de control impuestas a las empresas importadoras de dispositivos y equipos de prueba relacionados con el COVID-19 que se mencionan en el párrafo 3.75, Chile agradecería a China indicar si existe un estándar mínimo para la exportación de pruebas y dispositivos médicos relativos a COVID-19.

Reply: Since the outbreak of COVID-19, while taking the situation under control inside the country, China has also joined the international community in fighting against the epidemic by exporting medical supplies, ensuring product quality and safety and following export regulations. According to the announcement, all medical supplies in line with Chinese quality standards or foreign quality standards can be exported.

3.3 Medidas que afectan a la producción y al comercio

3.3.1 Incentivos

Párrafo 3.127, pág. 90

Habida cuenta de la importancia de la economía china y del volumen de la ayuda gubernamental otorgada a las distintas empresas, se ha indicado que las medidas de apoyo del país pueden afectar a los mercados mundiales, las ramas de producción de fases ulteriores del proceso productivo y determinadas cadenas de valor. Estos efectos no pueden cuantificarse en cifras totales, ya que no se dispone de los datos pertinentes. No obstante, en un estudio de la OCDE se constata, por ejemplo, que la ayuda financiera de China al sector energético y la concesión de fondos en condiciones favorables a la fundición de aluminio, sumadas a las restricciones de exportación de aluminio en bruto, dan a los exportadores chinos de productos semiacabados de aluminio una ventaja considerable en relación con los costos, lo que tiene importantes repercusiones en los mercados mundiales. Las autoridades dicen que no están de acuerdo con esta opinión y han indicado que China no concede subvenciones al sector energético ni fondos en condiciones favorables a la fundición de aluminio.

Pregunta: El párrafo 3.127 citado destaca que, considerando la importancia de la economía china y del volumen de la ayuda gubernamental otorgada a las distintas empresas, las medidas de apoyo del país pueden afectar a los mercados mundiales, las ramas de producción de fases ulteriores del proceso productivo y determinadas cadenas de valor. Considerando ello, y en particular el alto grado

de participación de China en las cadenas globales y regionales de valor, Chile agradecería a China indicar cual ha sido el enfoque que ha desarrollado en materia de políticas públicas, específicamente a nivel de las políticas comerciales del gobierno central y de los gobiernos regionales, y que se han aplicado para amortiguar las consecuencias económicas de la pandemia.

Reply: To cope with the COVID-19 impact, Chinese government has timely adopted a list of measures such as tariff and administration fee reduction, deferring repayment of principal and interest, reduction of the cost of comprehensive financing and others. Also, China has innovated the mechanisms of direct access to financial funds and monetary policy tools and implemented large-scale enterprise aid policy. Altogether, the above measures have helped to stabilize China's economy.

3.3.2 Normas y otras prescripciones técnicas

3.3.2.2 Certificación de productos

Párrafo 3.146, págs. 93 y 94

Salvo el establecimiento de la SAMR y la abolición simultánea de la AQSIQ, no se han producido cambios en las leyes y reglamentos por los que se rige el sistema de certificación de China desde el examen anterior. La certificación y la acreditación se rigen por los instrumentos siguientes: la Ley de Calidad de los Productos; la Ley de Inspección de Mercancías de Importación y Exportación; el Reglamento sobre Certificación y Acreditación; el Reglamento sobre la Certificación Obligatoria de Productos; las Medidas relativas a la Administración de los Órganos de Certificación; las Medidas relativas a la Administración de los Certificados y las Marcas de Certificación; las Medidas relativas a la Administración de la Certificación de Productos Orgánicos; y las Medidas relativas a la Administración de la Certificación de Productos de Bajo Consumo Energético y Bajas Emisiones de Carbono. China gestiona un sistema de certificación voluntaria y un sistema de certificación de productos obligatoria.

Pregunta: El párrafo 3.146 menciona, entre los instrumentos que rigen la certificación y acreditación, los siguientes: Ley de Calidad de los Productos; Ley de Inspección de Mercancías de Importación y Exportación; Reglamento sobre Certificación y Acreditación, y Reglamento sobre la Certificación Obligatoria de Productos. Al respecto, Chile agradecería a China compartir (de estar disponibles) versiones de estos instrumentos en inglés.

Reply: The Regulations of the People's Republic of China on Certification and Accreditation is currently being revised, translation of which will begin later.

The Chinese version of Measures for the Administration of Certification Institutions is available at: http://gkml.samr.gov.cn/nsjg/fgs/202011/t20201103_322872.html#

The Chinese version of Measures for the Administration of Authentication Certificates and Authentication Marks is available at:

http://gkml.samr.gov.cn/nsjg/bgt/202106/t20210625_331457.html

The Chinese version of Measures for the Administration of Energy-saving and Low-carbon-emission Product Certification is available at:

http://gkml.samr.gov.cn/nsjg/bgt/202106/t20210625_331496.html

Pregunta: Junto con ello, Chile agradecería a China compartir más información sobre el resto de las medidas mencionadas: Medidas relativas a la Administración de los Órganos de Certificación; Medidas relativas a la Administración de los Certificados y las Marcas de Certificación; Medidas relativas a la Administración de la Certificación de Productos Orgánicos, y: Medidas relativas a la Administración de la Certificación de Productos de Bajo Consumo Energético y Bajas Emisiones de Carbono.

Reply: Please refer to the website of State Administration for Market Regulation.

Párrafo 3.169, pág. 100

Durante el período objeto de examen se plantearon ocho nuevas preocupaciones comerciales específicas en el Comité MSF. Estas hacían referencia a: i) las restricciones a la importación de carne de bovino procedente de los Estados Unidos; ii) las medidas administrativas para el registro de fabricantes extranjeros de alimentos importados; iii) las medidas relacionadas con la COVID-19 que afectan al comercio de alimentos y productos agropecuarios; iv) las restricciones relacionadas con la gripe aviar altamente patógena; v) el reconocimiento de la equivalencia para terceros en el marco del Acuerdo Económico y Comercial, Fase 1, entre China y los Estados Unidos; vi) un nuevo modelo de certificado sanitario propuesto para las importaciones de camarón; vii) las restricciones a las

importaciones de carne de bovino; y viii) el retraso en la aprobación de las solicitudes de nueva inscripción y restablecimiento de establecimientos de exportación. Con anterioridad al período objeto de examen se habían planteado en el Comité MSF otras cinco preocupaciones relacionadas con las medidas adoptadas por China (cuadro 3.19).

Cuadro 3.19 Preocupaciones comerciales específicas relacionadas con las MSF planteadas contra China, de 1 de enero de 2018 a 13 de abril de 2021

Preocupación	Miembro(s) que plantea(n) la preocupación (Miembros que respaldan la preocupación)	Planteadas por primera vez/planteadas por última vez, (número de veces que se ha planteado)
Requisitos de certificación oficial de la Administración china (AQSIQ) para las importaciones de alimentos	Estados Unidos; Israel (Australia; Canadá; Chile; Corea, República de; Costa Rica; Guatemala; Japón; México; Noruega; Singapur; Suiza; Tailandia; Unión Europea)	2004/2019, (7)
Restricciones generales a la importación a causa de la encefalopatía espongiforme bovina (EEB)	Estados Unidos; Unión Europea (Canadá; Suiza; Uruguay)	2004/2020, (39)
Restricciones a la importación a causa de la peste porcina africana	Unión Europea	2015/2020, (9)
Propuesta de modificación del reglamento de aplicación sobre determinación de la inocuidad de los organismos agrícolas modificados genéticamente	Estados Unidos de América; Paraguay	2015/2019, (9)
Restricciones a la importación por motivo de la gripe aviar altamente patógena	Estados Unidos; Unión Europea	2016/2020, (11)
Restricciones a las importaciones de carne de bovino procedente de los Estados Unidos	Estados Unidos	2019
Medidas administrativas para el registro de fabricantes extranjeros de alimentos importados	Estados Unidos (Japón; Suiza; Tailandia; Unión Europea)	2020, (1)

Pregunta: En relación con las preocupaciones comerciales mencionadas en el párrafo 3.169, en particular sobre las medidas administrativas para el registro de fabricantes extranjeros de alimentos (destacada también en el cuadro 3.19), Chile agradecería a China informar cómo se implementará el nuevo sistema de registro de fabricantes extranjero señalado, además compartir más información de cómo será entrada en vigor, y se aplicarán flexibilidades temporales desde su entrada en vigor para que las empresas exportadoras se adapten.

Reply: According to the Food Safety Law and its enforcement regulations and the rules of administrative laws and regulations, China has revised two regulations governing the safety management of import and export food and the registration management of overseas production enterprises of imported food. And the revised regulations were published on 12th April, 2021, including the Administrative Measures on the Safety of Import and Export Food (the 249th order of General Customs) and Provisions for the Administration of the Registration of Overseas Manufacturers of Imported Food (the 248th order of General Customs). The two new regulations will take effect from January 1st, 2022. Before releasing the new regulations, China has reported the revisions with accordance to WTO requirements, with fully compliance with WTO regulations. The second articles of the 248th and 249th order of the Chinese General Customs have stipulated the scopes of the two revised regulations. In the near future, China will release explanation for the above two new regulations, in a proper manner. The release of the 248th order will not impact the implement of the bilateral protocol. If have reached agreement with China on taking different registration and application methods, such agreement will continue to be used.

Pregunta: Chile agradecería a China compartir más información sobre el registro de fabricantes mencionado, en particular respecto a los siguiente:

- Formato de registro que deben completar las empresas extranjeras
- Indicar si se requiere o no de inspección. De requerirse ésta, Chile agradecería a China aclarar si se trata de una inspección física a cada establecimiento exportador.

- Si es posible o no validar la inspección que realiza la autoridad sanitaria al momento de emitir la resolución que autoriza el funcionamiento de la planta, o en su defecto, la inspección de una auditoría para certificación ISO22000 o FSSC22000.
- Plazo que la GACC tiene para realizar la evaluación y notificar a la autoridad competente y a la empresa exportadora.
- Criterio o criterios mediante los cuales se define el periodo por el cual dura o se mantiene el registro de las empresas.

Reply: General Administration of Customs organizes review group to evaluate and review imported foods production enterprise beyond Chinese border. The group will conduct its work with accordance to the result of risk review and international practices and will also initiate prior communication and negotiation with the corresponding authorities of the country (region) where the enterprise is located. The time for production enterprise outside China to finish registration after filing application is subject to the application materials and the enterprise's conformance to the standards.

Pregunta: En el marco de la aplicación de las nuevas medidas administrativas para el registro de fabricantes extranjeros de alimentos importados, Chile agradecería a China compartir si considera que el sistema de gestión de la inocuidad de los alimentos y los procedimientos que Chile actualmente tiene acordados con China se ajustan a estos nuevos requerimientos

Reply: The safety of imported foods is a serious livelihood issue, because it concerns the health and life of Chinese people. According to the Food Safety Law and its enforcement regulations and the rules of administrative laws and regulations, China has revised two regulations governing the safety management of import and export food and the registration management of overseas production enterprises of imported food. And the revised regulations were published on 12th April, 2021, including the Administrative Measures on the Safety of Import and Export Food (the 249th order of General Customs) and Provisions for the Administration of the Registration of Overseas Manufacturers of Imported Food (the 248th order of General Custom). The two new regulations will take effect from January 1st, 2022. Before releasing the new regulations, China has reported the revisions with accordance to WTO requirements, with fully compliance with WTO regulations. The second articles of the 248th and 249th order of the Chinese General Customs have stipulated the scopes of the two revised regulations. In the near future, China will release explanation for the above two new regulations, in a proper manner. The release of the 248th order will not impact the implement of the bilateral protocol. If have reached agreement with China on taking different registration and application methods, such agreement will continue to be used.

3.3.4 Política de competencia y controles de precios

3.3.4.1 Política de competencia

3.3.4.1.4 Fusiones y adquisiciones

Párrafo 3.183, pág. 106

A fin de facilitar la notificación, se han establecido procedimientos de examen abreviados para aplicarlos a los casos definidos como "simples". Las normas que rigen esos casos figuran en las Disposiciones Provisionales sobre el Examen de la Concentración de Empresas de la SAMR y en las Orientaciones sobre la Notificación de Casos Simples de Concentración de Empresas de la SAMR (modificadas el 29 de septiembre de 2018). Los casos simples se deben publicar durante 10 días en el sitio web de la SAMR para que el público pueda formular observaciones. Los casos simples requieren documentación más sencilla y menos consultas, y tienen por objeto lograr un procedimiento más eficiente y breve.

Pregunta: El párrafo 3.183 menciona el establecimiento de procedimientos de examen abreviados para aplicarlos a los casos definidos como "simples", en el contexto de la notificación de fusiones y adquisiciones. Al respecto, Chile agradecería a China compartir los parámetros o criterios que se tendrían a la vista para definir los casos como "simples", para los fines de iniciar los procedimientos de examen abreviados mencionados.

Reply: According to Article 17 of the Interim Provisions of Measures on the Examination of Concentrations of Undertakings issued by the State Administration of Market Supervision, if one of the following conditions is met, the business operator may report as a simple case, and the State Administration of Market Supervision shall review it according to the simple case procedure: (1) in the same relevant market, the sum of the market shares of the operators participating in the concentration is less than 15%; in the upstream and downstream markets, the market share of the operators participating in the concentration is less than 25%; the concentration operators who are

not in the same relevant market and do not have upstream and downstream relations account for less than 25% of the market share in each market related to the transaction; (2) the business operators participating in the concentration establish a joint venture outside China, and the joint venture does not engage in economic activities within China; (3) a business operator participating in the concentration acquires the equity or assets of an overseas enterprise, and the acquired overseas enterprise is not engaged in economic activities within the territory of China; (4) a joint venture jointly controlled by two or more business operators is controlled by one or more of them through concentration.

Operator participating in concentration complying with Article 17 of the Interim Provisions of Measures on the Examination of Concentrations of Undertakings shall not report as simple case, if the operator met the following situations, (1) a joint venture jointly controlled by two or more business operators is controlled by one or more of the operators through concentration and the joint venture is competing with controlling operator in the same relevant market and the sum of their market share exceeds 15%; (2) the relevant market in which the concentration of undertakings involved is difficult to define; (3) the concentration undertakings may produce adverse influence over market entrance and technology progress; (4) concentration of undertakings may produce adverse influence over consumers and other related operators; (5) concentration of undertakings may produce adverse influence over China's national economic development; (6) concentration of undertakings may produce other influence that Chinese State Administration of Market regulation regards as harmful for market competition.

Cuadro A1. 2 Exportaciones de mercancías por Secciones y principales Capítulos/subpartidas del SA, 2015-2020

Pág. 210

14 Piedras preciosas y metales preciosos	1,4	1,0	0,8	0,8	0,8	0,7
15 Metales comunes y manufacturas de estos metales	7,8	7,4	7,3	7,5	7,3	6,8
73 Manufacturas de fundición, hierro o acero	2,7	2,5	2,5	2,6	2,8	2,7
16 Máquinas y aparatos, material eléctrico	42,2	42,8	43,4	43,9	43,5	44,4
84 Máquinas, aparatos y artefactos mecánicos; partes de estas máquinas o aparatos	16,0	16,4	16,9	17,2	16,7	17,0
8471 Máquinas automáticas para tratamiento de información y sus unidades	6,0	6,0	6,3	6,2	5,9	6,6
...						
8473 Partes identificables como destinadas,..., a las máquinas de las partidas 8469 u 8472	1,3	1,2	1,5	1,8	1,3	1,2
85 Máquinas, aparatos y material eléctrico, y sus partes	26,1	26,4	26,4	26,6	26,8	27,4
8517 Teléfonos, incluidos los teléfonos móviles (celulares) y los de otras redes inalámbricas...	9,4	9,6	9,7	9,6	9,0	8,6
8528 Monitores y proyectores ...	1,2	1,3	1,4	1,3	1,2	1,2
8542 Circuitos electrónicos integrados	3,1	2,9	3,0	3,4	4,1	4,5
17 Equipo de transporte	4,7	4,4	4,6	4,7	4,5	4,3
87 Vehículos automóviles, y sus partes	2,8	2,9	3,0	3,0	3,0	2,9
8708 Partes y accesorios de vehículos automóviles de las partidas 8701 a 8705 del SA	1,2	1,3	1,4	1,4	1,3	1,3
18 Instrumentos y aparatos de precisión	3,6	3,5	3,4	3,1	3,2	3,3
90 Instrumentos y aparatos de óptica, fotografía, de medida, y médico-quirúrgicos	3,2	3,2	3,1	2,9	2,9	3,1
...						
19 Armas y municiones	0,0	0,0	0,0	0,0	0,0	0,0
20 Manufacturas diversas	6,9	7,0	7,0	6,8	7,2	7,7
94 Muebles, aparatos de alumbrado, carteles luminosos, construcciones prefabricadas	4,3	4,2	3,9	3,9	4,0	4,2
95 Juguetes, juegos y artículos para recreo o deporte	1,9	2,1	2,4	2,3	2,5	2,8

Pregunta: En relación con la línea 95 "Juguetes, juegos y artículos para recreo o deporte", indicada en el cuadro A1.2, Chile agradecería a China indicar si existe un estándar mínimo para la exportación de juguetes.

Reply: There is no minimum standard for toys exports.

WT/TPR/G/415 - Informe de Gobierno (China)**2 ESFUERZOS CENTRADOS EN LA NUEVA ETAPA DE DESARROLLO, APLICACIÓN DE LA NUEVA FILOSOFÍA DE DESARROLLO Y PROMOCIÓN DE UN NUEVO PARADIGMA DE DESARROLLO DE ALTA CALIDAD****2.3 Hacia un nuevo paradigma de desarrollo****Párrafo 2.3, pág. 6**

China propone acelerar los esfuerzos para impulsar un nuevo paradigma de desarrollo que tenga como eje principal la circulación interna y en el que las circulaciones interna e internacional se refuercen entre sí. El nuevo paradigma de desarrollo no es un ciclo de desarrollo a puerta cerrada. Al aprovechar plenamente el potencial de la demanda interna, el nuevo paradigma de desarrollo sirve para conectar mejor los mercados nacional e internacional, permite explotar mejor los mercados y recursos internacionales y nacionales para alcanzar un desarrollo más sólido y sostenible. De este modo, se dará rienda suelta al inmenso potencial del mercado y la demanda interna de China, que cuenta con 1.400 millones de habitantes y más de 400 millones de personas de ingresos medios. En el proceso de construcción de un nuevo paradigma de desarrollo, China ampliará aún más su nivel de apertura, desarrollará un nuevo sistema de economía abierta de más alto nivel y creará mayor demanda para el mundo, al tiempo que proporcionará amplios mercados y más oportunidades de desarrollo para todos los países

3 AVANCE HACIA UNA APERTURA DE ALTO NIVEL Y ESTUDIO DE NUEVAS PERSPECTIVAS DE COOPERACIÓN BENEFICIOSAS PARA TODOS**Párrafo 3.1, pág. 8**

China prosigue de manera más exhaustiva la apertura de nuevos sectores y esferas más amplias, y se apoya en las ventajas de sus inmensos mercados interiores para promover la cooperación internacional y conseguir que la apertura reporte beneficios mutuos y redunde en resultados positivos para todos. China aspira a promover la apertura común del mundo dedicando esfuerzos a su propia apertura. Está decidida a impulsar de manera integral la apertura a niveles superiores y a promover la liberalización y la facilitación del comercio y las inversiones.

6 EL CAMINO A SEGUIR**Párrafo 6.1, pág. 30**

En la actualidad, las cadenas industriales y de suministro mundiales se ven obstaculizadas, las actividades de comercio e inversión siguen siendo poco dinámicas, y el impulso de la recuperación económica mundial es bastante inestable. Frente a la dura y complicada situación internacional y a las arduas tareas de reforma, desarrollo y estabilidad a nivel nacional, especialmente en el marco de los graves efectos de la COVID-19, China mantendrá su confianza en la apertura, la cooperación y la unidad con el fin de lograr resultados beneficiosos para todos, y seguirá decidida a ampliar la apertura general y a estudiar formas más eficientes de conectar los mercados nacionales y extranjeros, y de compartir los factores de producción y los recursos. El objetivo es convertir el mercado de China en un mercado para el mundo, un mercado compartido por todos y accesible para todos, y aportar más energía positiva a la comunidad internacional. China está decidida a promover la apertura mutua, que conlleva beneficios, responsabilidades y un sistema de gobernanza compartidos, y a crear una economía mundial abierta.

Pregunta: En el párrafo 2.3 se indica que "un nuevo paradigma de desarrollo que tenga como eje principal la circulación interna y en el que las circulaciones interna e internacional se refuercen entre sí" y agrega que este "nuevo paradigma ... no es un ciclo de desarrollo a puerta cerrada. Al aprovechar plenamente el potencial de la demanda interna, ... sirve para conectar mejor los mercados nacional e internacional, permite explotar mejor los mercados y recursos internacionales y nacionales para alcanzar un desarrollo más sólido y sostenible". Luego, en párrafo 3.1, agrega que "China prosigue de manera más exhaustiva la apertura de nuevos sectores y esferas más amplias, y se apoya en las ventajas de sus inmensos mercados interiores para promover la cooperación internacional y conseguir que la apertura reporte beneficios mutuos y redunde en resultados positivos para todos". Finalmente, el párrafo 6.1 indica que, "en la actualidad, las cadenas industriales y de suministro mundiales se ven obstaculizadas". Respecto a todo lo anterior, Chile agradecería a China compartir su visión acerca del rol que desempeñan las Cadenas Globales y Regionales de Valor, así como los encadenamientos productivos, en sus relaciones con el mundo en desarrollo, particularmente en el marco de la iniciativa "One belt, One road", para restablecer el funcionamiento de estas "cadenas industriales y de suministro mundiales".

Reply: Every sector of China's economy is deeply participated in global industry chain and supply chain. They are important trading partners to various countries along the "belt and road", they connect the upstream and downstream of global value chain, they are the important link connecting production and terminal market demand. Therefore, they are an important pillar safeguarding the stability and circulation of global industry chain and supply chain. In the future, China will more actively promote the level of opening up, further improve the quality of China's economic development and improve the modernization of industry chain and supply chain. China will share development opportunity with the world and inject more momentum to global industry chain and supply chain.

China's economy has deeply integrated into the world economy. China is the principle trading partner to over 120 countries and regions including the United State, EU, Japan and India. China has established industry chain pattern featuring "mutual integration" with countries around the world including various developing countries.

NEW ZEALAND**REPORT BY THE WTO SECRETARIAT (WT/TPR/S/415)****2 TRADE AND INVESTMENT REGIMES****2.2 Trade Policy Framework and Objectives****2.2.2 Trade policy formulation and objectives****Page 33, paragraph 2.17**

"2.17. Since 2013, China has established an increasing number of PFTZs [Pilot Free Trade Zones]. In 2020, three PFTZs were established in Beijing, Anhui, and Hunan, while the area of the Zhejiang PFTZs was expanded. This brought the total to 21, including the existing 18 PFTZs (in Chongqing, Fujian, Guangdong, Guangxi, Hainan, Hebei, Heilongjiang, Henan, Hubei, Jiangsu, Liaoning, Shaanxi, Shandong, Shanghai, Sichuan, Tianjin, Yunnan and Zhejiang)."

Question 1:

- New Zealand welcomes the growth in the number and scope of Pilot Free Trade Zones (PFTZs) in recent years. What data is available on the extent to which liberalisations and streamlined policies initially introduced in PFTZs been rolled out nationally in recent years, and what further reforms currently being tested in PFTZs are intended to be implemented nationally in the near future?

Reply: The important mission for the construction of pilot free trade zones (PFTZs) is to explore how to deepen reformation and open more widely for the purpose of more replicable and scalable experience. E.g., the implementation of management mode of national treatment before admission with additional negative list for foreign investments, and "single window" for international trade, etc. was promoted across the country after having been explored in the pilot free trade zone. Currently, the Central Government of China has already replicated and promoted an accumulation of 278 experience explored in the PFTZs to the whole country or the specific areas, in the fields including trading, investment, finance, turnover, etc. The relevant promotions can be inquired at the website of the Ministry of Commerce.

With further advance of the construction of PFTZs, China will continuously summarize and evaluate the innovative experience in the PFTZs for the application in wider range.

2 TRADE AND INVESTMENT REGIMES**2.3 Trade Agreements and Arrangements****2.3.1 WTO****Page 34, paragraph 2.22**

"2.22. During the review period, China submitted various notifications to the WTO (Table A2.1). Nevertheless, some notifications, including those on state trading enterprises and domestic support, remain outstanding. According to the authorities, China is preparing new notifications."

Question 2:

- New Zealand notes that, since the finalisation of the Secretariat's report, China has submitted some additional notifications, which are welcomed; but that those on state trading enterprises and domestic support continue to remain outstanding. Recalling that China has consistently underlined the great importance it has attached to notifications since joining the WTO, when can up-to-date and complete notifications be expected?

Reply: China has submitted the state trading notification. At present, we are making all efforts to prepare for the notifications of domestic agricultural support, which shall be submitted as soon as possible.

2 TRADE AND INVESTMENT REGIMES**2.4 Investment Regime****2.4.1 Regulatory framework and market access****Page 36, paragraphs 2.44-2.48**

This section specifies the amendments in recent years to the National Negative List, the Market Access Negative List, the Catalogue of Encouraged Industries for Foreign Investment, and the Pilot Free Trade Zones Negative List.

Question 3:

- New Zealand welcomes the introduction of the negative lists during this period, and the progressive reductions of the number of items on the respective negative lists since, as well as additions to the catalogue, and encourages China to continue to liberalise and improve the conditions for foreign investment. Further to paragraphs 2.68 and 2.69 of the Secretariat's report, what further liberalizations are planned in the near future, including in response to the COVID-19 pandemic?

Reply: It is pointed out in the *Report on the Work of the Government in 2021* by the government of China to further cut down the negative list for the admission of foreign investments. Currently, China is in revisions of the negative list for the admission of foreign investments in the whole country and the PFTZs, and will further cut down the specific management measures of negative list to continue opening more widely.

Question 4:

- There have been a number of significant new regulations affecting the education and tutoring industries over the review period, including restrictions on foreign investment, curricula, and teaching materials. What are the policy objectives of these reforms, and have they been designed to ensure they are no more burdensome than necessary to achieve their objective?

Reply: The general goal of ease the burden of excessive homework and off-campus tutoring for students undergoing compulsory education is divided into two aspects. On the campus, the quality of school education and teaching and service level have been further improved, the homework arrangement has been more rationally and reasonably designed to ensure the after-school service of the school basically meets the needs of students, and students learn better on the campus. Off the campus, the tutoring service offered by off-campus training institutions has been comprehensively standardized, irregularities in off-campus tutoring of disciplines have been basically eliminated, and the popularity of off-campus tutoring has gradually cooled down.

3 TRADE POLICIES AND PRACTICES BY MEASURE**3.1 Measures Directly Affecting Imports****3.1.1 Customs procedures, valuation, and requirements****Page 45, paragraphs 3.2-3.11**

This section sets out recent changes to China's Customs Law and various other customs-related regulations, and improvements to the National Single Window, to improve efficiency of trade.

Question 5:

- New Zealand commends the significant reforms made over the review period, and the resultant significant reduction in overall customs clearance time for imports. What reforms are planned for the coming period, including to streamline trade in the COVID-19 environment?

Reply: China focuses on concerns of market entities, summarizes and sorts reflected problems of enterprises and insists on being problem-oriented. China has recently printed and issued the Notification on the Optimization of Business Environment at Ports for Further Deepening the Reform to Facilitate Cross-Border Trade, which puts forwards 27 measures in five aspects to further optimize the business environment at ports and facilitate the cross-border trade.

Question 6:

- How does China facilitate expeditious movement of trade in essential goods – imports, exports and goods in transit – in a COVID-19 environment?

Reply: Since the occurrence of COVID-19 pandemic, the related services and functions for the declaration and clearing of epidemic prevention supplies have been provided at "single window" of international trade. The prompt function for detailed declaration of the mask, protective clothing, breathing machine and other prevention and control supplies was added, the passenger manifest declaration system has been optimized and they are exempted from the application for on-spot inspection, etc., so as to take the advantages of "single window" in whole-process, one-stop, round-

the-clock, zero-contact and other characteristic business transactions, to safeguard successful customs clearance of enterprises with all strength.

In order to improve the efficiency of import and export clearance, China Customs has strived for promoting the reform of "two-step declaration", "advanced declaration" and "two-stage admission", allowing enterprises to choose appropriate clearance mode freely based on the import and export schemes, to continuously consolidate the effect of reducing clearance time. Besides, the Customs has also actively participated in global anti-epidemic cooperation, ensuring orderly clearance of epidemic prevention supplies and the clearance of vaccines and other important epidemic prevention supplies.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

Page 46, paragraph 3.5

"3.5. In 2019, the GACC launched a reform of the "two-step declaration" for imports, which means that enterprises do not need to submit all declarations and documents at one time. The first step involves making the summary declaration with the bill of lading to pick up the goods. The second step involves completing the whole declaration process within a specified time. According to the authorities, the reform, which was first piloted in some customs offices, made enterprise declaration more efficient and convenient, accelerated cargo release, and further improved the efficiency of customs clearance. It has been applied across the country since 1 January 2020."

Question 7:

Could China clarify whether the "two-step declaration" system for imports applies to China's Authorised Economic Operators (AEO), or whether a different declaration system applies –and if so, what that is?

Reply: According to Announcement on the Comprehensive Promotion of "Two-Step Declaration" Reform by General Administration of Customs, "For consigners and consignees of general or above credit rank, "two-step declaration" applies to all actually-imported goods", namely that the import "two-step declaration" mode applies to AEO enterprises. On July 31, 2019, General Administration of Customs issued announcement No. 127 of 2019 to carry out pilot reform of "two-step declaration" for the imported goods. Under the mode, firstly, goods can be taken delivery of after the declaration of enterprise summary with the approval of the Customs; Secondly, enterprises complete declaration within the regulated time period.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.3 Tariffs

3.1.3.1 Applied MFN tariffs

Page 51, paragraph 3.25-3.27

This section outlines reductions in China's simple applied MFN tariff over the review period, from 9.3% on 1 December 2017 to 7.1% on 1 July 2021, with reductions across both agricultural and non-agricultural tariffs.

Question 8:

- New Zealand welcomes China's tariff reductions over the review period. Can China outline the reasons for these reductions, and their impacts?

Reply: China stands firm to observe the opening strategy of mutual benefit and win-win result. In 2018, China had reduced the tariff voluntarily for four times successively which involves more than three thousand tax items, with the overall tariff level reducing to 7.5% from 7.4%, and focused on reducing some tariffs on industrial products and the cars, and also those on the daily consumption goods with increasing public demands as well as implemented zero tariff on anti-cancer drugs.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.5 Import prohibitions, restrictions, and licensing

3.1.5.1 Import prohibitions

Page 60, paragraph 3.46

"3.46. Since 1 January 2021, imports of all solid waste products have been prohibited, and the previous regime for allowing imports of certain wastes under licensing conditions has been terminated.⁵⁶ These wastes were contained in the Catalogue of Restrictive Solid Waste (that can be used as raw materials) and the Catalogue of Non-restrictive Solid Waste. During the review period, questions and concerns about China's changes to measures restricting and prohibiting imports of solid waste were raised in the WTO Committee on Import Licensing by the European Union, the United States, Canada, the Republic of Korea, Australia, and Japan. Concerns related to, inter alia, the impact of these measures on global recycling processing capacity, and the apparent non-application of the same bans and restrictive contaminant standards to domestically sourced solid wastes. China was urged to ensure transparency by notifying measures, both introduced and planned, and to consider less trade-restrictive measures. In response, China has drawn attention to, inter alia, pollution in China and the imperative of limiting the negative effects of solid waste.⁵⁷ Certain recycling materials for brass, iron-steel materials, copper, and cast aluminium alloys may be imported if they meet the required standards.⁵⁸"

Question 9:

- New Zealand acknowledges and supports the right of all WTO Members to regulate to achieve legitimate domestic health and environmental objectives, and applauds China's stated proactive policy objectives in relation to sustainable development and encourages valid actions to limit harmful environmental impacts from contaminated waste inside its borders. Could China please state how it has ensured that the import ban is not more trade restrictive than necessary to achieve China's environmental and health protection objectives, and that the rules that apply to foreign products are no less favourable than those accorded to domestic products. New Zealand encourages China to ensure the scope of affected products does not extend beyond waste products to purposefully produced co-products such as vanadium slag.

Reply: Solid waste treatment and disposal is a common environmental issue faced by all countries in the world. As the most populous nation in the world and a developing country, while doing a good job in its own solid waste treatment and disposal, banning the import of solid waste is an inevitable choice for China to effectively safeguard the national ecological environment security and people's health. According to the principles generally recognized by the international community, it is the respective responsibility and obligation of each country to deal properly with the solid waste generated in its own country, which has nothing to do with national treatment.

Solid waste is clearly defined in the Chinese law. In accordance with Article 124 of the Law of the People's Republic of China on the Prevention and Control of Solid Waste Pollution, solid waste refers to solid, semi-solid and gaseous articles in containers that have lost their original utilization value or have been abandoned or scrapped although they have not lost their utilization value, and substances and articles that are included in solid waste management according to laws and administrative regulations. The connotation and definition of solid waste in China is basically the same with the legal meaning of waste in the international Basel Convention. In addition, China has also formulated relevant solid waste identification standards and procedures. Those measures can effectively ensure that the import prohibition measures do not exceed the scope of solid waste. According to the Law of the People's Republic of China on the Prevention and Control of Solid Waste Pollution, vanadium slag is definitely a solid waste. There are many kinds and large quantities of residues generated in the processing and treatment of vanadium slag, the reuse of vanadium extraction tailing is limited, most of them need to be stored and buried, and the environmental and health risks are high. If you intend to build treatment facilities in China to dispose of your own vanadium slag in a proper way, China is willing to provide exchanges and assistance in technology and equipment.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Anti-dumping measures

Pages 63-66, paragraphs 3.57-3.65

These paragraphs (and Tables 3.7-3.10) set out the 34 anti-dumping and 8 countervailing investigations initiated by China during the review period (from 2018).

Question 10:

- New Zealand notes that it has joined as a third party the WTO case relating to China's adoption of anti-dumping and countervailing duties against Australian barley, and is also following the imposition of similar duties on Australian wine. New Zealand participates in WTO disputes where we judge they raise systemic issues of importance to the effective functioning of the multilateral rules-based trading system, reflecting the importance we place on upholding international rules and norms and ensuring international trade rules are fairly applied. We would welcome any updates from China on its decision to impose additional duties on imports of these two products from Australia and encourage China to engage with Australia to resolve these issues, and issues affecting other trade in goods, in a WTO-consistent manner.

Reply: The anti-dumping and countervailing investigations of imported barley originating in Australia and imported wine shall be initiated by the Ministry of Commerce of China according to law upon the request of relevant domestic industries. During such survey, the investigation authority will fully protect the rights of all parties, hear the opinions of all parties, give the parties enough opportunities to participate in the survey process, and finally make an objective, fair and impartial decision and take trade remedy measures according to law. Now, the above two cases have entered into the WTO dispute settlement procedure, of which the expert panel for the DS598 case (barley case) has been established. China has adhered to the multilateral trading system, respected and heeded WTO rules and always handled disputes in accordance with WTO dispute settlement procedures. Meanwhile, China also respects New Zealand's right as a WTO member to participate in the trial of relevant dispute cases as a third party.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 75, paragraph 3.122

"3.122. The notifications submitted to the WTO and the replies provided by China to questions asked by other Members did not enable the Secretariat to have a clear overall picture of China's support programmes. In particular, the notifications do not contain information on expenditure levels in certain sectors such as aluminium, electric vehicles, glass, shipbuilding, semiconductors, or steel. Information on subsidies going beyond the 2019 notification was not made available to the Secretariat. In the WTO Committee on Subsidies and Countervailing Measures, China generally provides answers to questions that focus on its subsidy notifications, but not on subsidy policies not covered in its notification.¹¹² The authorities indicate that under the provisions of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), there is no obligation to provide written information on programmes not contained in the subsidy notification."

Question 11:

- New Zealand welcomes China's latest notification on subsidies covering the years 2019 and 2020, provided after the finalisation of the Secretariat's report, but notes that the Secretariat's comments about the difficulty of obtaining a clear overall picture of China's support programmes, including in the absence of expenditure levels in certain sectors and subsidy policies not covered in its notifications, remain pertinent – especially given the size of the Chinese economy means such measures may have wider impact. Recalling China's welcome recognition at its last Trade Policy Review that "the quality of our notifications needs to be further improved" and its statement that China was "doing its utmost to continuously improve our work", can China please outline the steps it is taking to further improve transparency?

Reply: In recent years, China has made great efforts to improve the transparency of subsidy policies, and timely submitted subsidy notifications covering the central and local government levels. The latest subsidy notification for 2019-2020 submitted by China includes 71 subsidy policies at the central government level, and 374 subsidy policies at the local level of 31 provinces, autonomous regions and municipalities directly under the central government as well as five cities specifically designated in the State plan.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 79, paragraph 3.132

"3.132. Available figures indicate that China also continued to provide substantial support to its fisheries sector. China's subsidy notification refers to six different programmes at the Central Government level and 25 programmes at the local level.¹²⁰ For example, CNY 398.5 million was provided in 2017 and 2018 for stock enhancement. According to external estimates, China's government support to its fisheries sector totalled USD 7.3 billion in 2018.¹²¹ Moreover, a large share of China's government support to the sector is considered as "capacity-enhancing". The authorities indicate that a new fisheries policy would be issued soon."

Question 12:

- Can China please provide information on this new fisheries policy, and any changes to the nature of fisheries subsidies in its latest fisheries subsidies notification (G/SCM/N/372/CHN)?

Reply: The new fishery support policy implemented by China in May 2021 complies with the trend of international fishery subsidies, and cancels direct cost subsidies, changes the way of subsidies, and guides fishermen to conserve fishery resources. In May 2021, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs issued the notice on implementing fishery development support policies and promoting high-quality development of fishery (CN [2021] No. 41). The main support directions are as follows.

- (I) The fishery development subsidy fund should mainly be used to support the key projects included in the national planning and the upgrading of facilities and equipment such as fishery safety production promotion. First, to support the construction of national marine ranching. It should be used to support national marine ranching, artificial reefs and relevant supporting platforms, repair the marine ecological environment and conserve marine fishery resources. Second, to support the construction of modern fishery equipment and facilities. It should be used to focus on supporting offshore fishing vessels and ocean fishing vessels, as well as the upgrading and transformation of facilities and equipment such as pollution prevention and fire-fighting, life-saving communication, production and living of fishing vessels, assisting in the construction of deep-sea aquaculture facilities and equipment such as deep-water net cages and large intelligent aquaculture equipment, and supporting the establishment of facilities and equipment such as preliminary processing of aquatic products and refrigeration and preservation. Third, support the construction of fishery infrastructure and public facilities. Focus on supporting the coastal fishing port economic zones included in the national plan, renovate, renovate and maintain the public welfare infrastructure of fishing ports in the region, and support the construction of ocean fishing bases. Fourth, support the green circular development of fisheries. Focus on supporting the centralized and continuous standardized transformation of inland aquaculture ponds, the standard treatment of aquaculture tail water, and the allocation of intelligent water quality monitoring and environmental regulation system. Fifth, support the investigation and conservation of fishery resources and the improvement of international contractual capacity. Focus on supporting ocean going fishing vessels that implement international conventions and conserve international fishery resources, guide the rational use of marine fishery resources, and support the investigation and monitoring of fishery resources.
- (II) Other general transfer payments mainly support local governments' overall planning to promote the high-quality development of fisheries in the region. First, subsidies for the conservation of fishery resources shall be granted to offshore fishing vessels that comply with the provisions on the conservation of fishery resources, and the intensity of subsidies shall be strictly controlled; the subsidy standard shall be prepared and issued by Ministry of Agriculture and Rural Affairs and Ministry of Finance. Second, other local expenditures for fishery development and management overall planned by the regions. It is mainly used for reducing ships and changing production by offshore fishermen, green development of

aquaculture industry, equipment allocation and operation and maintenance of fishery law enforcement boats and terminals, fishery informatization, processing and circulation of aquatic products, renewal and transformation of offshore fishing vessels and onboard facilities, conservation of fishery resources, etc., to implement national fishery policies and complete relevant tasks and objectives. Among them, it is necessary to effectively ensure the demand for subsidies for fishermen to reduce ships and change production, reduce fishing intensity and protect marine fishery resources. During the 14th Five Year Plan period, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs will conduct a mid-term evaluation of the implementation and effect of local policies, and dynamically adjust the scale of local funds according to the evaluation results and changes in the situation.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.2 Standards and other technical requirements

3.3.2.1 Overview

Page 81, paragraph 3.144

"3.144. As at end-2020, there were 39,460 national standards (2,133 mandatory and 37,327 voluntary standards). According to the authorities, at end-2020, among the national standards that correspond to the relevant international standards, 92.4% of mandatory standards and 91.4% of voluntary standards were adoptions or adaptations of international standards, compared with 74.3% and 85.9% at end-2017. Of the national standards approved in 2020 (before 15 July), 4.0% were mandatory, compared with 2.8% in 2018."

Question 13:

- New Zealand welcomes reference in the report to the increasing percentage of Chinese standards that correspond to relevant international standards, and encourages further such progress. In that respect, and noting the regulatory reforms on cosmetics over the period since China's last TPR, could China please explain the rationale for only accepting regulator-issued GMP certification as an alternative to animal testing requirements for non-special use cosmetics imported into China, given that it is common practice internationally that such goods are accepted as low-risk products?

Reply: In order to ensure the production quality and safety of products, according to item (2) of paragraph 1 of Article 33 of the provisions on the administration of cosmetics registration and filing data (No. 32 of 2021) issued by the State Food and drug administration, the production enterprises of imported ordinary cosmetics have obtained the relevant qualification certification of production quality management system issued by the competent department of the government of the host country (region). If the product safety risk assessment results can fully confirm the safety of the product, the toxicological test report of the product can be exempted.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.5 State trading, state-owned enterprises, and privatization

Pages 99, paragraph 3.206

"3.206. The importance of SOEs in China's economy, coupled with high amounts of financial support, may affect the functioning of market-oriented policies and practices. It would appear that SOEs in China often benefit from credits extended by state banks or other forms of financing, implicit guarantees, capital injections, and preferential access to inputs. The authorities object to this statement and indicate that SOEs in China operate under market conditions, with no privileges granted by the Government."

Question 14:

- New Zealand notes the comments of the Secretariat, and also that China states in its report (page 24, paragraph 5.18) that it is "committed to pushing forward the reform of State-owned Enterprises", and refers to its "three-year action plan of SOE reform, starting a new boom in SOE reform". Noting that the Report on the Work of the Government in 2019 stated that China would "follow the principle of competitive neutrality", so that "enterprises under all forms of ownership will be treated on an equal footing", what role will this principle play in China's action plan of SOE reform?

Reply: China has put more emphasis on building a high standard market system, improving the fair competition system, strengthening the basic position of competition policy, improving the property right protection system based on the principle of fairness and accelerating the reform of state-owned enterprises.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3.6 Government procurement

3.3.6.4 Other policy considerations in government procurement

Page 104, paragraph 3.221

"3.221. China maintains buy-national policies in government procurement. Article 10 of the Government Procurement Law provides that unless the subject matter cannot be obtained within the territory of China or cannot be obtained with reasonable commercial terms, or the procurement is for use outside the territory of China, the procuring entities shall procure domestic goods, services, and construction works. The Measures for the Administration of Government Procurement of Imported Products (Cai Ku No. 119, 2007) further require that in each specific case, the conditions that allow procurement of imported products need to be verified by the financial authorities."

Question 15:

- At China's previous Trade Policy Review, New Zealand asked what percentage of contracts were awarded to foreign businesses under the above exceptions in the last four years; China replied that it "does not have this statistic". Is such data now collected, and if not, could China do so going forward, in the interests of transparency?

Reply: China currently has no statistics on the proportion of contracts awarded to foreign enterprises. After China's accession to the GPA, it will perform relevant transparency obligations in accordance with Article 16 of the GPA.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2 Agriculture

4.1.2.4.4 Levels of support

Page 130-131, paragraph 4.30

"4.30. The OECD continues to calculate estimates of support to agriculture in China that provide more up-to-date indicators over the review period (with data available up to 2019) than do China's support notifications to the WTO (which cover up to 2016). However, the authorities indicate that OECD data do not reflect China's official position and that they could not confirm OECD estimates; they do not agree with the methodologies or data source of the estimation."

Question 16:

- When can an up-to-date and complete notification of China's domestic support measures since 2017 be expected, noting that without such notifications, little official data is available on current government support to the agriculture sector?

Reply: China will submit its Domestic Support notifications for the following years later this year or early next.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.3 Fisheries

4.1.3.4 Fisheries conservation measures

Page 136-137, paragraph 4.44

4.44. "... China has not acceded to the FAO's Port State Measures Agreement; the authorities state that they are studying this possibility and that the Government has included the list of IUU fishing vessels released by the acceding regional fisheries organizations into the controlling scope of Chinese ports..."

Question 17:

- Can China provide an update on its progress in considering accession to the Port State Measures Agreement and when it expects this to conclude?

Reply: China recognizes the important role played by the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing in combating IUU fishing, appreciates the efforts made by FAO and member states for the entry into force of the Agreement, and is actively studying and promoting accession to the Agreement. China's domestic port supervision involves multiple departments, which need multi-department coordination and joint management. Although there are still difficulties in China's accession to the Agreement in the short term, China has included the list of IUU fishing vessels published by the regional fisheries organizations it has joined into the scope of China's port control, prohibited IUU fishing vessels from entering Chinese ports, refused such fishing vessels to refuel, supply and repair in Chinese ports, and refused the unloading, transshipment, packaging and processing of the catch carried by such fishing vessels in Chinese ports. For Chinese fishing vessels entering foreign ports, China require them to accept and cooperate with relevant countries in port inspection in accordance with relevant international and national laws. In order to further promote the process of acceding to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, China is promoting the reform of fishing ports, strengthening the reporting of fishing vessels entering and leaving fishing ports, establishing a catch traceability system and prohibiting the landing of illegal catches. In May this year, China and FAO jointly held an international seminar on promoting Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing in the form of video conference, and organized domestic and foreign experts to discuss matters related to joining Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

4 TRADE POLICIES BY SECTOR

4.2 Mining and Energy

4.2.2 Energy

4.2.2.1 Overview including environmental policy

Page 141, paragraph 4.60

"4.60. The authorities state that China regards the development of clean and low-carbon energy as the main direction for adjusting the energy mix. China intends to gradually reduce its proportion of coal consumption, increase its proportion of non-fossil energy consumption, reduce carbon dioxide and pollutant emission levels, and optimize the distribution of energy production. The country is actively pursuing a policy of decoupling of economic growth and energy consumption, through increased energy efficiency. In the context of the 13th Five-Year Plan for Economic and Social Development (2016-20), the national objective for the reduction of energy consumption per unit of GDP is 15%, and intermediary objectives are set on an annual basis. In 2015, energy consumption per unit of GDP dropped by 5.3%, surpassing the objective of 3.1%, and in 2016 it dropped by 4.8% (objective of 3.4%). The authorities indicated that the energy consumption per unit of GDP dropped by 3.5% in 2017, 3% in 2018, and 2.5% in 2019."

Question 18:

- New Zealand commends China's efforts to decouple economic growth and energy consumption, and to accelerate its energy transition, and notes the results achieved to date. What further concrete measures will China take to ensure it is able to meet its important pledge to strive to have carbon dioxide emissions peak by 2030 and to achieve carbon neutrality by 2060?

Reply: First, a clean, low-carbon, safe and efficient energy system will be built to control the total amount of fossil energy. We will achieve improvement in utilization efficiency, implement renewable energy substitution actions, and deepen the power system reform to build a new power system with new energy as the main body. Second, pollution and carbon reduction actions will be implemented in key industries. The green manufacturing will be promoted in the industrial field, energy-saving standards will be upgraded in the construction field, and the formation of green and low-carbon transportation modes will be accelerated in the transportation field. Third, major breakthroughs will be promoted in green and low-carbon technologies. The research on low-carbon, cutting-edge technologies will be deployed, and the popularization and application of pollution and carbon reduction technologies will be accelerated. Fourth, the green and low-carbon policies and the market system will be improved. The fiscal, taxation, value and financial policies conducive to the development of green and low-carbon will be improved, the trading of carbon emission rights will be accelerated, and the green finance will be actively developed. Fifth, the green and low-carbon life will be advocated, and the green travel will be encouraged. Sixth, the ecological carbon sequestration capacity will be enhanced, and the full play of the carbon sequestration of forests, grasslands,

wetlands and oceans will be given. Seventh, the international cooperation on climate change will be strengthened, the formulation of international rules and standards will be promoted, and the Green Silk Road will be built.

4 TRADE POLICIES BY SECTOR

4.4 Services

4.4.2 Telecommunications

4.4.2.2 Regulatory framework

4.4.2.2.6 Cybersecurity

Pages 171-172, paragraph 4.219

"4.219. ... Regarding cross-border transfer, Article 9.8 of the Specification states that PI [Personal Information] collected and generated in China can be transferred overseas, but the controller must comply with all relevant national regulations and standards. On the specific legislation concerning PI protection, on 21 October 2020, China published for public comment the first draft of the Personal Information Protection Law¹²³, the country's first comprehensive law regulating, inter alia, the processing of PI.¹²⁴"

Question 19:

- New Zealand notes that the Personal Information Protection Law was passed into law in August 2021 and is scheduled to enter into force on 1 November 2021. Can China provide more information on the implementation of this law, and elaborate on the regulations, standards and requirements that are applied to personal information that can be transferred overseas?

Reply: Article 38 of the Personal Information Protection Law clearly stipulates that the provision of personal information abroad shall meet one of the following conditions: first, it shall pass the security assessment organized by national cyberspace administration department; second, according to the provisions of the national cyberspace administration department, it has been certified by professional institutions for personal information protection; third, according to the standard contract formulated by the national cyberspace administration department, sign a contract with the overseas receiver to stipulate the rights and obligations of both parties; fourth, other conditions stipulated by laws, administrative regulations or the national cyberspace administration department. At present, relevant supporting regulations such as data going abroad security assessment are being formulated, and it is expected to solicit opinions from the public in the near future.

REPORT BY CHINA GOVERNMENT (WT/TPR/S/415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.1 Promoting the High-Quality Development of Trade

3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services

"3.9. ... On 1 January 2019, the E-commerce Law came into effect. The standards of the e-commerce sector have been continuously improved and the integrity and trustworthiness of the sector have been further deepened."

Question 20:

- Can China provide a further update on how the Electronic Commerce Law has been implemented and how it has helped facilitate e-commerce? What is the relationship between the E-commerce Law and the Personal Information Protection Law?

Reply: In order to better implement the Electronic Commerce Law and other provisions: first, the member units of the inter-ministerial joint conference on network market supervision are joined to continue to deploy and carry out special actions on network market supervision (Cyber Sword Action), focus on tackling prominent problems such as undermining the order of fair competition, purify the network market environment, effectively promote the implementation of platform corporate responsibilities, and promote the healthy and orderly development of e-commerce, earnestly safeguard the legitimate rights and interests of business operators and consumers. Second, on May 1, 2021, the Measures for the Supervision and Administration of Online Transactions were promulgated, the Electronic Commerce Law was further refined and improved, and a series of

specific systems and rules were formulated to standardize transaction behavior, compact the main responsibility of the platform and protect the rights and interests of consumers.

Question 21:

- Can China provide more detail on the types of measures it has put in place to help improve the integrity and trustworthiness of the e-commerce sector?

Reply: Article 17 of the *Electronic Commerce Law* stipulates that "e-commerce operators shall fully, truly, accurately and timely disclose commodity or service information to protect consumers' right to know and right of choice. E-commerce operators shall not conduct false or misleading business publicity by means of fictitious transactions and fabricated user evaluations, so as to deceive and mislead consumers. "

Article 39 of the *Electronic Commerce Law* stipulates that "operators of e-commerce platforms shall establish and improve the credit evaluation system, publicize the credit evaluation rules, and provide consumers with ways to evaluate the commodities sold or services provided on the platform. The operator of the e-commerce platform shall not delete the evaluation of consumers on the commodities sold or services provided on its platform. "

Article 41 of the *Electronic Commerce Law* stipulates that "e-commerce platform operators shall establish rules for the protection of intellectual property rights, strengthen cooperation with intellectual property rights holders and protect intellectual property rights according to law."

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core

4.2.2 Deeply and fully participating in multilateral negotiations and discussions, and earnestly fulfilling the obligations as a WTO Member

Page 15, paragraph 4.21

This sub-section (paragraphs 4.20-4.24) states that China strictly abides by WTO rules when making and implementing economic and trade policies, so as to ensure the stability, transparency and predictability of those policies. In paragraph 4.21, it notes China's fishery policies for 2021 to 2025 "incorporate fishery management elements into subsidy policies".

Question 22:

- Can China provide information on how it will ensure transparency of its existing subsidy policies, and how it intends to reform subsidies that contribute to overcapacity and overfishing?

Reply: The new fishery support policy promulgated and implemented by China in May 2021 complies with the trend of international fishery subsidies, cancels direct cost subsidies, changes the subsidy methods, and guides fishermen to conserve fishery resources. Specifically, in May 2021, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs issued the Notice on Implementing Fishery Development Support Policies and Promoting High-Quality Fishery Development (CN [2021] No. 41), the main support directions are as follows.

- (I) The fishery development subsidy fund should mainly be used to support the key projects included in the national planning and the upgrading of facilities and equipment such as fishery safety production promotion. First, to support the construction of national marine ranching. It should be used to support national marine ranching, artificial reefs and relevant supporting platforms, repair the marine ecological environment and conserve marine fishery resources. Second, to support the construction of modern fishery equipment and facilities. It should be used to focus on supporting offshore fishing vessels and ocean fishing vessels, as well as the upgrading and transformation of facilities and equipment such as pollution prevention and fire-fighting, life-saving communication, production and living of fishing vessels, assisting in the construction of deep-sea aquaculture facilities and equipment such as deep-water net cages and large intelligent aquaculture equipment, and supporting the establishment of facilities and equipment such as preliminary processing of aquatic products and refrigeration and preservation. Third, support the construction of fishery infrastructure and public facilities. Focus on supporting the coastal fishing port economic zones included in the national plan, renovate, renovate and maintain the public welfare infrastructure of fishing

ports in the region, and support the construction of ocean fishing bases. Fourth, support the green circular development of fisheries. Focus on supporting the centralized and continuous standardized transformation of inland aquaculture ponds, the standard treatment of aquaculture tail water, and the allocation of intelligent water quality monitoring and environmental regulation system. Fifth, support the investigation and conservation of fishery resources and the improvement of international contractual capacity. Focus on supporting ocean going fishing vessels that implement international conventions and conserve international fishery resources, guide the rational use of marine fishery resources, and support the investigation and monitoring of fishery resources.

- (II) Other general transfer payments mainly support local governments' overall planning to promote the high-quality development of fisheries in the region. First, subsidies for the conservation of fishery resources shall be granted to offshore fishing vessels that comply with the provisions on the conservation of fishery resources, and the intensity of subsidies shall be strictly controlled; the subsidy standard shall be prepared and issued by Ministry of Agriculture and Rural Affairs and Ministry of Finance. Second, other local expenditures for fishery development and management overall planned by the regions. It is mainly used for reducing ships and changing production by offshore fishermen, green development of aquaculture industry, equipment allocation and operation and maintenance of fishery law enforcement boats and terminals, fishery informatization, processing and circulation of aquatic products, renewal and transformation of offshore fishing vessels and onboard facilities, conservation of fishery resources, etc., to implement national fishery policies and complete relevant tasks and objectives. Among them, it is necessary to effectively ensure the demand for subsidies for fishermen to reduce ships and change production, reduce fishing intensity and protect marine fishery resources. During the 14th Five Year Plan period, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs will conduct a mid-term evaluation of the implementation and effect of local policies, and dynamically adjust the scale of local funds according to the evaluation results and changes in the situation.

Question 23:

- How does China ensure that its fisheries subsidies do not provide support for Illegal, Unreported and Unregulated (IUU) fishing?

Reply: China relentlessly combats IUU fishing through tightening regulations on distant water fishing vessels. In accordance with the Management Measures for Monitoring of Distant Water Fishing Vessels' Position amended in 2020, a distant water vessel shall report its position once every hour, so as to prevent any production activity beyond the permitted areas. It is more stringent than the international reporting standard of once every four hours. To prohibit transshipping and transporting of illegal catches, all high-seas transshipment activities shall be reported to China's fisheries administrative authorities and the national observer system is rolling out gradually. China is committed to law enforcement on the high seas and contributes significant administrative resources to the crack-down of IUU fishing on the high seas. IUU fishing is punished with "zero tolerance". If relevant RFMOs made affirmative determinations that Chinese companies or fishing vessels engaged in, supported or provided assistance to IUU fishing, China's fishery administrative authority would punish the companies and vessels concerned by fining, disqualifying them for fisheries subsidies, suspending or revoking their distant water fishing licenses and/or blacklisting the captain and management personnel, etc.

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.5 Continuously Strengthening the South-South Cooperation

4.5.2 Contributing to the implementation of UN 2030 agenda for sustainable development Page 20, paragraph 4.49

Paragraph 4.49 states, inter alia, that China helps other developing members by building public facilities and energy infrastructure as part of its contribution to the implementation of the UN 2030 Agenda for Sustainable Development.

Question 24:

- New Zealand welcomes China's recent announcement that it would not build new coal-fired power projects abroad. China has also said it will step up support for other developing countries in developing green and low-carbon energy. How does China ensure that its

overseas investment in energy infrastructure is carried out in a manner that aligns with the UN 2030 Agenda environmental protection targets?

Reply: According to international rules and management, overseas projects should comply with the laws and regulations and environmental protection standards of the host country and are supervised by the host country.

Question 25:

- To what extent does China's implementation of the UN 2030 Agenda for Sustainable Development include reform of any environmentally harmful fossil fuel related-activities as set out in SDG target 12.c.1?

Reply: In recent years, China has implemented national strategies for actively responding to climate change, and adopted a series of policy measures such as adjusting industrial structure, optimizing energy mix, improving energy conservation and efficiency, establishing market mechanisms, and increasing forest carbon sinks. Positive progress has been made in various aspects. Greenhouse gas emissions have been effectively controlled. In 2020, China's carbon emission intensity was 18.8% lower than that in 2015 and 48.4% lower than that in 2005, which went beyond China's promise of 40%-45% reduction to the international community and basically reversed the rapid growth of carbon dioxide emissions. In 2020, China's non-fossil energy accounted for 15.9% of energy consumption, an increase of 8.5 percentage points from 2005. Reliance on coal consumption has been reduced significantly, and positive results have been achieved in energy mix optimization.

China has been advancing low-carbon pilot demonstration, improving its capability to adapt to climate change, and raising the low-carbon awareness of the whole society. While effectively responding to climate change at home, we are also actively participating in leading global climate governance, and played an important role in promoting the conclusion and entry into force of the Paris Agreement as well as the formulation of its implementation rules. We actively implement the South-South Cooperation Plan to address climate change, and help other developing countries, especially the least developed countries, African countries, and small island countries improve their capability of responding to climate change.

6 THE WAY FORWARD

Page 26, paragraph 6.2

"6.2. China will pursue high-quality development through higher-standard opening-up The Negative List for Cross-border Trade in Services will be introduced, and reform and innovation in trade and investment liberalization and facilitation will be deepened."

Question 26:

- New Zealand welcomes China's frequent high-level expressions of commitment to further economic and trade opening up, and encourages continued and meaningful economic reform that supports openness and liberalisation and economic growth. The introduction of a negative list for cross-border trade in services provides an important tool and opportunity to drive these reforms through new opening of China's services sector. When can this services negative list be expected, and what are its goals and likely goals?

Reply: China is actively promoting the domestic approval procedure of the Upgrade Protocol, will maintain close communication with New Zealand and the Upgrade Protocol will enter into force as soon as possible after the approval is completed.

UNITED KINGDOM**SECRETARIAT REPORT (S415)****1 ECONOMIC ENVIRONMENT****1.1 Main Features of the Economy****Paragraph 1.5**

UK Question: The 14th Five-Year Plan for Economic and Social Development (2021-25) sets out a plan for "significant green transformation of production and lifestyles". Does the Chinese government promote environmental sustainable certified goods through public procurement and domestic policy? How does China identify goods it considers to be environmentally sustainable?

Reply: China is constantly improving the green product certification and labeling system, expanding the scope of green product certification, increasing the supply of green products, expanding the scale of government procurement, promoting the acceptance of certification results, and promoting green production and green consumption.

SECRETARIAT REPORT (S415)**1 ECONOMIC ENVIRONMENT****1.2 Recent Economic Developments****1.2.2 Monetary and exchange rate policy****Paragraph 1.13**

UK Question: What was the proportion and value of the increase in non-performing loans that went to state-owned enterprises in comparison to privately owned; Chinese compared to foreign-invested; and MSMEs compared to other sized firms?

Reply: China has no relevant statistics currently.

SECRETARIAT REPORT (S415)**1 ECONOMIC ENVIRONMENT****1.2 Recent Economic Developments****1.2.2 Monetary and exchange rate policy****Paragraph 1.19**

UK Question: The e-CNY seems to be primarily designed for domestic payments within China. Are there any plans for e-CNY to be used for cross-border transactions in the future? Has China undertaken any analysis as to the impact of the e-CNY on the internationalisation of the Chinese yuan? How will non-banking entities, such as state-owned telecoms, be involved in the e-CNY network?

Reply: e-CNY is mainly positioned as cash payment voucher (M0) and coexists with physical RMB for a long time. The right to issue e-CNY belongs to the state. People's Bank of China is responsible for the issuance, cancellation, inter-institutional interconnection and wallet ecological management of e-CNY. At the same time, it carefully selects commercial banks with certain conditions in capital and technology as designated operating institutions, and designated operating institutions and related commercial institutions are responsible for providing e-CNY exchange and circulation services to the public. At present, these institutions include commercial banks, telecom operators and Internet enterprises.

SECRETARIAT REPORT (S415)**1 ECONOMIC ENVIRONMENT****1.2 Recent Economic Developments****1.2.4 Structural measures****Paragraph 1.31**

UK Question: On what basis does China disagree with the conclusions of the OECD study on the impact of the Belt and Road Initiative (BRI) on the debt burden of recipient countries? What mechanisms does China use to assess the impact of loans for infrastructure investment on a country's debt burden?

UK Question: What assessments has China made of the trade-enhancing impact of BRI infrastructure projects? Does China plan to make any adjustments to the BRI to account for the potential impact on the debt burden of recipient countries?

Reply to two questions above:

This year marks the eighth anniversary of the proposal of the Belt and Road Initiative. Over the last eight years, China has signed more than 200 Belt and Road cooperation agreements with over 100 countries and dozens of international organizations. Against the backdrop of the COVID-19 pandemic, Belt and Road cooperation has bucked the trend and demonstrated strong resilience to risk, playing a vital role in supporting countries around the world in battling the pandemic, maintaining economic stability and ensuring people's livelihoods. China always gives prominence to debt management and is committed to building a long-term, stable and sustainable financing system that is well-placed to manage risks. It also works to help the relevant countries strengthen their debt sustainability and improve their ability to prevent sovereign risk. The Guiding Principles on Financing the Development of the Belt and Road Initiative were jointly ratified by 28 countries including China. Due to the impact of the pandemic and the resultant global recession, some developing countries are indeed struggling with heavy debt burdens. In view of this, China has cancelled the debt of relevant African countries in the form of interest-free government loans due to mature by the end of 2020. In terms of the debt structure of debtor nations, most of the debts are owed to multilateral financial institutions and commercial creditors of developed countries, which should also play a part in relevant debt relief initiatives.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.1 General Frameworks

Paragraph 2.6

UK Question: Why does China not publish all relevant trade laws and regulations and other measures in a WTO official language, with a consultation period? How does the State Council make decisions as to which laws and regulations "need to be kept confidential" before their promulgation and are therefore not subject to consultation?

Reply: Paragraph 2 of Article 67 of the Legislation Law of the People's Republic of China stipulates: "The drafts of administrative regulations shall be made public to solicit opinions, unless otherwise decided by the State Council." Paragraph 2 of Article 13 of the Regulations on Procedures for the Formulation of Administrative Regulations stipulates: "In drafting administrative regulations, the drafting departments shall make public the drafts of such administrative regulations and the explanations thereof for comments, unless otherwise decided by the State Council. The period for seeking comments shall not be less than 30 days." Paragraph 2 of Article 20 stipulates: "The legislative affairs department of the State Council may make public the drafts for review or the revised drafts and the explanations hereof for comments. The period for seeking comments shall not be less than 30 days." Article 34 stipulates: "The drafting of the drafts of laws to be submitted by the State Council to the National People's Congress or its Standing Committee for deliberation shall be handled with reference to the relevant provisions of these Regulations." Article 62 of the Regulations on Optimizing Business Environment stipulates: "Unless required by the law for confidentiality, public opinions shall be solicited through the newspaper, the Internet and otherwise for the formulation of administrative regulations, rules and administrative regulatory documents which are closely related to production and business activities of market players, and a proper feedback mechanism for adoption of opinions shall be established. The period for seeking public comments shall generally be no less than 30 days."

Article 9 of the Law of the People's Republic of China on Guarding State Secrets stipulates: "The following matters in relation to the national security and interests shall be determined as State secrets if the divulgence thereof may cause damage to the national security and interests with respect to the politics, economy, national defense, foreign affairs and etc.: (1) Secrets involved in significant decisions on the State affairs... (4) Secrets involved in national economic and social development..." Article 14 of the Regulations of the People's Republic of China on the Disclosure of Government Information stipulates: "It is not allowed to disclose any government information that has been identified as state secrets in accordance with the law, any government information the disclosure of which is prohibited by laws or regulations, or any government information the disclosure of which might endanger national security, public security, economic security or social stability."

In recent years, the State Council and relevant departments have adhered to democratic legislation and open-door legislation, and publicly solicited opinions on most draft laws and administrative regulations according to law, effectively guaranteeing citizens, legal persons and other organizations' right to know, participate, express and supervise, and continuously improving the quality of legislation by absorbing reasonable suggestions, and achieved good results. In the next step, China will further promote the work of soliciting opinions from the public on draft laws and administrative regulations in strict accordance with the law, continuously improve the transparency of government work, and create a stable, fair, transparent and predictable business environment ruled by law.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.2 Trade Policy Framework and Objectives

2.2.2 Trade policy formulation and objectives

Paragraph 2.19

UK Question: We note that the report states China has attached great importance to addressing climate change issues in the last 5 years, and that China has been making efforts to expand the forest carbon sink. Are China's efforts limited to just domestic efforts or does it seek to expand the forest carbon sink internationally through its trade policy? What methods has China been using to increase the forest carbon sink?

Reply: According to the overall arrangements for developing forest carbon sink and grassland carbon sink to respond to climate change, China has guided local areas to take strong measures to promote afforestation on a large scale, all-of-society voluntary tree planting, forest city, rural greening, and major ecological protection and restoration programs. It has also implemented the national program of nurturing forests and improving forest quality. As a result, the national forest resources have increased steadily with better quality, and China registers the largest increase in forest stock in the same period. The ecological situation in forests, grasslands, wetlands and deserts across the country has kept improving with reinforced carbon sink effects and other ecological functions. Greater efforts have been made to manage forests and grasslands, protect non-commercial forests and natural forests, protect grassland and wetland eco-system, nurture natural reserves, protect wild animals and plants, and prevent and control fire hazards and hazardous pests in forests and grasslands. These efforts have effectively abated carbon emissions caused by the loss of resources.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.3 Trade Agreements and Arrangements

2.3.1 WTO

Paragraph 2.20

UK Question: Does China have any intentions of becoming a participant, rather than just an observer, to the Plurilateral Agreement on Trade in Civil Aircraft? In addition, does China have intentions to become a signatory to the WTO Pharma Agreement?

Reply: China supports the process of multilateral trade liberalization and is willing to conduct dialogues and discussions with interested WTO members under the WTO framework.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.3 Trade Agreements and Arrangements

2.3.2 Regional and preferential agreements

Paragraph 2.33

UK Question: How is the China-United States Phase 1 Economic and Trade Agreement and the specific agreements to purchase US products and services consistent with China's MFN obligations? Given that it is not a comprehensive Free Trade Agreement, will the technical commitments on market opening, recognition, IP, tech transfer within it be made available on an MFN basis?

Reply: Chinese enterprises will import more quality products and services from the US pursuant to the WTO rules and market and business principles. The huge and continuously growing China market will have more demands for quality and fair-priced goods and services. In fact, as the Chinese economy recovers, the country has imported more quality goods from around the world,

including the US. The upbeat trade momentum fully demonstrates that China's economic development will create great opportunities for other countries to expand their trade cooperation with China. China welcomes enterprises from foreign countries to engage in fair competition in the Chinese market, and Chinese consumers will choose products and services based on their performance-to-price ratio.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.4 Investment Regime

2.4.1 Regulatory framework and market access

Paragraphs 2.36 - 2.38

UK Question: How are measures monitored, supervised, and enforced – including at the local level – to ensure treatment is equal between FIEs and Chinese enterprises (state-owned and private)?

Reply: China fulfills its WTO commitments and does not discriminate against FIEs. Foreign enterprises are the participants, contributors and beneficiaries of China's development. China will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.4 Investment Regime

2.4.1 Regulatory framework and market access

Paragraph 2.40

UK Question: What measures is China taking to ensure that the process of approval for cross-border remittances is swift, efficient, reliable, and transparent – so that foreign-invested firms can carry out their operations with greater certainty?

Reply: The materials and procedures required for cross-border remittances involved in different business backgrounds are all made public and transparent, and the regulatory authorities disclose all related laws and regulations. Involving the permission of the administrative agency, procedures and time limits of related laws and regulations will be applied.

SECRETARIAT REPORT (S415)

2 TRADE AND INVESTMENT REGIMES

2.4 Measures Affecting Production and Trade

Paragraph 2.46

UK Question: What is China's basis for reserving 123 items for state-investment only, and how is this consistent with its claim that state-owned firms operate as normal market actors?

Reply: China side does not understand what does "China reserves 123 items for state-investment only" refer to. If this refers to the 123 access items listed in the Negative List for Market Access (2020 Edition) issued by the National Development and Reform Commission and the Ministry of Commerce in November 2020, UK may have misunderstood that. These 123 items are all established in accordance with China's current laws, regulations and decisions of the State Council which are uniformly applicable to various market entities such as domestic and foreign capital, state-owned assets and private capital. Except for very few industries such as tobacco monopoly products, which only allow state-owned assets, no access restrictions are set for non-state-owned capital in most items.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1. Customs procedures, valuation, and requirements

Paragraphs 3.4 - 3.7

UK Question: Why do Chinese customs authorities review the declared inter-company price annually even if there is no significant price (or transfer price) variance between years?

UK Question: Can China please provide clear guidance on whether and how an importer can voluntarily disclose a retrospective upward transfer pricing adjustment (where this is aligned to the foreign exchange control requirements)? Is it also possible to grant refund applications for overpaid customs duty and import VAT in the case of a retrospective downward transfer pricing adjustment?

Reply to questions above: According to the relevant provisions of the *Customs Law of the People's Republic of China* and the *Measures of the Customs of the People's Republic of China for Examining and Approving the Duty-paid Value of Import and Export Goods*, the duty-paid value of import and export goods shall be examined and determined by the Customs on the basis of the transaction price of the goods. When the transaction price cannot be determined, the duty-paid value shall be assessed by the Customs according to law. When the Customs has doubts about the authenticity and accuracy of the declared price, or believes that the special relationship between the buyer and the seller affects the transaction price, the Customs shall conduct price questioning and negotiation according to the procedures.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1. Customs procedures, valuation, and requirements

3.1.1.2 Customs valuation

Paragraph 3.16

UK Question: Is it possible to include China Customs' position on customs valuation methodology when issuing a customs valuation ruling (especially as it concerns related party transactions)?

Reply: According to the provisions of the *Measures of the Customs of the People's Republic of China for Examining and Approving the Duty-paid Value of Import and Export Goods*, taxpayers may submit a written application and ask the Customs to make a written explanation on how to determine the duty-paid value of their import and export goods after the Customs examines and determines the duty-paid value of import and export goods. The Customs shall issue the *Notice of Customs Valuation of the People's Republic of China* as required.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1. Customs procedures, valuation, and requirements

3.1.1.3 Trade facilitation

Paragraph 3.18

UK Question: What assessments have been made and/or data gathered on how different types of firms, state-owned, private, foreign and domestic have utilised the epidemic-related measures?

Reply: The measures taken by China Customs to deal with the epidemic are applicable to all types of enterprises.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.3 Tariffs

Paragraphs 3.25 - 3.37

UK Question: The UK is encouraged by China's commitment to reduce tariffs on agriculture and agriculture food products. Is there a similar commitment to reduce tariffs for imports of red meat and dairy products?

Reply: China has not made a commitment to reduce import tariffs on red meat and dairy products.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.1.3 Tariffs****3.1.4.1 Value added tax (VAT)****Paragraph 3.39**

UK Question: Has China recently changed its policy regarding VAT on international shipping revenue at a regional level, such as lifting an exemption?

Reply: No changes recently.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.1 Measures Directly Affecting Imports****3.1.4 Other charges affecting imports****3.1.4.3 Automobile Purchase Tax****Paragraph 3.41**

UK Question: Does the Automobile Purchase Tax and the Consumption Tax count as double taxation in the purchase of automotive vehicles? Further, will China look to introduce the Automobile Purchase Tax on NEVs which are currently exempt from the tax until the end of 2022?

Reply: First, like most countries, China implements the compound vehicle tax. The Consumption Tax is levied on the production of certain vehicles (passenger cars and medium- and light-duty commercial cars), with a differentiated tax rate for passenger cars according to engine displacement, with the purpose of guiding consumption and promoting energy conservation and emission reduction. The Automobile Purchase Tax is a special-purpose tax levied on the purchase of automobiles, including cars, tramcars, trailers and motorbikes. Mainly used for road construction and maintenance, the Automobile Purchase Tax is of great importance for promoting transport infrastructure construction. Different in their purpose and link of collection, Automobile Purchase Tax and Consumption Tax complement each other and play a better adjusting role together to effectively raise fiscal revenues, guide production and consumption, promote energy conservation and emission reduction, and boost the healthy development of the auto industry. They don't count as double taxation. Second, the current policy that exempts NEVs from Automobile Purchase Tax will expire on December 31, 2022. We will study whether to introduce this tax on NEVs by making comprehensive considerations for national policies, development status of the NEV industry, and the country's requirements for tax and fee reduction.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.1 Measures Directly Affecting Imports****3.1.5 Import prohibitions, restrictions, and licensing****3.1.5.2 Import licensing requirements****Paragraphs 3.47 – 3.51**

UK Question: Can the lead-time of import licenses be reduced and the approval process be clear and publicly available? Can the move to paperless issuance of these import licenses be accelerated, as this would not only reduce lead time but also reduce the archiving burden on paper copies?

Reply: China will continue to optimize import licensing management procedures, and the latest situation will be notified to the Import Licensing Committee in a timely manner.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.2 Measures Directly Affecting Exports****3.2.3 Export prohibitions, restrictions, and licensing****Paragraph 3.79**

UK Question: How does China ensure and assess that these export restrictions are not unfairly trade distorting?

Reply: China will implement the above measures in a manner consistent with WTO rules.

SECRETARIAT REPORT (S415)
3 TRADE POLICIES AND PRACTICES BY MEASURE
3.2 Measures Directly Affecting Exports
3.2.3 Export prohibitions, restrictions, and licensing
Paragraph 3.84

UK Question: How does China account for this significant increase in the value of exports subject to export licensing restrictions?

Reply: The reason is due to the increase in the demand for related commodities and the increase in the prices of some commodities subject to export license management.

SECRETARIAT REPORT (S415)
3 TRADE POLICIES AND PRACTICES BY MEASURE
3.2 Measures Directly Affecting Exports
3.2.3 Export prohibitions, restrictions, and licensing
Paragraph 3.92

UK Question: Does China have a planned schedule for when these new regulations might emerge, and whether they will be made available for consultation or implemented with immediate effect?

Reply: At present, China is actively advancing the adoption of supporting regulations of the Export Control Law, and will promulgate it in due course to further refine and implement the relevant systems established by the Export Control Law so as to provide better support for all parties to implement and comply with the Export Control Law under clear and specific guidelines. Members are welcomed to continue to pay attention to this.

SECRETARIAT REPORT (S415)
3 TRADE POLICIES AND PRACTICES BY MEASURE
3.2 Measures Directly Affecting Exports
3.2.4 Export support and promotion
Paragraph 3.104

UK Question: Which countries do the 6,472 newly established foreign-funded Pilot Free Trade Zone enterprises come from? What is the process and timeline for assessing pilot programmes in PFTZs and considering broadening out nationwide roll-out for special policies trialled in FTZs? Does China have any plans to make the PFTZs permanent?

Reply: The Chinese government welcomes investors from all over the world to invest in the FTZ. FIEs in the FTZ are from different countries and regions. The FTZ carries the important mission of making explorations for deepening the reform, expanding opening-up, and gathering more experience that can be promoted nationwide. Since the Shanghai PFTZ was established in 2013, China has continuously summarized and assessed the innovative experience in the FTZ and the possibility of implementing it in a larger scope. Altogether 278 items of experience have been promoted cumulatively on the national level, such as the pre-access national treatment and negative-list management for foreign investment, and "single window" for international trade. You may check relevant information on the website of Chinese Ministry of Commerce.

SECRETARIAT REPORT (S415)
3 TRADE AND INVESTMENT REGIMES
3.2 Measures Affecting Production and Trade
3.2.5 Export finance, insurance and guarantees
Paragraph 3.110

UK Question: How does China Eximbank demonstrate that its loans "operate" according to market principles? Does it publish loan conditions and contracts?

Reply: The Measures for the Supervision and Administration of the Export-Import Bank of China (Order No. 3 of 2017 by CBRC) stipulates that the Export-Import Bank of China is obliged to establish market-driven operation and disciplinary mechanisms. In practice, the Export-Import Bank of China implements the development requirements of modernized finance, and its operation, management and types of business are all carried out pursuant to the bank operational regularity.

A loan contract is a legal document signed between a bank and its client, and it can be disclosed only with mutual consent by the two parties under the contract. For the business performance of the Export-Import Bank of China, it is advisable to refer to the annual report published on its official website.

SECRETARIAT REPORT (S413)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Paragraph 3.120

UK Question: How will China address the issue around lack on tax expenditures so that the total amount of expenditure and revenue forgone to be made publicly available?

Reply: Currently, China does not conduct statistics of tax expenditures.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Paragraphs 3.121 – 3.122

UK Question: Could China please explain why it has not provided information on expenditure levels for certain critical sectors under its previous notification, as is required under article 25.3 of the SCM Agreement? Could China please confirm whether it has included expenditure levels for these sectors in its 2021 subsidy notification?

Reply: In recent years, China has been committed to strengthening the transparency of subsidy policies and timely submitted subsidy notifications covering the central and local governments at all levels. The latest 2019-2020 subsidy notification (G/SCM/N/372/CHN) covers 71 subsidy policies at the central government level and 31 provinces, autonomous regions and municipalities, as well as 5 specifically designated cities. For aluminium and glass sector, China has included subsidy programs concerning energy saving and environment in our notification (G/SCM/N/343/CHN). For electric vehicles (such as item 19 at the central level and many items at the local level), fisheries and shipbuilding (item 74-79 at the central level and many items at the local level), semi-conductors (item 41 at the central level and some at the local level), and steel sectors (item 60 at the central level and some at the local level). In addition, construction sector is subject to service sector, which shall not be included in the SCM subsidy notification.

UK Question: How will China seek to improve its transparency arrangements in terms of its subsidies notifications, to provide WTO and WTO members with more information and clarity on its support programmes?

Reply: In recent years, China has been committed to strengthening the transparency of subsidy policies and timely submitted subsidy notifications covering the central and local governments at all levels. The latest 2019-2020 subsidy notification (G/SCM/N/372/CHN) covers 71 subsidy policies of the central government, 374 subsidy policies of 31 provinces, autonomous regions, and municipalities, as well as 5 specifically designated cities. We hope that our efforts for and results in subsidy notifications will be fairly assessed by other WTO members.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Paragraph 3.123

UK Question: The report states that the authorities disagree that the Government is involved in the financing and management of companies through SOEs. However, on page 24, Paragraph 5.18 of the Report by China (WT/TPR/G/415), it states that "China has reorganized and set up state-owned capital investment and operation companies to effectively promote the reform of the authorized management system of state-owned capital, and further improve the supervision system of state-owned assets", emphasising that SOEs are 'state-owned assets'. As China considers SOEs

to be state-owned assets, could China please clarify the scope of its role in the supervision of 'state-owned assets', if the Government does not intervene in the financing, operation or management of SOEs?

Reply: In accordance with Law of the People's Republic of China on State-Owned Assets in Enterprises, the State Council and local people's governments shall, in accordance with the provisions of laws and administrative regulations, respectively perform the duties of investors on state-funded enterprises on behalf of the state, and enjoy the rights and interests of investors. For detailed information, please refer to the Law of the People's Republic of China on State-Owned Assets in Enterprises.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Paragraph 3.124

UK Question: Could China please provide clarity on the structure of its "government guidance funds," specifically, what authority supervises the provision of these funds, and what criteria is used to determine those industries that are sufficiently "important" to receive support? Does China recognise the relevance of greater transparency given the potential impact of Chinese support measures on global markets, downstream industries, and value chains (made in paragraph 3.127)?

Reply: The investment management and decision-making of government guidance funds are completely market-oriented without intervention by government departments. The Chinese government has not participated in the decision-making of any investment projects. Additionally, government guidance funds and their governance structure are established in conformity with Chinese laws, such as the Company Law. Such funds are under market-oriented operations. As China has not provided subsidies to any industries through such funds, it is not necessary for it to notify WTO.

UK Question: Could China please explain the grounds for their assessment that government guidance funds' do not constitute subsidies, as per Articles 1 and 2 of the Agreement on Subsidies and Countervailing Measures?

Reply: The investment management and decision-making of government guidance funds are completely market-oriented without intervention by government departments. The Chinese government has not participated in the decision-making of any investment projects. Additionally, government guidance funds and their governance structure are established in conformity with Chinese laws, such as the *Company Law*. Such funds are under market-oriented operations. As China has not provided subsidies to any industries through such funds, it is not necessary for it to notify WTO.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Paragraph 3.126

UK Question: If the authorities cannot confirm the results of the OECD study on semiconductor support or its data – can they provide their own data on the amounts of state and state-associated support and financing terms provided to China's semiconductor sector? Is this support reserved for domestic companies only?

Reply: For supporting policies for the semiconductor industry, please refer to subsidy notifications (G/SCM/N/372/CHN) submitted by China.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures affecting production and trade****3.3.2 Standards and other technical requirements****Paragraphs 3.134 – 3.135**

UK Question: The China Standards 2035 research project recommends reducing to two categories of standards: national standards and association standards – can China indicate when this change is expected to happen, and how the role of international standards will compare with national standards and association standards?

Reply: "China Standard 2035" Research is a standardization research project organized by Chinese Academy of Engineering. In the Project, it mainly analyzes the existing shortcomings and problems by evaluating the achievements in standard system structure, standardization management efficiency and internationalization integration in China's standardization development in recent years, and puts forward opinions and suggestions on China's standardization development in the future from the perspective of research institutions for reference by all parties. In the research process of the Project, it draws lessons from the experience of relevant international and foreign standardization institutions, and strengthens communication and interaction. The General Administration of Market Supervision (Standards Committee) will comply with the relevant requirements of WTO when formulating standardization policies with reference to relevant research results.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures affecting production and trade****3.3.2 Standards and other technical requirements****Paragraph 3.139 & Footnote 125**

UK Question: What percentage of enterprises in technical committee working groups are foreign-funded? What percentage of new standards developed acknowledge input from FIEs?

Reply: Among the 1,337 established technical committees, 804 had absorbed 3,217 members of foreign-funded enterprises, accounting for 60.1% of the total number of technical committees by the end of June 2021. Among the 4,547 newly registered technical committees in the first half of 2021, 210 came from foreign-funded enterprises, accounting for 4.62% of the newly added members this year. Representatives of these foreign-funded enterprises participated in the pre-research, project approval, drafting and examination of China's standards to varying degrees, which played a role in improving the technical level of China's standards and enhancing the consistency with international and foreign standards.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures affecting production and trade****3.3.2 Standards and other technical requirements****Paragraph 3.144**

UK Question: Where an international standard has been adopted or "adapted" into a national standard, how can foreign companies certified compliant with the international standard be sure that they meet the requirements of the adapted Chinese standard?

Reply: According to the Standardization Law, it is not allowed to produce, sell, import or provide products and services that do not meet mandatory standards. Therefore, products exported to China shall meet the technical requirements of China's mandatory standards.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures affecting production and trade****3.3.2 Standards and other technical requirements****3.3.2.2. Product certification****Paragraphs 3.146 – 3.153**

UK Question: Does China collect information relating to unsafe and non-compliant products, and are any measures taken to assure that goods continue to meet the standards against which they were originally certified? If so, how is this done? Does China share information or report information relating to unsafe and noncompliant products with other countries? If so, how is this done?

Reply: As for CCC and other product certification, Chinese market supervision departments regularly collect information on certified products that do not meet the requirements of product certification. In the meantime, a peer-to-peer sharing mechanism of relevant information can be established with relevant countries under the relevant intergovernmental cooperation mechanism and framework. In the field of certification supervision, China's market supervision departments have adopted a risk-based supervision mechanism and targeted risk management and control measures pursuant to the characteristics of different consumer goods.

UK Question: Do regulators take a risk-based approach towards inspection of businesses, and does the inspection and enforcement approach differ according to region? Please can China share its risk-framework for consumer goods and construction products, and explain how it regulates construction product safety?

Reply: Based on the concept of risk management, market supervision departments carry out product quality and safety risk monitoring, mainly including risk information collection, risk monitoring, risk assessment, risk disposal and other links and contents, and urge enterprises to strengthen risk management, promote the improvement of product standards, remind consumers to take risk prevention measures, and prevent and resolve risks in time pursuant to the risk monitoring results. There is no regional difference in relevant supervision and inspection methods. Market supervision departments mainly focus on examining and weighing quality and safety indicators, environmental protection indicators and performance indicators for the risks of building materials products. Supervision methods mainly include supervision and spot check, production license, risk monitoring and administrative punishment

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.3 Sanitary and phytosanitary requirements****3.3.3.2 SPS measures****Paragraphs 3.165 – 3.168**

UK Question: In line with the G20 commitment (referenced also in G415 report paragraph 4.32) that "emergency measures designed to tackle COVID-19, if deemed necessary, must be targeted, proportionate, transparent, and temporary" – can China confirm that such measures will continue to be monitored and ultimately discontinued? When clear of any infection, are delisted manufacturers able to apply for relisting in a swift and transparent process?

Reply: To effectively prevent the risk of novel coronavirus from importing cold chain food, as for the producers and operators of imported cold chain food, the General Administration of Market Supervision required that imported cold chain food without inspection and quarantine certificate, nucleic acid detection certificate, disinfection certificate and traceability information shall not be processed, produced and put on the market pursuant to the arrangement of joint prevention and control mechanism of the State Council. Measures such as removing off the shelf and stopping selling, and sealing up in special areas shall be implemented for the same batch of products with positive novel coronavirus nucleic acid results. The above measures comply with Paragraph 1 of Article 42, Article 44 and Article 55 of the *Law of the People's Republic of China on Prevention and Control of Infectious Diseases*, Paragraph 1 of Article 42 and Paragraph 2 of Article 92 of the *Food Safety Law of the People's Republic of China* and other relevant laws and regulations, and are administrative acts according to law.

UK Question: China continues to maintain emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid results. We note the updated FAO "Guidance for preventing transmission of COVID-19 within food businesses" states that food or food packaging is not a pathway for the spread of viruses causing respiratory illness, including SARS-CoV-2 and would like to ask China to share any evidence it has gathered which confirms that food is a source for the transmission of SARS-CoV-2. Will China be reviewing their measures to take into consideration such updated international guidance?

Reply: The measures to food and agriculture products adopted by China are in line with Article 42 Paragraph 1, Article 44, Article 55 of the "Law on Prevention and Control of Infectious Diseases" and Article 42 and Article 92 of the Food Safety Law, and these measures have scientific basis and comply with WTO rules.

To protect people's life safety and health, China has taken necessary temporary preventive measures to strengthen the supervision of imported cold-chain food. The relevant practices have been in full compliance with international rules and have not had any negative impact on the food trade to China. COVID-19 nucleic acid sampling tests have been conducted on imported cold-chain foods and their packaging according to law to prevent the transmission and spread of COVID-19 through them. At the beginning, the samples of some imported food products, their exterior and interior packaging and inner walls of containers from some countries were tested positive for COVID-19 by China Customs. In 17 October, 2020, the Chinese Center for Disease Control and Prevention (China CDC) announced that live COVID-19 virus had been isolated from exterior packaging of imported aquatic products, which further confirmed that exposure to exterior packaging contaminated by live COVID-19 virus could lead to infection. China welcomes the export of high-quality and safe food to China, and China's attitude towards opening up and expanding imports is consistent and clear. However, as the global epidemic develops, consumers' concerns and doubts about the safety of the food supply chain have deepened. We believe that without consumer confidence, there will be no market, and without market, there will be no trade. Under the current epidemic situation, we wish that the countries (regions) overseas that wish to export food to China may require the enterprises exporting foods to China to, according to the relevant guidelines issued by the United Nations Food and Agriculture Organization (FAO), do well in all preventive management measures to ensure that the foods exporting to China have not been contaminated by COVID-19. China is willing to work with relevant parties to jointly ensure the safety of the food supply chain, eliminate consumers' doubts, respond to consumers' concerns, ensure safe food supply and maintain market stability, so as to promote the healthy development of trade.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.3 Sanitary and phytosanitary requirements

3.3.3.3 Inspection and quarantine

Paragraph 3.170

UK Question: What processes are in place to ensure exported seed and propagating material meets the marketing/quality requirements of the importing country, and what process should be followed if not?

Reply: China has formulated the following processes for exported seeds and propagation materials:
(I) Registration

Enterprises engaged in exporting seeds and propagation materials shall apply to the local Customs for registration. After the Customs assesses its epidemic prevention conditions and confirms that they meet the requirements, they are allowed to engage in the business of exporting seeds and propagation materials.

(II) Official inspection

(1) In accordance with the planting and growth conditions, the Customs shall carry out annual official inspections on export planting bases, processing and packaging plants and storage warehouses, including the operation of quality management system, records of occurrence and control of plant diseases and insect pests, records of incoming and outgoing accounts, etc., and make supervision records.

(2) The customs conducts pest monitoring and investigation on the planting base during the production and planting to ensure compliance with the relevant requirements of the importing country.

(III) Export quarantine

The customs conducts pre-export quarantine on seeds and propagation materials to be exported, focusing on checking whether they carry harmful organisms concerned by the importing country, and taking samples for laboratory testing. The customs will issue a phytosanitary certificate to allow for export after confirming they meet the requirements of the importing country.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.4 Competition policy and price controls****3.3.4.1 Competition policy****3.3.4.1.1 Legislative and institutional framework****Paragraphs 3.173 - 3.175**

UK Question: Could China please outline the penalties in place for the Chinese government and for state-owned entities if competition law is breached? How does China ensure that competition law is being enforced at all provincial and local levels of government, in the same way and with the same level of fairness and impartiality across all provinces?

Reply: *The Anti-Monopoly Law*, Article 8, stipulates that no administrative organ or organization empowered by a law or administrative regulation to administer public affairs may abuse its administrative powers to eliminate or restrict competition. Chapter V "Abuse of Administrative Power to Eliminate or Restrict Competition" provides specific manifestations of the abuse of administrative power to eliminate and restrict competition prohibited by law. *The Anti-Monopoly Law*, Article 51, specifies the accountabilities for the abuse of administrative power to eliminate and restrict competition: Where an administrative organ or organization empowered by law or administrative regulation to administer public affairs abuses its administrative power to eliminate or restrict competition, the superior authority thereof shall order the agency to make rectification and impose punishments on the directly responsible persons in charge and the other directly liable persons. The Anti-monopoly Law Enforcement Agency may offer suggestions to the relevant superior authority regarding how to handle the abuse according to law. Where a law or administrative regulation provides otherwise for the handling of an administrative organ or organization empowered by law or administrative regulation to administer public affairs that abuses its administrative power to eliminate or restrict competition, such provisions shall prevail.

Regarding the uniform enforcement of anti-monopoly law by provincial market supervision departments, as specified by *the Anti-Monopoly Law*, Article 10, the anti-monopoly law enforcement agency designated by the State Council shall be responsible for the anti-monopoly law enforcement work. It is cleared that the enforcement of the anti-monopoly law is subject to the central authority, which is conducive to ensuring the uniformity of anti-monopoly law enforcement. Given the heavy caseload of anti-monopoly, it is not practical for the Anti-monopoly Law Enforcement Agency under the State Council to deal with all cases directly. For this reason, *the Anti-Monopoly Law*, Article 10, further specifies the Anti-monopoly Law Enforcement Agency under the State Council may, as required by the work, empower corresponding agencies in the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to be responsible for the anti-monopoly law enforcement work according to this Law. To ensure the uniformity of anti-monopoly law enforcement, the State Administration of Market Supervision issued *the Notice on Authorization of Anti-Monopoly Law Enforcement*, and three departmental regulations, i.e. *Interim Provisions on Prohibiting Monopoly Agreements*, *Interim Provisions on Prohibiting Abuse of Dominant Market Positions*, and *the Interim Provisions on Prohibiting the Acts of Eliminating or Restricting Competition by Abuse of Administrative Power* based on the provisions of the *Anti-Monopoly Law*, Article 10, which stipulate that the State Administration of Market Supervision shall strengthen the guidance and supervision to provincial market supervision departments on their investigation and punishment of monopoly agreements, acts of abuse of market dominance positions and abuse of administrative power to exclude and restrict competition, and develop unified law enforcement standards.

UK Question: Could China please explain what improvements are being made to the anti-monopoly system and rules, and why these are necessary?

Reply: For now, progressive efforts is made on the revision of *the Anti-Monopoly Law*. In October 2021, the 31st meeting of the Standing Committee of the 13th National People's Congress

will deliberate the State Council's proposal for the review of the draft amendment to *the Anti-Monopoly Law*. In this revision, it is planned to further refine the anti-monopoly rules of the platform economy, improve the system of concentration of undertakings, monopoly agreements, abuse of administrative power to exclude or restrict competition, etc., and increase penalties for monopolistic behaviors. China has been committing to promoting institutional improvement and improving the legal system of anti-monopoly since the last review. First, the Anti-Monopoly Law is being revised. The draft amendment to the Anti-Monopoly Law has been completed to consolidate the legal basis for anti-monopoly law enforcement by summarizing China's anti-monopoly law enforcement practices and absorbing and learning from the practices and experience of other countries. Second, More detailed regulations of the anti-monopoly law have been provided. Following the integration and optimization of regulations and normative documents, five departmental regulations, including the Interim Provisions on Prohibiting Monopoly Agreements, Interim Provisions on the Review of Concentration of Undertakings & Provisions on Prohibiting the Abuse of Intellectual Property Rights to Preclude or Restrict Competition were developed to provide uniform anti-monopoly law enforcement procedures, standards and measures. Third, anti-monopoly guide system has been expanded and improved. 6 guides of the Anti-Monopoly Committee of the State Council, including the Guide for Countering Monopolization in the Field of Intellectual Property Rights and the Antitrust Guidelines for the Platform Economy Industry have been promulgated, providing more detailed rules and regulations and further enhance the operability and predictability of the anti-monopoly legal system.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.3.4.1.4 Mergers and acquisitions

Paragraphs 3.181 - 3.183

UK Question: Could China please explain what happens to the notification requirements to the SAMR if, during the merger review, a case is changed from being a 'simple' case to a more complex one?

Reply: In accordance with the Anti-Monopoly Law and the Interim Provisions on the Review of Concentration of Business Operators and the Guiding Opinions on Streamlined Declaration of Market Concentration Cases by the State Administration for Market Regulation, when a business operator applies for the declaration of concentration of undertakings, the Anti-Monopoly Bureau revoke the identification of the simple case which shall not be deemed as a simple case as reviewed and ask the applicant to refile the case based on the above-mentioned legislation and guidance.

UK Question: Could China please explain how long the public has to comment on more complex merger cases, and if there are any statutory deadlines by which the SAMR must complete the merger review?

Reply: According to the Anti-Monopoly Law, the Anti-monopoly Law Enforcement Agency under the State Council shall, within 30 days upon receipt of the documents and materials submitted by the business operators, conduct a preliminary examination of the declared concentration of business operators, make a decision on whether to conduct further examination, and notify the business operators of that decision in written form. Where the Anti-monopoly Law Enforcement Agency under the State Council decides to conduct further examination, it shall, within 90 days from the date of decision, complete the examination, make a decision on whether to prohibit the concentration, and notify the business operators of the decision in written form. Under any of the following circumstances, the Anti-monopoly Law Enforcement Agency under the State Council may, after notifying the business operators concerned in written form, extend the time limit of examination as prescribed in the preceding paragraph, with the extension being no more than 60 days: 1. The business operators agree to extend the time limit of examination; 2. The documents or materials submitted by business operators are inaccurate and need further verification; 3. The relevant circumstances have significantly changed after the declaration by the business operators. Where the Anti-monopoly Law Enforcement Agency under the State Council fails to make a decision within the time limit, business operators may implement the concentration. The timing for comments falls under the time limit specified by the said law.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.4 Competition policy and price controls****3.3.4.1 Competition policy****3.3.4.1.6 Enforcement****Paragraph 3.187**

UK Question: How many actions have been taken against SOEs and/or public utility providers in the field of anti-monopoly enforcement?

Reply: *Anti-monopoly Law of the People's Republic of China* equally treats all types of market subjects, including state-owned enterprises. Since the implementation of the *Anti-monopoly Law*, the law enforcement investigation involves market subjects of different nature, such as state-owned enterprises, private enterprises and foreign-funded enterprises.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.5 State trading, state-owned enterprises, and privatization****Paragraph 3.200**

UK Question: What changes in management, operations, decision-making, and processes do the Chinese government expect mixed-ownership reform to achieve? And what is the role for the State via SASAC and local SASACs in a mixed ownership SOE?

Reply: The mixed ownership reform aims to promote the in-depth transformation of the operation mechanism of mixed-ownership enterprises through the cross-holding and mutual integration of state-owned capitals and non-public capitals. The SASAC, as the representative of the investors of state-owned enterprises, mainly works to improve the relevant system and regulations, determine operating procedures, and ensure that the mixed ownership reform is completed in market-oriented, open, fair and just manners in the process of promoting mixed ownership reform.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.5 State trading, state-owned enterprises, and privatization****Paragraph 3.205**

UK Question: Do the Chinese authorities have data to substantiate their disagreement with the claims made by the IMF about the productivity gap between SOEs and the private sector?

Reply: China does not recognize this data and conclusion quoted from IMF's report which may lead misunderstanding, because China can not confirm the detailed information which leads to this conclusion, such as samples, data, research methods, etc. China does not have the data on average productivity gap between SOEs and private companies. China does not agree with the IMF's conclusion.

UK Question: Could China please clarify how its mixed ownership model will comply with its FTA obligations?

Reply: FTAs signed by China do not involve clauses related to the mixed ownership model.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.5 State trading, state-owned enterprises, and privatization****Paragraphs 3.206 - 3.208**

UK Question: Can Chinese authorities provide data or evidence to refute the claims made in the report about credit and financing extended by state-owned banks to other SOEs – including

amounts/proportions of lending going to SOEs vs private businesses; average interest rates offered; and disbursements to SOEs from bailout funds?

Reply: OEs, private enterprises, FIEs, and Sino-foreign joint ventures are customer bases of commercial banks. Commercial banks, on the premise of compliance with laws, autonomously select customer bases and grant credit, in accordance with their strategic planning, development positioning, risk appetite, and business management capability. Relevant decisions of commercial banks are market-oriented selection and behaviour, based on their actual development.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.5 State trading, state-owned enterprises, and privatization

Paragraph 3.209

UK Question: On what basis are SOEs determined to be active in "sector considered vital for China's economy and to safeguard national security"? Could China provide a list of SOEs it considers to be in this category and confirm whether it has included state funds (capital injections, preferential finance, allocations from state funding/subsidy programmes, tax exemptions, etc.) provided to these business operations within its latest subsidy notification to the WTO?

Reply: The Chinese government has always treated and protected all types of market entities equally and has not provided special subsidies to SOEs. Once conditions prescribed in subsidy policies are satisfied, market entities can enjoy subsidies equally. For subsidy policies that need to be notified to WTO, please refer to China's subsidy notifications(G/SCM/N/372/CHN).

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.6 Government Procurement

3.3.6.2 Legal and institutional framework

Paragraph 3.210

UK Question: Can China confirm whether amendments to the Government Procurement Law will be in line with the expectations set out in the GPA? How will China ensure that the Government Procurement Law will be followed by procuring entities at regional, sub-central and other levels of government?

Reply: China is not a member of GPA, the amendments to the Government Procurement Law have not been approved by the National Congress. The Chinese government is actively promoting the revision of the "Government Procurement Law." This revision of the law will draw on international rules such as GPA, optimize procurement procedures, further emphasize open competition, fairness and transparency, and strive to improve the current government procurement system to provide institutional guarantees for optimizing the business environment for government procurement.

The Government Procurement Law is a legally binding law, and violations of the Government Procurement Law will be punished in accordance with the law. For details, please refer to Chapter 8 (Legal Liability) of the Government Procurement Law. The financial departments of the people's governments at all levels are responsible for the supervision and management of government procurement, and supervise and manage the implementation of the Government Procurement Law.

UK Question: Are there any laws or regulations governing the implementation of infrastructure projects by SOEs? Are foreign suppliers able to bid for these contracts?

Reply: Enterprises of all types of ownership can participate in infrastructure projects in accordance with laws and regulations, and there are no regulations specifically for state-owned enterprises' participation in infrastructure projects. China ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law. Foreign-invested enterprises may, in accordance with the law, equally enjoy the State policies concerning the support of enterprise development.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.6 Government Procurement****3.3.6.2 Legal and institutional framework****Paragraph 3.215**

UK Question: How and where are Public-Private Partnership (PPP) opportunities advertised? How does China ensure that foreign suppliers are granted equal opportunities to domestic suppliers for such contracts?

Reply: China has neither joined the GPA nor signed the market opening agreement for government procurement with any other countries or regions. As specified by the Foreign Investment Law implemented in January 2020, foreign-invested enterprises are protected and entitled to participating in government procurement activities through fair competition in accordance with the law, and the products produced and services provided by foreign-invested enterprises in China will be treated equally in government procurement. Foreign companies can participate in Chinese government procurement activities on an equal footing in accordance with the law by registering companies in China. China currently has no statistics on the participation of international suppliers in domestic public bidding.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.6 Government Procurement****3.3.6.4 Other policy considerations in Government Procurement****Paragraph 3.218**

UK Question: Could China provide the percentage of public tendering opportunities that were awarded to international suppliers, and their total value as a percentage of the whole?

Reply: China has no relevant statistics. In accordance with Foreign Investment Law, China ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.6 Government Procurement****3.3.6.3 Procurement methods and e-procurement****Paragraph 3.219**

UK Question: The UK has found some accessibility issues with China's Tendering Public Service platform. The platform seems to be inaccessible outside of China. How does China ensure that foreign suppliers are able to access and interact with this, and other e-procurement platforms? Does China have detailed information of where e-procurement has and has not yet been fully implemented?

Reply : In 2000, China established the website <http://www.ccgp.gov.cn/>. The central government and all provinces across the country have established an information system that includes functions such as filling in government procurement plans, managing review experts, and managing agencies.

UK Question: Is the National Public Resources Trading Platform accessible outside of China? Are there English translation options?

Reply: Please refer to <http://www.ggzy.gov.cn/>. This website can be visited outside of China.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.6 Government Procurement

3.3.6.3 Procurement methods and e-procurement

Paragraph 3.220

UK Question: Could China provide additional information and data on the evaluation of the transparency of government procurement, following the Notice on Disclosure of Future Government Procurement Plans?

Reply: For more information, please refer to <http://www.ggzy.gov.cn/> and www.mof.gov.cn.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.6 Government Procurement

3.3.6.4 Other policy considerations in Government Procurement

Paragraph 3.221

UK Question: China is currently applying to accede to the GPA. China's buy-national policies conflict with GPA Article IV. 1-2. How does China intend to rectify this and will it be removed?

Reply: The Policy does not violate WTO rules. China ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law.

UK Question: Can the government of China confirm that products and services of Foreign-invested companies in China are considered "domestic" under Article 10 of the Government Procurement Law?

Reply: In accordance with the Foreign Investment Law, China ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.6 Government Procurement

3.3.6.4 Other policy considerations in Government Procurement

Paragraph 3.222

UK Question: Could China clarify the meaning of 'foreign-invested enterprise' in Article 16 of the new Foreign Investment Law (FIL), and whether there is any difference between this and a foreign-owned enterprise?

Reply: In accordance with the Foreign Investment Law, the Foreign-invested enterprises mentioned in this Law refer to enterprises that are wholly or partly invested by foreign investors and registered within the territory of China under the Chinese laws. There is no such a conception of "foreign-owned enterprise" in the Foreign Investment Law.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.6 Government Procurement****3.3.6.4 Other policy considerations in Government Procurement****Paragraph 3.223**

UK Question: Are measures relating to "small-value contracts" targeted only at Chinese SMEs, or SMEs from any country? How does China intend to approach such set asides and preference schemes through its GPA Accession?

Reply: Supporting SMEs is a basic policy function of government procurement and a common practice all over the world. China is not a member of GPA. China will fulfill its commitments after it becomes a member of GPA.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.6 Government Procurement****3.3.6.4 Other policy considerations in Government Procurement****Paragraph 3.224**

UK Question: Which standards does China use to determine "energy-saving and environmentally friendly products" for the purposes of favourable treatment? Are international standards recognised when evaluating bidders?

Reply: China's government procurement adopts relevant national certification results, and such certifications are made in accordance with national standards and industry standards.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.6 Government Procurement****3.3.6.6 Supplier complaint mechanism****Paragraph 3.228**

UK Question: As the Finance Department is not an independent review body, how does China ensure review processes are undertaken fairly and impartially?

Reply: The financial departments of the people's governments at all levels responsible for the supervision and management of government procurement. The financial department shall set up a special agency to perform the duties of supervision and management of government procurement (including complaint handling) in accordance with the law. The agency does not carry out, participate in, or interfere with specific procurement activities to ensure the fairness of government procurement activities. The complaint handling decision made by the financial department is not a final ruling. If the relevant parties are dissatisfied with the handling results, they can apply for administrative reconsideration or file an administrative lawsuit with the people's court in accordance with the law, so as to fully protect the remedy rights of market entities.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.7 Intellectual property rights****3.3.7.2 Institutional reforms and IP-related policies****Paragraph 3.236**

UK Question: The UK notes the Plan for Furthering Implementation of the National Intellectual Property Strategy to Accelerate the Construction of an Intellectual Property Power Country. Can China provide an update on plans to eliminate subsidies for patent and trademark applications (including international applications), and confirm if all subsidies for patents and trademarks will be eliminated by 2025?

Reply: China doesn't have a national policy on subsidizing the application for and grant and maintenance of patent. To boost regional innovation capability and encourage the development of SMEs, some local governments have, within their scope of authority, issued policies to invigorate innovation based on local conditions in recent years. Such policies are targeted at small and micro enterprises and applicable to both Chinese and foreign firms. We are also inspired by the experience of developed countries like Japan and Singapore regarding how they use IP policies to support the innovative development of SMEs.

The Chinese economy is transitioning from high-speed growth to high-quality development. To adapt to economic and social development, China National Intellectual Property Administration issued policy documents this year to standardize patent and trademark applications, guide local areas to adjust their policy on patent and trademark subsidy, and push the comprehensive cancellation of subsidy and reward for patent and trademark application. The subsidy in the application stage has already been cancelled according to the *Notice*. Existing local subsidy is limited to granted patent for invention (including those granted overseas through PCT and other means) and it shall be provided after the patent grant. It will be gradually decreased in the future and will be completely cancelled by 2025.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.7 Intellectual property rights

3.3.7.2 Institutional reforms and IP-related policies

Paragraph 3.237

UK question: Given the importance of international co-operation to innovation, can China confirm that foreign-owned intellectual property can be transferred in and out of China without restriction?

Reply : China has been following TRIPs, TRIMs and other WTO agreements, as well as its accession commitments. The terms and conditions on technology transfer in foreign investment in China should be negotiated and determined by all concerned investors. According to current laws in China, it is not mandatory that foreign enterprises should transfer their technologies when cooperating with Chinese enterprises. Article 22 of the Foreign Investment Law puts it clearly that during the process of foreign investment, the State shall encourage technology cooperation on the basis of free will and business rules. Conditions for technology cooperation shall be determined by all investment parties upon negotiation under the principle of equity. No administrative department or its staff member shall force any transfer of technology by administrative means. The choice of technology transfer is independently made by enterprises for maximizing benefits of business activities, which cannot be manipulated by the government. Whether foreign enterprises will transfer their technologies is an independent behavior of the cooperation parties, and the Chinese Government cannot interfere with it.

SECRETARIAT REPORT (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.3 Measures Affecting Production and Trade

3.3.7 Intellectual property rights

3.3.7.3 International Context

Paragraph 3.240

UK Question: The Secretariat Report notes China's accession to the Beijing Treaty on Audiovisual Performances". Could China provide an update on any plans to accede to the Hague Agreement?

Reply: China may submit an application for accession, and the relevant domestic procedures are in progress.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.7 Intellectual property rights****3.3.7.5.1 Trademarks****Paragraph 3.250**

UK question: Could China elaborate on the measures they have brought in to strengthen protection and curb bad faith filings since the last Trade Policy Review? How are these measures being monitored to ensure these objectives are being achieved?

Reply: On April 23, 2019, the Standing Committee of the National People's Congress adopted the revised *Trademark Law of the People's Republic of China*, and the revised Law came into force on 1 November 2019. The revised Law involved the following aspects:

(1) Articles are added to curb bad faith registration and fight illegal acts such as bad faith application and hoarding. It is stated that "A bad faith application for trademark registration for a purpose other than use shall be rejected", and that can be cited as the reason to demur to a trademark and nullify a registered trademark. Articles are also added with regards to the obligations of agencies and punishment on bad faith registration and litigation.

(2) Violation of the right to exclusively use the registered trademark is subject to more serious punishment, which increases the cost of breaking the law. In addition to the punitive compensation system affirmed in the *Trademark Law*, the revision increases the compensation for vicious violation of the right to exclusively use the registered trademark from between one time and three times to between one time and five times, and increases the upper limit of compensation from three million yuan to five million yuan. The revision also specifies how to deal with goods using fake registered trademark and the materials and tools used to produce such goods.

(3) Special campaigns have been launched. In the past three years, the China National Intellectual Property Administration has made consistent efforts to fight patent application not aimed to protecting innovation and bad faith trademark registration not for the purpose of use. By May 2021, the Administration had cumulatively rejected 150,000 bad faith filings for trademark registration and hoarding and confirmed 220,000 unusual patent applications.

SECRETARIAT REPORT (S415)**3 TRADE POLICIES AND PRACTICES BY MEASURE****3.3 Measures Affecting Production and Trade****3.3.7 Intellectual property rights****3.3.7.5.1 Trademarks****Paragraph 3.253**

UK question: Could China provide more detail on their sub-class system as part of the Nice Classification of Goods and Services for the Purposes of the Registration of Marks? For instance, in what ways has the CNIPA found it beneficial to refer to an additional sub-class system?

Reply: Pursuant to the *Trademark Law* and the *Regulation on the Implementation of the Trademark Law*, a trademark registration applicant shall, according to the prescribed classification of goods, enter the class and designation of goods on which the trademark is to be used. The name of the goods or service shall be entered according to the class number and name indicated in the table of classification of goods and services. Where the name of the goods or service is not included in the table of classification of goods and services, a description of the goods or service shall be attached.

The *Table on the Differentiation of Similar Goods and Services* is developed and published by the department of trademark registration based on the NICE Classification and long years of working experience. The *Table on the Differentiation of Similar Goods and Services* doesn't adopt a so-called sub-class system. China is a member to the NICE Union. The applicant shall enter the goods and service according to the NICE Classification. The *Table on the Differentiation of Similar Goods and Services* adopts the system, contents and rules of NICE Classification, and classifies goods and services into similar groups according to the actual situation of trademark registration in China. The *Table on the Differentiation of Similar Goods and Services* can serve as a reference for trademark inspectors, agencies and registration applicants to determine the classification of similar goods or services.

SECRETARIAT REPORT (S415)
3 TRADE AND INVESTMENT REGIMES
3.3 Measures Affecting Production and Trade
3.3.7 Intellectual property rights
3.3.7.5 Industrial Property
3.3.7.5.3 Patents
Paragraph 3.261

UK Question: Can China provide any update on the development of Implementing Regulations following the CNIPA draft amendments issued in November 2020? When will any amendments become law in China?

Reply: The Proposals for Amendments to the Implementing Regulations of the Patent Law (Draft for Comment) is being solicited for comments and will be officially announced after adoption.

SECRETARIAT REPORT (S415)
3 TRADE POLICIES AND PRACTICES BY MEASURE
3.3 Measures Affecting Production and Trade
3.3.7 Intellectual property rights
3.3.7.5.3 Patents
Paragraph 3.271

UK Question: Can China please clarify how patent term extension for marketing approval delays is calculated, and if it is only available to novel drugs that are approved for marketing for the first time in China (and not those that have had approval previously elsewhere in the world)?

Reply: The Proposals for Amendments to the Implementing Regulations of the Patent Law (Draft for Comment) is being solicited for comments and will be officially announced after adoption.

SECRETARIAT REPORT (S415)
3 TRADE POLICIES AND PRACTICES BY MEASURE
3.3 Measures Affecting Production and Trade
3.3.7 Intellectual property rights
3.3.7.5 Industrial property
3.3.7.5.8 Undisclosed information and trade secrets
Paragraphs 2.284 - 2.289

UK Question: Does the legal framework governing the protection of undisclosed information and trade secrets, contain provisions that permit government officials and external experts to disclose trade secrets and other confidential business information without the consent of the applicant? Can China give examples of this, particularly situations where reasons of national security or public interest might justify the disclosure of such information? Is China considering further amendments to the legal framework?

Reply: The Anti-Unfair Competition Law (revised in 2019) revised the definition of "trade secrets", and heavier penalties will be imposed on infringements of trade secrets. In order to further strengthen the protection of trade secrets, the State Administration for Market Regulation is actively promoting the revision of the "Provisions on the Protection of Trade Secrets."

SECRETARIAT REPORT (S415)
3 TRADE POLICIES AND PRACTICES BY MEASURE
3.3 Measures Affecting Production and Trade
3.3.7 Intellectual property rights
3.3.7.6 Enforcement
Paragraphs 3.290 - 3.305

UK Question: Considering the unique 'Three-in-One' litigation in intellectual property rights-related cases, is there an accessible database available which provides rulings and evidence of strengthening of the case law based on precedence?

Reply: The Three-in-One model unique to intellectual property is not a type of litigation, but a reform of the trial system. It mainly refers to the acceptance of IPR civil, administrative and criminal cases all by the courts with jurisdiction over IPR civil cases.

UK Question: Given on-going concerns with the scale of the manufacture of counterfeits, and their distribution (both domestically and cross-border), how will China further improve proactive enforcement measures against infringing goods?

Reply: In September 2020, the Supreme People's Court issued the Opinions on Increasing the Law-based Penalty of Intellectual Property Infringement. It is made to further strengthen the application of preservation measures, support judgments on stopping infringement according to law, and increase compensation and criminal crackdown according to law. In cases of taking IPR infringement as the main business, counterfeiting the registered trademarks of goods such as materials for disaster relief and epidemic prevention during a specific period, and engaging in criminal behaviors for infringing IPR again after receiving administrative penalty for infringing IPR, the penalty shall be heavier according to law, and probation shall not be applied in general. It also helps to recover illegal income according to law, strengthen the application of fines as penalty, and deprive criminals of the ability and conditions to infringe IPR again.

Regulations on the Transfer of Suspected Criminal Cases by Administrative Law Enforcement Organs was promulgated and implemented by the State Council on August 7, 2020; on August 14, 2020, China issued the Opinions on Strengthening the Destruction of Infringing and Counterfeit Commodities will be issued. In April 2021, the State Administration of Market Supervision issued the Regulations on Assisting Investigation and Management of Market Supervision Law Enforcement Inspection Cases to promote coordination of law enforcement among regions.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2 Agriculture

4.1.2.3 Policy objectives and reforms

Paragraph 4.11

UK Question: Can China provide further detail on the specific support needed to implement the goals/reforms for agricultural modernisation, in particular what support is being given towards establishing modern agricultural industrial parks and townships and industry clusters, and developing new business models (i.e., leisure agriculture, rural tourism, and rural e-commerce)?

Reply: Relevant work has been done as follows: Utilizing the rural characteristic advantageous resources, China will establish comprehensive agricultural industry chain, retaining the principal part of the agricultural industry within county level, allowing the farmers to enjoy more benefit from industrial added value. Encouraging the agricultural business operators to produce according to standards. Building modern agricultural industry park, agricultural industry town, cluster of characteristic advantageous agricultural industry and promote the construction of public-benefit agricultural product market and backbone circulation network for agricultural products. Developing leisure agriculture industry and superior rural tourism routes and optimize related facilities. China will promote the construction of model development park for demonstrating the integration of the first, second and third industries and technology demonstration park. Also, we will establish modern forest industry demonstration district and organize and initiate "10 thousands enterprises to boost village development" program.

UK Question: What support is being given towards encouraging clean agricultural production, developing a three-year action plan to protect and restore the rural environment, promoting rural culture, and improving transport infrastructure, utilities, and public service delivery?

Reply: Relevant work has been done as follows: Implement the national black soil protection project and promote the mode of conservation farming. Improve the cropland fallow rotation system. Continue to promote the reduction and efficiency enhancement of chemical fertilizers and pesticides, and promote green products and technologies for the prevention and control of crop diseases and insect pests. Strengthen the resource utilization of livestock and poultry manure. Comprehensively implement the comprehensive utilization of straw and the recycling of agricultural film and pesticide

packaging, and strengthen the research and development and promotion of degradable agricultural film.

Build a number of demonstration counties for comprehensive treatment of agricultural non-point source pollution in the Yangtze River Economic Zone and the Yellow River Basin. Support the construction of national agricultural green development pioneer areas. Strengthen the conservation of aquatic biological resources, promote the construction of fishery law enforcement capabilities focusing on the Yangtze River, ensure the effective implementation of the ten-year ban on fishing, and do a good job in ensuring the resettlement of fishermen who retreat. Develop water-saving agriculture and dry farming. Promote the comprehensive management of desertification, rocky desertification, slope farmland soil erosion and soil pollution prevention, groundwater protection and over-exploitation control in key areas.

Scientifically carry out large-scale land greening operations. Comprehensively promote the prohibition of grazing rotation and rest grazing on the grasslands, strengthen the prevention and control of grassland rodents, and steadily restore the grassland ecological environment.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2 Agriculture

4.1.2.4 Policy instruments

4.1.2.4.2 Measures affecting exports

Paragraph 4.18

UK Question: Could China please explain the delay in submitting its 2020 notification on State Trading Enterprises, as per its obligations under Article XVII of GATT 1994, and provide an update on when it plans to submit this notification?

Reply: China has submitted the new notification on State Trading before the review.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2 Agriculture

4.1.2.4 Policy instruments

4.1.2.4.3 Internal measures

4.1.2.4.3.1 Support measures

Paragraph 4.22

UK Question: We note that China has notified a programme introduced in 2018 regarding a subsidy for returning cultivated land to forests and grassland. How does China ensure that this subsidy does not drive landowners to convert existing forest and grassland and then restore this for the purpose of claiming the subsidy, and is the subsidy limited to land? Is there a cut-off date for how long the agricultural land must have been in place, and how is this monitored? What has been the progress and results of the programme to date?

Reply: Returning cultivated land to forests and grassland is a major decision made by the Chinese government from the strategic perspective of the long-term development of the country and the nation, focusing on the overall sustainable development of the economy and society.

China implements land use control in accordance with the law. Based on the results of national land surveys and annual change surveys, returning cultivated land to forests and grassland is strictly limited to the scope of land that can be returned as provided by the law. A total of 14.27 million hectares of cultivated land were returned to forests and grassland. In 2018, China implemented a total of 825,800 hectares of returning cultivated land to forests and grassland, including 752,600 hectares of forests and 73,200 hectares of grass.

China implements land use control in accordance with the law. Based on the results of national land surveys and annual change surveys, returning cultivated land to forests and grassland is strictly limited to the scope of land that can be returned as provided by the law. It is forbidden to include the cultivated land illegally destroyed by forests and grasses for reclamation into the implementation

scope of the project of returning cultivated land to forests and grassland. After returning cultivated land to forests and grassland, the local people's government shall register and confirm the rights of returning cultivated land to forests and grassland in accordance with the law, and issue ownership certificates, thereby protecting the legal rights and interests of land contractors and consolidating the results of returning cultivated land to forests and grassland.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2.4 Policy instruments

4.1.2.4.4 Levels of support

Paragraph 4.29

UK Question: Given that China hasn't notified domestic support for agriculture since 2012, are there plans to notify domestic support schemes?

Reply: Domestic Support notifications from China covers marketing year 2016. China will submit its DS notifications for the following years later this year or early next.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.3 Fisheries

4.1.3.2 Legal, institutional, and policy framework

Paragraph 4.37

UK Question: Please could China provide more information on the total allowable catch system, and the timescale for establishing it?

Reply: In 2017, the Ministry of Agriculture (renamed Ministry of Agriculture and Rural Affairs today) issued the *Notice on Further Strengthening the Management of Fishing Ships in China and Controlling the Total Catch of Marine Fishery Resources*. The Notice set the target of total output of marine fishery by 2020 and pledged to further set the control target afterwards.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.3 Fisheries

4.1.3.2 Legal, institutional, and policy framework

Paragraph 4.39

UK Question: Given the importance WTO members accord to sustainable fisheries and the impact of subsidies in this regard, can China clarify how its "going out" strategy (and "substantial support to its fisheries sector" referenced in S415, Paragraph 3.132) will operate in a way to protect global fishing stocks, and will it commit to providing timely and complete notifications about subsidies that support all aspects of its fisheries sectors?

Reply: In accordance with the rights granted by international law and relevant bilateral cooperation agreements, China has rationally developed and utilized international marine biological resources through the development of offshore fisheries. For the responsible development of deep-sea fisheries, China attaches great importance to the scientific conservation and sustainable use of fishery resources, and actively fulfills its international obligations. Through the formulation and revision of "Pelagic Fishery Management Regulations" and other laws, regulations and rules, a complete offshore fishery management system has been established, and the world's most stringent fishing vessel position monitoring and management measures have been implemented. Especially in recent years, China has taken the initiative to implement independent fishing moratoriums in some high seas, and has taken the initiative to implement strict supervision of reprinting activities on the high seas. China has joined 8 regional fisheries management organizations, and the performance of the contract is ranked in the forefront. At the same time, China is actively working with the international community to severely crack down on IUU fishery activities.

China has promptly and completely notified the central-level fishery subsidies(G/SCM/N/372/CHN) from 2019 to 2020, and has fulfilled its diligence obligations for local fishery subsidies. In the future, we will continue to report in a timely manner.

China has notified its subsidies for the fisheries sector in a special chapter in the 2021 subsidy notification(G/SCM/N/372/CHN). Six subsidies from the central government and 45 subsidies from local governments are included. China's efforts for notification about subsidies for the fisheries sector deserve recognition by WTO members.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.3 Fisheries

4.1.3.3 Government support to the fisheries sector

Paragraph 4.40

UK Question: What capital investment, production subsidies and promotional support have been given to Chinese aquaculture businesses and to the processing sector over the last 3 years? Was any of this support given specifically to support the fishing industry due to Covid-19 prevention measures and the subsequent consequences of those prevention measures to domestic and international markets?

Reply: From 2018 to 2020, the Chinese central government handed out the following subsidies related with aquaculture: public anti-epidemic subsidy for aquatic animals and subsidy for aquatic elite breeding. China has notified WTO of its fishery subsidies in 2017-2018 and 2019-2020.

UK Question: Could China please confirm whether the policy to terminate fuel and boat construction subsidies has now been implemented? If so, could China please confirm whether the last of its fuel and boat construction subsidies were made at the end of 2020? Could China please confirm whether it has included its fuel and boat construction subsidies in its next new and full subsidy notification?

Reply: Fuel and boat construction subsidies (2019-2020) have been notified to the WTO (G/SCM/N/372/CHN). In accordance WTO notification rules, the next subsidy notification (2021-2022) should be submitted in 2023, and the new notification work has not yet been prepared.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.3 Fisheries

4.1.3.4 Fisheries conservation measures

Paragraph 4.43

UK Question: What specific measures has China taken to strengthen the monitoring and control of fishing vessels and do these measures apply to international vessels?

Reply: China attaches great importance to the conservation and sustainable use of marine resources, and has always required all ocean-going fishery enterprises and fishing vessels to engage in fishing production in compliance with laws and regulations. In recent years, China has revised and promulgated the "Regulations on the Management of Oceanic Fisheries", established a sound management system for oceanic fisheries, implemented a series of monitoring measures, and imposed strict supervision on ocean-going fishing vessels. In particular, the most stringent ocean-going fishing vessel position monitoring system is implemented, requiring all fishing vessels to report their positions automatically within one hour. The internationally accepted measure is to require fishing vessels to report positions within 4 hours to prevent fishing vessels from illegally fishing. China has cracked down on violations of laws and regulations with "zero tolerance", and imposed severe penalties on all offshore fishing enterprises and fishing vessels that violated the regulations through investigation and verification.

Since 2020, China has established a mechanism of compliance performance assessment on distant water fisheries companies with respect to international regulations. China's fisheries administrative authorities carry out quantitative assessment annually on the compliance performance of distant

water fisheries companies and their vessels, use the score of the annual assessment as the basis for subsidies or punishment, so as to incentivize the fulfillment of international conservation obligations and preservation of international fisheries resources.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.3 Fisheries

4.1.3.4 Fisheries conservation measures

Paragraph 4.44

UK Question: What are the main barriers preventing China from acceding to the FAO's Port State Measures Agreement, and how is China evaluating the success of control measures in place to prevent Illegal Unreported and Unregulated fishing?

Reply: China recognizes the important role of Port State Measures Agreement in fighting IUU fishing, appreciates the FAO and its members' efforts to bring the Agreement into force, and is actively studying and promoting its own accession to the Agreement. Port regulation in China involves multiple departments, which conduct joint management through coordination. There are difficulties for China to join the Agreement in the near term, but China has incorporated the lists of IUU fishing ships published by regional fishery organizations that have joined the Agreement in its port regulation. It prohibits the listed IUU fishing ships from entering Chinese ports, refuses their request for refueling, replenishment and repair at Chinese ports, and bars their catches from being unloaded, transshipped, packaged and processed at Chinese ports. China asks Chinese fishing ships entering foreign ports to accept and cooperate in the host country's port inspection in accordance with relevant international and national laws. To expedite the process to accede to the Port State Measures Agreement, China is implementing a fishing port reform, strengthening the reporting of fishing ships entering and leaving the ports, creating a tracing system of catches, and prohibiting illegally obtained catches from coming onshore. In May this year, China and FAO co-hosted the international seminar on promoting port state measures via video link, at which Chinese and foreign experts held discussions on matters concerning the accession to the Agreement.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.2 Mining and Energy

4.2.1 Mining

Paragraph 4.48

UK Question: Why does China maintain foreign investment restrictions in the "exploration, exploitation, and processing of rare earths, radioactive minerals and tungsten" and when might these be lifted?

Reply: In accordance with the needs of national economic and social development, encourage and guide foreign investors to invest in specific industries, sectors and regions. China protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.2 Energy

4.2.2.1 Overview including environmental policy

Paragraph 4.62

UK Question: Can further information be provided about which non-fossil energies China plans on focusing on in achieving its objectives for green and low-carbon energy development?

Reply: In accordance with the Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035, China will accelerate the development of non-fossil energy, increase the scale of wind power and photovoltaic power generation, accelerate the development of distributed energy in the eastern and central regions, develop offshore wind power, speed up the construction of hydropower bases in the southwest,

promote the construction of coastal nuclear power, and build a batch of multi-energy complementary clean energy base, the proportion of non-fossil energy in total energy consumption will increase to about 20%.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.2 Energy

4.2.2 Mining and Energy

4.2.2.1 Overview including environmental policy

Paragraphs 4.63 – 4.64

UK Question: Can more detail be provided on Carbon Emissions Trading and associated regulations and how does China plan to use its ETS to bring down CO₂ emissions across other sectors?

Reply: At the end of 2020, the Ministry of Ecology and Environment issued the *Measures for the Administration of Carbon Emissions Trading (for Trial Implementation)*, primarily establishing the regulatory system of the national carbon market. The *Measures* specified the targets, contents and measures of market regulation of departmental, provincial and municipal ecological and environmental authorities, standardized the market activities of key GHG emitters, and specified relevant responsibilities and obligations. The national carbon market officially came online and started trading in July this year. It included 2,162 key emitters in the power generation industry in the first performance cycle. For many years, China has also carried out the emission accounting, reporting and inspection of other high-emission industries such as petrochemical, chemical industry, building materials, iron and steel, non-ferrous metals, paper making and aviation, gathering solid statistics. Next we will systematically reduce the CO₂ emission in other sectors by broadening the industrial coverage of the carbon market and optimizing the methods of quota distribution. Building on the sound operation of the carbon market for power generation industry, we will expand the market to cover more high-emission industries, improve the methods of emission quota distribution, and give full play to the market's important role in controlling GHG emissions, promoting innovation in green and low-carbon technologies, and guiding climate investment and financing.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.2 Energy

4.2.2 Mining and Energy

4.2.2.3 Oil

Paragraph 4.78

UK Question: Can China confirm how many multinational corporations have entered the Chinese petrol station market; and what market share is currently held by Chinese SOEs?

Reply: China has no relevant statistics currently.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.2 Energy

4.2.2 Mining and Energy

4.2.2.3 Gas

Paragraphs 4.80 – 4.81

UK Question: As part of China's gas market reforms, how will China ensure access for private and foreign-invested firms to gas transmission infrastructure, such as pipelines and liquid natural gas (LNG) terminals, owned by Pipe China?

Reply: All market players can equally use gas transmission infrastructure in accordance with Chinese laws and regulations without discrimination.

SECRETARIAT REPORT (S415)
4 TRADE POLICIES BY SECTOR

4.2 Energy

4.2.2 Mining and Energy

4.2.2.5 Electricity

Paragraph 4.87

UK Question: How will China provide greater market access for overseas firms in new energy technologies, such as offshore wind, and provide a level playing field for foreign-owned and private companies to compete with Chinese state-owned enterprises – including in procurement?

Reply: China has implemented a negative list for foreign investment market access. Except for those fields in the negative list, foreign-invested companies can enter the Chinese market.

UK Question: How does China manage localisation requirements to ensure a transparent, open and fair market for international firms in the civil nuclear sector?

Reply: China fulfills its WTO commitments and does not discriminate against FIEs. Foreign enterprises are the participants, contributors and beneficiaries of China's development. China will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

SECRETARIAT REPORT (S415)
4 TRADE POLICIES BY SECTOR

4.3 Manufacturing

4.3.1 Recent developments

Paragraph 4.93

UK Question: It is noted that China states that "the steel cement, aluminium, and chemicals sectors have sound profitability levels, and they consider that there is no excess capacity in these industries." For the steel sector, the OECD suggest that the difference between global steel production and capacity will be 477mmt in 2021. This is equivalent to over 19% of global steel production. Equally, OECD data shows that China has consistently had significantly more steel capacity than production, including a difference of more 100mmt between capacity and production in 2020. In light of this, how has China concluded that there is "no excess capacity" in the industry? How does China plan to work with global partners to help resolve the issue of excess steel capacity to the benefit of all partners?

Reply: Overcapacity is a universal, cyclical and structural issue in economic development and a common challenge facing the whole world. The underlying causes of this round of steel overcapacity are the global economic downturn and the slump in steel demand triggered by the 2008 financial crisis. During the 13th Five-Year Plan period (2016-2020), China cut its crude steel capacity by more than 150 million tons and eliminated the substandard steel capacity by 100 million tons. In 2019, China had a crude steel capacity of 1.06 billion tons and produced 996 million tons of crude steel, with a capacity utilization rate of 94%, which was higher than the global average.

SECRETARIAT REPORT (S415)
4 TRADE POLICIES BY SECTOR

4.3 Manufacturing

4.3.1 Recent developments

Paragraph 4.97

UK Question: What has been the impact to China's aerospace and shipbuilding industries following the removal of the foreign equities cap and other liberalisation efforts in the manufacturing sector?

Reply: China welcomes foreign investment in China's aerospace and shipbuilding industries. Foreign enterprises are the participants, contributors and beneficiaries of China's development of manufacturing sector. China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment,

and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.3 Manufacturing

4.3.2 Selected subsectors

4.3.2.2 Machinery and equipment

Paragraph 4.112

UK Question: Were the funds made available as part of the Robotics Industry Development Plan (RIDP) notified as subsidies? In addition, are there any plans to replace the RIDP?

Reply: The RIDP is for guidance purposes and does not provide specific subsidies, so there is no need to notify the funds to WTO.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.3 Manufacturing

4.3.2 Selected Subsectors

4.3.2.2 Machinery and equipment

Paragraph 4.114

UK Question: Can China provide more information regarding the strategies and specific policies being implemented to achieve the aims of the strategic actions in machinery and equipment industries?

Reply: Please refer to the Section 3, Chapter 8, Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035. Greater efforts will be made to attract and utilize foreign capital. Foreign companies are welcomed to participate in accordance with Chinese laws and regulations.

SECRETARIAT REPORT (S415)

4 TRADE POLICIES BY SECTOR

4.3 Manufacturing

4.3.2 Selected subsectors

4.3.2.3 Iron and Steel

Paragraph 4.117

UK Question: This paragraph notes that by the end of 2019, China had reduced crude steel production capacity by 170mmt in cumulative terms, and a further 140mmt of steel production not conforming to quality standards was ("cut"). While we welcome the efforts made by China in this regard, the latest data from the OECD shows that between 2018 and 2020 Chinese capacity increased by around 33mmt and in 2021 China's crude steel output reached a record high of 1160mmt, despite capacity swap measures being in place to prevent capacity increases in Chinese production. How does China account for this discrepancy? Can China provide further information on the new measures to cut steel capacity, announced in 2021?

Reply: Steel overcapacity: In accordance with China's statistics, during the 13th Five-Year Plan period (2016-2020), China cut its crude steel capacity by more than 150 million tons and eliminated the substandard steel capacity by 100 million tons. In 2019, China had a crude steel capacity of 1.06 billion tons and produced 996 million tons of crude steel, with a capacity utilization rate of 94%, which was higher than the global average.

UK Question: This Paragraph notes that "the authorities state that the capacity of "standard steel" has been fully banned." What constitutes "standard steel"?

Reply: This is a clerical error. It should be "substandard steel".

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.3 Manufacturing****4.3.2 Standards and other technical requirements****4.3.2.4 Electronic, IT, and integrated circuits****Paragraph 4.126**

UK Question: How do the authorities at every level implement the intellectual property protection system, and ensure that international companies are not directly or indirectly forced or unfairly influenced to give up or exchange their IP/knowledge in order to progress approval processes for favourable measures? What guarantees are in place to ensure their commercial control of their knowledge assets and the results of R&D that they generate in China?

Reply: Since 2015, the Chinese government has established 105 cross-border e-commerce pilot zones. On the whole, the pilot zone's role in the development of foreign trade has become increasingly prominent, and it has become a new bright spot for foreign trade growth, a new channel for innovation and entrepreneurship, and a new driving force for transformation and upgrading. The Chinese government optimizes the development environment for cross-border e-commerce. On July 5 this year, the General Office of the State Council issued the "Opinions on Accelerating the Development of New Formats and Models of Foreign Trade" to further promote the healthy and sustainable development of new formats and models of foreign trade.

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.3 Manufacturing****4.3.2 Selected Subsectors****4.3.2.5 Shipbuilding****Paragraph 4.129**

UK Question: Acknowledging China's Shipbuilding Industry Deepening Structural Adjustment, Accelerating Transformation and Upgrading Action Plan (2016-2020), what specific measures have been (or will be) put in place to comply with environmental good practices and promote green shipping and energy efficiency, beyond the plan to replace old fleets with new greener vessels?

Reply: The green concept runs through the whole industrial chain of shipbuilding and the whole life cycle of products. Focusing on promoting ecological product design, clean production process, efficient energy utilization and recycling of renewable resources, strengthen the awareness of energy saving in design, actively promote the application of new energy-saving and environmental protection materials and processes and tooling, support enterprises to carry out technical transformation in energy-saving, environmental protection, green and safe production, accelerate the construction of green manufacturing system, and establish a green and safe shipbuilding technical specification and standard system.

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.3 Manufacturing****4.3.2 Selected Subsectors****4.3.2.5 Shipbuilding****Paragraph 4.133**

UK Question: Can China provide a further update regarding the plan to merge the two largest state-owned shipbuilders?

Reply: Not completed yet.

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.4 Services****4.4.1 Financial Services****4.4.1.3 Recent Regulatory Developments****4.4.1.3.1 Overview****Paragraph 4.145**

UK Question: What specific measures were taken to liberalise financial activities and to further promote foreign participation in the banking, insurance, pension fund management, and securities industries?

Reply: Please refer to Para.3.17 of China policy statement.

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.4. Services****4.4.1 Financial Services****4.4.1.3. Recent Regulatory developments****4.4.1.3.7 Developments in the Fintech Industry****Paragraph 4.189**

UK Question: Can China please provide further information on how the 2019 Fintech Development Plan is progressing? Specifically, if China plans to reduce of data localisation and establishment requirements or establish third-party electronic payment services in China and other areas of the digital economy?

Reply: Data localization related work will be carried out in accordance with national laws and regulations and the actual needs of industry supervision. There is currently no plan to reduce related requirements.

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.4 Services****4.4.1 Financial services****4.4.1.3 Recent regulatory developments****4.4.1.3.7 Developments in the fintech industry****Paragraph 4.192**

UK Question: Given the absence of a unified regulatory regime for fintech firms, does China have plans to set up a single supervisory authority for the regulation of the fintech industry, and/or to harmonise regulations applicable to this sector? If so, can test cases be provided to establish the efficacy of the existing system? How does China plan to balance the drive for financial standardisation and supervision with the disruptive influences of financial innovation?

Reply: The People's Bank of China adheres to the principle of licensed operation of financial services, designs a rigid, flexible, and innovative trial-and-error-tolerant mechanism, and introduces financial technology innovation supervision tools that not only maintain the bottom line of safety, but also encourage reasonable innovation, guiding financial institutions and technology companies to use technology to improve the quality and efficiency of financial services in a market environment where risks are controllable.

SECRETARIAT REPORT (S415)**4 TRADE POLICIES BY SECTOR****4.4 Services****4.4.1 Financial services****4.4.1.3 Recent regulatory developments****4.4.1.3.7 Developments in the fintech industry****Paragraph 4.195**

UK Question: What are the specific cross-border restrictions for processing of anonymised or pseudonymised personal data of customers within China's territory, with a view to utilise those

learnings in other markets? Are there any restrictions on repatriation of earnings in non-renminbi denominated currencies?

Reply: In accordance with Article 21 of Foreign Investment Law, foreign investors' capital contribution, profits, capital gains, assets disposal income, intellectual property license fees, legally obtained damages or compensation, liquidation proceeds, etc., may be freely remitted to overseas in RMB or foreign exchange according to law. Article 24 of the "Regulations on the Administration of Credit Investigation Industry" (Order No. 631 of the State Council of the People's Republic of China) stipulates that "The sorting, storage and processing of information collected by credit investigation agencies in China shall be carried out in China. Credit reporting agencies that provide information to overseas organizations or individuals shall abide by laws, administrative regulations and the relevant provisions of the credit reporting supervision and management department of the State Council. At the same time, the relevant provisions of the "Data Security Law of the People's Republic of China" and the "Personal Information Protection Law of the People's Republic of China" need to be applied.

SECRETARIAT REPORT (S415)

4. TRADE POLICIES BY SECTOR

4.4 Services

4.4.2 Telecommunications

4.4.2.2 Regulatory Framework

4.4.2.2.5 Cloud Computing

Paragraph 4.213

UK Question: Can China provide more information on the plans to open up cloud services to foreign investment as contained in the 2017 Notice?

Reply: China will study the possibility of further opening up related fields in accordance with the development needs of the domestic market.

SECRETARIAT REPORT (S415)

4. TRADE POLICIES BY SECTOR

4.4 Services

4.4.2 Telecommunications

4.4.2.2 Regulatory Framework

4.4.2.2.6 Cybersecurity

Paragraph 4.214

UK Question: What progress has China made on developing a definition of "important data" relating to cross border data flows?

Reply: According to the "Cyber Security Law", "Data Security Law" and "Personal Information Protection Law", relevant supporting regulations such as data security management and data exit security assessment are in the process of being formulated.

SECRETARIAT REPORT (S415)

4. TRADE POLICIES BY SECTOR

4.4.3 Transport

4.4.3.1 Maritime transport

Paragraph 4.240

UK Question: Does China consider the following maritime services as cabotage and therefore excluded from the rules related to foreign flagged vessels: bunkering; dredging; movement of empty containers (when not carried against payment); feeder services; and offshore services (wind and hydrocarbon energy construction and servicing).

Reply: According to the Regulations on the Administration of Domestic Waterway Transportation, domestic waterway transportation refers to commercial passenger transportation and cargo transportation in which the port of departure, port of call, and port of destination are all within the navigable waters managed by the People's Republic of China. Waterway transportation operators are not allowed to use foreign ships to operate China's domestic waterway transportation business. However, in the case that there is no Chinese ship that can meet the transportation requirements

applied for, and the port or water area where the ship calls is a port or water area open to the outside world, with the permission of the competent department of transportation under the State Council, water transport operators may temporarily use foreign ships for transportation within the time limit or voyage set by the competent department of transportation under the State Council.

SECRETARIAT REPORT (S415)

4 TRADE POLICES BY SECTOR

4.4 Services

4.4.3 Transport

4.4.3.2 Air transport

Paragraphs 4.251 - 4.252

UK Question: China currently unilaterally prevents any UK-China scheduled passenger air services, contrary to provisions in the bilateral UK-China air services agreement. Can the Chinese authorities provide any information as to when this restriction will be lifted?

Reply: Since the outbreak of the new crown epidemic, China has, in accordance with the relevant provisions of the International Health Regulations, the Convention on International Civil Aviation, and China's Border Health and Quarantine Law, the Civil Aviation Law, and other laws and regulations, adopted a series of temporary control measures on international passenger flights, which has effectively prevented the cross-border spread of the epidemic while meeting the necessary personnel exchange requirements. Such measures are risk mitigation measures implemented by China in accordance with relevant regulations of WHO and ICAO and domestic legislation in the event of public health emergencies and pandemics, which do not violate the bilateral air services agreement, and also comply with the requirements of WTO rules. The current global epidemic situation is still complicated and severe. According to changes in the global epidemic situation, relevant measures will be dynamically adjusted in a timely manner, and the orderly recovery of international passenger flights will be steadily promoted under the premise of effective prevention and control measures.

UK QUESTIONS ON THE GOVERNMENT REPORT (G415)

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.1 Promoting the High-Quality Development of Trade

3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services

Paragraph 3.9

UK Question: Can more information be provided about the 105 cross-border e-commerce pilot zones that China has established, including how they create a fair, open and transparent development environment?

Reply: Since 2015, the Chinese government has established 105 cross-border e-commerce pilot zones. On the whole, the pilot zone's role in the development of foreign trade has become increasingly prominent, and it has become a new bright spot for foreign trade growth, a new channel for innovation and entrepreneurship, and a new driving force for transformation and upgrading. The Chinese government optimizes the development environment for cross-border e-commerce. On July 5 this year, the General Office of the State Council issued the "Opinions on Accelerating the Development of New Formats and Models of Foreign Trade" to further promote the healthy and sustainable development of new formats and models of foreign trade.

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.1 Promoting the High-Quality Development of Trade

3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services

Paragraph 3.10

UK Question: Can more information be provided about the Overall Plan for Deepening the Pilot Programme of the Innovative Development of Trade in Services Programme and how it will impact on foreign trade?

Reply: The eight pilot tasks proposed in the "Comprehensive Deepening of the Pilot Program for the Innovation and Development of Service Trade" include: comprehensively explore and improve the management system, comprehensively explore the expansion of opening up, comprehensively explore and improve the level of convenience, comprehensively explore innovative development models, comprehensively explore and improve the promotion system, comprehensively explore and optimize the policy system, comprehensively explore and improve the supervision model, and comprehensively explore and improve the statistical system. The full text of the plan and the interpretation information of the special press conference can be viewed on the website of the Chinese Government and the Ministry of Commerce.

UK Question: On 12 August 2020, the Chinese Ministry of Commerce (MOFCOM) issued a circular on a pilot project blueprint for further innovating and developing trade in services, "The Overall Plan to Launch Innovative Development Pilots to Comprehensively Deepen Trade in Services." Has there been further developments on the proposals for the legal services sector?

Reply: In terms of legal services, the "Comprehensive Deepening of Service Trade Innovation and Development Pilot Program" proposes to further explore ways and mechanisms for closer business cooperation between law firms in the pilot regions and law firms in Hong Kong and Macau, and further explore ways and mechanisms for intensifying business cooperation between Chinese law firms and foreign law firms in pilot areas where conditions permit. Currently, these two pilot measures have been implemented.

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.1 Promoting the High-Quality Development of Trade

3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services

Paragraph 3.11

UK Question: How will China ensure that the significant requirements under its Cybersecurity Law and Data Security Law, including requirements for data localisation and restrictions on cross-border transfers, do not constitute barriers to trade?

Reply: The primary starting point for China to formulate relevant policies is to support data flow and data development and utilization. But at the same time, it should be noted that disorderly circulation and sharing of data may lead to major risks in personal information protection and data security. Necessary, appropriate, and non-discriminatory management must be imposed. Strengthening the management of cross-border flows of data is also a common international practice and will not cause obstacles to trade.

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.2 Building a Highland for Foreign Investment

3.2.1 Fully implementing the Foreign Investment Law and its implementing regulations

Paragraph 3.14

UK Question: How are the intellectual property and technology transfer protections in the Foreign Investment Law monitored and enforced to ensure that administrative bodies at all levels do not directly or indirectly require, force, pressure or otherwise interfere with the transfer or licensing of technology in order to secure relevant approvals?

Reply: China has been following TRIPs, TRIMs and other WTO agreements, as well as its accession commitments. The terms and conditions on technology transfer in foreign investment in China should be negotiated and determined by all concerned investors. According to current laws in China, it is not mandatory that foreign enterprises should transfer their technologies when cooperating with Chinese enterprises. Article 22 of the Foreign Investment Law puts it clearly that during the process of foreign investment, the State shall encourage technology cooperation on the basis of free will and business rules. Conditions for technology cooperation shall be determined by all investment parties upon negotiation under the principle of equity. No administrative department or its staff member shall force any transfer of technology by administrative means.

The choice of technology transfer is independently made by enterprises for maximizing benefits of business activities, which cannot be manipulated by the government. Whether foreign enterprises will transfer their technologies is an independent behavior of the cooperation parties, and the Chinese Government cannot interfere with it.

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.2 Building a Highland for Foreign Investment

3.2.2 Actively expanding market access for foreign investment

Paragraph 3.16

UK Question: Given that China has significantly shortened the negative list for foreign investment access regime and stated its commitment to opening to foreign investment, does China plan to eliminate joint venture requirements across all sectors?

Reply: China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

UK Question: Whilst direct market access barriers, such as negative lists, are problematic – businesses tell us that indirect market access barriers (such as opaque and slow licensing requirements) are far more challenging. How does China plan to also address indirect market access barriers?

Reply: China protects the rights of foreign investors in accordance with laws and regulations. All departments and regions shall not implement restrictive measures outside the negative list of foreign investment, strictly enforce the Foreign Investment Law and supplementary regulations, and ensure that foreign-invested enterprises enter the fields that have been opened to foreign investors on an equal basis in accordance with laws and regulations.

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.2 Building a Highland for Foreign Investment

3.2.2 Actively expanding market access for foreign investment

Paragraph 3.17

UK Question: The European Chamber of Commerce in China has reported that in 2020, the combined market share of China's four biggest insurance companies—Ping An, China Life, People's Insurance Company of China and China Pacific—stood at 60%, against the combined 7.8% share of foreign-invested insurers. In the banking sector, the market share of foreign banks in China, in terms of total assets, stood at 1.2 %. This is significantly lower than in similar economies. What measures will China take to address the overwhelming dominance of domestic firms in China's banking and insurance markets and promote greater competition?

Reply: As for the banking sector, in 2018, the cap of foreign investment shareholding ratio in Chinese commercial banks was lifted and the unified equity investment ratio rules for both domestic and foreign investment were implemented. The Regulations on the Administration of Foreign-invested Banks and the Detailed Rules for the Implementation of the Regulation on the Administration of Foreign-invested Banks were revised in October and December 2019 respectively, which removed the total assets requirement of USD 10 billion for foreign banks to set up foreign-invested legal person corporate banks in China and the total assets requirement of USD 20 billion for foreign banks to set up branches in China. The restrictions on Chinese shareholders of Sino-foreign joint venture banks were eased as well, and the requirement that the sole or major Chinese shareholder must be a financial institution was also lifted.

As for the insurance sector, as of the end of 2019, the requirements of operating business for 30 years and operating a representative office for 2 consecutive years before the establishment of a foreign insurance institution were lifted nationwide, and foreign insurance group companies were

allowed to invest in the establishment of insurance institutions. From 2020, the cap of foreign investment shareholding ratio in life insurance companies was eased to 100%.

UK Question: Has there been consideration of lessening the regulatory and administrative burdens currently facing foreign firms operating as Representative Offices in China? In particular, permitting the opening of third branch offices or lowering the requirements for representatives.

Reply: In October 2019, the State Council issued the Regulation on Improving the Business Environment to ensure that all market entities have equal access to various production factors and support policy. It promulgated institutional regulations on shortening the time needed to start a business, ensuring equal access to the market, and promoting credit supervision. Inspection has been conducted through the "random selection of both inspectors and inspections targets and the prompt release of inspection results". In addition, China has also promoted the "Internet Plus Regulation".

GOVERNMENT REPORT (G415)

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.5 Developing High-Standard Pilot Free Trade Zones and Free Trade ports

3.5.1 Promoting high-quality development of pilot free trade zones

Paragraph 3.27

UK Question: The first round of Free Trade Zones was announced in 2013. Are there further plans for the liberalisation of legal services sector or greater cooperation between foreign and domestic firms under these zones? Are there any plans to expand these liberalisation measures more broadly?

Reply: In terms of legal services, the "Comprehensive Deepening of Service Trade Innovation and Development Pilot Program" proposes to further explore ways and mechanisms for closer business cooperation between law firms in the pilot regions and law firms in Hong Kong and Macau, and further explore ways and mechanisms for intensifying business cooperation between Chinese law firms and foreign law firms in pilot areas where conditions permit. Currently, these two pilot measures have been implemented.

GOVERNMENT REPORT (G415)

4 ACHIEVING SHARED GROWTH THROUGH DISCUSSION AND COLLABORATION AND BUILDING AN OPEN WORLD ECONOMY

4.1 Fully Supporting Global Cooperation on Combating COVID-19 with Concrete Actions

Paragraph 4.2

UK Question: We would welcome an update on how China is ensuring that its financial institutions are working towards international best practice for lending for example under the G20's Operational Guidelines for Sustainable Financing, in particular their transparency provisions, and in aligning their financing with international standards like the G20's QII Principles.

Reply: China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

GOVERNMENT REPORT (G415)

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core

4.2.2 Deeply and fully participating in multilateral negotiations and discussions, and earnestly fulfilling the obligations as a WTO Member

Paragraph 4.20

UK Question: As China is not a signatory country to WTO Pharmaceutical Agreement, and hence is not aligned with a number of other WTO trading partners, some key commodities in UK supply chains (such as some alkaloid-based medicaments and Active Pharmaceutical Ingredients (API)) incur

significant duty liabilities. These are inevitably passed on to the end-user. Can China confirm if it has an intention to sign up to this agreement, to address this disparity and level the playing field as a global leader in API exports?

Reply: China supports the process of multilateral trade liberalization and is willing to conduct dialogues and discussions with interested WTO members under the WTO framework.

GOVERNMENT REPORT (G415)

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core

4.2.2 Deeply and fully participating in multilateral negotiations and discussions, and earnestly fulfilling the obligations as a WTO Member

Paragraph 4.24

UK Question: The report states that "in 2019, China submitted the New and Full Subsidy Notification at the central and sub-central government level during the period from 2017 to 2018. The notification covers 79 subsidy programmes at central level and 420 ones at sub-central level (31 provinces/autonomous regions/municipalities and 5 cities directly designated by the State Council)".

Page 13, Paragraph 23 of the WTO Secretariat report states that, "the notification contains information on 79 central-level and 420 subcentral-level programmes, many of which, however, had expired by the time of the notification" and that "no information was provided by the authorities on how many of the programmes were still active as at April 2021". Could China please provide an updated figure on how many central and subcentral-level programmes are currently active?

Reply: Please refer to China's latest subsidy notification(G/SCM/N/372/CHN).

GOVERNMENT REPORT (G415)

4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.2 Firmly Supporting the Multilateral Trading System with the WTO at its Core

4.2.3 Supporting a bigger role of the WTO

Paragraph 4.26

UK Question: Can China provide more information on its MC12 interest in investment facilitation, services domestic regulation and e-commerce? Does China support further liberalisation?

Reply: China believes that MC12 will be a testimony to Members' confidence in the multilateral trading system. China is willing to work with other Members to build consensus, to support the new Director-General's work, and to achieve outcomes on issues such as fisheries subsidies, fighting COVID-19 pandemic, agriculture, investment facilitation, services domestic regulation, e-commerce, and the Appellate Body reform.

China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

In November 2019, 92 members issued the Joint Ministerial Statement on Investment Facilitation for Development during the Informal WTO Ministerial Meeting in Shanghai. In 2020, the Investment Facilitation for Development proceeded into negotiating stage. Together with over 100 members, China is fully participating in the process. With joint efforts, the participants are working towards an early integration of investment facilitation into the multilateral framework, and an outcome that benefits all WTO members.

GOVERNMENT REPORT (G415)**4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND****4.4 Building International Platforms for Opening Up and Cooperation****4.4.1 Promoting high quality cooperation for the Belt and Road Initiative"****Paragraph 4.36**

UK Question: What is the shared vision of the "Green Silk Road", and will Chinese investment be restricted or prioritised to countries where it has Free Trade Agreements in place? And what steps will China take in practice to address green development agenda in greening the Silk Road?

Reply: The Green Silk Road is designated to achieve an international consensus on as well as cooperation and concerted actions in the green development of the Belt and Road Initiative (BRI), integrate sustainable development into the BRI, and assist the BRI countries in realising goals related to environment and development in 2030 Agenda for Sustainable Development.

Chinese investment will not be restricted or prioritised to countries where it has Free Trade Agreements in place. Enterprises can autonomously make decisions in line with the market principle and assume responsibility for their own profit and loss.

The Guidance on Promoting Green Belt and Road and the Belt and Road Ecological and Environmental Cooperation Plan were issued in 2017. Chinese and foreign partners jointly established the Belt and Road Initiative International Green Development Coalition (BRIGC). Besides, 39 global large financial institutions have signed the Green Investment Principles (GIP) for the Belt and Road (BRI) jointly released by China and the UK. China initiated the Initiative for Belt and Road Partnership on Green Development in June 2021. In addition, the Green Development Guidelines for Foreign Investment and Cooperation were released in 2021. Research reports, such as the Green Development Guidance for BRI Projects and the BRI and Carbon Pricing Mechanism were issued as well.

GOVERNMENT REPORT (G415)**4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND****4.4 Building International Platforms for Opening Up and Cooperation****4.4.3 Innovatively holding the Canton Fair, China International Fair for Trade in Services, China International Consumer Products Expo and China International Fair for Investment & Trade****Paragraph 4.42**

UK Question: What were the main outcomes of the China International Fair for Trade in Services, are there any plans for another such Fair and, if so, is there a possibility of it being held in another nation?

Reply: The 2021 China International Service Trade Fair (hereinafter referred to as the Service Trade Fair) was successfully held in Beijing, China from September 2 to 7. As a window to expand opening up, a bridge to deepen cooperation, and a stage to lead innovation, the Service Trade Fair has been further enhanced, and it has been highly praised by the international community. Currently, we have no plans to hold another similar fair.

GOVERNMENT REPORT (G415)**4 BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND****4.5 Continuously Strengthening the South-South Cooperation****4.5.3 Supporting capacity-building for home-grown development of other developing countries****Paragraph 4.50**

UK Question: Did any of the initiatives under China's international development cooperation activities involve objectives or outcomes relating to environmental sustainability?

Reply: Overseas investment that does not meet the environmental protection, energy consumption and safety standards of the investment destination country is listed as restricted overseas

investment by the government. In July 2021, the Ministry of Commerce and the Ministry of Ecology and Environment jointly issued the Guidelines for Green Development of Outbound Investment and International Cooperation, actively guiding enterprises to participate in outbound investment and cooperation in the field of green development. On September 21, President Xi Jinping, at the General Debate of the 76th Session of the United Nations General Assembly, said that China will step up support for other developing countries in developing green and low-carbon energy, and will not build new coal-fired power projects abroad. This statement is widely welcomed by the international community. China takes the improvement of global environmental governance and active response to climate change as important considerations when providing development assistance.

UK Question: Can China provide details on what capacity-building they will deliver for developing countries to enhance scientific and technological cooperation to achieve diversified, independent and sustainable development? Does China have examples of successful training programmes in space and satellite applications and, if so, which countries participated?

Reply: The lack of technology is an important factor restricting the development of developing countries, and technical cooperation is an important means to improve this situation. China has carried out extensive technical cooperation with relevant countries, covering many fields such as agriculture, handicrafts, petroleum technology, radio and television, and clean energy, significantly improving the technology and management level of these countries. China has held international training programme on the application of Beidou technology, with participants from Indonesia, Egypt, Pakistan, etc..

GOVERNMENT REPORT (G415)

5 DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM

5.1 Generating New Demand Through Innovation-Driven Development and High-Quality Supply

5.1.2 Pursuing innovation-driven development, and optimizing and upgrading the industrial structure

Paragraph 5.3

UK Question: Can more detail be provided on the national-level pilot zones of digital economy for innovation-driven development that are under construction, including whether or not one of the aims is to foster investment from international businesses?

Reply: The construction of the national digital economy innovation and development pilot zone focuses on promoting the "four new". The first is to activate new elements and explore an efficient allocation mechanism for data production elements. The second is to cultivate new kinetic energy, focus on strengthening the productivity of the digital economy, and promote the deep integration of the Internet, big data, artificial intelligence and the real economy. The third is to explore new governance methods and build new production relations in the digital economy. Focus on solving the problem that traditional governance and regulatory models cannot meet the new requirements of the new situation and requirements of the development of the digital economy, accelerate the digital transformation of the government, explore a collaborative governance system with multiple participation, and develop platform economy and sharing economy new formats inclusively and prudently. The fourth is to build new facilities and continuously strengthen the foundation for the development of the digital economy. In response to the low level of networking and the low level of resource sharing of facilities such as data centers in some traditional industries and rural areas, systematically deploy broadband, mobile Internet, data centers, electronic certificates, electronic archives and other platform facilities to create a new type of inclusive digital economy infrastructure that serves the people. China welcomes qualified foreign-funded enterprises to invest and start businesses in China's Digital Economy Innovation and Development Pilot Zone.

GOVERNMENT REPORT (G415)**5 DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM****5.3 Committed to Creating Market-Oriented, Law-Based and Internationalized Business Environment****5.3.5 Improving the performance of state-owned assets and state-owned enterprises (SOEs) reforms****Paragraph 5.18**

UK Question: Can China clarify which specific market-oriented reform measures have been introduced in energy, railway, telecoms and public utilities, and by what metrics/data it judges these reforms to have been successful? What measures has China taken to ensure that foreign investors/FIEs might benefit from these market-oriented reforms?

Reply: Regarding the reform of the oil and gas system, promote the reform of the operation mechanism of the oil and gas pipeline network to ensure the safe and stable supply of oil and gas. Regarding the reform of the electric power system, one is to continuously improve the trading mechanism. The second is to carry out pilot projects for green power trading. In September 2021, the nationwide green power trading pilot program was officially launched, with the first transaction volume reaching 7.8 billion kWh. Third, take the power spot market as the core, and coordinate the promotion of power market-oriented reforms. Continue to promote the trial operation of the spot pilot long-term settlement. Advance the construction of the second batch of pilot power spot markets in an orderly manner. Regarding the reform of the railway system, the reform process has been actively and steadily promoted, and the relevant reform plan is currently being studied and drafted. In accordance with the needs of national economic and social development, China will encourage and guide foreign investors to invest in specific industries, sectors and regions. Foreign investors and foreign-invested enterprises may enjoy preferential treatment in accordance with laws, administrative regulations or the provisions of the State Council.

UK Question: Could China please expand on how reorganising and setting up state-owned capital investment and operation companies has helped to promote the reform of the authorised management system of state-owned capital and assets? Could China please provide clarity on what improvements it plans to make, the role of the State-owned Assets Supervision and Administration Commission of the State Council in this process, and whether it plans to publish all materials related to the reform plan?

Reply: In the reform of the state-owned capital authorized operation system, measures such as strengthening the supervision of state-owned assets and the system of investor representative agencies grant authorization and decentralization to state-owned capital investment, operating companies, other commercial enterprises, and public welfare enterprises, forming a corporate governance structure with effective checks and balances, and a flexible and efficient market-oriented operating mechanism. The State-owned Assets Supervision and Administration Commission of the State Council has issued the "List of Authorized Decentralization of State-owned Assets Supervision and Administration Commission of the State Council (2019 Edition)".

UNITED KINGDOM – FOLLOW-UP QUESTIONS

Secretariat Report (S415)

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.2 Measures Directly Affecting Exports

3.2.4 Export support and promotion

Paragraph 3.104

UK Question: Which countries do the 6,472 newly established foreign-funded Pilot Free Trade Zone enterprises come from? What is the process and timeline for assessing pilot programmes in PFTZs and considering broadening out nationwide roll-out for special policies trialled in FTZs? Does China have any plans to make the PFTZs permanent?

Response: The Chinese government welcomes investors from all over the world to invest in the FTZ. FIEs in the FTZ are from different countries and regions. The FTZ carries the important mission of making explorations for deepening the reform, expanding opening-up, and gathering more experience that can be promoted nationwide. Since the Shanghai PFTZ was established in 2013, China has continuously summarized and assessed the innovative experience in the FTZ and the possibility of implementing it in a larger scope. Altogether 278 items of experience have been promoted cumulatively on the national level, such as the pre-access national treatment and negative-list management for foreign investment, and "single window" for international trade. You may check relevant information on the website of Chinese Ministry of Commerce.

Suggested Follow-up: Can China expand on the 'FIEs in the FTZ are from different countries and regions' point in their response, by providing a list of such countries and regions (or even a breakdown by continent)?

Reply: The Chinese government welcomes investors from all over the world to invest in the FTZ. Foreign-invested enterprises in the FTZ come from hundreds of countries and regions, including Hong Kong, China, the United States, Singapore, Canada, and the United Kingdom. It is understood that British companies have invested in Shanghai, Hainan, Tianjin, Liaoning and other FTZs.

Can China provide a direct link to the section of their Ministry of Commerce website that contains the relevant information?

Reply: The Pilot Free Trade Zone has now promoted a total of 278 institutional innovations at the national level. And the relevant information can be found on the Ministry of Commerce's official website the Department of Pilot Free Trade Zone and Free Trade Port). Website: zmqgs.mofom.gov.cn/article/fztg.

UK Question: We would welcome an update on how China is ensuring that its financial institutions are working towards international best practice for lending for example under the G20's Operational Guidelines for Sustainable Financing, in particular their transparency provisions, and in aligning their financing with international standards like the G20's QII Principles.

Suggested follow ups:

How is China actively ensuring that's its financial institutions are working towards international best practise for lending, for example under the G20's OGSF, in particular their transparency provisions? How has China ensured that its financial institutions align their financing with international standards like the G20's QII principles?

Reply: In 2017, China committed itself to the G20 Operational Guidelines for Sustainable Financing, and in 2019 to the G20 Principles for Quality Infrastructure Investment. China emphasizes the importance of ensuring that creditors and debtors in the public and private sectors carry out transparent, sound and sustainable financing practices. The outcome document G20 Principles for Quality Infrastructure Investment is based on and supports development, which deepens and extends the relevant consensus of Hangzhou Summit and provides a useful reference for all parties to promote quality infrastructure investment in the future. China will work with other parties to further support the construction of high-quality, sustainable, risk-resistant, reasonably priced and inclusive infrastructure, so that all countries can give full play to their resource endowments, better integrate into global value chain and realize the mutual development of the global economy.

CHINESE TAIPEI**PART I: REGARDING THE SECRETARIAT REPORT (WT/TPR/S/415)****1. ECONOMIC ENVIRONMENT****1.2.2 MONETARY AND EXCHANGE RATE POLICY****Page 20 (Para 1.13)**

With a view to safeguarding financial market stability and providing liquidity to the banking system during the pandemic, the PBOC expanded its relending facilities to provide targeted support to manufacturers of medical supplies and daily necessities. Furthermore, the authorities tolerated rising levels of non-performing loans in heavily impacted regions and sectors, and introduced a payment moratorium for most micro, small, and medium-sized enterprises (MSMEs) and other eligible firms until end-2021. Furthermore, the PBOC lowered various policy rates. Non-interest rate instruments deployed by the PBOC aimed to provide additional support especially to smaller firms. They included expanding relending facilities, reducing targeted reserve requirement ratios, increasing bank lending targets, expanding credit support by policy banks, subsidizing local banks' repayment moratoria, and introducing a zero-interest scheme for uncollateralized lending to MSMEs. The various measures led to a rapid increase in bank lending and had a significant positive measure on corporate bond issuance.

Question(s):

The financial support for micro, small, and medium-sized enterprises (MSMEs) might only delay their bankruptcy; once the supporting measures expire, a large number of defaults might occur and lead to higher financial risks. Could China please share with us how does it stabilize the financial market while maintaining liquidity?

Reply: Regarding financial services for MSMEs, the China Banking and Insurance Regulatory Commission (CBIRC) has always attached equal importance to "preventing risks" and "promoting development". It guides banking and insurance institutions to explore and improve the financial service modes for MSMEs based on their strategic position and business features and on the principle of accountable cost, controllable risk and sustainable business development. The modes include setting up special institutions, improving the lean management of MSME loans, applying fintech, realizing accurate grant and timely risk prevention and control of credit capital, using information sharing mechanism, and raising the capability of proactive risk management. In general, risks are controllable and business is sustainable regarding the current universal MSME loans in the banking system.

2. TRADE AND INVESTMENT REGIMES**2.2.2 TRADE POLICY FORMULATION AND OBJECTIVES****Page 33 (Para 2.17)**

Since 2013, China has established an increasing number of PFTZs. In 2020, three PFTZs were established in Beijing, Anhui, and Hunan, while the area of the Zhejiang PFTZs was expanded. This brought the total to 21, including the existing 18 PFTZs (in Chongqing, Fujian, Guangdong, Guangxi, Hainan, Hebei, Heilongjiang, Henan, Hubei, Jiangsu, Liaoning, Shaanxi, Shandong, Shanghai, Sichuan, Tianjin, Yunnan and Zhejiang).

Question(s):

Currently, there are 21 pilot free trade zones (PFTZs) in China. What are the differences between the various PFTZs, especially concerning their respective functions, goals, structures and scales? Provinces or cities might compete with each other for investment funds, talents, etc. Could China please share with us what is the solution?

Reply: The general plans for each PFTZ specify their requirements, functions, layout, main measures and safeguards. Those PFTZs established earlier, such as the Shanghai PFTZ, have also formed plans for deepening the reform and comprehensively deepening the reform, and the PFTZs in Guangdong, Tianjin and Fujian have made plans for further deepening the reform. Those plans can be found on the website of the Chinese government or of Chinese Ministry of Commerce.

The various PFTZs have made differentiated explorations based on their respective plans, positioning and local conditions. They have probed and formed promotable experience in different areas and all played a demonstrative and leading role as the highland of opening-up.

2.4.3 Incentives to foreign direct investments

Page 43(Para 2.68)

As a response to the COVID-19 pandemic, several relief measures were taken or announced for foreign investors. For example, all export tax rebates must be made in full without delay except for energy-intensive and polluting products. In addition, the measures provide that China will work to shorten the negative list on foreign investment and expand the catalogue of industries where foreign investment is encouraged, encourage financial institutions to increase foreign trade loans to cope with the impact of the pandemic, and encourage commercial insurance companies to offer short-term export credit insurance and lower premium rates. Under the measures, recent tax and fee relief policies designed to help companies in difficulty should equally apply to both domestic enterprises and FIEs.

Question(s):

According to the report, as a response to the COVID 19 pandemic, several relief measures were taken or announced for foreign investors, such as expediting export tax rebates, shortening the negative list on foreign investment, encouraging financial institutions to increase foreign trade loans, encouraging commercial insurance companies to offer short-term export credit insurance and lower premium rates, etc.

Could China please share with us its plans and projects for facilitating foreign trade loans, offering short-term export credit insurance, and lowering premium rates? Are these projects applicable to all domestic and foreign enterprises?

Reply: Yes.

3. TRADE POLICIES AND PRACTICES BY MEASURE

3.1.1 CUSTOMS PROCEDURES, VALUATION, AND REQUIREMENTS

Page 47 (Para 3.11)

The authorities indicate that, in October 2020, the overall clearance time for imports nationwide was 43.48 hours, reduced by 55.35% compared with 2017.

Question(s):

We note that the overall clearance time for imports nationwide was reported to be 43.48 hours in October 2020, for a reduction of 55.35% compared with 2017. Recently, the COVID-19 pandemic and global port congestions have caused some delays in customs clearance. Could China please share with us the change in customs clearance time due to these recent developments? Besides the facilitation measures to deal with the COVID-19 pandemic, are there any measures adopted to deal with port congestions?

Reply: China has improved the efficiency of terminal operation by increasing bridge cranes, reducing berth occupation by feeder vessels, and bettering the terminal work arrangement and personnel allocation. China has also accelerated terminal construction to be more responsive to emergencies. The approval and relevant formalities for the entry of international vessels are all handled at the dedicated window for international trade, where zero waiting time is basically realized. Moreover, the handling of other vessel related matters doesn't interfere with the time for customs clearance.

3.1.5.1 Import prohibitions

Page 58 (Para 3.45)

China notified to the WTO its import prohibitions in place for the period 2018-20. These prohibitions applied to certain toxic substances and wild animal products; certain old/second-hand mechanical and electrical equipment; certain hazardous chemicals, pesticides, and persistent organic pollutants; mercury-added products; certain solid wastes; ractopamine; certain types of filament lamp; and charcoal imported from Somalia. This list of prohibited products is also contained in MOFCOM's Catalogue of Commodities Subject to Import Prohibition. In 2018, MOFCOM and the GACC adjusted the list of used mechanical and electrical products prohibited from import, by removing from the Catalogue used mechanical and electrical products such as aircraft engines, ship engines, non-medical X-ray equipment, and computer gamespot.

Question(s):

We note that MOFCOM and the GACC adjusted the list of used mechanical and electrical products prohibited from import by removing from the Catalogue used mechanical and electrical products, such as aircraft engines, ship engines, non-medical X-ray equipment, and computer gamespot. Could

China please share with us the reasons for prohibiting imports of these goods and why it agreed to resume imports of these goods in 2018, especially gamespot?

Reply: According to the *Foreign Trade Law of the People's Republic of China*, MOFCOM and GACC put certain used mechanical and electrical products in the Catalogue of products prohibited from import in order to defend national security and protect public interests, people's health and safety, and the environment. In 2018, MOFCOM and GACC adjusted the Catalogue by removing aircraft engines, ship engines, non-medical X-ray equipment and computer gamespot from the Catalogue for the reason that these products pose fairly small risks to national security, public interests, human health and safety, and the environment.

3.2.2 Taxes, charges, and levies

Page 68(Para 3.77)

Export duties are calculated based on the transaction value of exports, plus transport-related fees, and insurance cost. In 2020, all export duties were ad valorem. Certain items are subject to the interim export tariff levied at a rate of zero.

Question(s):

We understand that China reserves the right to levy export tariffs on some products in its accession protocol. According to the report, certain items are subject to the interim export tariff levied at a rate of zero. Could China please share with us the items that are subject to the interim export tariff levied at a rate of zero and the reasons for such reduction?

Reply: The *Customs Import and Export Tariff of the People's Republic of China* that China releases annually lists the export tariff of all goods. Relevant information can be found under "policies" on the website of the Tariff Department of the Ministry of Finance, <http://qss.mof.gov.cn/qzdt/zhengcefabu>.

3.3 Measures Affecting Production and Trade

3.3.3 Sanitary and phytosanitary requirements

3.3.3.3 Inspection and quarantine

Page 88 (Para 3.170)

The Law on Entry and Exit Animal and Plant Quarantine and its Implementing Regulations regulate the inspection of animals, plants, and related products that enter, exit, or transit through China; containers, packing materials, and bedding materials that contain or carry animals, plants, and related products; and means of transport from animal/plant epidemic or infected areas.

Question(s):

1. Could China please indicate the species of concerned quarantine pests for imported plants and plant products and also provide the list? If the quarantine pests are intercepted at the border, how is the shipment disposed? Under what conditions the consignment can be treated to eliminate quarantine pests and then be released?
2. Regarding the existing trade of plants and plant products, could China please share with us under what specific circumstances or conditions import quarantine measures will be changed/adjusted (including the adoption of import prohibition measures)?

Reply to the above two questions: For the species of concerned quarantine pests for imported plants and plant products, please see the Catalogue of Quarantine Pests for Import Plants (Joint Announcement No. 413) issued on 16 April, 2021 and its implementing regulations. The disposal methods of intercepted quarantine pests shall be implemented in accordance with the Law on Entry and Exit Animal and Plant Quarantine and its implementing regulations. Relevant competent authorities will timely adjust import quarantine measures in accordance with relevant laws, regulations and international standards and notify relevant stakeholders of the adjustments.

3.3.7 Intellectual property rights

3.3.7.5.2 Geographical indications

Page 110 (Para 3.258)

The China-United States Phase 1 Economic and Trade Agreement contains GI-related provisions, particularly: (i) using relevant factors when making determinations for genericness, including usage of a term in dictionaries, newspapers, and websites; how the good referred to not providing GI protection to individual components of multi-component terms if the individual component is generic; and (iii) publicly identifying which individual components are not protected when granting GI

protection to multi-component terms. The CNIPA published Guidelines on Determining Common Names in Geographical Indication Protection (Draft) in 2020, clarifying the determining factors, cancellation, and other aspects of common names in terms of the common name determination in GI protection.

Question(s):

1. It appears that there are neither procedures nor legal grounds provided in the Provisions on the Protection of Geographical Indication Products (hereinafter "Provisions on GI Products") that can be used to revoke protected GI products derived from China (hereinafter "Chinese GI products"). Accordingly, could China please explain whether there are any procedures that can be implemented to revoke Chinese GI products protected by the "Provisions on GI Products" under the current legal system of China. If so, what are the relevant laws and grounds for revocation?
2. Have the Guidelines on Determining Common Names in Geographical Indication Protection (hereinafter "Guidelines") taken effect? If not, when are they expected to take effect?
3. After the "Guidelines" take effect, can they be applied to GIs registered as collective trademarks or certification trademarks?
4. What are the "procedures related to cancellation" mentioned in Article 6 of the "Guidelines"? Can the "Guidelines" alone constitute a sufficient legal basis for the competent authority to revoke Chinese GI products after they take effect, or should the revocation be based on some other laws?

Reply to 1-4: In September and October 2020, the Provisions on GI Products (draft for opinions) was issued to solicit public opinions, which included provisions on the procedures of revocation. Feedback is being studied to further perfect the Provisions. In early 2021, the China National Intellectual Property Administration (CNIPA) and State Administration for Market Regulation (SAMR) jointly released the Guiding Opinions on Further Strengthening the Geographical Indication Protection, which absorbed relevant requirements in the Guidelines. The Guidelines has not taken effect yet.

When trademark protection is applied, according to trademark law, relevant right holders or stakeholders may demur, apply for nullification or revocation and three-year non-use of a GI trademark. A registered GI trademark is valid for ten years, at the end of which period the GI trademark will be cancelled in accordance with law unless the registrant applies for renewal according to prescribed procedures. A registered GI trademark is the common name of products for which the use of the GI trademark has been approved. Any unit or individual may apply for revocation.

4. TRADE POLICY BY SECTOR

4.2 MINING AND ENERGY

4.2.2 ENERGY

Page 143 (Para 4.77)

In 2020, China processed 670 million tonnes of crude oil. Foreign investors can participate in refining projects and are not subject to limitations in terms of legal forms.

Question(s):

Could China please share with us whether there are any restrictions on foreign investors in terms of business structures when participating in refining projects? For example, whether a foreign investor can operate as a sole proprietorship?

Reply: According to the negative list of foreign investment, there are no restrictions on foreign investors in terms of business structures when participating in refining projects. They can operate as a sole proprietorship.

4. TRADING POLICIES BY SECTOR

4.2 MINING AND ENERGY

4.2.2 ENERGY

Page 144 (Para 4.78)

Distribution of gasoline/petrol is mostly operated by the China National Petroleum Corporation (CNPC) and the China Petroleum and Chemical Corporation (SINOPEC). Foreign investors can participate in the retail distribution sector, as China has lifted restrictions on foreign investment in the construction and operation of petrol stations. The authorities indicate that a number of multinational corporations have entered the Chinese petrol station operation market.

Question(s):

1. Could China please explain whether there are any restrictions on foreign-invested enterprises in terms of business structures when participating in the distribution services of gasoline/petrol?
2. Are foreign-invested enterprises treated the same as domestic enterprises when operating the retail distribution services of gasoline/petrol?

Reply to 1-2: According to the current negative list of foreign investment, retail service of gasoline/petrol is neither prohibited nor restricted for foreign investors, which can invest and operate in those areas and enjoy the same treatment as domestic enterprises. Relevant laws and regulations shall apply when fixed asset investment and industrial licensing are concerned.

4. TRADING POLICIES BY SECTOR**4.2 MINING AND ENERGY****4.2.2 ENERGY****Page 145 (Para 4.87)**

In 2019, China lifted the requirements that the construction and operation of gas pipeline networks in cities with a population of more than 500,000 must be controlled by Chinese shareholders. However, for construction and operation of nuclear power plants, the Chinese parties must be the controlling shareholders (Table 4.19). Private investment, including foreign investment, is encouraged in the development of the renewable energy sector. In the new 36-Clause on Private Investment (State Council Circular 2010/13), domestic private capital is "encouraged" to build new energy sectors such as wind, solar, geothermal, and biomass power. Electricity generation from wind, solar, or biomass power is also listed in the "encouraged" section of the Catalogue of Encouraged Industries for Foreign Investment (2020 edition). China also promotes electricity generation with nuclear energy; as in the case of renewable energy, FDI is encouraged.

Question(s):

1. As indicated in the reports, China encourages private enterprises to invest in new and renewable energy. Could China please share with us how China encourages these investments?

Reply: Foreign investors who invest in areas encouraged by the nation are entitled to preferential policies on tax, land use, etc.

2. Are the encouraged conditions for new and renewable energy applicable to both domestic and foreign-invested enterprises?

Reply: yes.

4. TRADING POLICIES BY SECTOR**4.3.2.3 IRON AND STEEL****Page 152 (Paras 4.117)**

The authorities indicate that, by the end of 2019, China had reduced crude steel capacity by about 170 million tonnes in cumulative terms, which outperformed the goal of the 13th Five-Year Plan for Economic and Social Development of reducing 150 million tonnes of excess steel capacity ahead of the 2020 deadline. They also note that zombie companies have been largely dismantled in the iron and steel industry. In addition, steel production not conforming to quality standards was cut by 140 million tonnes in 2017. The authorities state that the capacity of "standard steel" has been fully banned.

Question(s):

1. Could China please explain whether it will continue setting targets and deadlines for the reduction of steel capacity in the future?

Reply: By the end of 2018, China had completed the target of reducing 150 million tons of crude steel capacity during the 13th Five-year Plan period, and the supply-demand situation in the iron and steel industry was more reasonable. The main task in the 14th Five-year Plan period is continuing to consolidate the achievements in capacity reduction, deepening the supply-side structural reform, and promoting the high-quality development of iron and steel industry.

2. Could China please also elaborate on the effects of steel capacity reduction measures on China's steel prices and economic growth?

Reply: Since we began to reduce the steel overcapacity, iron and steel enterprises have turned profitable, and the industry has performed much better than in 2015 with a notably lower debt-to-assets ratio. The improved situation of iron and steel industry has greatly contributed to China's economic stability.

PART II: REGARDING THE GOVERNMENT REPORT (WT/TPR/G/415)

4. BUILDING AN OPEN WORLD ECONOMY AND PROMOTING THE CONSTRUCTION OF A COMMUNITY WITH A SHARED FUTURE FOR MANKIND

4.1 Fully Supporting Global Cooperation on Combating COVID-19 with Concrete Actions Page 13 (Para 4.2)

During the COVID-19 outbreak when people's safety and health were seriously endangered, China mobilized maximum efforts and resources within the shortest period of time to contain the spreading of the pandemic. With arduous efforts, China made major strategic achievements in fighting against the pandemic and took the lead in resuming work and production. The complete industrial chains and strong support systems in China play a positive role in boosting the recovery of the world economy. As combating the pandemic is the most urgent task facing the international community, President Xi Jinping is promoting international cooperation and calling for building a global health community for mankind, strengthening bilateral and multilateral cooperation, and jointly addressing the challenges posed by the pandemic. China has been actively fulfilling its international obligations and made significant contribution to the global cooperation on combating COVID-19.

Question(s):

According to the report, China mobilized maximum efforts and resources within the shortest period of time to contain the spread of the COVID-19 pandemic. With arduous efforts, China made major strategic achievements in fighting against the pandemic and took the lead in resuming work and production. Could China please explain what kind of relief and revitalization measures has it adopted to help domestic enterprises? How much cash spending or other government funding has been provided for relief and revitalization measures and what has been the amount in terms of GDP?

Reply: To cope with the repercussions of COVID-19, the Chinese government adopted a string of policy measures in a timely manner, including reduction in tax and fee, postponement in the repayment of principal and interests, and reduction in overall financing cost. It has created innovative mechanisms such as the direct allocation of fiscal fund and direct benefit of monetary policy tools, implemented large-scale relief policies, and consistently helped private enterprises and SMEs clear their debts. Meanwhile, in response to the contracted demand caused by the pandemic, China has issued policies to increase domestic demand and promote consumption, drive the upgrade of traditional consumption patterns, and stimulate investment in infrastructure and other key areas to quickly stabilize the economy.

5. DEEPENING REFORM ACROSS THE BOARD AND BUILDING A HIGH-STANDARD MARKET SYSTEM

5.3 Committed to Creating Market-Oriented, Law-Based and Internationalized Business Environment

5.3.5 Improving the performance of state-owned assets and state-owned enterprises (SOEs) reforms

Page 24 (Para 5.18)

China is committed to pushing forward the reform of State-owned Enterprises. Since the last review, the SOE reform has been extensive and intensive, making significant achievements. The reform to convert SOEs into standard companies has basically been completed and the corporate legal person governance structure has been further improved. China has reorganized and set up state-owned capital investment and operation companies to effectively promote the reform of the authorized management system of state-owned capital, and further improve the supervision system of state-owned assets. China promotes the market-oriented reform of the competitive links in such industries as energy, railway, telecommunications and public utilities. China steadily advances the reform of mixed ownership, promotes the mixed ownership reform of enterprises in fully competitive industries and fields, and steadily explores the mixed ownership reform in key sectors such as electricity, oil, natural gas, railways, civil aviation, telecommunications and military industry. In 2020, China officially launched three-year action plan of SOE reform, starting a new boom in SOE reform. As of January 2021, the total number of central enterprises directly supervised by State-owned Assets Supervision and Administration Commission of the State Council was 97, among which more than 70% were mixed ownership enterprises. Listed companies have become the major player in the mixed ownership reform of central SOEs. The total assets and the profits of listed companies

controlled by central SOEs accounted for 67% and 88% respectively of the total amount of central SOEs.

Question(s):

The 2020-2022 three-year action plan of SOE reform aims to improve the performance of Chinese SOEs and enhance their competitiveness. It also claims to have established a subsidy system which conforms to international practices. Could China please elaborate the relations between enhancing SOEs' competitiveness and the established subsidy system, and also provide some specific examples of this, especially concerning key industries, such as semiconductors and the national defence industry. How have the sizes and the approaches of providing subsidies changed in recent years?

Reply: The document titled *Several Policies on Promoting the High-quality Development of IC Industry and Software Industry in the New Period* (Guo Fa [2021] No.8) includes a series of universal policies. All semiconductor enterprises set up within China, regardless of their ownership and source of investment, are entitled to relevant tax preferences pursuant to the policies. China's semiconductor industry policy encourages and advocates global cooperation and actively creates a market-oriented, law-based and internationalized business environment for various kinds of market entities to invest and do business in China.

Page 25 (Para 5.19)

Since the last review, China has further promoted the development of small and medium-sized enterprises and private businesses. Market entities other than power grid enterprises are allowed to set up electric power sales enterprises to engage in competitive electric power sales business. Restrictions on private enterprises investing in nuclear power construction have been gradually relaxed. Meanwhile, qualified private enterprises are allowed to import crude oil through non-state trading. Restrictions on oil and gas exploration and exploitation have been removed. Private enterprises may engage in mobile communication resale business under guidance. In addition, the long-term work mechanism is further improved, so that commercial banks are confident, willing, and able to lend to private enterprises. Efforts have been made to simplify procedures of MSMEs' deregistration.

Question(s):

As indicated in the report, since the last review, China has further promoted the development of small and medium-sized enterprises and private businesses. Qualified private enterprises are allowed to import crude oil through non-state trading. Could China please explain the qualifications that are required to import crude oil through non-state trading?

Reply: The following documents, which can be found on MOFCOM's website, enumerate the conditions for applying to import crude oil through non-state trading.

1. *Notice of the Ministry of Commerce on the Work Concerning Applications of Crude Oil Processing Enterprises for Qualification for Non-State Trade Importation* (Letter No. 407 [2015] of the Ministry of Commerce)
2. *Conditions and Procedures for Enterprises in China (Zhejiang) Pilot Free Trade Zone to Apply for Qualifications to Import Crude Oil Through Non-state Trading* (MOFCOM Notice No.25)
3. *Conditions and Procedures for Enterprises in China (Fujian) Pilot Free Trade Zone to Apply for Qualifications to Import Crude Oil Through Non-state Trading* (MOFCOM Notice No.46, 2019)
4. Annual notice: *Import of Crude Oil Through Non-state Trading: Total Amount Allowed, Conditions for Application, Procedures of Application*

EUROPEAN UNION

WT/TPR/S/415 – WTO Secretariat's Report WT/TPR/S/415

SUMMARY

Page 11, para 11

An important point in the accession protocol is non-discriminatory treatment of foreign companies. Although a new Foreign Investment Law was adapted, full equal treatment of companies was not achieved.

EU question No 1: Could China elaborate on the timeframe and the follow-up - when will China implement which concrete reform steps?

Reply: China fulfills its WTO commitments and does not discriminate against FIEs. FIEs equally enjoy the State policies concerning the support of enterprise development in accordance with laws and regulations. China adheres to the basic State policy of opening to the outside world and encouraging foreign investors to invest within the territory of China. China maintains a policy of high-level investment liberalization and facilitation, establishes and improves a mechanism for foreign investment promotion, and creates a stable, transparent, predictable and fair market environment. Foreign enterprises are the participants, contributors and beneficiaries of China's development. China will open up wider to the outside world, protect the legitimate rights and interests of FIEs, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

Page 11, Para 12

The Report states that "Projects in the encouraged category are eligible for preferential treatment".

EU Question No 2: Could China please list the encouraged categories and explain where the lists of such projects are to be found. What is the criteria for updating the lists? What is 'preferential treatment'?

Reply: Please refer to:

http://www.gov.cn/zhengce/zhengceku/2020-12/28/content_5574265.htm

Foreign investment in the industries within the catalogue can enjoy preferential treatment such as taxation and land use if the conditions are met.

1 ECONOMIC ENVIRONMENT

1.2 Recent economic developments

1.2.4 Structural Measures

Page 22, para 1.27.

Structural reforms since China's previous review include the implementation of tariff cuts (Section 3.1.3), the further opening of the financial sector with a shortening of the negative list for financial FDI, and the removal of restrictions on the investment quota for foreign institutional investors (Section 4.4.1). The market-opening measures mentioned above are in contradiction with the "Buy China" clause for the acquisition of high-tech products.

EU Question No 3: Although China is not yet a party to the WTO Government Procurement Agreement, do the authorities consider that the application of this clause, which discriminates between local and foreign manufacturers, is aligned with the WTO principles?

Reply: The clause mentioned does not violate WTO rules. In accordance with the Foreign Investment Law, China ensures that foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law.

Page 22, para 1.29.

While the Report refers to the progress of the SOE reform, China never released the details of this plan to the public. State ownership remains important, even in non-strategic, commercially oriented sectors, with SOEs still having large market shares. At the same time, reform of SOEs proceeded almost exclusively in the context of mixed ownership (Section 3.3.5). Given the global weight of the Chinese economy and the strategic role these companies play, their presence in the national and

international market is quite relevant. The latest reforms of SOEs have covered issues such as their classification or mixed ownership.

EU Question No 4:

a) Can China provide feedback in terms of when will the government publish its plan for SOE reform and subject it to peer review to ensure that it is in line with WTO commitments on state owned bodies?

Reply: China fulfills its WTO commitments. China's SOEs reform information is disclosed in accordance with Chinese laws and regulations.

b) Does China envisage to ensure competitive neutrality so that SOEs do not enjoy a competitive advantage as compared to other market participants as part of the reforms that Chinese authorities are currently considering to transform China into a sustainable and resilient economy? If so, what are these specific measures and what is the expected timetable for their implementation?

Reply: China ensures fair competition among enterprises of all types of ownership and will treat enterprises of all types of ownership fairly in terms of element acquisition, access permits, business operations, government procurement, and bidding.

1.3 Developments in Trade and Investment

1.3.1 Trends and patterns in merchandise and services trade

Page 24, para 1.38

The Report (section 1.3.1) documents a sizeable change in the relative share of the US in China's imports, dropping from nearly 9% in 2015 to 6.6.% in 2020. Meanwhile, the relative share of imports from Asian countries has increased.

EU Question No 5: It would be interesting if China could elaborate upon the possible drivers behind these changes in shares across trade partners. More specifically, to what extent can they be traced to issues such as, e.g., the US trade policy towards China, "near-shoring" strategies within Asia, or other considerations?

Reply: The changes in different trading partners' shares in China's total imports are an objective reflection of accumulated various factors, namely, the supply and demand structure in international trade, environments of international trade and changes in different partners' industrial competitiveness. China will work with all other WTO members to uphold the spirit of openness, cooperation, mutual benefit and win-win, promote trade and investment liberalization and facilitation, safeguard the stability of the global industrial chain and supply chain, and promote the world economic recovery and growth.

Page 26, para 1.42

The Report states that Chinese services exports have been increasing in recent years, notably in the areas of communication, computer, information, and maintenance.

EU Question No 6: Could China explain how these trends in export services relate to the objectives of the Pilot Programme of the Innovative Development of Trade in Services to promote the transformation, upgrading and high-quality development of foreign trade?

Reply: The Pilot Programme of the Innovative Development of Trade in Services is one of the important platforms in promoting the transformation, upgrading and high-quality development of China's foreign trade. In the past five years since the pilot programme was initiated, pilot regions have explored new ways and taken the initiative to make innovations, with remarkable results made in the pilot work. Multiple batches of practical and institutional innovations have been replicated and promoted nationwide, which have given a strong boost to the high-quality development of China's trade in services.

2 TRADE AND INVESTMENT REGIMES

2.3 Trade Agreements and Arrangements

2.3.1 WTO

Page 34, Para. 2.22

The Report states that during the review period, China submitted various notifications to the WTO (Table A2.1). Nevertheless, some notifications, including those on state trading enterprises and domestic support, remain outstanding.

EU Question No 7: Could China explain the reasons for the repeated delays, especially in the area of subsidies, with the understanding that the lack of administrative capacity does not apply in China's case? Could China also clarify the timeline of the pending notifications?

Reply: China has submitted a notification on state trading before this review. At present, China is preparing the notification on domestic support for agriculture and will submit it later this year or early next. In recent years, China has been committed to enhancing the transparency of its subsidy policies and always submitted subsidy notifications in a timely manner.

2.3.2 Regional and preferential agreements

Page 36, Para. 2.33

"On 15 January 2020, China and the United States signed the China-United States Phase 1 Economic and Trade Agreement.¹⁸ It contains provisions related to, inter alia, intellectual property, technology transfer, trade in food and agricultural products, and financial services."

EU question 8:

- a) Do the horizontal disciplines of this agreement, notably on intellectual property, technology transfer and financial services apply erga omnes?
- b) How will China ensure that the treatment accorded to agricultural products in that agreement will not disadvantage other WTO members?

Reply to a and b: Chinese enterprises will import more quality products and services from the US pursuant to the WTO rules and market and business principles. The huge and continuously growing China market will have more demands for quality and fair-priced goods and services. In fact, as the Chinese economy recovers, the country has imported more quality goods from around the world, including the US. The upbeat trade momentum fully demonstrates that China's economic development will create great opportunities for other countries to expand their trade cooperation with China. China welcomes enterprises from foreign countries to engage in fair competition in the Chinese market, and Chinese consumers will choose products and services based on their performance-to-price ratio.

All of China's agricultural imports from the United States are made under market conditions based on commercial considerations, and the administrative measures taken by China on the import of agricultural products are implemented on the basis of most-favored-nation treatment.

2.4 Investment Regime

2.4.1 Regulatory framework and market access

Page 37, para 2.41

Under the FIL, legal liability shall be pursued in case of any IPR infringement. In addition, the FIL prohibits government officials from forcing foreign investors to transfer their technology by administrative means; it also requires the authorities to keep confidential any trade secret of foreign investors that they may become aware of during the performance of their duties.

In practice however, the situation is different. Despite prohibition of forced administrative technology transfer, these measures have been not enough to protect the foreign investors as in many cases they have to comply with the Chinese company's requirements to enter the Chinese market.

EU Question No 9:

- a) What kind of measures can China put in place to encourage Chinese companies to comply with the prohibition of forced technology transfer protected in the law?

Reply: China has been following TRIPs, TRIMs and other WTO agreements, as well as its accession commitments. The terms and conditions on technology transfer in foreign investment in China should be negotiated and determined by all concerned investors. According to current laws in China, it is not mandatory that foreign enterprises should transfer their technologies when cooperating with Chinese enterprises. Article 22 of the Foreign Investment Law puts it clearly that "During the process of foreign investment, the State shall encourage technology cooperation on the basis of free will and

business rules. Conditions for technology cooperation shall be determined by all investment parties upon negotiation under the principle of equity. No administrative department or its staff member shall force any transfer of technology by administrative means."

The choice of technology transfer is independently made by enterprises for maximizing benefits of business activities, which cannot be manipulated by the government. Whether foreign enterprises will transfer their technologies is an independent behavior of the cooperation parties, and the Chinese Government cannot interfere with it.

b) With regard to trade secrets, enforcement measures need to be developed to ensure compliance. How does China envisage to reach these objectives of effective protection?

Reply: The Anti-Unfair Competition Law(2019 Revision) revised the definition of trade secrets, and heavier penalties will be imposed on infringements of trade secrets. In order to further strengthen the protection of trade secrets, the Provisions on the Protection of Trade Secrets are being revised.

Page 41, para 2.49

The 2020 PFTZ Negative List, issued on 23 June 2020 and entered into force on 23 July 2020, reduced the number of restrictive measures from 95 in 2017 to 30 in 2020 (Chart 2.1).

China is implementing and maintaining a National Negative List for Foreign Investment on which listed industries are prohibited or subject to licensing for investment and operation within the country. It also has a Catalogue of Encouraged Industries for Foreign Investment, for the opposite purpose. Both lists have been updated throughout the last 4 years in order to change substantially the number of sectors included.

EU Question No 10:

a) Is China planning to continue this tendency of reducing listed industries on the National Negative List for Foreign Investment?

b) Is China also evaluating to expand industries included on Catalogue of Encouraged Industries for Foreign Investment?

Reply to a and b: China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1. Customs procedures, valuation, and requirements

Page 46, para 3.6

China maintains a standardized National Single Window (NSW) for international trade (www.singlewindow.cn), initiated in 2016 and based on the China E-Port.

EU Question No 11: Could China provide further clarifications regarding the digitalization for its national operators, including the postal service?

Reply: China will further promote the digitalization of national operators, including the postal service, taking digital technology as a key driving force to promote industry reforms, accelerate the improvement of the digital level of the entire postal industry chain, and improve the industry's data governance capabilities.

Page 47 para. 3.9

The Report states that enterprises are classified into different groups based on risk analysis, which is based on their credit rating and the characteristics of the commodities they import. Additionally, transport modes have different risk indices, for example, relating to sensitive routes and the country of departure.

EU Question No 12: Could China identify the authority or institution responsible for establishing credit ratings and explain related procedures and criteria for the credit rating classification of enterprises, including the availability of an impartial review of credit ratings granted?

Reply: According to China's risk management system, enterprises are divided into different categories in view of the results of risk analysis. Goods exported by high-risk enterprises and other goods considered to be high-risk by risk analysis must be inspected, while other exports may be released through rapid customs clearance or "low-risk inspection". China is speeding up the construction of its social credit system and actively building a new credit-based regulatory mechanism. This work is led by the National Development and Reform Commission. As a participant in the above mechanism, China recently revised the *Measures of the Customs of the People's Republic of China for the Administration of Enterprises' Credit Registration and Filing* (hereinafter referred to as the *Credit Measures*), which will be implemented on November 1, 2021. The *Credit Measures* adopts "strengthening the management on both ends and promoting the middle part" to enhance credit management. On one hand, for "advanced certified enterprises" with the highest credit rating by China Customs, special validation standards and procedures have been formulated, and a special validation team has been established for field validation. "Advanced certified enterprises" are equivalent to Authorized Economic Operators (AEOs) in China. China provides an abundance of facilitation measures to improve the customs clearance efficiency and reduce cost for enterprises, and actively realize mutual recognition with international AEOs, so that AEOs may enjoy the facilitation measures of mutual recognition countries or regions. On the other hand, for "dishonest enterprises" with the lowest credit rating by China Customs, strict identification procedures and notification procedures have been formulated. Enterprises are given full rights of statement and defense. For "dishonest enterprises", China carries out strict supervision by increasing the inspection ratio, shares the data of the "list of seriously dishonest entities" at the national level, and conducts "joint disciplinary actions" with other ministries and commissions in accordance with the relevant procedures.

Page 47 para. 3.11

The authorities indicate that, in October 2020, the overall clearance time for imports nationwide was 43.48 hours, reduced by 55.35% compared with 2017.

EU Question No 13: Could China provide further clarification on this data? Does this data cover all customs operations from the arrival of the good until customs clearance?

Reply: The overall customs clearance time of import refers to the time from the arrival of imported goods to when the goods can be picked up. The data represents the average overall customs clearance time on the actual inbound and outbound customs declaration within the corresponding time period, which is equal to the simple arithmetic mean of all customs declarations included in the calculation. The customs declarations and case-involved customs declarations of solid waste, direct return, and imported coal are not included in the statistical data of the corresponding reporting period in 2020. The national overall customs clearance time of import decreased by 55.35% in October 2020 compared to that in 2017" refers to the reduced proportion of the overall customs clearance time in the corresponding time period relative to the overall customs clearance time of the customs declarations that were cleared in 2017.

3.1.1.3 Trade facilitation

Page 49, Box 3.1

Box 3.1 lists with regard to import facilitation of food and agricultural product imports the availability of "Expedited process to grant market access to more categories of agri-food products from more countries and to register more establishments. Shortening of quarantine approval process."

EU Question No 14: Those statements appear not to be applicable to EU food and agriculture products exported to China. Could China provide concrete examples where more categories of food and agriculture products and/or more establishments from the EU were approved?

Reply: China is actively promoting the access of EU agricultural products, such as Portuguese fresh pears. In 2021, 44 dairy enterprises from 11 countries including Belgium, Germany and France, 1 bee product enterprise from Slovenia, and 17 rice enterprises from Italy have been approved.

Page 60, para 3.47

China's import licensing system includes automatic and non-automatic import licences. Furthermore, China applies import licences to specific dual-use substances for the purposes of safeguarding national security and public interest. Recently this category of goods was expanded to encryption. Companies willing to import encryption solution must undergo complicated procedures and expose their IPR.

EU Question No 15: Could China provide explanations about the link between these developments and increasingly present notion of "secure and controllable" in public procurement? What is the impact of the S&C policy on foreign companies per sector?

Reply: Foreign-invested enterprises have equal access to government procurement through fair competition in accordance with the Foreign Investment Law. Products and services provided by foreign-invested enterprises within the territory of China are equally treated in government procurement in accordance with law.

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Anti-dumping measures

Page 63, para 3.55

The Report indicates changes to China's Anti-Dumping legislation related to:

"(i) extending the application of questionnaire surveys beyond determining dumping and dumping margins to include determining damage issues (emphasis added)."

"(v) incorporating WTO-consistent provisions into the rules relating to handling of information that requires confidentiality, providing interested parties with an opportunity to comment, and setting out the conditions for applying facts available."

EU Question No 16:

a) As regards (i), could China explain what "damage issues" refers to? Is this a questionnaire concerned with injury and who are the intended recipients? If it is related to injury assessment how does it differ compared to previous practice?

Reply: The new rules have integrated all the dumping and damage questionnaire investigation procedures originally subordinate to different departments. It is stipulated in Article 3 of The Provisional Rules on Antidumping Investigations by Questionnaires that in the process of anti-dumping investigation, the investigation authority may issue questionnaires to producers or exporters, domestic producers, domestic importers and downstream users in the investigated country (region), as well as other interested organizations and individuals (hereinafter referred to as interested parties). Compared with the previous provisional rules, the Provisional Rules on Antidumping Investigations by Questionnaires have been extended to damage investigation.

b) As regards (iv), could China explain the conditions applicable for applying facts available in anti-dumping investigations?

Reply: In accordance with Article 25, the Provisional Rules on Antidumping Investigations by Questionnaires, if the interested party fails to submit the necessary information as required within the specified time or seriously hinders the investigation process, the investigation authority may make a preliminary or final decision based on the facts obtained and the best information available. The legal provisions of China are consistent with Article 6 and Annex II to the WTO Anti-dumping Agreement.

The Report also refers to the adaptation of "clearer and stricter" periodical review procedures and time requirements to ensure investigation efficiency. Also, the Rules on Hearings have been replaced with the same intention of becoming clearer and stricter (for instance regarding deadlines and rights of parties).

EU Question No 17: Could China explain what "clearer and stricter" means in this context? Can China guarantee that the changes do not limit the current rights of parties and do not entail increased burden to the parties?

Reply: Compared with previous provisional rules, the Provisional Rules on Antidumping Investigations by Questionnaires supplement the form of questionnaire distribution, specifies objects and strictly stipulates the time of relevant procedures. For example, Article 7 of the Rules stipulates that, the investigation agency shall usually publish the questionnaire on its official website within ten working days as of the deadline of registration, and notify the interested parties that have registered and the government of the exporting country (region). China's Provisional Rules on Antidumping Investigations by Questionnaires fully protect the rights of the interested parties, which are consistent with the principle of the Anti-dumping Agreement.

3.2 Measures Directly Affecting Exports

3.2.1. Customs procedures and requirements

Page 68, para. 3.73

Under China's risk management system, enterprises are classified into different groups based on risk analysis. As with import procedures, customs inspection and supervision depend upon the enterprise's rating (Section 3.1.1). Goods exported by high-risk enterprises and other high-risk goods (based on risk analysis) are inspected, while other exports are released through fast-track clearance or a "low-risk examination".

EU Question No 18: Please provide more details and explanations regarding China's risk management system and the related classification of enterprises, including whether a risk profile applies to countries and the discretion of the customs officer to applying risk profiles?

What are the existing procedures for an impartial review of the risk management system/risk profiles?

Reply: Based on the requirements on risk management in the *Revised Kyoto Convention* and the *Risk Management Outline of the World Customs Organization*, the risk prevention and control center acts as a platform and channel on-site as required by the whole process management of the business function management departments, to support business function management through parameters, rules, instructions and site connecting; implement the management framework through selection, inspection and punishment, execute decisions, and command on-site operations through parameters, rules and instructions; promote and improve the integrated rapid response and emergency management mechanism of China Customs. The closed-loop risk management mode with information collection, risk analysis, risk early warning, risk disposal and instruction evaluation as the main links starts from the collection and integration of internal and external risk information, rely on big data, timely issue risk early warning and implement risk disposal (through different disposal means such as control and inspection by on-site units, starting inspection and handing over anti-smuggling cases upon risk orders) based on information analysis and judgment, conduct instruction evaluation according to the feedback results from law enforcement departments, and incorporate the feedback results and evaluation results into the risk information, thereby forming a circular optimizing mode to continuously improve the accuracy of risk disposal.

3.2.2 Taxes, charges, and levies

Page 68, 3.76

Interim tariff rates may be applied to export goods within a certain period. The State Council shall establish the Customs Tariff Commission to decide on the goods subject to interim tariff, the tariff rates, and the time-limit. The authorities state that interim export tariff rates are adjusted as appropriate based on national economic development considerations.

EU Question No 19: Could China explain how goods subject to interim tariffs are decided and how often the list changes? Where are changes to the list announced and where is the list published?

Reply: China adjusts the provisional tax rate every year according to the actual situation. Detailed information, please refer to [http : //gss.mof.gov.cn/gzdt/zhengcefabu](http://gss.mof.gov.cn/gzdt/zhengcefabu).

3.2.3 Export prohibitions, restrictions, and licensing

Page 71, para 3.89

The Report documents that the Catalogue of Technologies Restricted or Forbidden for Export, published in August 2020 by MOFCOM and the Ministry of Science and Technology (MOST), introduced new lists of restricted and prohibited items and technologies.

EU Question No 20:

a) The EU would like to request China to explain the relationship between the technologies which are subject to the restrictions under the Export Control Law (e.g. the lists formulated under the implementing administrative laws and regulations) and the list of technologies which are prohibited/restricted to be exported under the Catalogue of Technologies Restricted or Forbidden for Export. The EU would also like to request China to clarify whether the lists originate from multilateral non-proliferation efforts or whether it is based on national considerations, and if so which ones?

b) With specific regard to control of technology export, the EU would like to request China to explain the inter-relations between the different pieces of relevant legislation, including the relationship between the restriction list under Article 18 of the Export Control Law and the Provisions on the Unreliable Entity List.

Reply to a and b: The Catalogue of Technologies Restricted or Forbidden for Export is a catalogue published of the technologies prohibited or restricted from import and export. It was formulated and adjusted according to the Foreign Trade Law of the People's Republic of China and the Regulations on Technology Import and Export Administration of the People's Republic of China, and executes management according to the Regulations. The Catalogue of Technologies Restricted or Forbidden for Export does not lie in the applicable scope of the Export Control Law. Article 1 of the Export Control Law explicitly stipulates that the purpose of the legislation is to safeguard the national security and interests and perform international duties like anti-proliferation, etc. The Chinese Catalogue of Technologies Restricted or Forbidden for Export aims to regulate management over technological exports, promote technological advances and foreign economic and technological cooperation, and maintain national economic security. Article Sixteen of the Foreign Trade Law specifies the concrete situations of the technological import and export restricted or prohibited.

Article 18 of the Export Control Law stipulates that the management and control list and the unreliable entity list are different institutions with different legal grounds. The former was made according to the Export Control Law, while the latter was under the Regulations on Unreliable Entity List. The two list systems' legislative purposes, applicable ranges, and detailed measures and procedures are all different.

Page 71, para 3.91

The Report states that the Export Control Law defines "controlled items" to include dual-use items (with both civilian and military applications), military products, and nuclear products. In addition, "controlled items" include "other goods, technologies, services that are related to the maintenance of national security and interests and the implementation of international obligations such as non-proliferation". This is a very broad concept, which could lead to excessive control without clear limits.

EU Question No 21:

- a) Could China consider defining the scope of controlled items more precisely, notably the types of items and categories are covered under these lists ?
- b) How does China define these to guarantee the security of investments for foreign investors?
- c) What products are possibly included in the 4th category of controlled goods listed in the Export Control Law?
- d) Does China publish the annual implementation reports of the ECL?

Reply to above four questions:

To safeguard the national security and interests, perform the international duties of anti-proliferation, etc., according to the international treaties and the multilateral export control mechanisms the Chinese government has joined, and by referring to the prevailing international approaches, the Chinese government has formulated and makes adjustments with the control list. The coverage of the Chinese control list is far narrower than those of the other world major countries in America and Europe, and there is no so-called "over-regulation". After the promulgation of the Export Control Law, in order to better enforce the law and improve the operability, the Chinese government has now expedited its advances in formulation and amendment of the complementary laws and regulations, and is improving the control list. Relevant progress will be released in time.

Page 71, para 3.92

The Secretariat Report states that "Specific export control lists were also released" in addition to the list of dual-use items and of items subject to administration of export/import license (<http://www.mofcom.gov.cn/article/b/c/202012/20201203027833.shtml>).

EU Question No 22: The EU would like to request China which types of items and categories are covered under these lists with and whether corresponding references to the lists of multilateral export control regimes will be published to provide legal clarity.

Reply: Since the 1990s, China has already promulgated 6 administrative regulations in export control sector and 1 set of divisional rules, all of which are attached with separate controlled item lists, covering military and nuclear items, monitored chemicals and the dual-use items and technologies associated with nuclear, biology, chemistry and missiles. After the promulgation of the Export Control Law, the Chinese government is working on the formulation and revision of supporting regulations, and will continue to improve the control list and release it to the public in time.

Page 71, para 3.93 and 94

The Secretariat report documents that the Export Control Law provides for the establishment of control lists of foreign business entities that "possibly endanger national security and interests". Article 13 of the Law provides that approval or disapproval of exports will be based on eight criteria, including national security and 'interests', relevant credit records of exporting companies, and "other factors stipulated by laws and administrative regulations".

EU Question No 23: The EU would like to request China to clarify the difference between 'national security' and 'national interests' criteria and concerns that may lead to the approval or disapproval of exports. The EU would also like to request China to clarify which "other factors stipulated by laws and administrative regulations" will apply to export controls, or any related plans for the introduction of such laws and regulations. In particular, the EU is concerned that 'other factors' may include the possibility of request for disclosure of technical information (e.g. trade secrets) in the process of export controls. The EU would to request further clarifications to China in this respect.

Reply: The Chinese government will consider all relevant factors and decide on approval or denial of the export applications under the relevant provisions of the Export Control Law. In the process of review, the Chinese government will protect the business secrets of enterprises and safeguard their legal interests in accordance with the law. In order to ensure the effective implementation of the systems established in the Export Control Law, the Chinese government is actively promoting the legislation of supporting regulations to further detail the relevant provisions of Export Control Law.

Page 72, para 3.95 Under the Export Control Law (Article 48), China may take measures reciprocally, according to the actual circumstances, if any country or region "abuses" its export control measures in ways that endanger China's national security and interest.

EU Question No 24: Could China clarify what would constitute "abuses" of export control measures? Could China also clarify what would constitute "reciprocal measures"?

Reply: In recent years, some countries abuse export control measures groundlessly, which is unfavorable to the peaceful use of scientific and technological achievements for development by all countries, especially the developing countries, unfavorable to the normal international scientific and technological exchanges and economic and trade cooperation, unfavorable to the safe and smooth operation of global industrial chains and supply chains. It seriously undermines the common interests of the international community, and China is firmly opposed to it. China always believes that concrete measures should be taken to promote international cooperation in material, equipment and technology for peaceful purposes, and in particular, to avoid restrictive measures inconsistent with the international obligations. Therefore, in order to better safeguard the national security, the Chinese government has set up parity provisions in the Export Control Law targeting abuse of export control measures by foreign countries on the basis of extensive suggestions from different parties, which conforms to the basic norms governing international relations, WTO rules and international recognized practice.

According to the Export Control Law, the Chinese government will continue to deepen multilateral and bilateral cooperation and exchanges in the field of export control, participate in the formulation of international rules, and make positive contributions to preventing the proliferation of weapons of mass destruction and safeguarding world peace and security together with other countries.

3.2.4 Export support and promotion**Page 72, para 3.102.**

The Report states that since 2013, China has established an increasing number of PFTZs across the country; currently, there are 31 PFTZs.

EU Question No 25:

- a) Where are the 31 PFTZs located?
- b) Where can details of the preferential income/corporate tax rates applicable in the various PFTZs be found?

Reply to a and b :Please refer to <http://zmqgs.mofcom.gov.cn/>

- c) Do different rates apply to different industries within the same PFTZs?

Reply: Please clarify what kind of "rates" that EU wants to know.

- d) Could you please provide more detailed information on the customs regime applicable to Hainan?

Reply: Please refer to <http://en.hnftp.gov.cn/policies/Trade/>.

Page 73, para 3.109.

The Report states, the main mandate of China Eximbank 'includes facilitation of export and import of equipment and new- and high-tech products, and assisting Chinese companies with comparative advantages in their offshore projects'

EU Question No 26:

a) Could China explain what is involved in assisting companies in this context, including the project involved, whether financial assistance is available and what comparative advantages mean in this context?

Reply: The Measures for the Supervision and Administration of the Export-Import Bank of China (Order No. 3 of 2017 by CBRC) stipulates that the Export-Import Bank of China shall establish a market-oriented operational and restrictive mechanism to develop into a policy-based financial institution with clear positioning, distinct businesses, prominent functions, sufficient capital, standardized governance, strict internal control, safe operation and good services. In practice, the Export-Import Bank of China implements the development requirements of modernized finance, and its operation, management and types of business are all carried out pursuant to the bank operational regularity.

b) We understand that China Eximbank is the main official export finance lender in China. Could China explain whether and how other Chinese banks are also involved, with financial backing from the state, in export finance – e.g. China Development Bank, Bank of China, Industrial and Commercial Bank of China, China Construction Bank or Agricultural Bank of China. Are the financial decision of these bank always taken on commercial merits and in line with market terms or do they follow government policies and/or decisions?

Reply: China's commercial banks are independent market players, financial decision of these bank always taken on commercial merits and in line with market terms.

c) According to the World Bank analysis, about 40% of official Chinese lending to developing countries comes directly from China Eximbank virtually all loans are tied to sourcing of exports from China. Does China consider concessional loans to developing countries that are tied to sourcing from Chinese exporters, and not in accordance with requirements of the OECD Arrangement on Officially Supported Export Credits, as subsidies within the meaning of WTO Agreement on Subsidies and Countervailing Duties? Are all relevant programmes notified to the WTO and if not, why?

Reply: China's export credit policy complies with WTO rules, it is not export subsidy.

3.2.5 Export finance, insurance, and guarantees

Pages 74-75, paras 3.112-3.114

The Report describes SINOSURE's activities and products.

EU Question No 27: Could China please provide more details regarding SINOSURE operational decisions, including the objective assessment criteria and the commercial considerations applied? To what extent are these decisions impartial and not based on the Government's policies/decisions?

Reply: SINOSURE is a policy insurance company, operating as an independent legal entity. Details regarding SINOSURE operational decisions based on its commercial consideration which belongs to the company's business secrets. In 2020, SINOSURE received sovereign credit ratings from the three major international credit rating agencies Moody's, Standard & Poor's, and Fitch, which reflect their unanimous recognition of SINOSURE's position as a policy-oriented insurance institution and confirmation of its solid business performance.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 75, para 3.115.

The Report states that "During the review period, China continued to provide incentives and financial support to different sectors and industries. Generally, support is granted by the Central Government or local governments in the form of direct transfers and tax preferences"

EU Question No 28:

- a) Could China explain what are these direct transfers and what are the criteria for granting such support?
- b) Which sectors and industries benefit from these transfers?
- c) Under which headings is the information reported in China's Subsidy Notification to the WTO?

Reply to a,b,c: Please refer to China's subsidy notification submitted to the WTO.

Page 75, para 3.115.

The Report states that 'The authorities indicate that under the provisions of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), there is no obligation to provide written information on programmes not contained in the subsidy notification'.

EU Question No 29: Could China explain under what provisions of the ASCM, they would provide written answers to questions posed about programmes not contained in their Subsidy Notification in the interest of transparency?

Reply: China firmly upholds the multilateral trading system, earnestly fulfills its transparency obligation, submits the subsidy notification in a timely and comprehensive manner, and tries its best to respond to members' concerns. China has earnestly replied to the written questions raised by other members on China's subsidy notification. Although China considers the questionnaire should focus on the subsidy notification, it has done its best to verify and provide relevant information on the issues unrelated to the notification. China hopes all members can carefully read the written reply it provides.

Page 76, Para 3.123.

The Report states that "it would appear that transparency on government support may also be hampered, as the Government, through numerous state-owned enterprises (SOEs), is involved in the financing and management of companies, making it difficult to identify the precise policy actions (...)" The authorities do not agree with this statement and indicate that no implicit subsidies were paid to China's SOEs. According to the authorities, the Government does not intervene in SOEs' financing, operation, and management.

EU Question No 30:

- a) Could China clarify if State-Owned Enterprises have access to preferential financing from state-owned banks? Do they receive any loan guarantees?

Reply: State-owned enterprises, private enterprises, FIEs are all customer groups of commercial banks. On the premise of compliance with laws and regulations, commercial banks may independently select customer groups and issue credit loans according to their own strategic planning, development orientation, risk preference, operation and management capabilities. The relevant decision-making of commercial banks is a market-oriented choice made from their own actual development, which is a market-oriented behavior.

- b) What is the form of financing of the SOEs with losses? Does the government inject funds directly?

Reply: The financing of state-owned enterprises depends mainly on their profitability, asset quality, and development prospects. State-owned enterprises with good development prospects are still capable of obtaining market financing even if they suffer temporary operating losses. Those that have completely lost their profitability and do not have the value to be saved will be gradually cleared up in accordance with the market-oriented mechanism.

- c) Could China provide a list of the SOEs that have received a direct transfer of funds from the State, and the yearly amounts received by each of them?

Reply: The SOEs have integrated with the market economy and become independent participants in market competition. They purchase and sell on the basis of commercial considerations, and subject to the same laws and rules as other enterprises, and do not enjoy privileges in terms of access to funds, bankruptcy, and competition legislation. Relevant government information will be disclosed in accordance with the provisions of government information disclosure regulations, while

information related to listed companies will be disclosed in accordance with the information disclosure rules for listed companies.

Page 77, para 3.124 and Page 78, para 3.125

The Report refers to so-called "government guidance funds" (Table 3.15) and 'other funds that are related to government policies which appear to conduct direct investments to support a particular policy initiative (Table 3.16). These funds include expenditures under the Belt and Road Initiative (BRI), and funds for China's SOEs. According to the authorities, the incentives provided by these funds do not constitute subsidies and are not required to be notified under the SCM Agreement.'

EU Question No 31:

- a) Could China specify why these funds would not constitute subsidies that require an ASCM notification?
- b) What are the precise differences between the so-called "government guidance funds", which use public resources to make equity investments in industries that the Government considers important, and government subsidies, which are required to be notified under the Agreement on Subsidies and Countervailing Measures (SCM Agreement)?
- c) Is the funding provided by these funds available to non-Chinese enterprises and investors active in the areas in question as well? Are there any additional conditions that a non-Chinese enterprises or investors must fulfil in order to qualify for this funding (compared with a Chinese enterprise or investor)?
- d) What is the role of state officials, Party cells or Party officials in the management of the funds?

Reply to a b c d: The funds established by China based on the market-oriented principle operate in full accordance with the market principle and are completely independent market players, they are not governmental agencies or party organizations. Their investment management and decision-making are market-oriented, and government authorities do not intervene and participate in any investment project decision-making of the funds. The funds are also founded and established in accordance with the *Company Law of the People's Republic of China* and other laws to carry out market-oriented operations. Relevant policies treat domestic and FIEs equally.

Page 78, para 3.126

Chinese authorities state that they cannot confirm the findings of an OECD study that highlights subsidy-induced distortions in the semiconductor industry, owing to the fact that the study used 'estimated data'.

EU Question No 32: Could China provide the data on subsidies granted to the semiconductor industry and/or individual companies in this sector, thus allowing the OECD to improve its study?

Reply: Please refer to the subsidy notification submitted by China.

Page 78, para 3.127

The Report refers to an OECD study (contested by China) which found that China's financial support on energy and concessional finance for aluminium smelting, coupled with export restrictions on raw aluminium, provide Chinese exporters of semi-finished aluminium goods with a significant cost advantage.

EU Question No 33: Are there any reforms planned in regards to financial support on energy and concessional finance for aluminium smelting and export restrictions on raw aluminium?

Reply: China does not provide financial support on energy and concessional finance for aluminium smelting.

3.3.2 Standards and other technical requirements

3.3.2.1 Overview

Page 79, para 3.133

According to the Report, China introduced several new regulations and laws on standards and technical requirements during the reporting period. Moreover, the revised Standardisation Law entered into force.

EU Question No 34:

- a) How will China ensure no further decoupling from international standards?

Reply: Standardization has long been high on China's agenda. China has formulated and promulgated Measures for the Administration of Adoption of International Standards early in 2001, which clearly proposes that the international standards shall be adopted identically wherever possible during the formulation and amendment of national standards, so as to advance technology, improve product quality, open wider to the outside world, and step up the efforts to link China and the international community. Over the past two decades, China has always been committed to promoting and encouraging the adoption of international standards based on China's status quo in industrial development. Projects in key areas using international standards are supported with higher priority and streamlined procedures, as an endeavor to transform international standards after modification into the standards of China more quickly. China has specified that "adoption of international standards" shall be adopted "in view of national conditions" in the Standardization Law of the People's Republic of China newly issued at the end of 2017, and identified the key areas and work in standardization in the Guidelines for the Adoption of International Standards in National Standards at the end of 2020. Of all the national standards corresponding to international standards, 92.4% are mandatory national standards, and 91.4% are voluntary ones.

b) Can China confirm that access to standardisation working groups (WGs) and technical committees (TCs) has become easier in general but also specifically in relation to WGs 2 and 3 of TC 260?

Reply: Under the National Information Security Standardization Technical Committee (SAC/TC260) are six working groups and one special working group, in which the WG 2 was revoked in early 2019. The SAC/TC 260 together with its working groups has always been welcoming the participation of more and more enterprises, universities, research institutes, examining and licensing organizations and users. In so doing, we can have more participants involved in the formulation of standards on a wider basis and give full play to the principal role of enterprises. Till now over a thousand members have been enrolled in all working groups, who thereby have their say in the standardization work pertaining to their respective areas.

c) Companies report being affected by late announcement of new regulations, which means higher adjustment costs. How can China ensure that early information of new regulation is also available to foreign companies?

Reply: The Measures for the Administration of Mandatory National Standards was adopted on December 13, 2019. During the compilation of the measures, the WTO notification and deliberation work of The Measures for the Administration of Mandatory National Standards (Draft for Comment) began in May 2019. Since then, China received comments and suggestions from six institutions (from US and Korea, etc.) and made response respectively.

Page 79, Para. 3.134

The Report states that The Standardization Law classifies China's standards into five major categories: national, sector, local, association, and enterprise. It explains that national standards include both voluntary and mandatory standards; sector standards and local standards are voluntary.

EU Question No 35: What is the classification of association and enterprise standards? Can foreign invested companies take part in the development of sector, local and association standards?

Reply: According to the Measures for the Administration of Local Standards, local standards shall be developed for the purpose of meeting local natural conditions, customs and other special technical requirements, so standards for industries and products that may affect trade are unlikely to be covered by local standards. According to the Guiding Opinions on Further Strengthening the Administration of Industrial Standards, standards for industries shall ensure that foreign-invested enterprises can join the development of industrial standards based on laws and regulations and on an equal footing.

Page 80, par. 3.135

The Report describes the Plan for Deepening Standardization Reform.

EU Question No 36: Could China provide detailed information related to the specific effects of the extension of mandatory standards on imports of products, in particular as regards product certification, etc. (see 3.149 and 3.152)

Reply: In accordance As specified in Article 25 of the Standardization Law, products or services failing to comply with mandatory standards shall not be manufactured, sold, imported or supplied. Therefore, after mandatory national standards took effect, products failing to comply with the standards cannot be imported. In accordance with Regulations on Certification and Accreditation and the Administrative Regulations on Compulsory Product Certification, products in the compulsory product certification catalog cannot be imported without certification.

Page 81, para 3.140

The Report states that the responsibility of the MIIT and other institutions in regard to standard setting has remained largely unchanged since the previous Review. This means that access to standard-setting bodies for foreign companies is still out of reach. Standardization process in China in specific high-tech sectors has become very active. Foreign companies cannot participate in the process, despite recognized expertise at international level.

EU Question No 37: Does China intend to allow foreign companies to participate in the standard-setting process?

Reply: In accordance with the Foreign Investment Law of the People's Republic of China, China ensures that foreign-invested enterprises have equal access to the standard-setting work according to law, and strengthens information disclosure and social supervision regarding standard-setting. China has been committed to openness, transparency, and non-discrimination in standardization and actively supported foreign-invested companies' equitable participation in the work with our efforts to build an open, fair and equitable environment of standardization for both domestic-funded enterprises and foreign-invested enterprises.

Page 81, para. 3.144:

According to the authorities, at end-2020, among the national standards that correspond to the relevant international standards, 92.4% of mandatory standards and 91.4% of voluntary standards were adoptions or adaptations of international standards, compared with 74.3% and 85.9% at end-2017. Of the national standards approved in 2020 (before 15 July), 4.0% were mandatory, compared with 2.8% in 2018.

EU Question No 38: Could China please provide a breakdown of the data in order to show the percentage split between international standards that have been adopted without any change and those that were "adaptations of international standards".

Reply: Of all international standards adopted in China, 64.17% are identically adopted and 35.83% adopted after modification, the ratio of which standing at 1.8:1.

3.3.2.2 Product certification

Page 83, para 3.152

According to the Report, procedures to obtain the CCC mark have remained largely unchanged since the previous Review. Compulsory Chinese Certification has been for years on the list on the technical requirements adversely affecting trade. It is a clear red tape obstacle for SMEs. Acknowledging reductions of the list, there are still more than one hundred industrial products.

EU Question No 39: Is it China's intention to streamline the procedures to obtain the CCC in the near future? Would China consider recognizing and accepting international certification?

Reply: China will continue the reform on the CCC Scheme. Multiple measures will be taken to facilitate enterprises to obtain the CCC mark, including adjusting the list in accordance with the principle of necessity and minimization, generalizing the certification units on a reasonable, risk-assessment basis, promoting SDoC, and authorizing more certification bodies. China always attached great importance to international cooperation on compulsory certification and have carried out multilateral and bilateral cooperation to facilitate trade. Regarding multilateral cooperation, each year we would recognize and transfer thousands of IECEE/CB and IECEx certificates; Regarding bilateral cooperation, we have signed 126 MOUs with more than 30 foreign institutes and government sections, as well as agreements on cooperation in the field of conformity assessment in relation to electrical and electronic equipment and components with New Zealand and the Republic of Korea.

Page 83, par. 3.152

According to the Report, "19 products that have been accredited by self-declaration"

EU Question No 40: Could China specify how a product can obtain the accreditation for self-declaration? What procedures need to be followed and what requirements need to be met?

Reply: For details, please refer to Implementation Rule for China Compulsory Certification: Self-Declaration contained in the Announcement of the CNCA on Further Improving the Self-Declaration Evaluation of China Compulsory Certification and Clarifying Relevant Accreditation Requirements (Announcement No. 26, 2019) (http://www.cnca.gov.cn/zw/gg/gg2019/202007/t20200714_59707.shtml).

3.3.2.3 Labelling and packaging**Page 83, Para. 3.154**

The Report states that "Pre-packed food without labels and/or instructions in Chinese or whose labels or instructions do not comply with the provision of the Law may not be imported."

EU Question No 41:

- a) Can these labels be affixed in China in a customs warehouse or other designated area prior to the product entering the market?
- b) Can the labels be affixed to the product (i.e. stickers) or do they need to be attached to the product packaging?

Reply: The Measures for the Supervision and Administration of Food Labeling currently has some issues under study, communication and coordination. After a consensus is reached, the legislative process can be accelerated.

Page 83, para 3.155-3.156

Several changes to labelling and packaging requirements took place during the review period. For example, the Food Safety Law and its implementing measures that sets out detailed requirements. Moreover, other new legislation like the New Cosmetic Regulation contains mandatory information requirements such ingredients/ quantity that may get in conflict with protection of trade secrets with commercial value, i.e. formula.

EU Question No 42

- a) In case of conflict with rights and obligations for the exporter, could China explain how they would guarantee consistency between different legislative pieces?

Reply: China attaches great importance to the protection of business secrets. The Regulation on the Supervision and Administration of Cosmetics and the Measures for the Administration of the Registration and Recordation of Cosmetics include detailed provisions on the protection of business secrets, and, in accordance with the Regulation on the Disclosure of Government Information, keep secret information involving business secrets. In full consideration for the protection of business secret and intellectual property right, China only requires enterprises to submit the abstract rather than the full text of materials used to assess the claimed effects of cosmetics. To protect consumers' legal rights and interests, information released to the public domain is limited to basic product information and doesn't involve business secret.

- b) Will China coordinate ongoing revision processes impacting rules on the labelling and foresee a transition period before entry into force of these different measures in order to allow manufacturers enough time to adapt to new requirements?

Reply: The Regulations on Labels of Cosmetics issued by the National Medical Products Administration (No.77 of 2021) will come into effect on May 1, 2022. The Regulations leaves a reasonable transition period for the industry in full consideration for the industry's actual situations and avoids the waste of packaging materials. It allows a two-year transition period for products already registered or kept on record before May 1, 2022. If the products are not properly labeled in accordance with the Regulations, the registrant must update the labelling prior to May 1, 2023 to comply with the Regulations. The Measures for the Supervision and Administration of Food Labeling currently has some issues under study, communication and coordination. After a consensus is reached, the legislative process can be accelerated.

3.3.3 Sanitary and phytosanitary requirements

3.3.3.1 Legal, institutional, and policy framework

Page 86, para 3.164

The Report states that from 2018 to early 2021, the GACC signed several memoranda of understanding or cooperation protocol with the relevant authorities in 28 trading partners on SPS-related issues. This established system of negotiating one protocol per product and per country is inefficient, extremely slow and takes years to be implemented. The need for on-site audits, inspection visits and explicit authorizations is a huge burden for both sides, the competent authorities and the exporting establishments.

EU Question No 43: Would China be willing to recognize or accept the validity of competent authority certification for certain products and process steps?

Reply: China is willing to discuss this issue and probe into certification effectiveness according to the characteristics of different products.

3.3.3.2 SPS measures

Page 86, para 3.168

The Report describes the emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid results implemented by GACC. This was notified to the WTO as an emergency measure in 2020, which is still in force. It has been reported that, in 2020, the city of Shenzhen introduced COVID-19 handling and testing requirements for imports of frozen meat and seafood.

At the time of the Notification, the EU argued that China had not provided trade partners with official results, information on methods of analysis applied to recover nucleic acid or the living virus from food and packages. China had not provided substantiated theories on how the transmission of the virus from packages and food is considered to happen. Also, it was not consistent with the scientific reasoning behind the Emergency Measure description in art 5.7 of the SPS Agreement.

EU Question No 44:

- a) In view of the updated guidance of FAO related preventing transmission of COVID-19 within food businesses that was published in August 2021, when will China lift this emergency measure?
- b) How does China reconcile the fact that no other WTO Member has adopted similar restrictions and there is no evidence in peer reviewed scientific literature that would suggest the transmission of COVID 19 through food?
- c) Is China ready to discuss the risk assessment underlying the Emergency Measures?

Reply to a, b, c: To protect people's life safety and health, China has taken necessary temporary preventive measures to strengthen the supervision of imported cold-chain food. The relevant practices have been in full compliance with international rules and have not had any negative impact on the food trade to China. COVID-19 nucleic acid sampling tests have been conducted on imported cold-chain foods and their packaging according to law to prevent the transmission and spread of COVID-19 through them. At the beginning, the samples of some imported food products, their exterior and interior packaging and inner walls of containers from some countries were tested positive for COVID-19 by China Customs. In 17 October, 2020, the Chinese Center for Disease Control and Prevention (China CDC) announced that live COVID-19 virus had been isolated from exterior packaging of imported aquatic products, which further confirmed that exposure to exterior packaging contaminated by live COVID-19 virus could lead to infection. China welcomes the export of high-quality and safe food to China, and China's attitude towards opening up and expanding imports is consistent and clear. However, as the global epidemic develops, consumers' concerns and doubts about the safety of the food supply chain have deepened. We believe that without consumer confidence, there will be no market, and without market, there will be no trade. Under the current epidemic situation, we wish that the countries (regions) overseas that wish to export food to China may require the enterprises exporting foods to China to, according to the relevant guidelines issued by the United Nations Food and Agriculture Organization (FAO), do well in all preventive management measures to ensure that the foods exporting to China have not been contaminated by COVID-19. China is willing to work with relevant parties to jointly ensure the safety of the food supply chain, eliminate consumers' doubts, respond to consumers' concerns, ensure safe food supply and maintain market stability, so as to promote the healthy development of trade.

Page 85, para 3.161

The Report states that "a draft of the Implementing Regulations was notified to the WTO in 2017." It would appear that an underlying principle of the Law and the Implementing Regulations is that food producers should hold primary accountability for food safety; they also contain provisions on traceability of food and agricultural products sold in China".

EU Question No 45: How will China ensure the traceability of food and agricultural products in the case of fraudulent tampering with or removal of lot codes and other traceability information?

Reply: According to the *Food Safety Law* and its regulations, a food producer is the first responsible person for food safety and shall be responsible for traceable information.

Page 87, para 3.169**EU Question No 46:**

- a) On the Draft Administrative Measures for Registration of Overseas Producers of Imported Foods, could China explain when it will develop detailed guidelines, implementing rules and template forms?
- b) Will China define the product categories by their HS numbers that must register under the 'registration with recommendation' procedure, and the types of operations that must register? Will China provide for realistic and practicable implementation and transition periods of at least 18 months after detailed guidance is available?
- c) Will China ensure that once registrations are approved and registration numbers are allocated, provisions related to labelling under Article 15 be implemented with adequate transition periods?

Reply to a,b,c: The safety of imported food is related to people's health and life safety, a significant livelihood issue. According to the *Food Safety Law of the People's Republic of China* and its regulations and other laws and administrative regulations, China has revised the previous two rules on the safety management of imported and exported food and the registration management of overseas production enterprises of imported food. On April 12, 2021, the *Measures of the People's Republic of China for the Administration of Imported and Exported Food Safety* (Order No. 249 of the General Administration of Customs) and the *Provisions of the People's Republic of China on the Administration of the Registration of Overseas Production Enterprises of Imported Food* (Order No. 248 of the General Administration of Customs) are announced, which will take effect on January 1, 2022. Before the announcement, China issued a circular in accordance with relevant WTO rules, accepted the deliberation by WTO members, and adopted reasonable opinions and suggestions, which was in line with the relevant WTO rules. Article 2 of Order No. 248 and Order No. 249 of the General Administration of Customs makes clear the scope of application of these two rules. In the near future, China will the *Measures of the People's Republic of China for the Administration of Imported and Exported Food Safety* (Order No. 249 of the General Administration of Customs) and the *Provisions of the People's Republic of China on the Administration of the Registration of Overseas Production Enterprises of Imported Food* (Order No. 248 of the General Administration of Customs) in an appropriate form. Your concerns are welcome. Order No. 248 of the General Administration of Customs will not affect the implementation of the bilateral protocol. If the relevant countries (regions) and China have otherwise agreed on the registration method and application materials, the contents agreed by both sides shall prevail.

Page 87, Table 3.19

China still applies export restrictions due to bovine spongiform encephalopathy (BSE) against a number of EU Member States. Member States have since a long time back been officially recognized as having a negligible BSE risk status in accordance with the OIE provisions.

EU Question No 47: Could China indicate how it will address and resolve the STCs raised multiple times by the EU during the last decade, namely those related to BSE, avian influenza and African swine fever?

Reply: For the above special trade concerns raised by EU, China has previously made formal responses at the relevant WTO committees. EU may refer to China's previous responses.

3.3.4 Competition policy and price controls**3.3.4.1 Competition policy****3.3.4.1.1 Legislative and institutional framework****Page 89, para 3.173**

The Report refers to the establishment of SAMR in 2018. According to the press, a reorganisation of SAMR's Anti-Monopoly Bureau is underway.

EU Question No 48: Could China explain the details of the reorganisation and how the 'new SAMR Anti-Monopoly Bureau' will be organised, what resources and what statute it will have (still a bureau under the SAMR?).

Reply: In 2018, China government decided to integrate the responsibilities of the former State Administration for Industry and Commerce, the responsibilities of General Administration of Quality Supervision, Inspection and Quarantine, the responsibilities of the former State Administration for Food and Drug, the price supervision and inspection as well as anti-monopoly law enforcement responsibilities of the National Development and Reform Commission, the centralized anti-monopoly law enforcement responsibilities of the Ministry of Commerce, and the responsibilities of the Anti-monopoly Commission Office under the State Council, to establish the State Administration for Market Regulation for achieving unified anti-monopoly law enforcement. At present, China is improving its anti-monopoly system and mechanism and enriching its anti-monopoly supervision force.

For detailed information about Anti-Monopoly Bureau, please refer to SAMR's website http://www.samr.gov.cn/jg/sjzz/201812/t20181218_278207.html

Page 90, para 3.175

The Report explains that the draft AML 'was completed and submitted to the State Council in December 2020'.

EU Question No 49:

a) Could China indicate whether a publicly accessible version of the draft AML is available and when the draft AML is expected to be adopted and promulgated?

Reply: Yes, a publicly accessible version of the draft AML is available for collecting public comments (http://www.samr.gov.cn/hd/zjjg/202004/t20200414_314212.html).

After the adoption of the amended AML, it will be publicly promulgated.

b) Will the amendment of the AML be used to increase the procedural fairness guarantees of parties and third parties specific to AML enforcement?

Reply: China protects the legitimate rights and interests of parties and third parties specific to AML enforcement in accordance with laws and regulations. After the adoption of the amended AML, it will be publicly promulgated.

c) Will the amended AML introduce criminal sanctions for individuals for the infringement of the AML? If so, what would the procedural rules be for the imposition of criminal sanctions on individuals and what procedural fairness guarantees would be available for individuals charged with infringements of the AML?

Reply: After the adoption of the amended AML, it will be publicly promulgated.

d) Will the amended AML contain specific provisions targeted at the developments caused by digitalisation and if yes could China outline the gist of these proposed amendments?

Reply: After the adoption of the amended AML, it will be publicly promulgated.

For the detailed information, please refer to the draft AML

http://www.samr.gov.cn/hd/zjjg/202004/t20200414_314212.html

3.3.4.1.2 Monopoly agreements**Page 91, para 3.177**

EU question No 50: would it be possible for China to offer statistics about the use of the AML leniency programme?

Reply: Up to now, in the horizontal monopoly agreement cases, some operators in more than 10 cases have been exempted or mitigated for providing important evidence.

3.3.4.1.3 Dominant market positions

Page 92, para 3.180

This paragraph refers to the fine levels, which can be imposed under the AML.

EU question No 51: How is this scale applied to SOEs? Are SOEs fined at the same levels as privately owned enterprises?

Reply: The Anti-Monopoly Law equally treats all enterprises including state-owned enterprises, private enterprises, and FIEs without discrimination.

3.3.4.1.4 Mergers and acquisitions

Page 92, para 3.182

The Report explains that 'Operators participating in a concentration proposal may submit to the SAMR a proposal with a commitment to implement certain remedies that would alleviate the anti-competitive effect.' Section 3.187 explains that 'Concerning concentration of undertakings, the SAMR received 503 notifications, investigated 462 cases, and concluded 465 cases. Among the closed cases, five were approved with conditions, accounting for about 1.1%.' So far, under AML enforcement, remedies have never been imposed on transactions among purely Chinese enterprises. In a few remedies cases there has been participation of a Chinese enterprise, the Chinese enterprise has been the target of a takeover or it may have been a joint venture.

EU question No 52:

a) Could China explain what are the factors leading to this situation and why none of SAMR's interventions (approvals with remedies) to date relate to transactions involving only domestic enterprises and all cases have concerned transactions between foreign enterprises, or where at least one of the parties (the acquirer) is a foreign enterprise?

b) Among the remedies applied by SAMR, there is the 'hold separate' behavioural obligation. Could China explain how this remedy alleviates the competition concerns identified, and how it is made possible for the parties to eventually merge their activities?

Reply: Since the implementation of the Anti-monopoly Law of China, accumulatively there are 49 centralized business operator cases attached to restrictive conditions, and 29 cases are currently being supervised and executed. Chinese anti-monopoly law enforcement agencies prudently protect the legitimate rights and interests of business operators in accordance with the law. The process and results of law enforcement are open and transparent. They treat state-owned enterprises, private enterprises, domestic enterprises and FIEs equitably, enforce the law fairly and justly, and guarantee that all types of market players participate in market competitions on an equal basis. The Interim Provisions on Centralized review of Business Operators issued by State Administration for Market Regulation also specifies that "all operators are treated equally". The so-called selective enforcement does not exist in practice. The reason why there are so many approved cases involving foreign enterprises with additional restrictive conditions is related to the significant competitive advantages and strong market strength of some foreign enterprises in some certain industries and markets.

3.3.4.1.5 Administrative monopoly

Page 93, para 3.185

The Report describes that 'Any administrative measures that have the effect of eliminating or restricting competition should not be put into place unless they fall into the exceptions prescribed by the State Council Opinions.'

EU question No 53: What is the methodology, criteria and standards applied in determining the compatibility of measures with the FCRS?

Reply: Since the establishment and enforcement of the fair competition review system in 2016, the Chinese government has promulgated a series of policies and measures to expand the review scope, advance the review mechanism, refine the review criteria, strengthen supervision and review, and continuously strengthen the rigid constraints of the system so as to ensure its effective implementation. In June 2021, the State Administration for Market Regulation and other four authorities revised and adopted the Detailed Rules for the Implementation of the Fair

Competition Review System, which further specified the scope of the review, detailed the review standards, and perfected the review mechanism. This forms a strong guarantee for effectively promoting the fair competition review system with greater efforts.

3.3.5 State trading, state-owned enterprises, and privatization

Page 97, para 3.199

"SOEs are divided into commercial entities and public welfare entities"

EU Question No 54: As regards SOEs that are "commercial entities": What other public policy aims do these commercial SOEs pursue that might lead them to not act on the basis purely commercial considerations?

Reply: As regards to commercial-oriented SOEs, they act on commercial considerations.

Page 97, para 3.200

State owned enterprises policy must be consistent with the overall competition policy and with public support and subsidies policy. According to the report, privatization of SOEs is not planned.

EU Question No 55: Could China provide more information on the reform mentioned in the paragraph 3.200? Could China explain the content of the structural plan? Does it mean that China is going to favour mixed-ownership companies?

Reply: China will actively and steadily advance the reform of mixed ownership, promote the in-depth transformation of the operating mechanism of mixed-reformed enterprises, and ensure that the vitality of enterprises is strengthened, and efficiency and efficiency are improved.

Page 98, para 3.205

"SOEs are very important in China's economy, in particular for the Government's employment and social and regional policy objectives"

EU Question No 56: Could China confirm whether all SOEs operate according to commercial considerations, as required by China's WTO accession commitments? If not, what other considerations guide their operations?

Reply: Commercial-oriented SOEs act on commercial considerations.

Page 98, para 3.205

As stated in this section, the IMF found that the productivity of China's SOEs is generally low compared with that of privately owned companies - the average productivity gap between SOEs and private companies is estimated at about 20%. Chinese authorities, however, assert in this section that they do not agree with the IMF's analysis (i.e. that SOEs are less productive), although also other studies indicate that private Chinese companies are more innovative and productive.

EU Question No 57: Could China point us to research that supports their view? Are there any official Chinese data on the productivity differences among workers in SOE's and workers in private enterprises?

Reply: China does not recognize this data and conclusion quoted from IMF's report which may lead misunderstanding, because China can not confirm the detailed information which leads to this conclusion, such as samples, data, research methods, etc. China does not have the data on average productivity gap between SOEs and private companies. China does not agree with the IMF's conclusion.

Page 99, para 3.206

The authorities object to this statement and indicate that SOEs in China operate under market conditions, with no privileges granted by the Government.

EU Question No 58: Could China explain what mechanisms exist to ensure that SOEs operate under market conditions? How do the authorities ensure that no informal privileges are granted, for example in the form of easier access to licences, lower prices charged by other SOEs, or encouragement to prefer other SOEs in the purchases by SOEs?

Reply: In accordance with Article 16, the Constitution of the People's Republic of China, state-owned enterprises have the right to operate independently. In accordance with the provisions of Articles 6 and 14 of the State-owned Assets Law of the People's Republic of China, the government does not interfere with the autonomous business activities of state-owned enterprises, and only performs the duties of investors. According to Article 5, Article 63, Article 71, Article 73 of the Government Procurement Law of the People's Republic of China and Article 6, Article 18 and Article 20 of the Law of the People's Republic of China on Tendering and Bidding unreasonable conditions and standards shall not be applied to exclude and restrict potential bidders. Therefore, state-owned enterprises do not enjoy the above-mentioned preferential treatment in bidding and procurement activities.

Page 99, para 3.207

The Report asserts that the China Structural Reform Fund is established for financing of SOEs. According to the Report, it is a market based credit safeguard fund for central SOEs.

EU Question No 59: Are any other public institutions, like SASAC, contributing to the fund? Are any public owned banks or insurance companies involved in the financing of the Fund? How was the fund financed?

Reply: The information of the Fund (including contributors' information) can be found via National Enterprise Credit Information Publicity System (<http://www.gsxt.gov.cn>). Among the contributors, there is no banks or insurance companies.

3.3.6 Government procurement

3.3.6.1 Overview

Page 99, para 3.210

The paragraph reports that "according to data provided by the authorities, the total value of government procurement in China was CNY 3.3 trillion in 2019 (the latest year for which data were made available), accounting for 3.3% of GDP (Table 3.25)".

EU Question No 60: Can China provide the data for 2020 as well?

Reply: The total value of government procurement in China was CNY 3.7 trillion in 2020.

3.3.6.2 Legal and institutional framework

Page 100, para 3.211 and 3.212

In paragraph 3.211, it is reported that "there have been no major changes to China's legislative and regulatory regime concerning" and in point 3.212 "that the Government Procurement Law and the Tendering Law are currently under amendment".

EU Question No 61:

- a) When does China expect adoption of the amendments to Government Procurement Law and Tendering Law?
- b) Can China explain how these amendments will contribute to bringing the legal framework for public procurement in line with GPA principles and international best practices?
- c) Could China inform and elaborate on the main findings of public consultations conducted in connection with the amendments?
- d) Could China provide an update on developments and policies in volume-based procurement (VBP) schemes, in particular in sectors of pharma and medical devices?

Reply to a, b, c, d: The Chinese government is actively promoting the revision of Government Procurement Law and Bidding Law. The completion time of the revision depends on the consultation with relevant parties and coordination with relevant departments. Promoting the consistency between domestic government procurement legal system and GPA and other international rules is one of the important goals of the revision of Government Procurement Law. This revision will draw lessons from GPA and other international rules, optimize procurement procedures, further emphasize open competition and fairness and transparency, and strive to improve the current government procurement system, so as to provide institutional guarantee for optimizing the business environment of government procurement.

3.3.6.4 Other policy considerations in government procurement**Page 104, para 3.221 and para 3.222**

China maintains buy-national policies in government procurement. Article 10 of the Government Procurement Law provides that unless the subject matter cannot be obtained within the territory of China or cannot be obtained with reasonable commercial terms, or the procurement is for use outside the territory of China, the procuring entities shall procure domestic goods, services, and construction works. (...).

China's government issued new procurement guidelines in May, "Auditing guidelines for government procurement of imported products," that require up to 100% local content on hundreds of items including medical equipment and pharmaceutical products, erecting fresh barriers for foreign suppliers.

EU Question No 62: Are the guidelines public? Could China provide the full list of products affected by the regulation?

Reply: At present, China has not accede the WTO Government Procurement Agreement (GPA), nor has it signed agreements with other countries or regions. The Guidelines mentioned above and other policies do not violate GPA rules and China commitments. The Guidelines is only for the internal reference of local regulatory authorities, and has no binding force.

3.3.6.6 Supplier complaint mechanism**Page 106, para 3.228**

Reference is made to "that the finance authorities at different levels of government review suppliers' complaints regarding government procurement activities at their respective levels. The results of complaint reviews are published in designated media."

EU Question 63: Could China specify in how many cases of the filed complaints a non-compliance with the relevant rules was found?

Reply: China suggest EU to clarify what does "relevant rules" refer to.

3.3.6.7 Accession to the GPA and other international cooperation**Page 106, para 3.229**

As it is mentioned in the Report, China is currently negotiating the terms of its eventual accession to the GPA. The EU notes that China's commitment, in the context of its GPA accession bid, is to implement a transparent and non-discriminatory public procurement framework. China Government Procurement Law also requires publication of government procurement related information. The Report in point 3.220 notes that "that the transparency of government procurement has been significantly improved across the country". The EU notes that the Chinese authorities may have endorsed new measures in support of buy-local policies and these measures seem not be mentioned in the Government or Secretariat Report and/or publically available.

EU Question 64:

- a) Can China clarify the legal status of the document 551 of 14 May titled 'Regarding the publication of 'government procurement of imported goods auditing guidelines (2021 version)' and provide explanation of its content and scope?
- b) Can China clarify the legal status of the document from the Ministry of Emergency Management on firefighting equipment and provide explanation of its content and scope?
- c) In respect to local content requirement, are there other existing or planned (legal and administrative) measures in China's domestic government procurement framework that will need to be adjusted to comply with GPA rules?
- d) Which measures China is implementing and/or plans to implement in order to improve transparency of government public procurement framework?

Reply to a, b, c, d: The Guidelines mentioned above is for the internal reference of local regulatory authorities only, and has no binding force. There is no local content requirement in China's Government Procurement Law and regulations. China has continuously improved the transparency of government procurement to ensure that government procurement information is released with complete content and elements in a timely manner. Procurement intention, procurement budget, procurement announcement, procurement documents, procurement results and other procurement project information, complaints, supervision and inspection decisions made by the financial department, the assessment results of centralized procurement agencies, and the records of illegal

and untrustworthy behaviors shall all be made public free of charge on the www.ccgp.gov.cn, and suppliers can obtain government procurement information in a timely, accurate and convenient manner. At the same time, the transparency of government procurement shall be comprehensively evaluated through third-party evaluation.

Page 106, para 3.230

China has not included any market access commitments in the area of government procurement in the context of any of the FTAs that it has negotiated with trading partners. According to the authorities, it remains China's priority to conclude its GPA accession before liberalizing its government procurement market through bilateral/regional tracks.

EU Question No 65:

a) When can GPA Parties expect a new revised offer by China, taking into account the comments made on the sixth revised offer from 2019?

Reply: The Chinese government is working to access the GPA. The level of the 7th bid for China's accession to GPA submitted to WTO in October 2019 is roughly equivalent to that of participants. In May 2020, China submitted the Report on China's Government Procurement (updated version of 2020) to the WTO, which fully reflected the reform of China's government procurement legal system. While advancing the bid negotiation, China is simultaneously pushing ahead with the legal adjustment negotiation. In June 2021, China submitted to the WTO the reply to the 7th bid of EU and Australia on China's accession to GPA and the list of questions in the Report on China's Government Procurement (updated version of 2020), which demonstrated China's sincerity in joining GPA and its determination to safeguard the multilateral trading system through practical actions. GPA is a multilateral agreement and China's unilateral efforts are not enough in the process of joining the GPA, which depends to a great extent on the positions and expectations of the participants. China always believes that the sooner China joins GPA, the sooner all parties will benefit. It is hoped that GPA participants will base themselves on the present, focus on the long-term development, offer China a practical price, and reach a mutually beneficial and win-win negotiation result on China's accession to GPA as soon as possible.

b) What is China's timeline for the revision of its legislative framework concerning public procurement?

Reply: The Chinese government is actively promoting the revision of the Government Procurement Law. The completion time of the revision will depend on the consultation and coordination.

c) Does China intend to make its legislation GPA-compatible before ensuring accession to the WTO's GPA? What is the roadmap for the implementation of the different reforms that are required to make Chinese Procurement law GPA-compliant?

Reply: Promoting the consistency between China's government procurement legal system and GPA and other international rules is one of the important objectives of the revision of the Government Procurement Law. This revision will draw lessons from GPA and other international rules, optimize procurement procedures, further emphasize open competition and fairness and transparency, and strive to improve the current government procurement system to provide institutional guarantee for optimizing the business environment of government procurement.

3.3.7 Intellectual property rights

3.3.7.2 Institutional reforms and IP-related policies

Page 107, para 3.236

The Report refers to the objectives of the Plan for Further Implementation of the National Intellectual Property Strategy to Accelerate the Construction of an Intellectual Property Power Country, among them the objective to reduce low-quality patent applications and malicious filing of trademarks.

EU Question No 66:

a) What steps have been taken or are planned to reduce low-quality patent applications and malicious filing of trademarks including on the basis of the Plan for Further Implementation of the National Intellectual Property Strategy to Accelerate the Construction of an Intellectual Property Power Country?

Reply: With respect to patent, China has taken a series of measures to crack down on irregular patent application practices and promote patent quality from the source. In 2007, China formulated the Provisions on Regulating Patent Application (CNIPA Order No. 45), which was amended (CNIPA Order No. 75) in 2017. To ensure the realization of the legislative purpose of the Patent Law to encourage genuine innovative activities and combat and curb all kinds of abnormal patent application practices that are not aimed at protecting innovation, China issued the Measures on Regulating Patent Application (CNIPA Announcement No. 411) on March 11, 2021, which has supplemented and improved the definition of abnormal patent application and further regulated such a practice. In addition, China has also set up a high-quality development orientation by cracking down on patent application agency practices that do not aim at innovation and fully abolishing the funding and incentives for patent and trademark application across China.

Regarding trademark, on April 23, 2019, the Standing Committee of the National People's Congress adopted a decision on amending the Trademark Law of the People's Republic of China, with the amended provisions having come into effect since November 1, 2019. The amendments provide a direct legal basis for regulating malicious registration, severely punishing trademark infringement, strengthening the protection of trademark rights and optimizing the business environment. In line with the revision of the Trademark Law, the departmental Provisions on Regulating Trademark Application and Registration has come into force since December 1, 2019, which has put the revision of the Trademark Law into practice and improved the operability of relevant provisions. In the next step, China will continue to promote the preparation of amendments to the Trademark Law and its implementing regulations, conduct research and demonstration on key issues such as regulating malicious registration, optimizing the authorization and confirmation procedures, and strengthening the protection of trademark rights, so as to continuously refine the trademark legal system. Since March 2021, China has cracked down on malicious trademark application, disruption of the management order of trademark registration, and those acts leading to a huge adverse social impact.

b) What results have been achieved as regards the measures to reduce low-quality patent applications and malicious filing of trademarks?

Reply: To promote the high-quality development of intellectual property rights, China has taken a series of initiatives and achieved results, optimizing the structure of effective invention patents that are maintained by the number of years. Of valid invention patents in China (excluding Hong Kong, China, Macao, China and Chinese Taipei), 281,000 have been maintained for over 10 years, making up 11.5% of the total, an increase of 0.2 percentage points over the end of the 13th Five-Year Plan period.

China has strictly implemented the provisions of Article 4 of the Trademark Law on rejecting malicious trademark registration applications not for the purpose of use. China has more strictly cracked down on trademark hoarding, with the overflowing malicious trademark registrations curbed to a certain extent. In 2020, China rejected 15,600 malicious trademark registration applications and 46,000 from January to September 2021. These efforts have reduced the time and economic costs for enterprises to defend their rights through follow-up procedures and boosted their confidence in protecting IPRs. They form a strong deterrent to potentially malicious registrations, with initial results made in the source management of trademark registration order.

Page 108, para 3.238.

The China Manufacturing 2025 strategy highlights, inter alia, the importance of IP protection and enforcement to promote IP-intensive sectors such as robotics, information technology, and clean energy.

EU Question No 67:

a) Could China provide information about the specific IPR measures undertaken in the framework of the China 2025 strategy for robotics and 3D printing?

Reply: To meet the demand for IPR protection in new business forms and models including the robotics industry and strengthen the development of IPR systems in related fields, China has continuously improved the examination standards in related technical fields by increasing the survey and research of social needs and refining the mechanism of regular revision of patent examination guidelines. In 2017, China revised the Patent Examination Guide to explicitly include technical solutions related to new business models in the scope of patent protection objects and improved the requirements for writing claims of inventions involving computer programs. In 2019, China revised

the Patent Examination Guide, adding specific chapters to define the examination rules for patent applications involving new fields and business forms such as AI, "Internet plus", big data and blockchain. China refined the examination rules from various perspectives such as judgment of authorized objects, novelty and inventiveness examination, claim and specification drafting and interpreted the rules through typical cases, both positive and negative. In 2020 and 2021, China continued to revise the Patent Examination Guide, which has been open for public comments. The relevant modifications further identify and improve the object examination benchmarks of applications for invention patents involving computer programs, making clear that claims of patent applications for inventions concerning computer programs can be written as computer program products and that the improvement of the internal performance of computer by algorithms and the effect of user experience enhancement should be considered in the inventive review.

b) How the participation of foreign investment and technologies has been ensured? How protection of IPR of foreign companies is guaranteed?

Reply: The Chinese government has always been committed to treating and protecting the intellectual property rights of domestic and foreign enterprises on an equal footing. China National Intellectual Property Administration protects the IPRs of foreign investors and their investment enterprises in strict accordance with relevant provisions of the Foreign Investment Law and other regulations.

3.3.7.3 International context

Page 108, paragraph 3.240

In the TPR of 2018 China indicated that it would start the work on becoming member of the Hague Agreement concerning the international registration of industrial designs after completing the revision of the Patent Law.

EU Question No 68: Has the work on becoming member of the Hague Agreement concerning the international registration of industrial designs started and what are China's plans and timeline in this regard?

Reply: China is currently moving forward with the domestic submission and approval procedures for accession to the Hague Agreement in an effort to submit its application as soon as possible.

3.3.7.4. Copyright and related rights

Page 108, para 3.245

The Report makes a reference to the Regulations on Collective Copyright Management.

EU Question No 69: Has China introduced or intends to introduce a legal framework for copyright collective management organisations in addition to the Collective Management of Copyright Regulations of People's Republic of China? Are there plans to increase the number of CMOs?

Reply: The "Regulations of the People's Republic of China on Collective Management of Copyrights" is a special regulation for the management of collective management organizations, within the framework of the entire copyright legal system. According to Article 7 of the Regulations, Chinese citizens, legal persons, or other organizations that enjoy copyright or copyright-related rights can initiate the establishment of copyright collective management organizations if they meet certain conditions. Up to now, no application for the establishment of a new CMO.

3.3.7.5 Industrial property

3.3.7.5.1 Trade marks

Page 109-110, para 3.250, para 3.255 and Table 3.29

The legal framework for the protection and enforcement of trademarks is provided by the Trademark Law. Amendments to the Trademark Law entered into force in November 2019. The objectives of these amendments are to curb bad-faith applications, strengthen protection, and foster a favourable business environment. Despite this, EU companies complain that such applications for registration have increased.

EU Question No 70:

a) Does China have data to confirm that the number of bad faith applications has decreased?

Reply: China has strictly implemented the provisions of Article 4 of the Trademark Law on rejecting malicious trademark registration applications not for the purpose of use. China has more strictly cracked down on trademark hoarding, with the overflowing malicious trademark registrations curbed to a certain extent. In 2020, China rejected 15,600 malicious trademark registration applications and 46,000 from January to September 2021. These efforts have reduced the time and economic costs for enterprises to defend their rights through follow-up procedures and boosted their confidence in protecting IPRs. They form a strong deterrent to potentially malicious registrations, with initial results made in the source management of trademark registration order.

b) Is China considering adopting guidelines helping its administration and courts in applying the new rules?

Reply: In line with the revision of the Trademark Law, the departmental Provisions on the Regulation of Trademark Applications for Registration has come into force since December 1, 2019. The Provisions has identified the requirements for applying for trademark registration and the types of irregular applications, as well as the factors that can be considered comprehensively by the trademark registration department when judging malicious trademark registration applications not for the purpose of use. It has provided well-defined guidelines for combating malicious registration and improving the operability of legal provisions. In July 2019, China National Intellectual Property Administration launched the revision of trademark examination and review standards to be in consistent with the fourth amendment to the Trademark Law, the Civil Code and the revision of relevant laws, regulations and judicial interpretations. In July 2021, the Trademark Examination and Review Standards (Draft for Comments) was open to the public for comments. The drafted Standards has improved the content of the examination and review of malicious trademark applications, added the examination and review standard of malicious registration not for the purpose of use, and defined the interpretation, applicable elements, considerations, and applicable circumstances of each relevant legal provision on the examination and review of malicious trademark registration, with explanation made through typical cases.

c) Would China consider instructing its courts to share with the parties to proceedings the evidence submitted by the trademark owner in non-use cancellation proceedings?

Reply: China protects the legal rights of trademark owners in judicial trials in accordance with the law.

d) Please explain if any rules or procedures exist to prevent or dispute fraudulent trademark registration?

Reply: Article 7 of the Trademark Law specifies that the application for registration and use of a trademark shall follow the principle of honesty and credit, which is one of the basic principles of the Trademark Law. According to Article 44, the registered trademark can be declared invalid ex officio and other units or individuals can also request to declare the registered trademark invalid if a registered trademark has been obtained by deceptive means or other improper means.

3.3.7.5.2 Geographical indications

Page 110, para 3.256

The Report states that in 2020, CNIPA established the Technical Sub-committee on Geographical Indications of the National technical Committee on Knowledge and Intellectual property Management Standardization.

EU Question No 71:

a) Could China provide information on the competences of this Technical Sub-committee on Geographical Indications?

Reply: In 2020, China approved the establishment of the Technical Sub-Committee on Geographical Indications under China National Technical Committee for the Standardization of Knowledge and Intellectual Property Management. The sub-committee is responsible for the standard making and revision related to the protection of geographical indication products, boosting the high-quality development of geographical indications. It also organizes making and revising the national standards for the basic general category and product category of geographical indications.

b) Could China elaborate on the upcoming reform on geographical indications, following the announcement by President XI Jinping of a new law on GIs?

Reply: The Outline for Building a Country with Strong Intellectual Property Rights (2021-2035) states that China will explore the formulation of laws and regulations on geographical indications and improve a unified geographical indication protection system featuring the mutual coordination of specific protection and trademark protection. Currently, China is advancing relevant research and drafting work in accordance with the above-mentioned arrangement.

3.3.7.5.3 Patents

Page 111, para 3.264

The Report acknowledges that with the new Patent Law, the level of patent protection has been further increased.

EU Question No 72: Does China have a strategy for improving patent quality and avoid bad faith patenting and abuse of patent rights?

Reply: According to the 14th Five-Year Plan of Intellectual Property Rights, China has made arrangements for the IPR work in the next five years and included the "number of high-value invention patents per 10,000 people" as the main indicator. The Outline for Building a Country with Strong Intellectual Property Rights (2021-2035) specifies the need to coordinate the relationship between quantity and quality of IPRs in a bid to achieve the higher-quality and safer development that is more efficient, equitable and sustainable.

Page 111, paragraph 3.265

The Report states that in November 2020, the CNIPA issues draft amendments to the Implementing Regulations of the Patent Law for public consultation.

EU Question No 73: Could China explain the timeline for the adoption of the amendments to the Implementing Regulations of the Patent Law and the tools it foresees to ensure consistency of application of the new rules?

Reply: Currently, the Implementing Regulations of the Patent Law is put under the legislative review, with public comments being solicited. After the deliberation is approved, the Regulations will be officially published and implemented. In order to ensure the smooth implementation of the amended Patent Law and its implementing regulations, China has initiated the revision of the patent review guidelines and is improving the IT examination system.

3.3.7.5.7 New plant varieties

Page 114, paragraph 3.278

In the TPR of 2018, China indicated that it would start the work to join UPOV Conventions 1991 in combination with the revision of the Regulation on the Protection of New Varieties of Plants.

EU Question No 74: Could China explain its plan and timeline for the revision of the Regulation on the Protection of New Varieties of Plants and the joining of UPOV Conventions 1991?

Reply: China will join UPOV Conventions 1991 in combination with the revision of the Regulation on the Protection of New Varieties of Plants in due course, and no specific timeline currently.

3.3.7.5.8 Undisclosed information and trade secrets

Page 115, paragraph 3.285

The Report makes reference to the amendment of the Anti-Unfair Competition Law in 2019 with regard to trade secrets.

EU Question No 75: Could China indicate the number of administrative and court cases related to trade secrets initiated since the entry into force of the amendments to the Anti-Unfair Competition Law in 2019?

Reply: From January 2019 to the end of 2020, Chinese courts accepted more than 1,200 civil and criminal cases related to trade secrets.

Page 116, para 3.289

The Report refers to one of the provisions under the China-United States Phase 1 Economic and Trade Agreement, i.e. the burden shifting to an accused party in civil proceedings for misappropriation when the holder of a trade secret has produced prima facie evidence of a reasonable indication of trade secret misappropriation by the accused party.

EU Question No 76: Could China explain the standard that is used in assessing the prima facie evidence related to trade secrets? Would China consider providing guidance on the standards of prima facie evidence and rules of burden of proof transfer e.g. through judicial interpretation?

Reply: The Law of the People's Republic of China Against Unfair Competition provides the assignment of prima facie evidence and burden of proof related to trade secrets. Article 32 provides that "in the civil judicial procedures for infringement of trade secrets, the right holder of the trade secret shall provide prima facie evidence to prove that confidentiality measures have taken on the claimed trade secret and reasonably demonstrate that the trade secret has been infringed. The alleged infringer shall prove that the trade secrets claimed by the right holder do not belong to the trade secret under this law. The alleged infringer shall prove that there is no infringement of trade secrets if the right holder of the trade secret provide prima facie evidence to reasonably demonstrate that the trade secret has been infringed, and provide one of the following evidence: (a) there is evidence that the alleged infringer has a channel or opportunity to obtain the trade secret, and the information used is substantially the same with the trade secret; (b) there is evidence that the trade secret has been disclosed or used by the alleged infringer, or is under the risk of being disclosed or used; (c) there is other evidence that the trade secret has been infringed by the alleged infringer". The Regulations of the Supreme People's Court on Issues Regarding the Application of Law in Hearing Civil Cases of Trade Secret Infringement, which came into effect on September 12, 2020, further clarifies the relevant issue.

3.3.7.6 Enforcement**Page 117, paragraph 3.291**

The Report recalls one of the provisions of the China-United States Phase 1 Economic and Trade Agreement concerning the obligation to 'provide legal presumptions of copyright ownership and waive certain other requirements for bringing copyright infringement claims.' It seems that currently e-commerce platforms require a Chinese IP certificate from right holders both in copyright and trademark infringement cases.

EU Question No 77: Is China considering guidance or legislative act to clarify that e-commerce platforms should accept international registration designating China in copyright and trademark infringement cases?

Reply: The Supreme People's Court does not yet have such a plan.

3.3.7.6.3 Judicial measures**Page 118, para 3.297**

The European Union would like to ask China to clarify a number of points about the so-called 'anti-suit injunctions', 'act preservation measures' under article 100 of the China civil procedure law. These measures prevent European right holders from enacting an injunction to recall from the channels of commerce products that are infringing their patent.

EU Question No 78: Could China clarify the time during which these "act preservation measures" will remain in place? Will they remain in place in case of an appeal from the decision of the intermediate court?

Reply: Article 13 of the Provisions of the Supreme People's Court on Issues Regarding the Application of Law in Examining Cases of Act Preservation in Intellectual Property Disputes stipulates that where the people's court rules on the adoption of act preservation measures, the duration of the preservation measure shall be reasonably determined based on factors such as the request of the applicant or the specific circumstances of the case. The effect of ruling to stop infringing IPR shall be maintained until the case decision takes effect.

The Supreme People's Court 2020 annual report qualifies OPPO v Sharp as a "big" IP case and describes that, after the Shenzhen intermediate court at OPPO's request issued an anti-suit injunction, Sharp obtained a decision from the Munich District Court requiring OPPO to apply to the

Chinese court for withdrawal of that injunction in relation to the German case, upon which the Shenzhen intermediate court explained to Sharp the "serious legal consequences of violating the judgment of the Chinese court."⁴

EU Question No 79: As the Report notes violation of the judgement is already subject to daily penalties of 130,000 euros (1 million RMB) could China clarify what these "serious legal consequences" are, and whether they are different from the daily penalties?

Reply: According to the law, the parties to the case shall consciously fulfill the obligations written in the effective adjudication document. Refusal to fulfill the judgment or ruling of the people's court that has taken legal effect is an act of obstruction of litigation. The fine is the measure taken against obstruction of civil litigation as provided in the Civil Procedure Law of the People's Republic of China. Based on the typical case of Conversant Huawei the Supreme People's Court IP Tribunal published adjudication guidelines for deciding on an anti-suit injunction and daily penalties.⁵

In its response to the EU Information request under Article 63(3) TRIPS China stated: "It should be pointed out that the "typical" cases, "typical technology cases" and "big" cases mentioned in the EU communication are cases for reference and have no legal effect of general application. These cases and adjudication guidelines extracted from these cases serve to timely summarize the trial experiences, strengthen publicity of the rule of law and provide references for judicial practices and legal education."

However, in the 2018 Trade Policy Review China seems to have stated that this type of guidance does have a status in the Chinese Legal system.

As part of the reply to EU Question 81 on Trademarks "Would China consider instructing its administration and courts to explain in their decisions the reasons, in some detail, why submitted evidence of a well-known trademark holder is regarded as insufficient?" China stated:

'In June 2018, the Supreme People's Court issued the Guidance for Strengthening and Standardizing Reasoning in Judicial Documents, in order to further strengthen and standardize the reasoning the judicial documents of the people's courts, and improve the reasoning level the quality of the judgment documents.' (WT/TPR/M/375/Add.1 Page- 360)

EU Question No 80: Could China therefore clarify what is the status of these adjudication guidelines for deciding on an anti-suit injunction and daily penalties in light of the above reply?

Reply: The "major cases", "typical cases", "typical technical cases" and the key points of decisions selected by the Chinese courts are reference cases with no universal application. These cases and the main points of decisions summarized on the basis of which reflect the judicial philosophy, trial ideas and decision methods of the Supreme People's Court in handling difficult, complex and new types of IPR cases. Their role is to summarize trial experience, strengthen the promotion of the rule of law, and provide reference for judicial practice and legal teaching and research.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry, and Fisheries

4.1.2.3 Policy objectives and reform

Page 125, para 4.11

The Report describes the four elements contained in China's 13th Five-Year Plan for Economic and Social Development (2016-20) for agriculture.

EU question No 81: Could China provide details about these four main elements?

Reply: For detailed information. please refer to Chapter 18, Chapter 19, Chapter 20 and Chapter 21, China's 13th Five-Year Plan for Economic and Social Development (2016-20).

Please refer to http://www.gov.cn/xinwen/2016-03/17/content_5054992.htm

⁴ Published on 22 April 2021. <http://www.court.gov.cn/zixun-xiangqing-297991.html#>. 2020

⁴ Published on 22 April 2021. <http://www.court.gov.cn/zixun-xiangqing-297991.html#>. 2020 *Top 10 IP Cases and 50 Typical IP Cases of the Chinese Courts*, source: Supreme People's Court ...

⁵ Supreme People's Court "adjudication guidelines" Published 26 February 2021 on <http://www.court.gov.cn/zixun-xiangqing-288131.html>.

⁵ Supreme People's Court "adjudication guidelines" Published 26 February 2021 on <http://www.court.gov.cn/zixun-xiangqing-288131.html>. *Summary of the Adjudication Gist of the Intellectual Property Court of the Supreme People's Court* (2020).

4.1.2.4.1 Border measures**Page 125, para 4.14**

China continues to make use of tariff rate quotas, which are administered through import licences. TRQs on agricultural products and their utilization, 2018-19 are listed in Table 4.5.

EU question No 82: According to official forecasts (for example from International Grain Council), maize imports by China are forecast at 20 million tonnes in 2020/21 and 2021/22, i.e. much above the WTO TRQ of 7.2 million tonnes. Under what conditions are the maize imports in excess of the WTO TRQ imported? With full duty of 65% paid or under some specific, ad hoc preferential arrangements?

Reply: Imports are determined according to market demand. If the quantity of imported corn exceeds 7.2 million tons, the tariff duty on maize imports in excess will be subject to tariffs at out-of-quota rate.

4.1.2.4.2 Measures affecting exports**Page 126, para 4.18**

China notified the WTO that export subsidies were not granted to agricultural products during the calendar years 2018 and 2019. The authorities did not provide an update as to whether export subsidies were provided in 2020. As indicated in its previous Review, China replied to the questionnaire on export competition, circulated on 31 October 2016, that it provides export financing programmes (i.e. export credit, export credit guarantees, and insurance programmes) covering, inter alia, agricultural goods. With respect to the questionnaire on export competition circulated on 17 January 2020, the authorities indicate that the related information would be disclosed in its coming notification. No data were available on food aid provided by China during the review period.

EU Question No 83: Has China disclosed this information? Is it compatible with WTO exports tax and subsidies regime?

Reply: China has not yet disclosed this information. Yes, it is compatible with WTO exports tax and subsidies regime.

4.1.2.4.3.2 Price controls and market price support systems**Page 129, para 4.25**

The Report describes that China implements a minimum purchase price policy for rice and wheat, considered to be the two most important grain varieties, in major producing areas.

EU question No 84: How does China intend to reform its current minimum price schemes for cereals in future in view of China's overall policy transition aimed at repurposing agricultural subsidies?

Reply: China is a populous country. Rice and wheat are the most important rations in China, which have a bearing on national food security. At present, the minimum purchase price policy for rice and wheat complies with WTO rules. China will adhere to and improve this policy, set a reasonable minimum purchase price level, and ensure domestic food security.

4.1.3 Fisheries**4.1.3.2 Legal, institutional, and policy framework****Page 135, para 4.38**

The Report states that under the Fisheries Law, foreigners and foreign fishing vessels engaging in fishery production in waters under China's jurisdiction must be approved by MARA. If the vessels belong to China's trading partners that have signed relevant treaties/agreements with China, the matters are handled in accordance with these treaties. The Special Administrative Measures for the Access of Foreign Investment in the Pilot Free Trade Zones (2019) (FTA Negative List) lifted restrictions on foreign investment in aquatic product fishing in seas and inland waters under China's jurisdiction. The authorities indicate that the Government currently imposes no restrictions on FDI in aquaculture production.

EU Question No 85: Could China provide data on foreign fishing vessels approved by MARA and foreign companies' investment in aquaculture? What is the foreign share of total Chinese production?

Reply: China has no such statistics currently.

4.2.2 Energy**Page 141, para 4.60**

The authorities state that China regards the development of clean and low-carbon energy as the main direction for adjusting the energy mix.

EU Question No 86: Will China equally pursue a clean energy policy in the rollout of its overseas investments and development aid?

Reply: Overseas investment that does not meet the environmental protection, energy consumption and safety standards of the investment destination country is listed as restricted overseas investment by the government. In July this year, the Ministry of Commerce and the Ministry of Ecology and Environment jointly issued the Guidelines for Green Development of Outbound Investment and International Cooperation, actively guiding enterprises to participate in outbound investment and cooperation in the field of green development. On September 21, President Xi Jinping, at the General Debate of the 76th Session of the United Nations General Assembly, said that China will step up support for other developing countries in developing green and low-carbon energy, and will not build new coal-fired power projects abroad. This statement is widely welcomed by the international community. China takes the improvement of global environmental governance and active response to climate change as important considerations when providing development assistance.

4.2.2.5 Electricity**Page 147, para 4.88**

With regard to the reform of the electric power system the Report states, 'The new tariffs are set to come into force on 1 January 2021. Certain large industrial and commercial consumers are encouraged to buy electricity from generation companies based on direct electricity purchase agreements at negotiated prices'.

EU Question No 87: Could China please list what are the 'certain large industrial and commercial consumers'?

Reply: China has no such statistics currently.

Page 148, para 4.91

EU Question No 88: Could China explain how the 'pilot spot markets' function and what industries are involved in this scheme? In the provinces where this operates, does this system replace the system of negotiating prices by large industrial and commercial consumers? What sectors/companies avail of this pilot spot market mechanism?

Reply: The role of the power spot market pilot is to form a market-oriented power and electricity balance mechanism, and give full play to the decisive role of the market in the allocation of power resources. The power spot market pilot projects mainly involve industries such as power generation, transmission and distribution, power sales, and large industrial and commercial users. Currently, there is no bargaining policy for large-scale industrial and commercial electricity consumers.

4.3 Manufacturing**4.3.1 Recent developments****Page 148, para 4.95**

The XIV Five-Year Plan sets out China's economic and social guidelines for the period 2021-2025. One of its major objectives is the dual circulation strategy, which aims to consolidate China's qualitative growth model through structural reforms that reduce its dependence on the outside world in favor of domestic production. According to the government, this strategy will be a decisive step towards China's goal of achieving full development by 2035. It does not appear that the Chinese authorities will facilitate the opening of the market to foreign companies, except for those sectors that China needs to develop.

EU Question No 89: Does China consider that those targets compatible with the Dual circulation strategy may hamper market access to foreign companies?

Reply: China has always been an important destination for foreign investment. In the past four years, the amount of attracted foreign investment remained second in the world. Whether in the

domestic circulation, the overseas circulation or the dual circulations with domestic and overseas markets reinforcing each other, foreign-invested enterprises are undoubtedly important market entities. Foreign enterprises are the participants, contributors and beneficiaries of China's development. Fostering the new development paradigm will bring broader market opportunities to multinational enterprises. China will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

4.3.2 Selected subsectors

4.3.2.1 Automobiles, automotive parts, and components

Page 150, para 4.104

The Report describes efforts by China in the field of New Energy Vehicles (NEVs). However, E-Mobility will only develop its full potential if car- and battery manufactures, as well as charging network provider and private households have barrier free access to electricity from renewable energy sources.

EU Question No 90:

a) How will China ensure that all market players have access to green electricity?

Reply: China will speed up the construction of a new power system with new energy as the main body, guide green power consumption in a market-oriented way, and reflect the environmental value of green power.

b) We understand that the current NEV purchase subsidy scheme will be effective until end of 2022. Is there already any indication on how the NEV purchase subsidies scheme will be structured after 2022?

Reply: Please refer to the subsidy notification submitted by China for the subsidies of NEVs.

c) Most European countries are following WTO rules and offer NEV purchase subsidies for all NEVs. Why is China only subsidising locally produced NEVs? ,

Reply: China abides by the WTO rules in providing subsidies for NEVs and treats both locally produced NEVs and imported NEVs equally.

Page 150, paragraph 4.108

The Report mentions the commercialization of highly automated vehicles by 2025.

EU question No 91:

Could China indicate:

- a) whether this ambitious deadline will be met;
- b) which level of autonomy is being envisaged (L4 or L5);
- c) is the road and telecommunication infrastructure already adapted to welcome such a deployment and to what extent;

Reply to a, b, c: This goal is of a guiding nature and does not have mandatory binding force on market entities. China will support and encourage the large-scale commercialization of highly autonomous vehicles.

4.3.2.2 Machinery and equipment

Page 151, para 4.114.

Other strategic actions in machinery and equipment industries include: (i) the MIIT's Guiding Opinions on Accelerating the Development of Environmental Protection Equipment Manufacturing Industry, which set the goal of reaching a production value of CNY 1 trillion for environmental equipment manufacturing by 2020; and (ii) the Action Plans for High-End Smart Remanufacturing (2018-2020). In addition, the Plan of Intelligent Manufacturing Development (2016-2020), issued by MIIT and the MOF, was put in place to guide the development of intelligent manufacturing. The Plan, inter alia, sets the goals of completing the digitalization of traditional manufacturing sectors by 2020, establishing an intelligent manufacturing support system, and achieving intelligent transformation of key industries by 2025.

EU Question No 92:

a) Could China provide details on the Plan of Intelligent Manufacturing Development in respect to the industrial machines (and subgroups?)

Reply: This Plan only covers the 2016-2020 time period. There is no specific content for "industrial machinery" in this Plan.

For detailed information, please refer to http://www.gov.cn/xinwen/2017-11/11/content_5238913.htm.

b) Which are the measures foreseen in the 14th Five-Year Plan for Economic and Social Development (2021-25) for industrial robots and key safety machinery components for the years to come? Under which conditions foreign companies will be allowed to participate?

Reply: Please refer to the Section 3, Chapter 8, Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035. Greater efforts will be made to attract and utilize foreign capital. Foreign companies are welcomed to participate in accordance with Chinese laws and regulations.

4.3.2.3 Iron and Steel**Page 152, para 4.116**

Efforts by China to eliminate production overcapacity in the steel industry are guided by the Opinions on Reducing Overcapacity in the Steel Industry to Achieve Development by Solving Difficulties (Guo Fa No. 6, 2016). 73 Among other actions, the Opinions prohibit the building up of new steel capacity. China also intends to encourage enterprises to eliminate part of their steel production capacity through, inter alia, proactive capacity elimination, mergers and acquisitions and restructuring, transformation and conversion of production lines, relocation and reconstruction, and global cooperation in production capacity. Under the Opinions, China plans to cut additional crude steel capacity by 150 million tonnes by 2020, to bring capacity closer to consumption.

EU Question No 93:

a) Has China met this target? Which other measures are envisaged?

b) How have steel output capacity (in tons) and steel output (in tons) in China developed lately? Could you add numbers for China steel output capacity (in tons) and steel output (in tons) and the development in recent years? According to the OECD, in 2020 a large number of economies, many of which are GFSEC members, experienced steep declines in their steel production. On the other hand, China, as the world's largest steel producer, reportedly recorded steel output growth of 7% in 2020, boosting its share of global steel production to 57%.

c) Could you add information on new steel investments in China, announced in 2021, e.g. the instalment of 18 new blast furnace projects with a total capacity of 35 mio tons per year (as reported lately by the Centre for Research on Energy and Clean Air, see <https://energyandcleanair.org/china-2021q2-coal-steel-co2/>)

d) How have cross-border investments by Chinese companies in steel developed? Could you add numbers for China induced cross-border investments in steel output capacity (in tons)? Has the more stringent environmental regulation in China itself led to more investment by Chinese companies e.g. in other Southeast Asian countries with fewer environmental restrictions?

e) Could China explain the reasons for not joining the multilateral discussions in the GFSEC (Global Forum on Steel Excess Capacity)?

Reply to questions above: Steel overcapacity: overcapacity is a universal, cyclical and structural issue in economic development and a common challenge facing the whole world. The underlying causes of this round of steel overcapacity are the global economic downturn and the slump in steel demand triggered by the 2008 financial crisis. During the 13th Five-Year Plan period (2016-2020), China cut its crude steel capacity by more than 150 million tons and eliminated the substandard steel capacity by 100 million tons. In 2019, China had a crude steel capacity of 1.06 billion tons and produced 996 million tons of crude steel, with a capacity utilization rate of 94%, which was higher than the global average.

China government does not adopt such a nation wide plan on new steel investments in China, announced in 2021, China would like EU side to provide more information or a linkage from a governmental department website.

China's investment overseas complies with laws and regulations of host country. In 2013, China issued the Guideline on Environmental Protection in Foreign Investment and Cooperation, which clearly stated that "the projects invested in, constructed and operated by enterprises shall comply

with the laws and regulations of the host country, and shall apply for relevant permits on environmental protection from the local government". In 2021, China issued the Guideline on Green Development in Foreign Investment and Cooperation, proposing that "if the host country does not have relevant laws and regulations or the environmental protection standards are too low, Chinese enterprises are encouraged to carry out investment cooperation activities according to the standards of international organizations or of multilateral institutions or the Chinese standards".

On the platform of the G20 Global Forum on Steel Overcapacity, all parties have fully discussed the issue of steel overcapacity, and now this platform has completed its mission. The global steel industry can continue to conduct exchanges and cooperation on steel issues, and China is also willing to conduct bilateral exchanges with major trading partners on issues related to steel trade.

4.3.2.4 Electronic, IT, and integrated circuits

Page 153, para 4.124

EU Question No 94: Could China confirm the current shareholders of the fund? Could China confirm whether any state or party officials are part of the management of the fund?

Reply: China has provided relevant information as listed in the Secretariat Report. The fund established by China based on the market-oriented principle operate in full accordance with the market principle and are FIEs independent market subjects. Their investment management and decision-making are FIEs market-oriented, and government authorities do not intervene and participate in any investment project decision-making of the funds.

Page 154, para 4.91

EU Question No 95: Regarding the Policy on Promoting High-quality Development of Integrated Circuit Industry and Software Industry (Guo Fa No. 8, 2020) – could China indicate when will this policy enter into force?

Reply: It came into effect on 27 July 2020.

Can China explain the following:

- a) 'preferential corporate income tax' – what is the rate of tax to apply versus the standard rate?
- b) 'favourable financing' could China please provide details as to what are the favourable terms which will apply?
- c) 'support for R&D' – what is the nature of the support envisaged?
- d) 'preferential import duties for certain products' – what are the preferential rates to apply versus the standard rates and what are the products concerned?

Reply to questions above: The Policy is equally applied to all semiconductor companies established within the territory of China, regardless of the nature of ownership or domestic and foreign investment, can enjoy relevant preferential tax policies in accordance with regulations. China encourages and advocates global cooperation in the semiconductor industry, and actively creates a market-oriented, legalized business environment for various market players to invest in China.

4.4 Services

4.4.1 Financial Services

Page 155, para 4.136

EU Question No 96:

- a) In order to obtain a better understanding of the actual impact of the recent liberalisation and the evolution of the participation of foreign-invested companies in the financial sector in the Chinese market, could China identify the market share of foreign-invested companies in the banking, asset management, and life and non-life insurance sectors for each of the years from 2016-2020, as well as the total assets of Chinese state-owned financial institutions and the percentage of their market share in these same sectors for the same period?
- b) China has focused its recent reforms on removing foreign equity caps and joint venture requirements, as well as revising its prudential and supervisory regime. Nonetheless, in order to be able to take advantage of these openings in the Chinese market, foreign financial institutions need to obtain the necessary licences and authorisations, a complicated regulatory process which has created difficulties for and acted as a barrier to the participation of foreign institutions in the past. How will China guarantee that foreign financial institutions are able to obtain licences and authorisations in an efficient and transparent manner in the future?

Reply to questions above: As of December 2016, the total assets of banking institutions were RMB 232 trillion. The original insurance premium income of life insurance companies totaled RMB 926.6 billion, with Chinese capital accounting for 97.96% and foreign capital 2.04%. The original insurance premium income of non-life insurance companies totaled RMB 2,169.3 billion, with Chinese capital making up 93.60% and foreign capital 6.40%. In 2016, foreign-funded banks' assets totaled RMB 2.93 trillion, accounting for about 1.66% of the total assets of commercial banks (excluding post banks).

Up to December 2017, the total assets of banking institutions were RMB 252 trillion. The original insurance premium income of life insurance companies totaled RMB 1054.1 billion, with Chinese capital taking up 98.04% and foreign capital 1.96%. The original insurance premium income of non-life insurance companies totaled RMB 2604 billion, including 92.57% of Chinese capital and 7.43% of foreign capital. In 2017, foreign-funded banks' assets totaled RMB 3.24 trillion, accounting for about 1.70% of the total assets of commercial banks (excluding post banks).

As of December 2018, the total assets of banking institutions were RMB 268 trillion. The original insurance premium income of life insurance companies totaled RMB 1,175.6 billion, comprising 98.06% of Chinese capital and 1.94% of foreign capital. The original insurance premium income of non-life insurance companies totaled RMB 2,626.1 billion, with Chinese capital accounting for 91.90% and foreign capital 8.10%. In 2018, foreign-funded banks' assets totaled RMB 3.35 trillion, accounting for about 1.64% of the total assets of commercial banks (excluding post banks).

Up to December 2019, the total assets of banking institutions were RMB 290 trillion. The original insurance premium income of life insurance companies totaled RMB 1,301.6 billion, with Chinese capital accounting for 98.06% and foreign capital 1.94%. The original insurance premium income of non-life insurance companies totaled RMB 2,962.8 billion, with Chinese capital making up 90.53% and foreign capital 9.47%. In 2019, foreign-funded banks' assets totaled RMB 3.48 trillion, taking up about 1.50% of the total assets of commercial banks (including post banks).

As of December 2020, the total assets of banking institutions amounted to RMB 320 trillion. The original insurance premium income of life insurance companies totaled RMB 1358.4 billion, with 97.44% of Chinese capital and 2.56% of foreign capital. The original insurance premium income of non-life insurance companies totaled RMB 3,167.4 billion, with Chinese capital making up 89.97% and foreign capital 10.03%. In 2020, foreign-funded banks' assets totaled RMB 3.78 trillion, accounting for about 1.46% of the total assets of commercial banks (including post banks).

In July 2017, PBoC issued an announcement to define the access procedures, practice requirements and code of conduct for overseas agencies to conduct credit rating business in the inter-bank bond market. In July 2019, the Financial Committee of the State Council further made clear that foreign-funded rating agencies can rate all types of bonds in the inter-bank bond market and exchange bond market. In November 2019, China issued the Interim Measures for the Administration of the Credit Rating Industry, identifying that foreign credit rating agencies enjoy national treatment when applying to expand their business in China. In May 2020, the Financial Committee of the State Council once again stated that it would promote the further opening of the credit rating industry to the outside world. In addition, in the vast majority of countries across the world, financial institutions are required to hold a license to operate. On the basis of prudential supervision and risk control, China Banking and Insurance Regulatory Commission (CBIRC) is committed to improving the business environment, optimizing the supervision of foreign-funded institutions and steadily promoting the opening up of the banking and insurance sectors to the outside world. Since 2018, CBIRC has announced three rounds of 34 new measures for opening up, involving the abolition of restrictions on shareholdings of foreign investors, relaxation of conditions for access to foreign institutions and business, expansion of the business scope of foreign institutions, optimization of regulatory rules for foreign institutions and simplification of administrative licensing processes. Currently, the threshold for foreign-invested financial institutions to obtain banking and insurance licenses has been significantly lowered with a simplified process.

Page 156, para 4.138

EU Question No 97:

a) Given its stated goal to open up its financial services market, does China believe the continuing strong dominance of state-owned financial institutions may have a negative effect on full participation on the part of foreign-invested financial institutions?

b) Could China give an overview over the prudential regulations applying to state-owned asset management companies?

Reply to questions above: China's financial services market is promising, featuring strong appeal. In recent years, China has taken the initiative to adapt to changes in the international economic and financial development and the objective need for reform and development of the financial sector. It has further expanded the high-level two-way opening, including the relaxation of foreign-invested institutions and business access conditions and the complete abolition of foreign shareholding restrictions in banking, securities, life insurance and other industries. In the next step, China will continue to steadily promote the opening up of the financial sector to the outside world, implement the pre-entry national treatment plus negative list management system, further optimize regulatory rules, improve the business environment, and continue to attract high-quality foreign investment with professional characteristics to enter the Chinese market.

Currently, the five financial asset management companies (FAMCs) are all state-owned or state-controlled financial institutions. The main regulatory rules applicable to them include: the Banking Supervision and Administration Law, the Regulations for Financial Asset Management Companies, the Measures for Supervision of Financial Asset Management Companies, the Measures for Capital Management of Financial Asset Management Companies (Trial), and the Guidelines for Financial Asset Management Companies Supervising Consolidated Financial Statements (Trial). Through the above regulatory rules, the CBIRC has established a risk-based prudential regulatory framework for FAMCs, with the basic elements including but not limited to: corporate governance, risk control, internal transactions, capital adequacy, financial soundness, information resource management and information disclosure. Group prudential supervision focuses on the specific risks associated with group operations, including but not limited to: multiple leverage, risk contagion, risk concentration, conflict of interest, internal transactions and risk exposures. The CBIRC regularly evaluates and revises relevant regulatory rules in a timely manner to ensure the effectiveness of supervision of FAMCs.

Page 157, para 4.139

The Reports states that 'The authorities have introduced a phased deferment of loan repayments scheme, in which banks have been allowed to grant deferment of loan repayments to micro, small, and medium-sized enterprises (MSMEs) and other eligible firms upon application' (emphasis added).

EU Question No 98: Can China state, what are the 'other eligible firms' which benefit from this deferment of loan repayments? How long will this arrangement last?

Reply: According to the arrangement of the State Council, in 2020 the People's Bank of China created the Inclusive Scheme of Deferment of Loan Repayments for Micro and Small Enterprises and the Credit Loan Support Scheme, two direct monetary policy tools, to help micro and small enterprises (SMEs) overcome their liquidity difficulties caused by the pandemic. According to the Schemes, SMEs and banks may negotiate deferred repayment of principal and interest for maturing loans. The State Council decided at its executive meeting held in March 2021 to further extend the implementation period of the two direct monetary tools to the end of 2021 to help SMEs get through short-term liquidity difficulties and play a better role in stabilizing the economy and employment.

Page 158, para 4.146

EU Question No 99:

a) In line with the stated goal to open up China's financial services industry, can China provide an overview as to the implementation of mandatory time lines for the processing of license applications on the part of foreign-invested insurance providers?

b) Related, does the sectorial regulator, the CBIRC, allow for the parallel submission of license applications to operate in different Provinces?

c) Are foreign-invested financial service providers going to be considered as participants in possible further pilot zones for specific insurance or banking services?

d) In line with the stated goal to open up China's financial services industry, can China provide an overview over how it intends to limit disparate impacts on the operation of foreign financial institutions from sectorial data localisation requirements?

Reply: In accordance with the Insurance Law and the Regulations on Insurance Companies, China Banking and Insurance Regulatory Commission (CBIRC), has followed the principle of consistency between China and other countries to conduct the administrative licensing related to market access

for insurance companies. According to relevant regulations, there is no restriction on the number of foreign insurance companies applying in parallel to set up their branches across provinces and also no restriction on foreign banks to submit parallel license applications in provinces. China does not exclude foreign financial service companies from pilot insurance or banking services.

The current policies concerning localization requirements for core facilities of foreign financial institutions aim to secure the stable operation of data information and information systems. The opening up of the financial services industry is subject to the compliance with Chinese laws and regulations. In the next step, Chinese financial regulators will further strengthen and regulate the management of data security in accordance with the Network Security Law, the Data Security Law and the Personal Information Protection Law.

Page 160, section 4.4.1.3.2.3

EU Question No 100: Could China explain as to why, in its view, international ratings agencies had to adapt a China-specific ratings methodology that differs from that applied in other WTO member States?

Reply: In recent years, PBoC has strengthened the supervision of credit rating agencies and defined the norms of rating procedures and relevant business rules by enabling rating agencies to improve the quality of ratings. However, no special restrictions or specific requirements have ever been imposed on the rating methods used by credit rating agencies, with both domestic and foreign rating agencies treated equally. Credit rating agencies conduct their business independently in accordance with the law and are not subject to interference from any entity or individual.

4.4.1.3.4.3 Foreign activities of Chinese companies

Page 164, paragraph 4.181.

The Report states that: "Regarding foreign activities of Chinese securities companies, in September 2018, the CSRC issued the Administrative Measures for the Overseas Establishment, Acquisition, and Shareholding of Financial Institutions of Securities Companies and Securities Investment Fund Management Companies to further clarify the conditions for Chinese companies going abroad and to strengthen the parent company's control over its overseas subsidiaries".

EU question No 101:

- a) Could China indicate the administrative measures that Chinese companies have to follow to strengthen the parent company's control?
- b) Could China indicate the scope of companies to which these measures apply? In particular, are Chinese manufacturers owning overseas subsidiaries subjected to these administrative measures?

Reply: In order to urge securities and fund management institutions to strengthen the control over their overseas subsidiaries, the *Measures for the Administration of Overseas Establishment, Acquisition and Participation of Securities Companies and Securities Investment and Fund Management Companies* sets out the following measures. First, Article 9 specifies that overseas subsidiaries should be wholly-owned. Secondly, Article 12 requires that overseas subsidiaries should have a clear, well-defined and transparent shareholding structure and that the level of legal entities should be appropriate to the capital scale, operation and management capacity and risk control level of overseas subsidiaries. Third, Article 14, Article 16, Article 17 and Article 18 require that securities and fund management institutions should participate in the governance of overseas subsidiaries. Fourth, Articles 20 to 27 require securities and fund operators to strengthen compliance management, risk management and internal control of their overseas subsidiaries. The Measures is applicable for securities firms and securities investment and fund management companies outside of China in their establishment or acquisition of subsidiaries or shareholding in operating institutions.

Page 165, par. 4.182-4.184

EU Question No 102: Are there any additional steps being planned or taken to support and promote access of foreign financial institutions to Chinese private pension fund management market and to support overall growth of this segment? When will the pilot programme, under which this segment still operates, cease to function?

Reply: As of the end of June 2021, China Securities Regulatory Commission has approved 154 pension funds, 115 of which have been established, with a size of RMB 76.131 billion in duration and about 2,531,800 holders.

4.4.2 Telecommunications

4.4.2.2 Regulatory Framework

Page 169, para 4.204

EU Question No 103: Could China confirm that a foreign-invested enterprise can be set up in a PFTZ, making use of their less restrictive foreign-ownership restrictions, to serve clients with its value-added telecommunications services across mainland China and not just in the PFTZ itself?

Reply: PFTZs are a pilot ground for China's reform and opening up. The core task is institutional innovation. In promoting deeper reform and higher level of openness on a pilot basis, China has advocated such a practice in a larger scale after gaining experience, exploring ways to deepen reform and expand openness and accumulating relevant experience. China will play the leading role of PFTZs and develop new institutions for a higher-level open economy.

4.4.2.2.1 Developments in 5G

Page 169, para 4.204

EU Question No 104: Could China provide context for the very significant drop in market shares of international telecommunications infrastructure vendors, particularly during the so-called Phase 2 and Phase 3 of China's 5G network roll-out? We note that this development appears to follow a longer-term trend in China and is contrary to competitive market shares that international vendors can commandeer in other markets that provide for fair and open access.

Reply: Fair competition is one of the important principles of China's market regulation. China, as always, embraces eligible foreign enterprises to invest and operate in China. Regarding telecommunications, China offers services within the scope of WTO commitments to domestic and foreign investors on an equal footing.

4.4.2.2.5 Cloud computing

Page 170, para 4.213

The Chinese cloud service market is dominated by important domestic players, especially Alibaba and Tencent.

China is still an interesting market for foreign cloud service companies, as the market for Software-as-a-Service (SaaS) is underdeveloped. Main focus of Chinese players is Infrastructure-as-a-Service (IaaS).

EU Question No 105: Is Software-as-a-Service covered by China's Classification Catalogue of Telecommunications Services as a form of Internet data centre (IDC) services, as there is only little connection to physical infrastructure?

Reply: Please refer to item B11 of the Classification Catalogue of Telecommunications Services for details.

4.4.2.2.6 Cybersecurity

Page 170, para 4.214

China's rules on critical information infrastructure discriminately affect companies needing to transfer data abroad, a category in which foreign companies are overrepresented. The restrictions apply also to some types of non-personal data. Furthermore, the scope may create uncertainty because it is too broad, affecting operators and services providers.

EU Question No 106:

a) Which of part of GATS Article XIV does China rely on to justify this measure, in particular as regards non-personal data?

b) Is China considering amending or changing the law? Has China considered modifying the scope of the law in order to make it more precise? Are the foreign and national providers treated equally?

Reply to questions above: Strengthening the protection of critical information infrastructure is a common international practice. For example, the United States, Germany, Japan have developed relevant laws to protect important industries and areas. According to the practical needs, China has drawn on the practices of some countries to formulate the Cybersecurity Law that specifies the protection system for critical information infrastructure. The *Regulations on the Security and Protection of Critical Information Infrastructure* defines the scope of critical information infrastructure and the procedures for its identification. It should be made clear that the Cybersecurity Law set the same requirements for domestic and foreign service providers and does not establish higher obligations for foreign service providers than similar domestic service providers. Similarly,

Chinese service providers offering overseas services will also follow relevant legal requirements of other countries, such as addressing the increased compliance costs of the *General Data Protection Regulation* (GDPR).

Page 172, Para 4.220

The purchase of network products and services, including application software can be subject to a cybersecurity review.

EU Question No 107:

- a) Which of part of GATS Article XIV does China rely on to justify this measure?
- b) How will China ensure that the cybersecurity review, which constitutes a prior authorisation mechanism involving several actors and agencies (Report 4.221 and 4.222), is not more burdensome than necessary to achieve the stated policy goals?

Reply to questions above: Critical information infrastructure is vital to national security, economic security, social stability, and public health and safety. A cybersecurity review on operators' procurement of products and services aims to detect and avoid risks and hazards to the operation of critical information infrastructure at an early stage, in an effort to safeguard the supply chain security of critical information infrastructure and national security.

4.4.2.2.7 E-commerce

Page 172, Para 4.223

EU Question No 108:

- a) Can China explain which operators are covered by the scope provision of the e-Commerce law (Article 2: This Law applies to electronic commerce activities carried out within the territory of the People's Republic of China)? In particular, are e-commerce operators established in third countries subject to the market entity registration obligation in Article 10?
- b) What are the first main experiences of the implementation of the e-Commerce law? In particular, have the provisions on notice and action procedures (Articles 42-45) proven to be successful in protecting IPR?

Reply to questions above: In accordance with the protocol on China's accession to the WTO and related commitments, except for demanding a "commercial presence" in China, e-commerce operators established outside China are not required to register as market entities in China. In other word, they can engage in cross-border e-commerce activities. The protection of intellectual property rights is the common goal of many laws, including the e-Commerce Law. The effectiveness of China's IPR protection is evident to all, which is inseparable from China's legislative and law-enforcement efforts in related areas.

4.4.3 Transport

4.4.3.1 Maritime transport

Page 175, Para 4.237

EU Question No 109: Can China clarify if any other criteria are applied to determine whether international-flagged vessels are qualified to return under preferential conditions to China, apart from being declared for import and registered between September 2016 and September 2019?

Reply: The duty-free registration policy for foreign-flagged vessels has expired and discontinued. At present, foreign-flagged vessels need to go through import procedures for registration in China according to relevant laws and regulations.

Page 175, para. 4.238-4.239

EU Question No 110:

- a) Please explain the rules and policies to determine freight pricing (costs of transportation)?
- b) Please provide additional details explaining that flight pricing is based on commercial consideration and that disguised discrimination does not apply to a particular country/destination? Can China explain according to which metrics COSCO is determined as the world's biggest shipping company, as this information does not tally with the results of many industry-established rankings?

Reply to a,b,c: The pricing of ocean freight in China is determined by market supply and demand. It is set based on the combined capacity of COSCO's fleet.

Page 176, Para 4.243

EU Question No 111: Was the support made available under the International Logistics Guarantee Coordination Mechanism also available to international shipping lines?

Reply: The support provided under the International Logistics Guarantee and Coordination Mechanism is applicable to international shipping companies.

Page 176, Para 4.245

EU Question No 112: Can China clarify whether any other port services can be provided without a permit?

Reply: According to the *Port Law* and the *Regulations on the Operation and Management of Ports*, those engaging themselves in port operations shall apply for a port operation license; units providing port services for ships, those offering leasing and maintenance of port facilities, equipment and machinery, and operators handling port cargos shall be filed with local authorities.

4.4.3.2 Air transport

EU question No 113: Does China intend to participate in the international Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)? If not, does China support some other kind of global climate plan for aviation?

Reply: In the spirit of openness and cooperation, China is willing to reiterate its basic position on international aviation emissions reduction. China insists that the United Nations Framework Convention on Climate Change (UNFCCC) is the main channel for global cooperation in climate change matters, and that all countries should give full play to their role in promoting global green and low-carbon aviation development through cooperation, mutual learning and benefits for all in accordance with the basic principles and modalities established by the UNFCCC and the Paris Agreement, especially the principles of equity, common but differentiated responsibilities and respective capabilities. China has always opposed ignoring the national conditions of countries and their differences in the development stages of civil aviation and pursuing the "one-size-fits-all" approach in formulating and implementing international aviation emission reduction policies. China will further promote the green and low-carbon transformation of civil aviation transportation. It is willing to maintain communication and strengthen cooperation with all sides to make more independent contributions to the sustainable development of global civil aviation. On the CORSIA issue, China submitted its position statement to the International Civil Aviation Organization (ICAO) in June 2020.

Page 177, para 4.250

As at end-2020, 67 airlines were established in China; 50 were state owned, 9 have foreign equity participation, and 8 are listed as stock companies. The CAAC has approved 14 private or private-holding airlines. Information was not available as to whether it is required for persons or goods to be transported on nationally registered airlines. Restrictions on foreign investment in civil aviation remain unchanged.

We consider that China could issue new CRS (Computerized Reservation System) regulations to replace current rules (2012 CRS (CCAR-315)) allowing meaningful market access and full reciprocity with the EU.

EU Question No 114: Is the Chinese regulator, CAAC, going to change restrictions on "transport E-ticket itinerary system" allowing foreign CRS companies to issue that official document?

Reply: Currently, the Civil Aviation Administration of China is promoting the revision of the *Regulations on the Services and Management of Computerized Reservation System of Civil Aviation*, which will be announced after the revision is completed. And China would suggest EU to make clarifications on this question and provide more background information.

Page 177, para 4.252

The Report states that "international passenger flights [...] have remained at low level". This is linked to China keeping the frequencies limited. In contrast, the national flights are said to be "recovered by end-2020".

EU question No 115: When would China be ready to lift the unilateral limitations of international air services agreements?

Reply: Since the COVID-19 outbreak, China has taken a series of temporary control measures on international passenger flights in accordance with relevant provisions of the *International Health Regulations* and the *Convention on International Civil Aviation* as well as China's *Law on Health and Quarantine at Borders*, the *Law on Emergency Response*, and the *Civil Aviation Law*. While the needs of necessary personnel movements are met, the cross-border spread of the epidemic has been prevented. Such measures are risk mitigation measures implemented by China in accordance with relevant WHO and ICAO regulations and domestic legislation in the event of public health emergencies and the pandemic. They do not violate bilateral air transport agreements and are consistent with WTO rules. Amid the current complex and severe pandemic, China will make dynamic adjustments to relevant measures according to its changes and steadily promote the orderly resumption of international passenger flights under the premise that all preventive and control measures are effective.

Page 179, Table 4.25

EU Question No 116: Did the policies and support established by the CAAC in response to the COVID-19 pandemic also apply to international and Chinese foreign-invested airlines?

Reply: In response to the COVID-19 pandemic, measures such as support international scheduled passenger flights that have not been suspended or resumed, international cargo flights that do not carry passengers, etc also apply to international and Chinese foreign-invested airlines.

WT/TPR/G/415 – WTO Government's Report

2.1 Grounding its Efforts in the New Development Stage

"China draws up the Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035, and embarks on a new journey towards the second centenary goal, which marks that China has entered into a new development stage."

EU Question No 117:

a) Regarding the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035, could China give information on the timeframe for the elaboration of the plans including for the various sectors. For what sectors are plans being developed? When and where will the plans be published?

Reply: These plans will be released to the public in accordance with laws and regulations. We suggest EU refer to relevant website of government department for further information. For example, the 14th Five-Year Plan for Commerce Development has released on MOFCOM's website.

b) China announced in February 2021 that it had successfully eradicated extreme poverty within China, yet it still labels itself as the world's largest developing country while it states that it is shifting from high-speed growth to high-quality development. What is the criteria that China uses to refer to itself as a developing country, and how would this be justified notably based on China's macroeconomic and trade performance described in page 5 of the report?

Reply: The concept of 'developing country' is relatively to 'developed country', and international organizations do not have a unified definition. However, in general, compared with developed countries, developing countries have obvious gaps in economic strength, per capita income, economic structure, industrial competitiveness, social security system, environmental protection, and ability to participate in global governance.

After decades of reform and opening up, China's economic and social development has made great progress. However, the problem of unbalanced and inadequate development is still prominent, and the contradictions between industrial structure, urban-rural gap, social welfare and environmental issues are still prominent. China is still the largest developing country in the world. As a large and responsible developing country, China has always undertaken obligations that are consistent with its own level of economic development and capabilities.

Page 6, para 2.6

The Report refers to high levels of outbound Chinese FDI.

EU Question No 118: Could China explain which measures it has put in place to support these high levels of outbound FDI?

Reply: The measures include: First, we deepen the reform of "streamlining administration, delegating powers, and improving regulation and services" to facilitate outbound investment; second, we encourage Chinese enterprises to participate in outbound investment cooperation in digital economy, green development and other areas while guiding Chinese enterprises to make efficient use of resources and protect the eco-environment; third, we require our enterprises to strictly abide by the laws and regulations of the host country, respect the local religious culture and customs, and earnestly fulfill their social responsibility; fourth, we encourage the enterprises to take root in local areas, commit to long-term development, and strengthen local staff training.

Page 7, para 3.8.

In addition, China has continuously deepened the reform of China Compulsory Certificate (CCC) scheme. 62 products with relatively standardized industry development and lower risks were removed from the CCC catalogue. Enterprises self-declaration assessment mechanism was introduced to the CCC scheme, applying to 19 products. Certification process was optimized and the certification period was reduced by more than 30%.

EU Question No 119:

a) With regards to the CCC Scheme and the SDoC (self-declaration) scheme – Could China explain the differences between the normal CCC Scheme and SDoC scheme? Could China explain on what basis (risk-assessment) the products are selected to SDoC scheme? In this respect, is China planning to expand the scope of the SDoC scheme, as it is very narrow at the present.

Reply: The CCC scheme is implemented in two ways: third-party certification and self-declaration (SDoC). The main difference between the two is as follows. The former is implemented by a third-party certification body in accordance with the requirements of the certification rules evaluation, with certificates issued for those qualified. The latter is organized for evaluation by manufacturers in accordance with the (SDoC) rule requirements. After confirming those complying with the rules, manufacturers sign a SDoC that, coupled with relevant supporting materials, is uploaded to a designated website for follow-up supervision. In determining the compulsory certification directory, in which products should be implement in the SDoC scheme, regulators will taken into account the closeness of the product to average consumers, the probability of danger, the degree of harm, the maturity of industries, product sampling pass rate and other factors. The CCC directory will be adjusted as appropriated according to the implementation, including the transfer of products in and out and the adjustment of the implementation model.

b) With regards to the 62 products, could China explain what kind of certification is currently required for these products (and provide a list of them) as well as explain what kind of risk assessment/management processes China is using in this context?

Reply: Transferring out 62 products in the CCC directory no longer needs to carry out the CCC. Enterprises can choose whether to conduct the CCC according to their own needs. Regulatory authorities will take into account the closeness of products to average consumers, the probability of danger, the degree of harm, the maturity of industries, product sampling pass rate and other factors so as to adjust the CCC directory as appropriated, including the transfer of products in and out and the adjustment of the implementation model.

c) With regards to the 30% estimate, what is the actual estimated period for product certification? And are any Foreign-invested Certification bodies authorised to carry out CCC Certification in China?

Reply: According to the rules, the certification period is 90 days. Through various optimization and simplification measures, the actual certification period is controlled in about 60 days, with the shortest ranging from 10 to 15 days. In accordance with China's *Certification and Accreditation Regulations*, designated bodies and laboratories for mandatory certification should be located in China. Certification bodies and laboratories in China, regardless of being funded by China and other countries, can apply for designation qualificaion. They enjoy the same treatment. Now, 11 foreign-invested laboratories are designated, with no foreign-invested certification bodies designated.

d) The revision of the Regulations of China on Certification and Accreditation is expected to relax market access for the 'Foreign-invested Conformity Assessment Bodies' in China and Overseas locations". When will the (**draft**) revision of the Regulations be made available to public?

Reply: The above-mentioned Regulations of China on Certification and Accreditation are still under revision and recommended for continued attention.

Page 8, Para 3.11

China seeks to foster "an open, fair and non-discriminatory digital trading environment, and establishing basic regimes and standards for property rights, transaction circulation, cross-border transmission and security protection of data resources."

EU Question No 120: Restrictions on "important data" are introduced by China, but it is not clear to businesses which classes of data are included. Furthermore, the list of data classes will reportedly vary per industry and per sector, and regional authorities may establish their own lists. In this light, how will China ensure the regulatory environment for handling non-personal data is unambiguous, non-arbitrary, stable and non-discriminatory, so as to achieve the aims stated in para 3.11? Once the rules are clearly defined, will there be guidance or transitional periods or grace periods for companies to adapt to the new rules?

Reply: Article 21 of the Data Security Law provides that China establishes a data classification and grading protection system. According to the importance of data in economic and social development as well as once tampered with, destruction, leakage, illegal access, or illegal use, the degree of harm caused to national security, public interests or the legitimate rights and interests of individuals and organizations, China protects data in a classified and grading manner. Based on the national data security coordination mechanism, China coordinates relevant departments to develop an important data directory and strengthen the protection of important data. Data related to national security, the lifeblood of the national economy, important people's livelihood, and major public interests belong to the national core data, with a more stringent management system implemented. In accordance with the data classification and grading protection system, all regions and departments should determine the directory of important data for themselves as well as relevant industries and fields, with the data included in the directory for key protection. The classification and grading protection system is implemented to ensure unambiguity, consistency and stability of data regulatory environment.

Page 8, para 3.12

The Report states that China "unswervingly promotes opening up, improves the legal system for foreign investment, continuously liberalizes foreign investment market access, and expands the encouraged categories for foreign investment".

EU Question No 121: Can China provide further clarification on the timeline - when will it fully open the remaining restricted and/or prohibited sectors to foreign investors?

Reply: China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

Page 8, para 3.14

In terms of investment promotion, the new Law requires improving the transparency of foreign investment policies, ensuring that foreign-invested enterprises participate in market competition on an equal footing, strengthening services for foreign investment, as well as encouraging and guiding foreign investment in accordance with laws and regulations. In terms of investment protection, the new Law requires strengthening the protection of property rights of foreign-invested enterprises, reinforcing the constraints on the formulation of normative documents related to foreign investment, encouraging local governments to keep their commitments, and establishing a complaint mechanism for foreign-invested enterprises. In terms of investment administration, the new Law requires that foreign investment shall be subject to an administrative system of pre-establishment national treatment plus negative list. Foreign investment in sectors not included in the Negative List shall be supervised and managed in accordance with the principle of same treatment for domestic and foreign investment. The approval and record-filing of the establishment and changes of foreign-invested enterprises by the authorities in charge of commerce shall be removed. The foreign investment information reporting system shall be fully implemented. In addition, the new Law clearly stipulates that forced technology transfer through administrative means is prohibited.

EU Question No 122:

a) Another means through which forced technology transfer to competitors may happen is through Joint Ventures. Is China considering reviewing its Joint Venture requirements for investment in any of the areas where it is currently required to have a Chinese partner?

Reply: China has been following TRIPs, TRIMs and other WTO agreements, as well as its accession commitments. The terms and conditions on technology transfer in foreign investment in China should be negotiated and determined by all concerned investors. According to current laws in China, it is not mandatory that foreign enterprises should transfer their technologies when cooperating with Chinese enterprises. Article 22 of the Foreign Investment Law puts it clearly that "During the process of foreign investment, the State shall encourage technology cooperation on the basis of free will and business rules. Conditions for technology cooperation shall be determined by all investment parties upon negotiation under the principle of equity. No administrative department or its staff member shall force any transfer of technology by administrative means." The choice of technology transfer is independently made by enterprises for maximizing benefits of business activities, which cannot be manipulated by the government. Whether foreign enterprises will transfer their technologies is an independent behavior of the cooperation parties, and the Chinese Government cannot interfere with it. In recent years, FDIs in China have undergone great changes in terms of forms. Sino-foreign joint ventures were no longer the mainstream. Most new foreign-invested enterprises were incorporated in China as wholly foreign-owned enterprises, and the contents, forms and timelines of technology transfer between the parent company and the subsidiary or between subsidiaries are business decisions made by multinational corporations based on the competition environment, and are not forced by the government.

b) When will China merge the currently separate legal regimes for foreign and domestic investors?

Reply: In order to further expand opening up, actively promote foreign investment, protect the legitimate rights and interests of foreign investment, standardize foreign investment management, facilitate the formation of a comprehensive and new opening-up pattern, and promote the healthy development of the socialist market economy, in accordance with the Constitution Law, China enacted the Foreign Investment Law. Foreign-invested enterprises may, in accordance with the law, equally enjoy the support policies.

c) Why does China maintain a separate registration and reporting system for foreign investors and foreign-invested enterprises?

Reply: In order to facilitate the investment in China of foreign-invested enterprises, China officially implemented the Foreign Investment Law and its regulations in 2020, and adopted international practice, cancelled the examination and approval and filing of the establishment and change of foreign-invested enterprises in the commercial department, and implemented the foreign investment information reporting system.

d) How does China intend to ensure Foreign Invested Entities "market competition on an equal footing" in a market dominated by SOEs, which also benefit from various forms of government support and subsidies?

Reply: First, with more than 40 years of reform and opening-up, China's state-owned enterprises (SOEs) have become independent market players, competing and developing on an equal footing with other types of market players. Meanwhile, China's private economy has continued to grow, which contributes to more than 50% of the country's tax revenue, over 60% of GDP, more than 70% of the technical innovation achievements, over 80% of the urban labor employment, and more than 90% of the quantity of enterprises and new urban jobs, playing an increasingly important role in China's economic development. Therefore, the idea that the Chinese market is dominated by SOEs is not true. China has established the basic status of competition policy, and promotes the transformation of industrial policies to be functional and inclusive, where subsidies and other supportive policies treat all types of enterprises fairly. Third, China is continuing to ease market access, and promote fair competition, eliminate irregular subsidies and preferential policies, and continue to build a market-oriented, legalized, and international business environment. Under the guidance of the negative list for market access and the list of foreign investment catalogue, foreign-invested enterprises will enjoy more business opportunities and more space for development.

e) What measures does China take to ensure that forced technology transfer does not take place in any form or through any means, including at regional or provincial level?

Reply: Please refer to the reply to Question a).

f) Based on Article 35 of FIL, Measures for Security Review of Foreign Investment entered into force on 18 January 2021. How does China ensure that the concepts of public interest and national security would not be used to undermine the rights and interests of foreign investors?

Reply: China ensures fair competition among enterprises of all types of ownership and treats them fairly in terms of access to factors, entry permits, business operations, government procurement and bidding in accordance with the principle of competitive neutrality. China has developed a security review system for foreign investment with the aim of promoting openness to the outside world while preventing national security risks. In the implementation, we will precisely determine the scope of review, avoid generalization of review, and protect the legitimate rights and interests of foreign investors in accordance with the law.

Page 10, para 3.2.3

Comment: The existing 'Encouraged catalogue for foreign investment' and the existing 'Negative list for foreign investment' contain some contradictions. Although investments in certain sectors are included in the Encouraged Catalogue for foreign investment, the same investments are subject to restrictions according to the Negative list.

EU Question No 123:

- a) What are the practical measures that China is taking in order to resolve such contradictions?
- b) Does China consider binding its level of openness in the WTO?

Reply to a and b: China will continue to reduce listed industries on the National Negative List for Foreign Investment, and will open up wider to the outside world, protect the legitimate rights and interests of FIEs, create a market-oriented, law-based and internationalized business environment, and attract more foreign-invested enterprises to invest in China and share the dividends of China's reform and development.

Page 10, para 3.3

EU Question No 124: How has cooperation between Chinese firms and partners in overseas infrastructure development evolved in terms of volume and quality, in particular regarding Environmental, Social and Governance standards, following the implementation of the Decision on Eliminating a Number of Administrative Licenses, revised the Regulations on Contracting Foreign Projects?

Reply: In 2020, China has overcome the adverse impact of COVID-19 on its foreign contracted engineering sector, which maintained a steady growth on the whole. Over the year of 2020, the value of new contracts signed in 184 countries and regions around the world is USD 255.54 billion, and the turnover is USD 155.94 billion. The foreign contracted engineering business covers a wide range of industries, with transportation construction, common construction, power engineering, petrochemicals, etc. as the main areas where both the new contracts signed and completed turnover account for more than 75% of the total.

Page 10, para 3.19

The Report refers to 22 supportive measures.

EU Question No 125: Are these measures available for non-Chinese enterprises and investors active in the areas in question as well?

Reply: These measures are applied equally to non-Chinese enterprises and investors.

Page 10, para 3.20

The Report states: "China continuously improves, promotes and guarantees the policy and service system for outbound investment."

EU Question No 126: Could China explain how it promotes and guarantees its outbound investments?

Reply: Please refer to Para 3.3(Pursuing Innovative Cooperation in Outbound Investment and Achieving Mutual Benefits and Win-Win with the Host Countries), the policy statement by China.

Page 11, para 3.5.1

EU Question No 127: Could China provide more clarity in terms of timeline - when will it extend the pilot FTZ policies nationwide? What are the practical measures that China will take in order to increase market access for foreign investors compared with domestic ones in its FTZs, in particular the newest ones?

Reply: The important mission of the construction of the pilot free trade zone is to explore for deepening reforms and expanding opening up, and to form more replicated and popularized experiences. At present, at the national level, a total of 278 experiences of pilot free trade zone reform have been promoted. In recent years, China has continuously reduced the negative list of foreign investment access and relaxed foreign access. Among them, the negative list of the pilot free trade zone has been reduced 6 times, and the special management measures have been reduced from 190 to 30. The negative list of foreign investment access will be further reduced. At present, the National Development and Reform Commission and the Ministry of Commerce are working with relevant departments to carry out work related to the revision of the negative list of the country and the pilot free trade zone, and will further reduce the special management measures for the negative list and continue to expand the opening up.

Page 13, para 4.7.

The Report asserts that China is making every effort to improve the accessibility of vaccines.

EU Question No 128: How does China plan to increase support for multilateral efforts to increase vaccine supply to partner countries via COVAX as the most effective way to coordinate vaccine delivery efforts and maximize impact for developing partner countries?

Reply: China actively participates in the COVAX, donating USD 100 million to COVAX for the distribution of vaccines to developing countries.

Page 14, para 4.11

"China is taking trade facilitation measures during the pandemic".

EU Question No 129: In view of the updated guidance of FAO related preventing transmission of COVID-19 within food businesses that was published in August 2021, when will China extent trade facilitating measures to food and agriculture products?

Reply: The measures to food and agriculture products adopted by China are in line with Article 42 Paragraph 1, Article 44, Article 55 of the Law on Prevention and Control of Infectious Diseases and Article 42 and Article 92 of the Food Safety Law, and these measures have scientific basis and comply with WTO rules.

Page 14, para 4.12

The Government Report states that "In 2020, a total number of 142,000 expired CCC certificates at home and abroad were renewed."

EU Question No 130: In 2020, what was the number of CCC certificates that remained expired i.e. what share does 142,000 represent? Additionally, what share of the 142,000 certificates were from third countries?

Reply: In 2020, due to the epidemic, all certification certificates that have expired or need to be supervised, audited, and recertified were renewed. About 10% were from third countries.

Page 14, para 4.17

a) What is the concrete meaning of China's claimed "abuse" of trade defense instruments?

Reply: The Chinese side has noted that anti-dumping and anti-subsidy measures have been increasing in recent years. In the past 20-plus year, the use of anti-dumping and anti-subsidy measures has not been limited to traditional users. The ambiguity of the rules leads to frequent improper use of anti-dumping and anti-subsidy measures. Different application of the same rules

has led to an increasing number of disputes under the WTO dispute settlement mechanism in recent years. In addition, out of policy considerations, it is common to see excessive use of anti-dumping and anti-subsidy measures has caused serious disruptions to international trade and to domestic market of the members under investigation and caused damage to the interests of their downstream industries. For example, the measures have been implemented upon some members for 20 years or even longer, and in one extreme case anti-dumping measures have been put in place for more than 40 years, thus becoming "permanent" measures, which constitute barriers to foreign trade and hinder domestic industrial innovation and competition of the country in concern.

b) How China intends to ensure that WTO subsidy rules also keep in step with the changing environment. The modernization of the ASCM is missing from the list of reform topics, as is the reduction of overcapacities.

Reply: Rules are the foundation that underpins and upholds an open, non-discriminatory global multilateral trading system. At present, the world economy is recovering slowly, trade protectionism is raising its head, and the multilateral trading system is facing severe challenges. In this context, China believes that it holds great significance for the development of the multilateral trading system to continue to advance rules negotiation in a balanced manner. The negotiation on anti-dumping and anti-subsidy rules is the main content of the rules negotiation, and is also the core component of the Doha Development Agenda. In view of the increasing number of anti-dumping and countervailing measures in recent years, which have disturbed the international trade order, we believe that the anti-dumping and countervailing rules need to be further clarified and strengthened than ever before. China is ready to join hands with other members to advance negotiations on trade remedy rules in a balanced manner and carry out necessary reforms to the WTO rules.

Page 15, para 4.19

The Report states that "China always believes that unilateralism and protectionism are undermining the rules-based, free and open international trade order" and that "China expressed its serious concern and strong opposition to the unilateral and protectionist actions that specific members have taken." On 10 June 2021, the Standing Committee of China's National People's Congress passed a law on Countering Foreign Sanctions. This law provides a wide margin of discretion to the Chinese authorities to counter actions by other countries.

EU Question No 131

- a) What criteria will be used to determine whether an action by a foreign state warrants a countermeasure under this new law?
- b) How is this new law consistent with the steps taken to improve the system of fair competition (section 5.21, p.25)?
- c) How will it be ensured that this law will not be used to discriminate against non-Chinese companies?

Reply to a, b and c: China pursues an independent foreign policy of peace, insists on the five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence, and safeguards the international system with the United Nations as its core and the international order based on international law, develops friendly cooperation with countries around the world, and promotes the building of a community with a shared future for mankind. China's Anti-foreign Sanctions Law is a defensive measure to deal with and fight back against some countries' containment and suppression of China, and it is to counter, fight back and oppose foreign countries' so-called "unilateral sanctions" against China, safeguard China's sovereignty, security, and development interests, and protect the legitimate rights and interests of Chinese citizens and organizations. China is prudent in formulating and using this law, and will not abuse it.

According to Paragraph II of Article 3 of the Anti-foreign Sanctions Law, where a foreign country in violation of international law and basic norms of international relations contains or suppresses China under various pretexts or pursuant to its own laws, adopts discriminatory restrictive measures against any Chinese citizen or organization, and meddles in China's internal affairs, China shall have the right to adopt corresponding counter measures. This provision is the basis for China to decide whether to take counter measures. Whether or not to take counter measures and what kind of counter measures to take depends first on the specific situation of the so-called sanctions taken by foreign countries against China. The act of foreign countries in violation of international law and the basic norms of international relations taking so-called "unilateral sanctions" against Chinese citizens

and organizations according to their domestic laws, and meddling in China's internal affairs constitutes an illegal act in international law. It is fully in line with the spirit of international law for China to take counter measures according to law.

The promulgation of the Anti-foreign Sanctions Law does not conflict with China's goal of establishing a sound market economy with fair competition, and will not adversely affect China's opening-up. China's determination and will to deepen reform and open wider to the outside world are unshakable. Meanwhile, China's determination and will to safeguard its sovereignty, security and development interests are also steadfast. In recent years, the National People's Congress and its Standing Committee have attached great importance to the legal system construction regarding safeguarding national security and opening wider to the outside world. On 10 June this year, in addition to the Anti-foreign Sanctions Law, the Hainan Free Trade Port Law of the People's Republic of China and the Decision of the Standing Committee of the National People's Congress to Authorize the Shanghai Municipal People's Congress and Its Standing Committee to Develop Pudong New Area Regulations were adopted. These are all new measures taken by China to deepen reform and open wider to the outside world.

China always welcomes and supports foreign enterprises, non-governmental organizations, and individuals to conduct business, exchange, and cooperation in China, and protects their rights and interests in accordance with the law. The Constitution of the People's Republic of China clearly stipulates that the People's Republic of China protects the lawful rights and interests of foreigners, foreign enterprises, and foreign organizations within Chinese territory; and that they must abide by the laws of the People's Republic of China. Paragraph I of Article 11 of the Anti-foreign Sanctions Law stipulates that organizations and individuals in the territory of China shall implement the countermeasures adopted by the relevant departments of the State Council. The provision is clear, and there is no discrimination.

Page 15, para 4.20

China has been actively participating in the WTO negotiations on all issues. Our aim is to establish international trade rules that respond to the development of the times and needs of the industries, and take full consideration of members' economic development level and capability. China has participated in the regular meetings of WTO councils and committees in a constructive way and raised issues of its concern. China has earnestly fulfilled its commitments to the WTO, implemented the commitment to open goods and services markets, and strengthened the protection of intellectual property rights. In addition, China has taken initiatives to further opening up, making contribution to build an open world economy. China strictly abides by the WTO rules when making and implementing economic and trade policies, so as to ensure the stability, transparency and predictability of those policies.

EU Question No 132:

a) It is not uncommon for the EU and other WTO members to come across binding resolutions in the area of government procurement that China did not notify to the WTO. Is China committed to ensuring full transparency in the administrative guidelines and decisions it makes in all economic sectors, including in government procurement?

b) Could China demonstrate how its trade policies related to beef, pork, poultry, feed additives, low risk, processed foods, fruit and vegetables reflect the WTO SPS Agreement, in particular the obligations of Art. 3 (harmonisation with international standards), Art. 4 (equivalence), Art. 5 (assessment of risk), Art. 6 (adaptation to regional conditions) and Art. 8 (approval procedures)

Reply to a and b: China fulfills the WTO commitments and ensures that government procurement is only bound by published and publicly available laws, regulations, universally applicable judicial decisions, administrative decisions and procedures (standard contract terms).

According to the Standardization Law" and the "Management Measures for Mandatory National Standard, in the formulation and implementation of China's mandatory national standards, China will take full analysis and comparison of the relevant laws, regulations and standards of the International Organization for Standardization and other countries or regions, and will fully consider the coordination with international standards; and if international standards are not adopted or the technical requirements are inconsistent with relevant international standards, they will be notified in strict accordance with relevant requirements.

Page 16, para 4.24

The Report reads that "China has fully fulfilled its obligations of notification under all WTO agreements."

EU Question No 133:

The latest Chinese DS:1 notification covers the year 2016. In the meantime China has changed its support policy, but no notification has been forwarded to give members the possibility to examine/analyse these changes. Could China indicate when it intends to submit its DS:1 notifications for the years after 2016, as well as the necessary DS:2 notifications for Blue and Green Box measures implemented since 2016?

Reply: Domestic Support notifications from China covers marketing year 2016. China will submit its DS notifications for the following years later this year or early next.

Page 18, para 4.4.1**EU Question No 134:**

a) How is China working with Chinese firms and lenders to deliver more sustainable impact of BRI projects in partner countries? How does China address possible negative externalities of such projects such as debt sustainability risks or detrimental climate change and environmental impact?

Reply: This year marks the eighth anniversary of the proposal of the Belt and Road Initiative. Over the last eight years, China has signed more than 200 Belt and Road cooperation agreements with over 100 countries and dozens of international organizations. Against the backdrop of the COVID-19 pandemic, Belt and Road cooperation has bucked the trend and demonstrated strong resilience to risk, playing a vital role in supporting countries around the world in battling the pandemic, maintaining economic stability and ensuring people's livelihoods. China always gives prominence to debt management and is committed to building a long-term, stable and sustainable financing system that is well-placed to manage risks. It also works to help the relevant countries strengthen their debt sustainability and improve their ability to prevent sovereign risk. The Guiding Principles on Financing the Development of the Belt and Road Initiative were jointly ratified by 28 countries including China. Due to the impact of the pandemic and the resultant global recession, some developing countries are indeed struggling with heavy debt burdens. In view of this, China has canceled the debt of relevant African countries in the form of interest-free government loans due to mature by the end of 2020. In terms of the debt structure of debtor nations, most of the debts are owed to multilateral financial institutions and commercial creditors of developed countries, which should also play a part in relevant debt relief initiatives.

b) What are the Environmental, Social and Governance standards underpinning projects under the Green Silk Road?

Reply to a and b: In pursuing the "Belt and Road" Initiative, China has always upheld the concept of green development, promoted green and low-carbon construction and operation of infrastructure; emphasized the concept of ecological civilization in investment and trade; and participated in cooperation in such areas as ecological environment governance, biodiversity protection, and response to climate change. The following measures have been taken to make projects more sustainable and to prevent negative impacts on the ecological environment and climate change:

First, The Measures for the Administration of Overseas Investment issued by the Ministry of Commerce proposes points that "pay attention to environmental protection, labor protection and corporate culture construction", and the Measures for the Administration of Outbound Investment by Enterprises issued by the National Development and Reform Commission makes it clear that "pay attention to ecological and environmental protection".

Second, the Ministry of Commerce and the former Ministry of Environmental Protection jointly issued the Guideline on Environmental Protection in Foreign Investment and Cooperation. The National Development and Reform Commission, the Ministry of Commerce, the People's Bank of China, the Ministry of Foreign Affairs, and the All-China Federation of Industry and Commerce jointly issued the Code of Conduct for Overseas Investment Operations of Private Enterprises. These documents provide operational guidelines on ecological and environmental protection for enterprises engaging in outbound investment.

Third, the Ministry of Commerce updates the Guidance for Countries (Regions) Outbound Investment Cooperation on a yearly basis, which contains requirements on environmental protection of various countries, and supports the ecological and environmental protection work in the process of pursuing the "Belt and Road" Initiative.

In 2013, the Ministry of Commerce and the Ministry of Ecology and Environment (former Ministry of Environmental Protection) jointly issued the *Guideline on Environmental Protection in Foreign Investment and Cooperation*, which clearly stated that "the projects invested in, constructed and operated by enterprises shall comply with the laws and regulations of the host country, and shall apply for relevant permits on environmental protection from the local government".

In 2021, the Ministry of Commerce and the Ministry of Ecology and Environment jointly issued the *Guideline on Green Development in Foreign Investment and Cooperation*, proposing that "if the host country does not have relevant laws and regulations or the environmental protection standards are too low, Chinese enterprises are encouraged to carry out investment cooperation activities according to the standards of international organizations or of multilateral institutions or the Chinese standards".

c) Can China provide more information on the development of the Digital Silk Road and how do data protection and privacy safeguards feature in these initiatives?

Reply: In recent years, a batch of cross-border fiber optic cables and submarine cables have been up and running. Cross-border e-commerce has become a new highlight of the "Digital Silk Road" cooperation, while digital content and online tourism have flourished. Countries have been expanding cooperation in smart cities, intelligent transportation, telemedicine, online education and other industrial applications, so that the achievements in Internet development can benefit their people. In addition, China has played an essential role in building a community with a shared future in cyberspace. It has opened the "China Belt and Road Network (yidaiyilu.gov.cn)" to publish information on cooperation between China and countries along the "Belt and Road" routes in digital fields such as AI, big data, cloud computing and smart cities as well as infrastructure interconnection and digital economy. The data protection and privacy protection requirements set in the relevant initiatives can promote more in-depth information flow, technology exchanges, digital trade and commerce across countries.

Page 20, para 4.5.3

EU question No 135:

a) How do China-supported capacity-building programmes integrate global sustainability goals to which China has adhered to, in particular the Sustainable Development Goals and Paris Agreement targets?

Reply: China is implementing the United Nations 2030 Agenda for Sustainable Development (2030 Agenda) and the Paris Agreement on climate change. It has provided support and assistance to developing countries in achieving sustainable development goals and addressing climate change under the framework of South-South cooperation. In recent years, China has set up the Peace and Development Fund, the South-South Cooperation Assistance Fund and the Climate Change South-South Cooperation Fund to support developing countries in implementing the 2030 Agenda, including capacity-building projects in developing countries. Such efforts have bridged capacity gaps, removed bottlenecks in achieving the SDGs, and achieved diversified, autonomous and sustainable development. China has also been working to improve the capacity of other developing countries, especially the least developed countries, African countries and small island states, in addressing climate change. China has also provided references for other countries, especially developing countries, to implement the 2030 Agenda by publishing progress reports on the 2030 Agenda, releasing cases of poverty reduction, and building innovative demonstration zones for the 2030 Agenda.

b) Which quality control measures are in place to ensure that China-supported capacity-building programmes effectively contribute to those goals?

Reply: China has assisted other developing countries in mapping out their development blueprints scientifically. According to the needs of recipient countries, it has helped them formulate development plans, policies and regulations in relevant fields and enhanced the capacity for planning and coordinated development. It has shared development experiences and strengthened the

development of bilateral human resources mechanisms for development cooperation. Based on the actual needs of countries, China has provided targeted capacity-building support by cooperating with multiple international organizations or institutions, including the United Nations, in multilateral capacity building. China will further improve the supervision and management mechanism and project evaluation mechanism. Based on its own national conditions and drawing on international experience, it will revise and refine the foreign aid statistical indicator system, operate a modern foreign aid statistical information system, and enhance the effectiveness of capacity building.

Page 21, para 5.1.4

EU question No 136: Could China further elaborate and provide more information on the modern environmental governance system that it is establishing? Is this approach going to be extended and applicable to China's overseas lending and development aid?

Reply: In March 2020, China issued the Guiding Opinions on Building a Modern Environmental Governance System in a bid to provide institutional support for a better ecological environment. The guideline aimed to put in place by 2025 a sound environmental governance system that specifies responsibilities of governments at all levels and firms, encourages public participation and features stronger government supervision. Efforts will be made to build an open and regulated environmental treatment market. The country will offer a level playing field for all types of enterprises. Greener approach of production shall be promoted among firms, and innovative technologies strengthened to reduce pollutants, while firms will be required to disclose their pollution-related information and held responsible for its authenticity, according to the guideline. China takes the improvement of global environmental governance and active response to climate change as important considerations when developing development assistance.

For more information, please refer to http://www.gov.cn/zhengce/2020-03/03/content_5486380.htm

Page 22, para 5.2.3

The Report reads "China commits itself to improving agricultural subsidy policies. Its agricultural subsidy system, as well as relevant incentive and disincentive mechanism, is green-oriented and aims at promoting rational utilization of agricultural resources and protection of ecological environment".

EU Question No 137: With the objectives of sharing good agricultural practices and repurposing agricultural subsidies, could China give details about its new agricultural subsidy system, type of supports, as well as relevant incentive and disincentive mechanism, notably in terms of global budget and eligibility criteria? Are the payments to farmers linked to environmental mandatory requirements?

Reply: Please refer to China's Domestic support notifications.

Page 25, para 5.21 and 5.22

The Report refers to the Fair Competition Review System (FCRS) and to the Anti-Monopoly Law (AML).

EU Questions No 138

a) Could China clarify the relationship between the two sets of rules? When a document is reviewed under the FCRS, can a review under the AML also be carried out? Are the substantive rules of the AML applied in the FCRS review?

b) Is SAMR applying an economic analysis in the enforcement of the FCRS to decide whether a subsidy distorts competition and the level playing field, and if yes, is it similar to the one SAMR is applying in the enforcement of the AML?

c) In how many FCR reviews has SAMR analysed the use of subsidies by the authorities? What proportion is that of all FCR reviews?

d) What has been the typical outcome of the reviews regarding subsidies? Has the application of the FCRS led to the annulment of decisions to give subsidies, repayment of subsidies to the granting authority or amendment of subsidy schemes?

e) How does China ensure the respect of the findings of a FCR by the targeted authority?

(i) Does the FCRS only provide for self-review and self-discipline or will a higher-level authority supervise the enforcement of the FCRS?

(ii) Is third parties' review being used in applying the FCRS, and how are the opinions of third parties being enforced?

f) It seems that only a limited number of FCRS review are published. Does China have any plans to publish all reviews?

g) Does 'the Action Plan for Building a High-standard Market System, which requires comprehensive improvement of the fair competition system, including strengthening the binding force of the fair competition review system, intensifying and improving anti-monopoly and anti-unfair competition law enforcement, and eliminating regional segmentation and local protection' mean that China has concrete plans to establish a legal basis for the FCRS in the AML or other legislation. If so, what will that imply for the relation between the FCRS and the AML on the one hand and other economic policy measures on the other hand?

Reply to questions above: The fair competition review system (FCRS) aims to maintain a unified national market and fair competition. According to the system, administrative organs and organizations authorized by laws and regulations to manage public affairs should conduct a fair competition review to assess the impact on market competition when formulating regulations, normative documents, other policy documents and specific policy measures involving economic activities of market players, in an effort to prevent the exclusion and restriction of market competition. The assessment is carried out by a combination of qualitative and quantitative methods. Policies and measures found to violate the standards of fair competition review shall be corrected and stopped in a timely manner.

China attaches great importance to the quality and effectiveness of the fair competition review. To ensure the effective implementation of the system, the State Council requires that the State Administration for Market Regulation, the National Development and Reform Commission, the Ministry of Finance and the Ministry of Commerce should establish and improve the inter-ministerial joint meeting system for fair competition review, and coordinate, supervise and guide the national fair competition review; local people's governments at all levels above the county level are responsible for establishing and improving the joint meeting system for fair competition review, coordinate, supervise and guide the regional fair competition review, and report annually to the people's government at the level and the joint meeting at higher level on the implementation of the fair competition review system, so as to accept guidance and supervision. Supervision mechanisms for spot checks, assessments and third-party evaluations as well as accountability mechanisms have been established to strengthen the rigid constraints of the system and the effectiveness of review.

The *Opinions of the State Council on the Establishment of a Fair Competition Review System in the Construction of the Market System* and the *Rules for the Implementation of the Fair Competition Review System* adopt provisions on public matters and content. In the next step, the work of fair competition review will continue to be done in accordance with the law and regulations.

China has established the basic status of competition policy, coordinated other policies based on the competition-related one, focused on building a unified, open and high-standard market system with orderly competition, complete systems and perfect governance, and created a market-oriented, rule-of-law and internationalized business environment.

Page 25, para 5.22

The Report explains that since 2018, China's anti-monopoly law enforcement agencies have investigated and concluded 1,406 cases of concentration of business operators.

EU Question No 139

- a) Of the 1406 cases, how many concentrations involve SOEs?
- b) Of the '171 cases of administrative power abuse to exclude and restrict competition' how many concerned the use of subsidies?

Reply to a and b: Of the 171 cases of administrative power abuse to exclude and restrict competition, 3 cases concerned the use of subsidies. China has no statistics concerning cases involve SOEs. More Information on cases of concentration of business operators is released on the website of SMAR. For details, please refer to <http://www.samr.gov.cn/fldj/>.

Other questions

EU Question No 140:

In the ILO Centenary Declaration for the future of work (2019), the ILO members unanimously committed to work towards ratification of outstanding ILO fundamental conventions. In this regard, could China inform of its work towards the ratification of four unratified ILO fundamental convention on freedom of association, right to organise, collective bargaining and on abolition of forced labour (C029, C087, C098 & C105)?

Reply: The issue of labor conventions ratification is not within the scope of trade policy review. It is recommended that the EU learn about relevant information through multilateral and bilateral mechanisms in the labor field.

EU Question No 141:

European Rail Supply companies and other stakeholders reported that overall accessibility of the Chinese rail supply market to foreign companies declined drastically over the past decade. What are the plans of CHN government to lower market entry barriers for foreign Rail Supply companies to achieve a level playing field?

Reply: China suggest EU refer to Special Administrative Measures for Foreign Investment Access (Negative List) issued by relevant Chinese authorities. China adheres to the basic State policy of opening to the outside world and encouraging foreign investors to invest within the territory of China. China maintains a policy of high-level investment liberalization and facilitation, establishes and improves a mechanism for foreign investment promotion, and creates a stable, transparent, predictable and fair market environment. In accordance with the needs of national economic and social development, China may encourage and guide foreign investors to invest in specific industries, sectors and regions.

EUROPEAN UNION - FOLLOW UP QUESTIONS**WT/TPR/S/415 – WTO Secretariat report****Page 22, para 1.29.**

While the Report refers to the progress of the SOE reform, China never released the details of this plan to the public. State ownership remains important, even in non-strategic, commercially oriented sectors, with SOEs still having large market shares. At the same time, reform of SOEs proceeded almost exclusively in the context of mixed ownership (Section 3.3.5). Given the global weight of the Chinese economy and the strategic role these companies play, their presence in the national and international market is quite relevant. The latest reforms of SOEs have covered issues such as their classification or mixed ownership.

EU Question No 4a:

a) Can China provide feedback in terms of when will the government publish its plan for SOE reform and subject it to peer review to ensure that it is in line with WTO commitments on state owned bodies?

Reply: China fulfills its WTO commitments. China's SOEs reform information is published in accordance with Chinese laws and regulations.

Follow-up to EU Question No 4a:

Obviously information is disclosed in accordance to Chinese laws and regulations. In this regard, which law and/or regulation prevents China from releasing its 3-year action plan on SOEs covering the 2020-2022 period of time? Does China intend to publish its action plan ex-post?

Reply: China's SOEs reform practices have been made available to the public through various channels. Media briefings are held to provide timely comprehensive and systematic information on the progress of the SOEs reform. In addition, China has maintained active communication with the international community such as co-organizing dialogues on SOEs reform with the European Union Chamber of Commerce in China and the American Chamber of Commerce in China.

EU Question No 4b):

Does China envisage to ensure competitive neutrality so that SOEs do not enjoy a competitive advantage as compared to other market participants as part of the reforms that Chinese authorities are currently considering to transform China into a sustainable and resilient economy? If so, what are these specific measures and what is the expected timetable for their implementation?

Reply: China ensures fair competition among enterprises of all types of ownership and will treat enterprises of all types of ownership fairly in terms of element acquisition, access permits, business operations, government procurement, and bidding.

Follow-up to EU Question No 4b): China indicates it does ensure competitive neutrality between SOEs and the private market. How does China reconcile this competitive neutrality with the fact that it set up several SOEs rescue funds in 2020 and 2021 like the Tianjin state owned asset high quality development fund, the Henan SASAC credit guarantee fund, the Hebei SOE credit guarantee fund, etc.?

Reply: These funds are established in accordance with market-oriented and law-based principles, and Chinese Government does not intervene with their operations.

Page 24, para 1.38

The Report (section 1.3.1) documents a sizeable change in the relative share of the US in China's imports, dropping from nearly 9% in 2015 to 6.6.% in 2020. Meanwhile, the relative share of imports from Asian countries has increased.

EU Question No 5: It would be interesting if China could elaborate upon the possible drivers behind these changes in shares across trade partners. More specifically, to what extent can they be traced to issues such as, e.g., the US trade policy towards China, "near-shoring" strategies within Asia, or other considerations?

Reply: The changes in different trading partners' shares in China's total imports are an objective reflection of accumulated various factors, namely, the supply and demand structure in international trade, environments of international trade and changes in different partners' industrial competitiveness. China will work with all other WTO members to uphold the spirit of openness, cooperation, mutual benefit and win-win, promote trade and investment liberalization and facilitation, safeguard the stability of the global industrial chain and supply chain, and promote the world economic recovery and growth.

Follow-up to EU Question No 5: Thank you for the reply. The EU would appreciate if China could provide some further details notably by providing examples of sectors where these factors drive observed trends.

Reply: At the beginning of each year, the State Council Information Office held press conference introducing development of China's foreign trade. For more detailed information about China's foreign trade, please refer to

http://www.gov.cn/xinwen/2020-01/14/content_5468996.htm (for 2019)

http://www.gov.cn/xinwen/2021-01/14/content_5579875.htm (for 2020)

Also, more information is available at China Statistical Yearbook under the section "Foreign Trade and Economic Cooperation".

Please refer to <http://www.stats.gov.cn/english/Statisticaldata/AnnualData/>

Page 36, Para. 2.33

"On 15 January 2020, China and the United States signed the China-United States Phase 1 Economic and Trade Agreement.¹⁸ It contains provisions related to, inter alia, intellectual property, technology transfer, trade in food and agricultural products, and financial services."

EU question 8:

a) Do the horizontal disciplines of this agreement, notably on intellectual property, technology transfer and financial services apply erga omnes?

b) How will China ensure that the treatment accorded to agricultural products in that agreement will not disadvantage other WTO members?

Reply to a and b: Chinese enterprises will import more quality products and services from the US pursuant to the WTO rules and market and business principles. The huge and continuously growing China market will have more demands for quality and fair-priced goods and services. In fact, as the Chinese economy recovers, the country has imported more quality goods from around the world, including the US. The upbeat trade momentum fully demonstrates that China's economic development will create great opportunities for other countries to expand their trade cooperation with China. China welcomes enterprises from foreign countries to engage in fair competition in the Chinese market, and Chinese consumers will choose products and services based on their performance-to-price ratio.

All of China's agricultural imports from the United States are made under market conditions based on commercial considerations, and the administrative measures taken by China on the import of agricultural products are implemented on the basis of most-favored-nation treatment.

Follow-up to EU Question No 8: The EU would welcome further clarification by China on the China-United States Phase 1 Economic and Trade Agreement. In particular, do the horizontal disciplines related to, inter alia, intellectual property, technology transfer, trade in food and agricultural products, and financial services apply erga omnes? In addition, as regards the trade facilitating measures for agricultural products, such as the automatic listing of establishments and the approval procedures, will China extend these to all WTO members?

Reply: Relevant provisions on intellectual property protection, technology transfer and opening-up of financial services in China-United States Phase 1 Economic and Trade Agreement are conducive to deepening China's reform and opening-up, further improving the business environment, and better protecting the legitimate rights and interests of foreign enterprises from all over the world, including European enterprises. China's large and expanding domestic market will increase demand for high-quality commodities and services. With the continuous economic recovery, China will import more high-quality commodities from all over the world, and China's economic development will bring opportunities for all members to expand trade cooperation with China.

Page 71, para 3.89

The Report documents that the Catalogue of Technologies Restricted or Forbidden for Export, published in August 2020 by MOFCOM and the Ministry of Science and Technology (MOST), introduced new lists of restricted and prohibited items and technologies.

EU Question No 20:

a) The EU would like to request China to explain the relationship between the technologies which are subject to the restrictions under the Export Control Law (e.g. the lists formulated under the implementing administrative laws and regulations) and the list of technologies which are prohibited/restricted to be exported under the Catalogue of Technologies Restricted or Forbidden for Export. **The EU would also like to request China to clarify whether the lists originate from multilateral non-proliferation efforts or whether it is based on national considerations, and if so which ones?**

b) With specific regard to control of technology export, the EU would like to request China to explain the inter-relations between the different pieces of relevant legislation, including the relationship between the restriction list under Article 18 of the Export Control Law and the Provisions on the Unreliable Entity List.

Reply to a and b: The Catalogue of Technologies Restricted or Forbidden for Export is a catalogue published of the technologies prohibited or restricted from import and export. It was formulated and adjusted according to the Foreign Trade Law of the People's Republic of China and the Regulations on Technology Import and Export Administration of the People's Republic of China, and executes management according to the Regulations. **The Catalogue of Technologies Restricted or Forbidden for Export does not lie in the applicable scope of the Export Control Law.** Article 1 of the Export Control Law explicitly stipulates that the purpose of the legislation is to safeguard the national security and interests and perform international duties like anti-proliferation, etc. The Chinese Catalogue of Technologies Restricted or Forbidden for Export aims to regulate management over technological exports, promote technological advances and foreign economic and technological cooperation, **and maintain national economic security.** Article Sixteen of the Foreign Trade Law specifies the concrete situations of the technological import and export restricted or prohibited.

Article 18 of the Export Control Law stipulates that the management and control list and the unreliable entity list are different institutions with different legal grounds. The former was made according to the Export Control Law, while the latter was under the Regulations on Unreliable Entity List. The two list systems' legislative purposes, applicable ranges, and detailed measures and procedures are all different.

Follow-up to EU Question No 20: The EU would also like to request China to clarify whether the lists originate from multilateral non-proliferation efforts or whether it is based on national considerations, and if so which ones?

Reply: The Catalogue of Prohibited and Restricted Technologies (hereinafter referred to as "the Catalogue") is formulated in accordance with the Foreign Trade Law and the Regulations on the Administration of Import and Export of Technologies. According to Article 16 of the Foreign Trade Law, the Government may restrict or forbid the export of relevant goods or technology if:

(1) it is necessary to restrict or forbid the export for the purpose of maintaining national security, social public good or public morality; (2) it is necessary to restrict or forbid the export for the purpose of protecting human health or security, protecting the life or health of any animal or plant, or protecting the environment; (3) other exports need to be restricted or prohibited in accordance with the provisions of laws and administrative regulations; (4) other exports need to be restricted or prohibited according to the provisions of international treaties and agreements that China has concluded or participated in.

Page 71, para 3.92

The Secretariat Report states that "Specific export control lists were also released" in addition to the list of dual-use items and of items subject to administration of export/import license (<http://www.mofcom.gov.cn/article/b/c/202012/20201203027833.shtml>).

EU Question No 22: The EU would like to request China which types of items and categories are covered under these lists with and whether corresponding references to the lists of multilateral export control regimes will be published to provide legal clarity.

Reply: Since the 1990s, China has already promulgated 6 administrative regulations in export control sector and 1 set of divisional rules, all of which are attached with separate controlled item lists, covering military and nuclear items, monitored chemicals and the dual-use items and technologies associated with nuclear, biology, chemistry and missiles. After the promulgation of the Export Control Law, the Chinese government is working on the formulation and revision of supporting regulations, and will continue to improve the control list and release it to the public in time.

Follow-up to EU Question No 22: The EU would like to ask China to clarify whether corresponding references to the lists of multilateral export control regimes will be published to provide legal clarity. This question has not been answered.

Reply: As a responsible country, China has established an export control system and issued a list of dual-use nuclear, biological, chemical, and missile items to actively fulfill its international non-proliferation obligations and maintain world peace and security. China is a member of the Nuclear Suppliers Group, and China's nuclear dual-use list is completely consistent with international mechanisms. China has not yet joined other multilateral export control mechanisms such as MTCR, AG, WA, but the list of dual-use biological, chemical, and missile items also takes the list of relevant international mechanisms for reference.

Page 71, para 3.93 and 94

The Secretariat report documents that the Export Control Law provides for the establishment of control lists of foreign business entities that "possibly endanger national security and interests". Article 13 of the Law provides that approval or disapproval of exports will be based on eight criteria, including national security and 'interests', relevant credit records of exporting companies, and "other factors stipulated by laws and administrative regulations".

EU Question No 23: The EU would like to request China to clarify the difference between 'national security' and 'national interests' criteria and concerns that may lead to the approval or disapproval of exports. The EU would also like to request China to clarify which "other factors stipulated by laws and administrative regulations" will apply to export controls, or any related plans for the introduction of such laws and regulations. In particular, the EU is concerned that 'other factors' may include the possibility of request for disclosure of technical information (e.g. trade secrets) in the process of export controls. The EU would request further clarifications to China in this respect.

Reply: The Chinese government will consider all relevant factors and decide on approval or denial of the export applications under the relevant provisions of the Export Control Law. In the process of review, the Chinese government will protect the business secrets of enterprises and safeguard their legal interests in accordance with the law. In order to ensure the effective implementation of the systems established in the Export Control Law, the Chinese government is actively promoting the legislation of supporting regulations to further detail the relevant provisions of Export Control Law.

Follow-up to EU Question No 23: The reply did not clarify the difference between 'national security' and 'national interests' criteria. The reply also does not cover clarifications which "other factors stipulated by laws and administrative regulations" will apply to export controls, or any related plans for the introduction of such laws and regulations. Could China please complete this reply?

Reply: All major countries in the world consider safeguarding national security and interests as an important factor in export control legislation and practice. According to Article 13 of China's Export Control Law, "national security and interests" is one of the considerations of the national export control which decides the approval or disapproval of the export of controlled items based on "national security and interests" and other factors. It is in line with common practice around the world.

Article 13 of the Export Control Law contains miscellaneous provisions (other factors stipulated by laws and administrative regulations) on factors to be considered for the export of controlled items. This is a kind of legislative technique commonly used to make sure that this Law is in line with other laws and administrative regulations that may provide for related issues. At the same time, this is also a restriction on the legislative level. Only the laws formulated by the National People's Congress and its Standing Committee and the administrative regulations formulated by the State Council can set this clause, which helps to ensure the authority and stability of relevant regulations. After the promulgation of the Export Control Law, in order to implement the law and enhance its operability, China is speeding up the formulation and revision of supporting regulations.

Page 72, para 3.102.

The Report states that since 2013, China has established an increasing number of PFTZs across the country; currently, there are 31 PFTZs.

EU Question No 25 c):

c) Do different rates apply to different industries within the same PFTZs?

Reply: Please clarify what kind of "rates" that EU wants to know.

Follow-up to EU Question No 25 c): In some PFTZs are there various tax rates applicable within the same PFTZ? If yes - in which PFTZ, what are the different rates applicable, on which products?

Reply: Currently, preferential corporate income tax policies are only applicable to qualified enterprises in the Hainan Free Trade Port and the Lingang New Area of the Shanghai Pilot Free Trade Zone.

Firstly, for qualified enterprise in the Hainan Free Trade Port, the corporate income tax will be levied at a reduced tax rate of 15%. This policy applies to the entire Hainan Free Trade Port.

Secondly, for qualified enterprise in the Lingang New Area of the Shanghai Pilot Free Trade Zone, the corporate income tax shall be levied at a reduced tax rate of 15% within 5 years from the date of establishment. The above-mentioned preferential policies are only for qualified enterprises, not for specific products.

Page 73, para 3.109.

The Report states, the main mandate of China Eximbank 'includes facilitation of export and import of equipment and new- and high-tech products, and assisting Chinese companies with comparative advantages in their offshore projects'

EU Question No 26 b):

We understand that China Eximbank is the main official export finance lender in China. Could China explain whether and how other Chinese banks are also involved, with financial backing from the state, in export finance – e.g. China Development Bank, Bank of China, Industrial and Commercial Bank of China, China Construction Bank or Agricultural Bank of China. Are the financial decision of these bank always taken on commercial merits and in line with market terms or do they follow government policies and/or decisions?

Reply: China's commercial banks are independent market players. financial decision of these bank always taken on commercial merits and in line with market terms.

Follow-up to EU Question No 26 b): China indicates that "China's commercial banks are independent market players, financial decisions of these banks are always taken on commercial merits and in line with market terms". How does China reconcile this with the CBIRC Three-year action plan for improving corporate governance of the banking and insurance sectors(2020-2022) Section II, stipulating "Members of the Party joining the Boards of Directors, Boards of Supervisors and the senior management positions shall rigorously implement the decisions by the Party organisation. Taking the entity into account, a list of major operational and management issues previously researched and discussed by the Party Committee shall be drawn up and updated. Major operational and management issues must have been discussed by the Party Committee before being decided upon by the Board of Directors or the senior management." Can we understand the reply that the above-mentioned banks provide export finance using the public funds? If so, can you describe the official control mechanism that makes sure that the banks follow in their lending the WTO rules?

Reply: Chinese commercial banks maintain consistency with general international standards in terms of corporate governance principles and frameworks. Corporate governance structure of Chinese commercial banks operates following the principle of responsibility, accountability, coordination, effectiveness, and balance. Major business decisions are made by the Board of Directors and the senior management in accordance with business principles.

EU Question No 26 c):

According to the World Bank analysis, about 40% of official Chinese lending to developing countries comes directly from China Eximbank virtually all loans are tied to sourcing of exports from China.

Does China consider concessional loans to developing countries that are tied to sourcing from Chinese exporters, and not in accordance with requirements of the OECD Arrangement on Officially Supported Export Credits, as subsidies within the meaning of WTO Agreement on Subsidies and Countervailing Duties? Are all relevant programmes notified to the WTO and if not, why?

Reply: China's export credit policy complies with WTO rules, it is not export subsidy.

Follow-up to EU Question No 26 c): Can China confirm that the concessional loans (i.e. on terms better than in the market would provide) provided during the period relevant for this report by China EXIM Bank or China Development Bank to developing countries were not tied, de jure or de facto, to sourcing of goods from Chinese exporters?

If the above-mentioned loans were tied and adhered to OECD rules on tied aid (and hence would benefit from the WTO safe harbour), how does China reveal the relevant information to verify this, either at the WTO or OECD level?

Reply: China Development Bank is not an official export credit agency of China. Its loans provided to developing countries follow market rules. No financial subsidies is provided. The loans provided by China Development Bank do not fall into the category of preferential loans.

Measures for the Supervision and Administration of the Export-Import Bank of China (Order No. 3 [2017] of the China Banking Regulatory Commission) stipulates that Exim Bank shall establish a market-oriented operation and discipline mechanism and develop itself into a policy-based financial institution featuring specific positioning, clear business, prominent functions, adequate capital, standardized governance, strict internal control, safe operation and good services. Exim Bank complied with the requirements of financial modernization and development, and carried out operation, management and various businesses in accordance with the laws of bank operation. Therefore, its loan terms for different projects are determined based on market benchmarks.

Page 76, Para 3.123.

The Report states that "it would appear that transparency on government support may also be hampered, as the Government, through numerous state-owned enterprises (SOEs), is involved in the financing and management of companies, making it difficult to identify the precise policy actions (...)" The authorities do not agree with this statement and indicate that no implicit subsidies were paid to China's SOEs. According to the authorities, the Government does not intervene in SOEs' financing, operation, and management.

EU Question No 30:

a) Could China clarify if State-Owned Enterprises have access to preferential financing from state-owned banks? Do they receive any loan guarantees?

Reply: State-owned enterprises, private enterprises, FIEs are all customer groups of commercial banks. On the premise of compliance with laws and regulations, commercial banks may independently select customer groups and issue credit loans according to their own strategic planning, development orientation, risk preference, operation and management capabilities. The relevant decision-making of commercial banks is a market-oriented choice made from their own actual development, which is a market-oriented behavior.

b) What is the form of financing of the SOEs with losses? Does the government inject funds directly?

Reply: The financing of state-owned enterprises depends mainly on their profitability, asset quality, and development prospects. State-owned enterprises with good development prospects are still capable of obtaining market financing even if they suffer temporary operating losses. Those that have completely lost their profitability and do not have the value to be saved will be gradually cleared up in accordance with the market-oriented mechanism.

c) Could China provide a list of the SOEs that have received a direct transfer of funds from the State, and the yearly amounts received by each of them?

Reply: The SOEs have integrated with the market economy and become independent participants in market competition. They purchase and sell on the basis of commercial considerations, and subject to the same laws and rules as other enterprises, and do not enjoy privileges in terms of

access to funds, bankruptcy, and competition legislation. Relevant government information will be disclosed in accordance with the provisions of government information disclosure regulations, while information related to listed companies will be disclosed in accordance with the information disclosure rules for listed companies.

Follow-up to EU Question No 30: EU Question 30 c) asked for a list of SOEs that have received, in the past, direct transfers, and the yearly amounts received by each of them. China's reply mentions that relevant information "will be disclosed" in the future. While the EU takes note of the commitment by China to disclose such information for the future, could China provide a list of SOEs that have received, in the past, direct transfers, and the yearly amounts received by each of them?

Reply: Enterprise (including SOEs) information such as shareholder's name, capital contribution, etc is made public, please refer to www.gsxt.gov.cn for more information.

Page 83, para 3.155-3.156

Several changes to labelling and packaging requirements took place during the review period. For example, the Food Safety Law and its implementing measures that sets out detailed requirements. Moreover, other new legislation like the New Cosmetic Regulation contains mandatory information requirements such ingredients/ quantity that may get in conflict with protection of trade secrets with commercial value, i.e. formula.

EU Question No 42

a) In case of conflict with rights and obligations for the exporter, could China explain how they would guarantee consistency between different legislative pieces?

Reply: China attaches great importance to the protection of business secrets. The Regulation on the Supervision and Administration of Cosmetics and the Measures for the Administration of the Registration and Recordation of Cosmetics include detailed provisions on the protection of business secrets, and, in accordance with the Regulation on the Disclosure of Government Information, keep secret information involving business secrets. In full consideration for the protection of business secret and intellectual property right, China only requires enterprises to submit the abstract rather than the full text of materials used to assess the claimed effects of cosmetics. To protect consumers' legal rights and interests, information released to the public domain is limited to basic product information and doesn't involve business secret.

b) Will China coordinate ongoing revision processes impacting rules on the labelling and foresee a transition period before entry into force of these different measures in order to allow manufacturers enough time to adapt to new requirements?

Reply: The Regulations on Labels of Cosmetics issued by the National Medical Products Administration (No.77 of 2021) will come into effect on May 1, 2022. The Regulations leaves a reasonable transition period for the industry in full consideration for the industry's actual situations and avoids the waste of packaging materials. It allows a two-year transition period for products already registered or kept on record before May 1, 2022. If the products are not properly labeled in accordance with the Regulations, the registrant must update the labelling prior to May 1, 2023 to comply with the Regulations. The Measures for the Supervision and Administration of Food Labeling currently has some issues under study, communication and coordination. After a consensus is reached, the legislative process can be accelerated.

Follow-up to EU Question No 42: EU is thankful for the clarification and confirming the transition period for labelling under Regulations on Labels of Cosmetics. Could China confirm whether it expects the same coordination and transition period for regulations related to Food Safety Law?

Reply: Food Safety Law and its Implementing Regulations do not have specific requirements for the administration of specific food production varieties. China sets corresponding requirements according to specific provisions on food production and administration.

Page 98, para 3.205

"SOEs are very important in China's economy, in particular for the Government's employment and social and regional policy objectives"

EU Question No 56: Could China confirm whether all SOEs operate according to commercial considerations, as required by China's WTO accession commitments? If not, what other considerations guide their operations?

Reply: Commercial-oriented SOEs act on commercial considerations.

Follow-up to EU Question No 56:

EU question 56 concerned ***all*** SOEs, but China's reply only mentions "commercial-oriented SOEs". Could China confirm whether ***all*** SOEs, also other than "commercial-oriented SOEs", act on commercial considerations, as required by China's WTO accession commitments? If not, what other considerations guide their operations? What is the role of the "Government's employment and social and regional policy objectives" mentioned in para 3.205 of the secretariat report?

Reply: China has been conscientiously fulfilling its WTO accession commitments, and adhering to the market-oriented direction in the SOEs reform. The SOEs, as important market players, continue to stimulate their vitality through market-oriented reforms. The SOEs engage in commercial activities based on commercial considerations. The SOEs in the public welfare category introduce market mechanisms, and raise the efficiency and capabilities of public service primarily for the purposes of ensuring people's livelihood, serving the society at large, and providing public goods and services.

Page 106, para 3.228

Reference is made to "that the finance authorities at different levels of government review suppliers' complaints regarding government procurement activities at their respective levels. The results of complaint reviews are published in designated media."

EU Question 63: Could China specify in how many cases of the filed complaints a non-compliance with the relevant rules was found?

Reply: China suggest EU to clarify what does "relevant rules" refer to.

Follow-up to EU Question 63: The EU would like to clarify the question. The EU is interested against which rules and /or criteria the government reviews suppliers' complaints and in how many cases of the filed complaints a non-compliance with these rules was found?

Reply: Chinese government reviews complaints in accordance with relevant laws and regulations such as the Government Procurement Law. Regarding how many cases of the filed complaints a non-compliance with these rules were found, there is no relevant data for the time being.

Page 108, para 3.238.

The China Manufacturing 2025 strategy highlights, inter alia, the importance of IP protection and enforcement to promote IP-intensive sectors such as robotics, information technology, and clean energy.

EU Question No 67: Could China provide information about the specific IPR measures undertaken in the framework of the China 2025 strategy for robotics and 3D printing?

Reply: To meet the demand for IPR protection in new business forms and models including the robotics industry and strengthen the development of IPR systems in related fields, China has continuously improved the examination standards in related technical fields by increasing the survey and research of social needs and refining the mechanism of regular revision of patent examination guidelines. In 2017, China revised the Patent Examination Guide to explicitly include technical solutions related to new business models in the scope of patent protection objects and improved the requirements for writing claims of inventions involving computer programs. In 2019, China revised the Patent Examination Guide, adding specific chapters to define the examination rules for patent applications involving new fields and business forms such as AI, "Internet plus", big data and blockchain. China refined the examination rules from various perspectives such as judgment of authorized objects, novelty and inventiveness examination, claim and specification drafting and interpreted the rules through typical cases, both positive and negative. In 2020 and 2021, China continued to revise the Patent Examination Guide, which has been open for public comments. The relevant modifications further identify and improve the object examination benchmarks of applications for invention patents involving computer programs, making clear that claims of patent applications for inventions concerning computer programs can be written as computer program

products and that the improvement of the internal performance of computer by algorithms and the effect of user experience enhancement should be considered in the inventive review.

How the participation of foreign investment and technologies has been ensured? How protection of IPR of foreign companies is guaranteed?

Reply: The Chinese government has always been committed to treating and protecting the intellectual property rights of domestic and foreign enterprises on an equal footing. China National Intellectual Property Administration protects the IPRs of foreign investors and their investment enterprises in strict accordance with relevant provisions of the Foreign Investment Law and other regulations.

Follow up to EU Question No 67: Is China developing safety standards for robots (whether they be public or private, national or regional) and what would be the applicable IPR provisions for such standard-setting activity?

Could you please specify in more detail the 2019 changes to China's Patent Examination Guide, and could you please clarify whether this Guide contain any examples of application of those amendments to robots?

Reply: China has carried out relevant works on developing standards for robots, including the environmental reliability of industrial robots, electrical safety requirements for service robots, and safety requirements for weeding robots. The National Standards Committee has issued the Provisions of National Standards Involving Patents (Interim), which stipulate that the content of the necessary patent principles, procedures and requirements of national standards involving patents must comply with the Provisions. The Provisions also apply to industry standards and local standards that involve patents in the development and/or revision process.

Detailed changes to China's Patent Examination Guide are as follows: Part 2, Chapter 9 adds the Section 6 named "Relevant Regulations on the Examination of Invention Patent Applications Containing Algorithm Features or Business Rules and Method Features", under which are three subsections 6.1 (Examination Benchmarks), 6.2 (Examination Examples) and 6.3 (Writing of Instructions and Claims).

Page 116, para 3.289

The Report refers to one of the provisions under the China-United States Phase 1 Economic and Trade Agreement, i.e. the burden shifting to an accused party in civil proceedings for misappropriation *when the holder of a trade secret has produced prima facie evidence of a reasonable indication of trade secret misappropriation by the accused party.*

EU Question No 76: Could China explain the standard that is used in assessing the prima facie evidence related to trade secrets? Would China consider providing guidance on the standards of prima facie evidence and rules of burden of proof transfer e.g. through judicial interpretation?

Reply: The Law of the People's Republic of China Against Unfair Competition provides the assignment of prima facie evidence and burden of proof related to trade secrets. Article 32 provides that "in the civil judicial procedures for infringement of trade secrets, the right holder of the trade secret shall provide prima facie evidence to prove that confidentiality measures have taken on the claimed trade secret and reasonably demonstrate that the trade secret has been infringed. The alleged infringer shall prove that the trade secrets claimed by the right holder do not belong to the trade secret under this law. The alleged infringer shall prove that there is no infringement of trade secrets if the right holder of the trade secret provide prima facie evidence to reasonably demonstrate that the trade secret has been infringed, and provide one of the following evidence: (a) there is evidence that the alleged infringer has a channel or opportunity to obtain the trade secret, and the information used is substantially the same with the trade secret; (b) there is evidence that the trade secret has been disclosed or used by the alleged infringer, or is under the risk of being disclosed or used; (c) there is other evidence that the trade secret has been infringed by the alleged infringer".

The Regulations of the Supreme People's Court on Issues Regarding the Application of Law in Hearing Civil Cases of Trade Secret Infringement, which came into effect on September 12, 2020, further clarifies the relevant issue.

Follow-up to EU Question 76: Could China explain what kind of clarifications are provided for the assessment of *prima facie* evidence in the Regulations of the Supreme People's Court on Issues Regarding the Application of Law in Hearing Civil Cases of Trade Secret Infringement? Could China cite the relevant provisions of the Regulations?

Reply: Article 32 of the Anti-Unfair Competition Law provides rules for the *prima facie* evidence submitted by the right holder claiming trade secrets - "Evidence that the alleged infringer has a channel or an opportunity to access the trade secret and that the information it uses is substantially the same as the trade secret."

Article 12 of the Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Cases Involving Infringements upon Trade Secrets further defines the determination of whether employees and former employees "have channels or opportunities to acquire" trade secrets as follows, "A people's court may, when determining whether an employee or a former employee has channels or opportunities to obtain a right holder's trade secret, consider the following factors in relation thereto: (1) his or her duties, responsibilities and authority; (2) the job undertaken by him/her, or task assigned to him/her by the entity; (3) specific circumstances of his or her participation in production and distribution activities relating to the trade secret; (4) whether he/she keeps, uses, stores, reproduces, controls or otherwise accesses or obtains any trade secret and the carrier thereof; and (5) other factors that need to be taken into consideration."

Page 141, para 4.60

The authorities state that China regards the development of clean and low-carbon energy as the main direction for adjusting the energy mix.

EU Question No 86: Will China equally pursue a clean energy policy in the rollout of its overseas investments and development aid?

Reply: Overseas investment that does not meet the environmental protection, energy consumption and safety standards of the investment destination country is listed as restricted overseas investment by the government. In July this year, the Ministry of Commerce and the Ministry of Ecology and Environment jointly issued the Guidelines for Green Development of Outbound Investment and International Cooperation, actively guiding enterprises to participate in outbound investment and cooperation in the field of green development. On September 21, President Xi Jinping, at the General Debate of the 76th Session of the United Nations General Assembly, said that China will step up support for other developing countries in developing green and low-carbon energy, and will not build new coal-fired power projects abroad. This statement is widely welcomed by the international community. China takes the improvement of global environmental governance and active response to climate change as important considerations when providing development assistance.

Follow up to EU Question No. 86: With regards to President Xi Jinping's announcement at the General Debate of the 76th Session of the UN General Assembly, when will new coal-fired power projects abroad be effectively halted and will this commitment cover plants approved but not yet built?

Reply: Relevant departments of Chinese government are drawing up detailed work plans currently. China will fulfill its commitments.

Page 155, para 4.136

EU Question No 96:

a) In order to obtain a better understanding of the actual impact of the recent liberalisation and the evolution of the participation of foreign-invested companies in the financial sector in the Chinese market, could China identify the market share of foreign-invested companies in the banking, asset management, and life and non-life insurance sectors for each of the years from 2016-2020, as well as the total assets of Chinese state-owned financial institutions and the percentage of their market share in these same sectors for the same period?

b) China has focused its recent reforms on removing foreign equity caps and joint venture requirements, as well as revising its prudential and supervisory regime. Nonetheless, in order to be able to take advantage of these openings in the Chinese market, foreign financial institutions need to obtain the necessary licences and authorisations, a complicated regulatory process which has

created difficulties for and acted as a barrier to the participation of foreign institutions in the past. How will China guarantee that foreign financial institutions are able to obtain licences and authorisations in an efficient and transparent manner in the future?

Reply to questions above: As of December 2016, the total assets of banking institutions were RMB 232 trillion. The original insurance premium income of life insurance companies totaled RMB 926.6 billion, with Chinese capital accounting for 97.96% and foreign capital 2.04%. The original insurance premium income of non-life insurance companies totaled RMB 2,169.3 billion, with Chinese capital making up 93.60% and foreign capital 6.40%. In 2016, foreign-funded banks' assets totaled RMB 2.93 trillion, accounting for about 1.66% of the total assets of commercial banks (excluding post banks).

Up to December 2017, the total assets of banking institutions were RMB 252 trillion. The original insurance premium income of life insurance companies totaled RMB 1054.1 billion, with Chinese capital taking up 98.04% and foreign capital 1.96%. The original insurance premium income of non-life insurance companies totaled RMB 2604 billion, including 92.57% of Chinese capital and 7.43% of foreign capital. In 2017, foreign-funded banks' assets totaled RMB 3.24 trillion, accounting for about 1.70% of the total assets of commercial banks (excluding post banks).

As of December 2018, the total assets of banking institutions were RMB 268 trillion. The original insurance premium income of life insurance companies totaled RMB 1,175.6 billion, comprising 98.06% of Chinese capital and 1.94% of foreign capital. The original insurance premium income of non-life insurance companies totaled RMB 2,626.1 billion, with Chinese capital accounting for 91.90% and foreign capital 8.10%. In 2018, foreign-funded banks' assets totaled RMB 3.35 trillion, accounting for about 1.64% of the total assets of commercial banks (excluding post banks).

Up to December 2019, the total assets of banking institutions were RMB 290 trillion. The original insurance premium income of life insurance companies totaled RMB 1,301.6 billion, with Chinese capital accounting for 98.06% and foreign capital 1.94%. The original insurance premium income of non-life insurance companies totaled RMB 2,962.8 billion, with Chinese capital making up 90.53% and foreign capital 9.47%. In 2019, foreign-funded banks' assets totaled RMB 3.48 trillion, taking up about 1.50% of the total assets of commercial banks (including post banks).

As of December 2020, the total assets of banking institutions amounted to RMB 320 trillion. The original insurance premium income of life insurance companies totaled RMB 1358.4 billion, with 97.44% of Chinese capital and 2.56% of foreign capital. The original insurance premium income of non-life insurance companies totaled RMB 3,167.4 billion, with Chinese capital making up 89.97% and foreign capital 10.03%. In 2020, foreign-funded banks' assets totaled RMB 3.78 trillion, accounting for about 1.46% of the total assets of commercial banks (including post banks).

In July 2017, PBoC issued an announcement to define the access procedures, practice requirements and code of conduct for overseas agencies to conduct credit rating business in the inter-bank bond market. In July 2019, the Financial Committee of the State Council further made clear that foreign-funded rating agencies can rate all types of bonds in the inter-bank bond market and exchange bond market. In November 2019, China issued the Interim Measures for the Administration of the Credit Rating Industry, identifying that foreign credit rating agencies enjoy national treatment when applying to expand their business in China. In May 2020, the Financial Committee of the State Council once again stated that it would promote the further opening of the credit rating industry to the outside world. In addition, in the vast majority of countries across the world, financial institutions are required to hold a license to operate. On the basis of prudential supervision and risk control, China Banking and Insurance Regulatory Commission (CBIRC) is committed to improving the business environment, optimizing the supervision of foreign-funded institutions and steadily promoting the opening up of the banking and insurance sectors to the outside world. Since 2018, CBIRC has announced three rounds of 34 new measures for opening up, involving the abolition of restrictions on shareholdings of foreign investors, relaxation of conditions for access to foreign institutions and business, expansion of the business scope of foreign institutions, optimization of regulatory rules for foreign institutions and simplification of administrative licensing processes. Currently, the threshold for foreign-invested financial institutions to obtain banking and insurance licenses has been significantly lowered with a simplified process.

Follow-up to EU Question No 96: Could China inform on whether there is a delay between a submission of an application for a license and the acknowledgement of such an application on the part of the relevant regulator (CBIRC, CSRC)? If so, how long does it take the regulator to acknowledge receipt of an application?

Reply: In the vast majority of countries in the world, operating in the financial industry requires a license. In addition to prudential supervision and risk control, CBIRC has been committed to improving the business environment, optimizing the supervision of foreign institutions and steadily promoting the opening up of the banking and insurance industry. Since 2018, CBIRC has announced 34 new liberalization measures, such as lifting restrictions on foreign ownership, further opening market to foreign institutions and businesses, expanding business scope of foreign institutions, optimizing rules for supervision of foreign institutions and simplifying administrative licensing process. Currently, the threshold for foreign financial institutions to obtain banking and insurance licenses has been significantly lowered and the whole process has been simplified.

According to the Provisions of the China Banking and Insurance Regulatory Commission on Administrative Licensing Procedures and other regulations, if the application materials are complete and satisfy the prescribed requirements, the authority shall accept the administrative licensing application within five days after it receives complete application materials, and shall issue to the applicant an acceptance notice. If the authority accepting the application finds that the application materials are incomplete or fail to satisfy the prescribed requirements in comparison with the catalogue of and requirements for the format of application materials for administrative licensing items, it shall, within five days after receiving the application materials, issue to the applicant a notice of supplements and corrections so as to inform the applicant of all required supplements and corrections at one time, and require the applicant to submit the supplemented and corrected application materials within three months after the issuance of the notice of supplements and corrections. The CBIRC carries out relevant work in strict accordance with relevant laws and regulations without any delay.

Page 157, para 4.139

The Reports states that 'The authorities have introduced a phased deferment of loan repayments scheme, in which banks have been allowed to grant deferment of loan repayments to micro, small, and medium-sized enterprises (MSMEs) and other eligible firms upon application' (emphasis added).

EU Question No 98: Can China state, what are the 'other eligible firms' which benefit from this deferment of loan repayments? How long will this arrangement last?

Reply: According to the arrangement of the State Council, in 2020 the People's Bank of China created the Inclusive Scheme of Deferment of Loan Repayments for Micro and Small Enterprises and the Credit Loan Support Scheme, two direct monetary policy tools, to help micro and small enterprises (SMEs) overcome their liquidity difficulties caused by the pandemic. According to the Schemes, SMEs and banks may negotiate deferred repayment of principal and interest for maturing loans. The State Council decided at its executive meeting held in March 2021 to further extend the implementation period of the two direct monetary tools to the end of 2021 to help SMEs get through short-term liquidity difficulties and play a better role in stabilizing the economy and employment.

Follow-up to EU question no 98: Can China state what the 'other eligible firms' are on top of MSMEs and SMEs? How long will this arrangement last?

Reply: In 2020, the PBOC created the Inclusive Scheme of Deferment of Loan Repayments for Micro and Small Enterprises and the Credit Loan Support Scheme, two direct monetary policy tools, to help micro and small enterprises (SMEs) overcome their liquidity difficulties caused by the pandemic. This arrangement will be extended until the end of 2021.

Page 169, para 4.204

EU Question No 103: Could China confirm that a foreign-invested enterprise can be set up in a PFTZ, making use of their less restrictive foreign-ownership restrictions, to serve clients with its value-added telecommunications services across mainland China and not just in the PFTZ itself?

Reply: PFTZs are a pilot ground for China's reform and opening up. The core task is institutional innovation. In promoting deeper reform and higher level of openness on a pilot basis, China has advocated such a practice in a larger scale after gaining experience, exploring ways to deepen reform

and expand openness and accumulating relevant experience. China will play the leading role of PFTZs and develop new institutions for a higher-level open economy.

EU Follow-up question to 103: Could China confirm that a foreign-invested enterprise set up in a PFTZ can serve clients with its value-added telecommunications services across mainland China and not just in the PFTZ itself?

Reply: The scope of operating Internet access service (providing Internet access service for Internet users) is limited to the PFTZ, other pilot services can be served across the nationwide.

Page 177, para 4.250

As at end-2020, 67 airlines were established in China; 50 were state owned, 9 have foreign equity participation, and 8 are listed as stock companies. The CAAC has approved 14 private or private-holding airlines. Information was not available as to whether it is required for persons or goods to be transported on nationally registered airlines. Restrictions on foreign investment in civil aviation remain unchanged.

We consider that China could issue new CRS (Computerized Reservation System) regulations to replace current rules (2012 CRS (CCAR-315)) allowing meaningful market access and full reciprocity with the EU.

EU Question No 114: Is the Chinese regulator, CAAC, going to change restrictions on "transport E-ticket itinerary system" allowing foreign CRS companies to issue that official document?

Reply: Currently, the Civil Aviation Administration of China is promoting the revision of the *Regulations on the Services and Management of Computerized Reservation System of Civil Aviation*, which will be announced after the revision is completed. And China would suggest EU to make clarifications on this question and provide more background information.

Follow-up to EU question No 114: EU stakeholders reported difficulties with market access in this area. New CRS regulations should fully open Air Ticket Distribution Market, i.e Chinese airline domestic, Chinese airline international, foreign airline international, and foreign airline codeshare/interline domestic segments. These new rules would ensure real enforcement of China's Anti-Monopoly Law, particularly with regard to abuse of dominant position and anti-competitive market practices and allow fair competition.

However, foreign companies need to be able to print what it is called "*transport E-ticket itinerary*", as travel agencies have to deliver that official document for domestic flights. It seems that only Travelsky may have authorization from CAAC.

Based on this further background, the EU would appreciate if China completed its reply.

Reply: According to Chinese regulations on invoice administration, the air transport E-ticket itinerary is within the scope of invoice administration. It is a reimbursement voucher for passengers buying e-tickets of airlines registered in China and is not applicable to flights operated by foreign airlines. Foreign airlines may provide relevant valid bills as passenger reimbursement vouchers in accordance with applied regulations.

WT/TPR/G/415 – Government report

Page 18, para 4.4.1

EU Question No 134:

a) How is China working with Chinese firms and lenders to deliver more sustainable impact of BRI projects in partner countries? How does China address possible negative externalities of such projects such as debt sustainability risks or detrimental climate change and environmental impact?

Reply: This year marks the eighth anniversary of the proposal of the Belt and Road Initiative. Over the last eight years, China has signed more than 200 Belt and Road cooperation agreements with over 100 countries and dozens of international organizations. Against the backdrop of the COVID-19 pandemic, Belt and Road cooperation has bucked the trend and demonstrated strong resilience to risk, playing a vital role in supporting countries around the world in battling the pandemic, maintaining economic stability and ensuring people's livelihoods. China always gives prominence to debt management and is committed to building a long-term, stable and sustainable financing system that is well-placed to manage risks. It also works to help the relevant countries strengthen their debt sustainability and improve their ability to prevent sovereign risk. The Guiding Principles on Financing the Development of the Belt and Road Initiative were jointly ratified by

28 countries including China. Due to the impact of the pandemic and the resultant global recession, some developing countries are indeed struggling with heavy debt burdens. In view of this, China has canceled the debt of relevant African countries in the form of interest-free government loans due to mature by the end of 2020. In terms of the debt structure of debtor nations, most of the debts are owed to multilateral financial institutions and commercial creditors of developed countries, which should also play a part in relevant debt relief initiatives.

- b) What are the Environmental, Social and Governance standards underpinning projects under the Green Silk Road?

Reply to a and b: In pursuing the "Belt and Road" Initiative, China has always upheld the concept of green development, promoted green and low-carbon construction and operation of infrastructure; emphasized the concept of ecological civilization in investment and trade; and participated in cooperation in such areas as ecological environment governance, biodiversity protection, and response to climate change. The following measures have been taken to make projects more sustainable and to prevent negative impacts on the ecological environment and climate change: First, The Measures for the Administration of Overseas Investment issued by the Ministry of Commerce proposes points that "pay attention to environmental protection, labor protection and corporate culture construction", and the Measures for the Administration of Outbound Investment by Enterprises issued by the National Development and Reform Commission makes it clear that "pay attention to ecological and environmental protection".

Second, the Ministry of Commerce and the former Ministry of Environmental Protection jointly issued the Guideline on Environmental Protection in Foreign Investment and Cooperation. The National Development and Reform Commission, the Ministry of Commerce, the People's Bank of China, the Ministry of Foreign Affairs, and the All-China Federation of Industry and Commerce jointly issued the Code of Conduct for Overseas Investment Operations of Private Enterprises. These documents provide operational guidelines on ecological and environmental protection for enterprises engaging in outbound investment.

Third, the Ministry of Commerce updates the Guidance for Countries (Regions) Outbound Investment Cooperation on a yearly basis, which contains requirements on environmental protection of various countries, and supports the ecological and environmental protection work in the process of pursuing the "Belt and Road" Initiative.

In 2013, the Ministry of Commerce and the Ministry of Ecology and Environment (former Ministry of Environmental Protection) jointly issued the *Guideline on Environmental Protection in Foreign Investment and Cooperation*, which clearly stated that "the projects invested in, constructed and operated by enterprises shall comply with the laws and regulations of the host country, and shall apply for relevant permits on environmental protection from the local government".

In 2021, the Ministry of Commerce and the Ministry of Ecology and Environment jointly issued the *Guideline on Green Development in Foreign Investment and Cooperation*, proposing that "if the host country does not have relevant laws and regulations or the environmental protection standards are too low, Chinese enterprises are encouraged to carry out investment cooperation activities according to the standards of international organizations or of multilateral institutions or the Chinese standards".

- c) Can China provide more information on the development of the Digital Silk Road and how do data protection and privacy safeguards feature in these initiatives?

Reply: In recent years, a batch of cross-border fiber optic cables and submarine cables have been up and running. Cross-border e-commerce has become a new highlight of the "Digital Silk Road" cooperation, while digital content and online tourism have flourished. Countries have been expanding cooperation in smart cities, intelligent transportation, telemedicine, online education and other industrial applications, so that the achievements in Internet development can benefit their people. In addition, China has played an essential role in building a community with a shared future in cyberspace. It has opened the "China Belt and Road Network (yidaiyilu.gov.cn)" to publish information on cooperation between China and countries along the "Belt and Road" routes in digital fields such as AI, big data, cloud computing and smart cities as well as infrastructure interconnection and digital economy. The data protection and privacy protection requirements set in the relevant

initiatives can promote more in-depth information flow, technology exchanges, digital trade and commerce across countries.

Follow up to EU Question No. 134:

How does China assess and monitor the implementation of the Code of Conduct for Overseas Investment Operations of Private Enterprises and the Guideline on Environmental Protection in Foreign Investment and Cooperation (2013)? Can China provide more information on the expectations and objectives related to the implementation of the Guideline on Green Development in Foreign Investment and Cooperation (2021)?

Can China expand on the data and privacy protection requirements set in Digital Silk Road initiatives and technology exchanges across countries?

Reply: China encourages Chinese enterprises to attach great importance to environment protection in overseas investment. The implementation of the Guidelines for Environmental Protection in Foreign Investment and Cooperation helped enterprises increase their awareness of environmental protection, gain better understanding of and comply with environmental protection laws and regulations of host countries, and actively fulfill their social responsibilities, thereby making positive contributions to the sustainable development of host countries.

Guideline on Green Development in Foreign Investment and Cooperation (2021) aims to encourage and guide enterprises to carry out green investment, green construction, green production, green operation and green innovation. Chinese enterprises will join hands with host countries to build a clean and beautiful world, and make due contribution to addressing global climate change and promoting low-carbon transformation and post-epidemic green recovery.

In order to ensure the rapid development of the digital economy while carrying out data security governance and protecting personal privacy from infringement, China has always been committed to strengthening and improving the construction of data regulations, systems and standards. In this regard, a number of regulations have been released, including the Network Security Law, Data Security Law, and Personal Information Protection Law, etc., which have further improved the legal and institutional environment. China continuously increased the supervision of data security and privacy protection to ensure the scientific use of big data, and safeguard data security and personal privacy. China will carry out international exchanges and cooperation in the fields of data security governance, data development and utilization, participate in the formulation of international rules and standards related to data security.

Page 20, para 4.5.3

EU question No 135 b): Which quality control measures are in place to ensure that China-supported capacity-building programmes effectively contribute to those goals?

Reply: China has assisted other developing countries in mapping out their development blueprints scientifically. According to the needs of recipient countries, it has helped them formulate development plans, policies and regulations in relevant fields and enhanced the capacity for planning and coordinated development. It has shared development experiences and strengthened the development of bilateral human resources mechanisms for development cooperation. Based on the actual needs of countries, China has provided targeted capacity-building support by cooperating with multiple international organizations or institutions, including the United Nations, in multilateral capacity building. China will further improve the supervision and management mechanism and project evaluation mechanism. Based on its own national conditions and drawing on international experience, it will revise and refine the foreign aid statistical indicator system, operate a modern foreign aid statistical information system, and enhance the effectiveness of capacity building.

Follow up EU Question No. 135: Can China provide more information on its foreign aid statistical indicator system and which principles will underpin revisions to turn it into a "modern" information system?

Reply: The foreign aid statistical indicator system is under formulation and improvement. The EU has carried out a large number of practices in the field of development assistance, and China welcomes experience sharing from the EU.

ICELAND

I. Fisheries subsidies:

According to the report, no updated data were available on fisheries subsidies from 2019, and on fuel subsidies to the fisheries sector over the whole review period.

Question: Could China please elaborate on these subsidies and inform when these will be notified to the SCM Committee?

Reply: China has already notified the fisheries subsidies (2019-2020) to the SCM Committee of WTO.

II. Financial support to the aluminium sector:

Question: Could China please provide information regarding its financial support to the aluminum sector and indicate when China will notify such support programmes to the WTO (see para 23 of WT/TPR/S/415)?

Reply: please see the SCM notification by China as contained in the WTO document G/SCM/N/372/CHN.

III. SPS

According to the report, China introduced emergency measures on new testing requirements for foreign manufacturers of imported cold-chain foods in 2020 due to the COVID-19 pandemic. The measures are still in force.

Question: Could China elaborate on how long such emergency measures will remain in force and any further information regarding the scientific rationale and implementation of these measures?

Reply: In order to effectively prevent the risk of the COVID-19 virus being imported through imported cold-chain food, the State Administration for Market Supervision, following the instruction from the State Council's joint prevention and control mechanism, requested that those producers and operators of imported cold-chain food who cannot present inspection and quarantine certificate, nucleic acid monitoring certificate, disinfection certificate, and traceability information shall not engaged in cold-chain food processing, producing and sales on the market. Any products of the same batch that are tested COVID-19 positive shall be removed from the shelves and prohibited from selling, and shall be sealed in storage in the special zone. The above measures are in line with Article 42 Paragraph 1, Article 44, Article 55 of the "Law of the People's Republic of China on the Prevention and Control of Infectious Diseases" and Article 42 Paragraph 1 and Article 92, paragraph 2 of the "Food Safety Law of the People's Republic of China".

IV. Energy

According to the report, private investment, including FDI, is encouraged in the development of the renewable energy sector. In the 36-Clause on Private Investment, domestic private capital is encouraged to build new energy sectors such as wind, solar, geothermal and biomass power.

Question: Are there any restrictions or joint venture requirements regarding foreign investments in the renewable energy sector?

Reply: According to the negative list for foreign investment, the Chinese side shall hold the controlling majority of shares in the joint ventures regarding the construction and operation of energy and nuclear power stations. There is no restriction on access to wind power, solar power, geothermal power and biomass energy.

V. Gender

What is the participation of women in the economy of China?

Have specific barriers that limit women's participation in trade been identified?

Has China implemented any specific measures to encourage women's participation in trade and promote women's entrepreneurship, or are such measures being developed?

Are the effects of trade policy on women and men measured and monitored, and if so, how?

Reply: Equal participation in economic activities and fair access to economic resources are the basic conditions for women's survival and development. In promoting the strategic adjustment of

economic structure and the reform of transforming the economic development modes, China fully protects women's economic rights and interests, and promotes women's equal participation in economic development and equal enjoyment of the results of reform and development. Specifically, more and more women are gradually getting out of poverty and the number of poor women has dropped by a large margin; women's equal employment rights have been guaranteed; efforts have been made to promote women's employment and entrepreneurship, and supportive policies and measures have been introduced in light of the difficulties faced by different groups of women in employment and entrepreneurship. For example, China implements the financial discount policy of small secured loans to encourage women's employment and entrepreneurship; develop domestic service and hand-woven industries to provide services for urban and rural women to find jobs near their home and facilitate transfer employment; carry out employment and entrepreneurship support actions for female college students, and provide employment training, entrepreneurship guidance and trainee positions for female college students; implement the "Sunshine Project", improve the quality and employment skills of rural female workers, and create conditions for promoting the transfer of rural female workers to non-agricultural industries and cities and towns. There are no specific barriers to women's participation in trade.

The recently released Outline for the Development of Chinese Women (2021-2030) announced specific policies and measures to encourage women to participate in economy and trade and promote women's entrepreneurship, including: 1. Improve laws, regulations and policies to ensure women's equal access to economic resources, participation in economic construction and enjoyment of economic development fruits; 2. Intensify efforts to eliminate gender discrimination in employment, implement laws, regulations and policies across the board to eliminate gender discrimination in employment, and create a gender-equal employment mechanism and market environment; 3. Promote women's employment and entrepreneurship. Improve the public employment service system, deepen the special activities of employment services, and promote the match of job and women. Give full play to the function of modern service industry and new business forms to absorb women to the job market, and support women to participate in the skills training of employees in new business forms and new economic models. Provide more assistance and help for women with employment difficulties to find job through multiple channels. Support the development of national traditional handicrafts industry, improve the degree of organization, and promote the employment of women of all ethnic groups to find jobs locally. Support female scientific and technological talents to join in scientific and technological entrepreneurship, develop rural e-commerce, encourage migrant women to return home to start businesses, and support women willing to start businesses in the countryside. Develop new financial and insurance products and service models, and broaden financing channels for women's entrepreneurship; 4. Promote the employment and entrepreneurship of female college students; 5. Improve women's employment structure, optimize the lifelong vocational skills training system, enhance women's vocational skills, and make more efforts to cultivate knowledge-based, skilled and innovative female workers. Constantly increase the proportion of women employed in high-tech industries, strategic emerging industries and modern service industries. Gradually eliminate occupational gender segregation and increase the proportion of women among employed persons in urban units. Expand the scale of rural women's employment transfer and narrow the employment transfer gap between men and women; 6. Strengthen the cultivation of female professional and technical personnel; 7. Improve the labor safety of female workers; 8. Safeguard the labor rights and interests of female workers and create favorable conditions for the career development of women after giving birth; 9. Guarantee rural women's equal enjoyment of various economic rights and interests.

China will further strengthen the assessment and monitoring of women and men in trade policies.

SAUDI ARABIA**PART I: QUESTIONS REGARDING THE Secretariat Report****2 TRADE AND INVESTMENT REGIMES****4.4.1.3.3 Regulatory developments in insurance****4.4.1.3.3.1 Developments in licensing requirements****Page 161 (Para 5)**

Since 2018, the Central Government has launched several measures to open up the insurance industry, including abolishing the requirement of having a representative office in China for at least two years and 30-year operation period to establish foreign-invested insurance institutions in China, allowing foreign insurance groups to invest in insurance institutions, and opening-up measures in the field of insurance intermediaries. On 15 October 2019, the State Council announced its decision to modify certain provisions in the Administrative Regulations on Foreign invested Insurance Companies¹⁰⁰; it was followed in December 2019 by implementing rules published by the CBIRC.

Questions:

1. Could you provide information about the health insurance scheme in China, How health insurance is funded (state, employer, individual)? Is there a minimum coverage in health insurance?

Reply: At present, China has initially established a multi-level system of medical security with basic medical insurance as the main body, various forms of supplementary medical insurance and commercial health insurance as supplements, and medical assistance as the foundation. Basic medical insurance includes basic medical insurance for employees and basic medical insurance for urban and rural residents. The medical insurance for employees covers the employed population and adopts a financing mechanism which combines the payments of employers and the payments of employees. The premium rate of employers shall be controlled at about 6% of the total wage of employees, and the premium rate of employees is generally 2% of their wage incomes. Medical insurance for residents covers the non-employed population, and adopts a financing mechanism combining financial subsidies with individual contributions, with fixed financing amounts and annual adjustments. In 2020, the financial subsidy standard of medical insurance for residents was no less than RMB 550 per person per year, and the rate for individual contribution was RMB 280. At present, the proportion of inpatient medical expenses paid within the scope of medical insurance for residents is around 70%, and the payment cap by the insurance fund is about 6 times the per capita annual disposable income of local residents.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORT**3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION****2 TRADE AND INVESTMENT REGIMES****2.4 Investment Regime****2.4.3 Incentives to foreign direct investments****Page 44 (Para 4)****Page 9 (4)****3.2.2 Actively expanding market access for foreign investment**

China further opens up its financial services ... Third, as for the insurance sector, as of the end of 2019, the requirements of operating business for 30 years and operating a representative office for 2 consecutive years before the establishment of a foreign insurance institution were lifted nationwide, and foreign insurance group companies were allowed to invest in the establishment of insurance institutions. From 2020, the cap of foreign investment shareholding ratio in life insurance companies was eased to 100%.

Questions:

1. Would you please explain the effect of liberalizing the insurance sector for foreign investment on promoting, attracting international investment and the mutual benefits achieved for the investors and the insurance sector in China?

Reply: By the end of December 2020, overseas insurance agencies from 16 countries and regions had established 66 foreign-funded insurance agencies in China, with more than 1,800 branches at all levels. By the end of December 2020, the total assets of foreign insurance companies were RMB 1.7 trillion, an increase of more than 113 times compared with 2002 when China entered the WTO, with an average annual compound growth rate of 30.08%. In 2020, the original insurance

premium incomes of foreign insurance companies amounted to RMB 352.4 billion, more than 75 times higher than that in 2002, with an average annual compound growth rate of 27.22%.

Opening to the outside world has comprehensively accelerated the development of China's insurance industry, continuously improved the multi-level, wide coverage and differentiated insurance service system, constantly improved the service capacities and levels of insurance agencies, and significantly enhanced the risk management ability. The financial regulatory framework has been continuously improved and the regulatory effectiveness has continuously enhanced. Opening up has brought a win-win effect to China's insurance industry.

BRUNEI DARUSSALAM**Questions regarding Secretariat Report****4 TRADE POLICIES BY SECTOR****4.1 Agriculture, Forestry, and Fisheries****4.1.3 Fisheries****4.1.3.2 Legal, institutional, and policy framework****Pg. 134**

4.36. MARA leads the preparation of draft laws and regulations related to fisheries, develops departmental regulations, and guides fishery law development. Local governments are in charge of fisheries affairs in their respective administrative areas, including marine fisheries in contiguous sea areas (unless the State Council designates otherwise). Official information was not provided on the presence of SOEs in the shipping sector.

Question: Can the People's Republic of China provide further information on the presence of SOEs in the fishing and shipping sector?

Reply: For further information on the SOEs in the shipping sector, please see the list of the SOEs at Central level at the following website:

(<http://www.sasac.gov.cn/n2588035/n2641579/n2641645/index.html>).

4 TRADE POLICIES BY SECTOR**4.1 Agriculture, Forestry, and Fisheries****4.1.3 Fisheries****4.1.3.2 Legal, institutional, and policy framework****Pg. 135**

4.39. The main government strategy for the fishing sector implemented during the review period was the 13th Five-Year Plan on Fishery Development (2016-20).³² The Plan sought to tackle some of the main challenges facing the sector, including infrastructure weaknesses and old fishing vessels, and requirements in the areas of fisheries insurance and the development of a legal framework for fisheries and its enforcement. ... One of the elements of the Plan is to increase public financial investment in the fisheries sector to, inter alia, establish a policy support system that is conducive to the development of modern fisheries. Elements include reform and improvement of the fishery oil price subsidy and a focus on supporting the reduction in the number of boats, the renovation and transformation of fishing vessels, the construction of artificial reefs, the maintenance and transformation of fishing ports, the standardization of ponds, the further development of factory-based aquaculture, and subsidies for banned fishing.³³

Question: Has a new Five-Year Plan on Fishery Development for post 2020 been introduced and if so could the People's Republic of China provide further information?

Reply: The 14th Five-Year Plan on Fishery Development has not been published, as it is still in the process of drafting.

4 TRADE POLICIES BY SECTOR**4.1 Agriculture, Forestry, and Fisheries****4.1.3 Fisheries****4.1.3.3 Government support to the fisheries sector****Pg. 135**

4.40. Support to the sector is provided by both the Central Government and local/provincial governments. China's latest notification to the WTO covers the period 2017-18 and contains six incentives/support programmes at the Central Government level; these relate to fuel subsidies and supporting fish processing, enhancing fish stocks, supporting aquatic breed improving farms, preventing aquatic animal disease, and scrapping and renovating fishing vessels (Table A4.1). According to the authorities, the Government will shortly issue a new policy to terminate fuel and boat construction subsidies, with the last of these pay-outs being made at end-2020.

4.41. Twenty-three programmes over the period 2017-18 were notified to the WTO regarding measures in place in the coastal provinces of Hebei, Jilin, Jiangsu, Zhejiang, Fujian, Shandong, Guangdong, and Liaoning. These included support for marine economic development, marine and fishery structural adjustment, aquatic breeding, supporting fishermen during the closed season, fishery insurance, fishery management and industry development, fishing vessel standardization

and scrapping, processing, aquaculture, and distant water fisheries (Table A4.1). Pending China's new notification to the SCM Committee, information was not available on any new support/incentive schemes introduced at the local government level from the beginning of 2019. The authorities indicate that the notification is being prepared.

Question: Are there any other types of support to the fisheries sector provided by the Government either at the Central or local level besides those listed in the Secretariat Report?

Reply: Please see the SCM notification by China as contained in the WTO document G/SCM/N/372/CHN.

Questions regarding Government Report

3 PURSUING HIGH-LEVEL OPENING UP AND EXPLORING NEW PROSPECTS FOR WIN-WIN COOPERATION

3.4 Building a Global-Oriented Network of High-Standard Free Trade Areas and Promoting the Liberalization and Facilitation of Trade and Investment

Pg. 11

3.24. In November 2020, China signed the Regional Comprehensive Economic Partnership Agreement (RCEP) with the ten ASEAN countries, Japan, Republic of Korea, Australia and New Zealand. RCEP is a modern, comprehensive, high-quality large-scale regional free trade agreement that delivers mutual benefits. In terms of trade in goods, over 90% of products will eventually enjoy zero tariff. The principle of regional accumulation is adopted to deepen the industrial chains and value chains within the region. In terms of services and investment, the overall level of openness of all parties is significantly higher than their WTO commitments. The RCEP adopts a negative list approach to investment liberalization. It also covers modern rules on issues such as intellectual property rights, e-commerce, competition policy, government procurement, conformity assessment procedures, etc.

Question: What is the status of the People's Republic of China's ratification of the RCEP?

Reply: China has officially ratified the RCEP agreement, and submitted the letter of approval to the Secretary-General of the ASEAN on 15 April 2021.

MALAYSIA**SECRETARIAT REPORT****PAGE 33****(2.2.2) Trade policy formulation and objectives**

2.13. Trade policy objectives are also outlined in sectoral and provincial Five-Year Plans and various Administrative Measures (such as negative lists and catalogues) that provide guidance to the implementation of the overall policies, such as on products that are subject to licences or export duties; industries that can benefit from preferential treatment; and sectors in which investment is encouraged, permitted, or restricted.

Question:

Please elaborate China's initiatives/regulations on legality and sustainability for timber and timber-based industry. We wish to know timber sectors that are targeted, the type of policies or measures to be implemented or already implemented and the status of implementation.

Reply: Please see sectoral and provincial Five-Year Plans.

PAGE 44**(2) TRADE AND INVESTMENT REGIMES****(2.4.3) Incentives to foreign direct investments**

2.68. As a response to the COVID-19 pandemic, several relief measures were taken or announced for foreign investors. For example, all export tax rebates must be made in full without delay except for energy-intensive and polluting products. In addition, the measures provide that China will work to shorten the negative list on foreign investment and expand the catalogue of industries where foreign investment is encouraged, encourage financial institutions to increase foreign trade loans to cope with the impact of the pandemic, and encourage commercial insurance companies to offer short-term export credit insurance and lower premium rates. Under the measures, recent tax and fee relief policies designed to help companies in difficulty should equally apply to both domestic enterprises and FIEs.

Question:

Appreciate if China could further elaborate about current incentive schemes that are being offered primarily to entice foreign investors to cope with the impact of COVID-19 pandemic and benefits of these incentives to the foreign investors.

Reply: In order to implement the central government's work plan on stabilizing foreign investment, the Ministry of Commerce (MOFCOM) has issued policy documents to guide local commercial authorities to help foreign-invested enterprises stabilize their production and operation, strengthen services and attract investment, and minimize the impact of the epidemic. The Ministry of Commerce has made solid efforts in stabilizing foreign investment in six main areas, striving to minimize the impact of the epidemic. First, we have promoted more foreign-invested enterprises to resume work and production in an orderly manner, with priority given to supporting the resumption of production and supply of leading foreign-invested enterprises, so as to maintain the stability of the global supply chain. Second, we have implemented major foreign investment projects, sped up large projects under construction, and helped solving major difficulties. Third, we have continued to expand foreign investment access, and reduced the negative list of foreign investment access in both the Pilot Free Trade Zones and the whole country. Fourth, we have improved the opening-up platforms, sped up the reform and opening up innovation pilots in PFTZs, and made better use of the national economic development zone to stabilize foreign trade and foreign investment. Fifth, we have strengthened the protection of the legitimate rights and interests of foreign investors, and established a sound service system for foreign investment. Sixth, we have continued to optimize the environment for foreign investment. The implementation of the Foreign Investment Law and its implementing regulations has enhanced the confidence of foreign investors to make long-term investment in China.

PAGE 49**Box 3.1 GACC trade facilitation measures****3. Import facilitation of food and agricultural product imports.****Question:**

Malaysia would like to obtain more information about the Green Lanes, including criteria to be eligible for the Green Lanes.

Reply: The "Green Lanes for Agricultural Products" is set up by China and the countries concerned on the basis of negotiation, and the commodities entering and leaving China through the green lanes are mainly fresh, perishable, and agricultural products with strict requirements for customs clearance time at the port. Customs (including inspection and quarantine departments) of the two countries confirm and exchange the list of import and export commodities (HS code) that meet their own requirements. Both sides will post the "Green Lanes for Agricultural Products" logo printed in the language and script of both countries for vehicles transporting agricultural products across the border that meet the loading conditions and loading ratio. Customs and other port inspection departments of both countries will jointly provide facilitation and supervision measures for the "Green Lanes for Agricultural Products" within the scope of national laws, regulations and policies, including optimizing the customs clearance process, simplifying customs clearing procedures, improving work efficiency and customs clearance security, reducing customs clearance costs, providing special customs clearance services like "Door-to-door" service, as well as achieving differentiated management of companies. Vehicles that have finished cross-border transportation of agricultural products and vehicles that do not meet the requirements of agricultural products loading, should leave China through the port of entry and exit.

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(3) TRADE POLICIES AND PRACTICES BY MEASURE

(3.1.3.1) Applied MFN tariffs

3.30. Between 2017 and 2021, average tariff rates decreased across all HS sections except for 03 (fats and oils) and 19 (arms and ammunition).

Question:

This paragraph indicates that the average tariff rates in 2021 have decreased across all HS sections except for fats and oils and arms and ammunition. Could China clarify reasons for the retention of the 2021 tariff rates for fats and oils?

Reply: China unswervingly pursues an opening-up strategy of mutual benefit and win-win cooperation. The year of 2018 saw four independent tariff reductions in China, involving more than 3,000 tariff items, with the total tariff level reduced from 9.8% to 7.4% and the majority of sections experiencing a reduction in tariff rates. As Section 03 (fats and oils) is not adjusted, the tariff rate for this category is maintained.

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(3) TRADE POLICIES AND PRACTICE BY MEASURE

(3.3) Measures Affecting Production and Trade

(3.3.1) Incentives

3.116. The Government's Five-Year Plans for Economic and Social Development serve as a reference for the design of support policies and for the identification of priority areas, even though the plans do not outline specific measures. The 13th Five-Year Plan (2016-20) highlighted the importance of innovation capacity, and advocated increased innovation in agriculture, strategic emerging industries, intelligent manufacturing, and services. In addition to the Five-Year Plans for Economic and Social Development, there are also sector-specific Five-Year Plans for individual industries.

Question:

China is one of the world's major exporters of soybean and soybean-based products. Does China have specific agricultural supports/ incentives for the oil seeds producer (especially soybean)?

Reply: Please see the Domestic Support notifications submitted by China.

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3.3.2 Standards and other technical requirements

3.135. The Plan for Deepening Standardization Reform issued by the State Council proposes that the current mandatory national, sector, and local standards will be gradually integrated into mandatory national standards; the three-level system of mandatory national, sector, and local standards concerning environmental protection, engineering, construction, and medicine and healthcare will be retained. Sector standards in military industries involving national security and secrets, such as nuclear and aerospace, are managed by the National Defence Science and Technology Industry Authorities of the State Council.

Question:

Please elaborate on the standards/technical regulations adopted or revised regarding timber and timber-based importation into China. We wish to know the timber sectors that are targeted, type of policies or measures to be implemented or already implemented, status of implementation and likely duration.

Reply: The laws covering the import of wood and wood products are the revised *Forestry Law*, which came into force on July 1, 2020. The *Implementing Regulations of the Forestry Law* is still under revision.

There are three national standards involving the import of timber and wood products:

1. GB/T 18513-2001 "Names of Major Imported Timber in China". This standard collects a total of 423 (class) timber names from all over the world, which are summarized from 1,010 species, basically including the important commercial timber species from all over the world.
2. GB/T 35380-2017 Determination method of waste wood in imported logs. Providing for the terms and definitions, test items and determination methods for the control and determination of waste wood in imported logs in China, it applies to the control and determination of waste wood in imported logs in China.
3. GB18580-2017 "Indoor Decoration Materials Formaldehyde Emission Limits in Manufactured Panels and Products". It specifies the formaldehyde emission limits in man-made panels and their products. At present, China's formaldehyde emissions from man-made panels and their products must meet the mandatory standards of GB18580-2017 "Indoor Decoration Materials Formaldehyde Emission Limits in Manufactured Panels and Products".

PAGE 83**3.3.2.3 Labelling and packaging****Question:**

Are there any specific criteria for the labelling or marking on the imported genetically modified foods?

Reply: Yes, but some issues are still being studied and coordinated in developing the Measures for Food Labeling Supervision and Management. The legislative process will begin after consensus is reached.

PAGE 88**3.3.3.4 Genetically modified organisms (GMOs)**

3.171. China has so far approved the certificates of import safety only for the following genetically engineered crops for processing as raw materials: soybeans, corn, rapeseed, cotton, beets, and papayas, and their products. As indicated by the authorities during China's previous Review, safety evaluation is required for research, testing, production, processing, operation, and import of agricultural GMOs in China. This is undertaken by China's National Agricultural Genetically Modified Organisms Safety Council. China's agricultural GMO safety assessment systems are governed by the Guidelines for the Safety Assessment of Genetically Modified Plants, Guidelines for the Safety Assessment of Genetically Modified Animals, and Guidelines for the Safety Assessment of Genetically Modified Microorganisms for Animals, as well as several measures on safety assessment, testing, and regulation of agricultural GMOs. Reportedly in 2018, MARA amended the regulations on safety assessment, import approval, and labelling of agricultural GMOs; apparently these regulations provide for additional in-country trials and studies on new biotech events as part of the dossier submission process.

Question:

Malaysia would like to know what are the amended regulations on safety assessment, import approval, and labelling of agricultural GMOs that are in these regulations?

Reply: In 2018, China did not revise the regulations and rules related to the safety management of agricultural GMOs.

PAGE 85**(3) TRADE POLICIES AND PRACTICE BY MEASURE****(3.3.3) Sanitary and phytosanitary requirements****(3.3.3.1) Legal, institutional, and policy framework**

3.162. China's 13th Five-Year Food Safety Plan (2016-20) set out the priority goals and associated tasks to improve food safety governance and the development of the food industry. These included, inter alia, increasing inspections and testing, addressing pollution, improving food safety standards and their integration with international standards, upgrading research and testing capacities,

strengthening enforcement and improving related laws and regulations. The authorities indicate that several steps have been taken to realize the goals in the Food Safety Plan including: projects to formulate or revise standards and inspection methods; revisions to Administrative Measures on Food Safety Standards; improvements to data collection to inform food safety risk assessments through monitoring activities, studies, and surveys; improvements to quantitative risk assessment techniques and models in the fields of chemistry and microbiology in order to discover and assess food safety hazards developed by the China National Center for Food Safety Risk Assessment; updates to the Manual of National Food Safety Standards; and strengthened sampling inspection and monitoring of food safety. The authorities also indicate that China has become increasingly active in developing international food standards.

Question:

What are the impacts of COVID-19 on the food supply chain in China and the Chinese consumer behaviours?

Reply: Since the outbreak of the COVID-19, the global agricultural trade has faced severe tests of production shutdown, reduced consumption and poor logistics. The Chinese government has taken a series of measures to help foreign trade companies resume work and production and trade enterprises to resume business and market activities. Besides, multiple measures have also been taken to protect the stability of the international logistics supply chain, so as to reduce the negative impact of the epidemic. According to China Customs' statistics, from January to August 2021, China imported USD 147.2 billion of agricultural products, up 35% year-on-year. Overall, the COVID-19 epidemic has limited impact on China's imported food supply chain. Since 2020, as a small number of imported cold chain food packages have been tested positive for the coronavirus, the Chinese government has strengthened the testing and decontamination of imported cold chain food in order to effectively prevent the virus from spreading through cold-chain food. Through the preventive measures mentioned above, consumer confidence and the flow of the food supply chain have been well-protected.

BANGLADESH

Secretariat Report (WT/TPR/S/415) mentioned at para -3.34.that

"China also grants preferential tariff treatment to imports from LDCs that have established diplomatic relations with China, and completed the exchange of diplomatic notes. By February 2021, China had implemented zero tariffs on 97% of tariff lines for these 41 LDCs. Submissions have been made by LDCs and China to the WTO Committee on Rules of Origin regarding utilization rates of LDC exports under China's LDC preferential trade arrangement." At this context Bangladesh likes to extend its sincere thanks to the Government and people of China extending duty free and quota free market access of 97% tariff lines originated from LDCs.

Question 1: Bangladesh likes to know that either the Chinese Government has plan to implement the "Preferential Rules of Origin for Least Developed Countries" decision adopted in Nairobi Ministerial Conference (WT/MIN(15)/47 — WT/L/917) in 2015?

Reply: The Administrative Measures of the PRC Customs on Rules of Origin of Imported Goods from the Least Developed Countries Entitled to Special Preferential Tariff Treatment became effective on 1 April 2017.

Question 2: Does Chinese government has any plan to extend the DFQF scheme to the countries for a certain period after graduation?

Reply: As one of the most open markets to the LDCs, China is and has continued implementing zero tariffs for 97% of its tariff lines for LDCs' exports to China. Transitional periods have already been provided for recently graduated LDCs.

Question 3: Even though Government of China has given 97% of product duty free and quota free access exported from LDCs. But the export of Bangladesh is insignificant in relation to import from China. We believe that investment from China may reduce this gap considerably. Does the government has any plan to encourage Chinese investors to invest in Bangladesh?

Reply: Bangladesh is an important economic and trade partner of China in South Asia. China encourages Chinese enterprises to invest in Bangladesh in accordance with market-oriented principles and internationally accepted rules, and enhance the level of economic and trade cooperation between the two countries by deepening bilateral investment cooperation.

Question 4: China is a staunch supporter, an active participant and an important contributor for the multilateral trading system. Please elaborate on China's efforts to promote a bigger role of the WTO and China's expectation for the 12th Ministerial Conference?

Reply: In November 2019, China successfully hosted the Informal WTO Ministerial Meeting in Shanghai. During the Second China International Import Expo, China and the WTO jointly released the World Trade Report 2019 (Chinese Version).

As a member of the WTO Informal Working Group on MSMEs, China has always actively participated in relevant consultations. In this regard, China strongly supports cooperation among WTO members on MSMEs issues such as information exchange, sharing best practices and trade facilitation. After the outbreak of COVID-19, China and other Members of the Working Group issued a joint statement in May 2020 to support MSMEs in response to COVID-19. At the end of 2020, a package of six proposals was adopted as the WTO joint statement initiative.

China's LDCs and Accessions Programme (the "China Programme") was set up to help the LDCs join the WTO. By the end of 2020, China had contributed a total of USD 4.2 million to the "China Programme". This Programme provides technical assistance and capacity-building to the acceding parties, supports the accession work of the WTO, and enhances the representativeness of WTO membership, contributing to strengthening the multilateral trading system. In September 2018 and December 2019, the 7th and 8th China Round Table meetings took place in Kazakhstan and Russian Federation respectively. In December 2020, the 9th China Round Table meeting was held virtually as one of the events to celebrate the 25th anniversary of the WTO. In March 2021, China shared its experience in joining the WTO with other acceding parties online.

At the same time, China also signed an economic and technical cooperation agreement with the WTO through the South-South Cooperation Assistance Fund, pledging to provide USD 8 million to the WTO for designing or implementing research-related projects regarding Aid for Trade and other areas. In May 2019, the WTO launched the project of "Improving Access To Trade and Market Access Statistics and Developing Trade In Value-Added Databases" with USD 1.1 million from the above-mentioned fund, helping developing members collect detailed official trade statistics. This project is of vital importance to building a real global computing system of trade in value-added and global value chains, and provides capacity-building to those members in Asia and Africa.

China is constructively participating in discussions on issues such as women's economic empowerment, trade and health, and trade and environment. China co-sponsored the Trade and Health initiative to update the WTO rules to keep pace with the times.

China believes that MC12 will be a testimony to Members' confidence in the multilateral trading system. China is willing to work with other Members to build consensus, to support the new Director-General's work, and to achieve outcomes on issues such as fisheries subsidies, fighting COVID-19 pandemic, agriculture, investment facilitation, services domestic regulation, e-commerce, and the Appellate Body reform.

INDONESIA

PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1.5.1 Import prohibitions

Page 58 Para 3.45

Based on Secretariat Report, China maintains import prohibitions on toxic substances and wild animal products; certain old/second-hand mechanical and electrical equipment; certain hazardous chemicals, pesticides, and persistent organic pollutants; mercury-added products; certain solid wastes; ractopamine; certain types of filament lamp; and charcoal imported from Somalia.

Indonesia also notes that during the COVID-19 pandemic (since January 2020), the Government of China has prohibited all wild animal trading activities.

Questions:

1. Please clarify on this matter, particularly the relevance of the prohibition on wild animal to the pandemic.

Reply: Since the outbreak of COVID-19 Pandemic, the worldwide scientists have spared no effort to trace "the origins of novel coronavirus". A report of joint WHO-China study released in March 2021, entitled "WHO-convened Global Study of Origins of SARS-CoV-2: China Part", assesses four possibilities for origins of novel coronavirus, and doesn't rule out wild animals. Ban on wildlife trade has been a temporary control measure since the early 2020. Currently, the import and export of live terrestrial wildlife is still suspended. China spares no effort to cooperate with the World Health Organization to carry out virus traceability.

Reply: The prohibition on wildlife trade is a temporary regulatory measure implemented in early 2020. So far, the import and export of the live terrestrial wildlife is still suspended. China is actively carrying out virus source tracing work in cooperation with the World Health Organization. However, there is no scientific evidence that COVID-19 originated from wildlife so far.

2. Indonesia also welcomes the clarification and explanation from China if Arowana classified as a wild animal in China.

Reply: According to the relevant provisions of the *Law of the People's Republic of China on the Protection of Wildlife*, the wild population of arowana (scientific name: *Scleropages formosus*) is approved as key wild animal under national-level protection. But artificially-bred arowana population is not within the administration scope for key wild animals under national-level protection.

3. Please explain in detail the requirements and procedures for importation of Arowana.

Reply: Please confirm whether "Arowana" is "Scleropages Formosus". For *Scleropages formosus*, import and export of the wildlife and its derivative products listed in *the Convention on International Trade in Endangered Species of Wild Fauna and Flora* (hereinafter referred to as the Convention) should be approved by the wild animal protection department of the State Council or the State Council in accordance with *Wild Animal Conservation Law*. As CITES Management Authority in China, the Endangered Species Import and Export Management Office of the People's Republic of China will issue permits for the import and export of *Scleropages formosus* according to laws and the Convention, as well as the decision of the competent department of aquatic wild animals.

3.1.6.3 Safeguard measures

Page 67 Para 3.67

According to the Secretariat, the laws and regulations governing safeguard measures in China did not change during the review period, i.e., the Regulations on Safeguards which last amended in 2004.

Questions:

4. Based on Chapter II: Investigation in Article 4 of the Regulations of the People's Republic of China on Safeguards ("China Safeguard Regulations"): "If the Ministry of Commerce decides to initiate an investigation without having received any written application for applying safeguard measures, it shall proceed only if it has sufficient evidence of injury to a domestic industry due to the increase in quantity of an import." What are the indicators to determine that there is sufficient evidence of injury to a domestic industry?

Reply: According to Article 8 of *the Regulations of the People's Republic of China on Safeguard Measures*, the following factors shall be taken into account in the MOFCOM's determination of the damage caused to the domestic industry by the increase of the quantity of imported products: (1) The absolute and relative increase rate and the increased quantity of the imported products; (2) The proportion of the increased products in the domestic market; (3) The impacts of the imported products on the domestic market, including the impacts on the domestic industry in terms of quantity, sales, market share, productivity, capacity utilization, profits and losses, employment, etc.; (4) Other factors that cause damage to the domestic industry. When registering a case for investigation, the MOFCOM refers to this provision, and judges whether there is sufficient evidence to show that the domestic industry has been damaged by examining the above factors.

5. Referring to Article 12 of the China Safeguard Regulations, could China please clarify who are the parties that categorized as "other interested parties"?

Reply: China's regulations on various interested parties are consistent with WTO regulations, which usually refer to the subjects with interests in cases.

6. Indonesia notes that there is no specific provision to administer consultation mechanism in China Safeguard Regulations. Could China please provide the provision on consultation mechanism prior to the application of a safeguard measure?

Reply: Article 24 of *the Regulations of the People's Republic of China on Safeguard Measures* stipulates that before taking safeguard measures, the MOFCOM shall offer opportunities to the governments of the countries (regions) that have a material interest in the export business operators of relevant products.

7. Indonesia also notes that there is no mechanism and indicator to create structural adjustment program in safeguard investigation. Could China please provide information regarding this matter?

Reply: Article 26 of the Regulations of *the People's Republic of China on Safeguard Measures* stipulates that if the following conditions are met, the term for implementing a safeguard measure may be extended: (1) The safeguard measure decided pursuant to the provisions of this Regulation remains to be necessary for preventing or remedy serious damage; (2) Proofs show that the relevant domestic industry is undergoing readjustment; (3) The obligation to inform relevant parties for negotiations has been performed; (4) The measure during the extended term shall not be stricter than that during the term prior to the extension.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

Page 76 Para 3.118 and 3.119

3.118. At the central level, support is provided in form of preferential taxes, payment and stamp duty exemptions, tariff and VAT reductions, and fiscal appropriation. Fifteen of the 79 programmes had already expired by the time of provision of the notification (Table A3.2). No information was provided by the authorities on how many of the programmes were still active as at April 2021.

3.119. At the subcentral level, the notification contains 420 programmes in 31 provincial administrations and 5 designated city administrations. Of these programmes, 283 were still active in 2019. No information was provided by the authorities on how many of the programmes were still active as at April 2021.

Questions:

8. Could China provide an update regarding how many of those programmes were still active, both in the central and subcentral level.

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

9. Please provide detailed information on the form of incentives offered to these specific sectors, as well as the economic costs (revenue forgone) and its effectiveness on the sector's growth.

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

10. Could China explain these incentive programmes which provided for certain sectors with its commitment under SCM Agreement?

Reply: Please refer to the latest subsidy notification G/SCM/N/372/CHN submitted by China.

3.3.2 Standards and other technical requirements

Page 79 Para 3.134

The Standardization Law classifies China's standards into five major categories: national, sector, local, association, and enterprise. The national standards include both voluntary and mandatory standards. Sector standards and local standards are voluntary. The Law also stipulates that, where there are other provisions on the formulation of mandatory standards in laws, administrative regulations, and decisions of the State Council, such provisions shall prevail.

Question:

11. Please elaborate in detail on how the Chinese authorities could monitor and facilitate these five standards.

Reply: According to Article 29 of the *Standardization Law of the People's Republic of China*, the competent departments of national standards, industry standards and local standards shall establish standard implementation information feedback mechanisms. For national standards, a national standard implementation information feedback platform has been established to dynamically solicit public opinions on the revisions for national standards. At present, this platform has solicited more than 3,000 public opinions in total.

In 2020, the State Administration of Market Supervision (the Standardization Administration of China) issued the *Guiding Opinions on Further Strengthening the Administration of Industry Standards* and *Administrative Regulations for Local Standards*. From then on, the State Administration of Market Supervision (the Standardization Administration of China) has carried out annual supervision and random inspection to help resolve the problems in the formulation and administration of industry standards and local standards without delay. In particular, the *Guiding Opinions on Further Strengthening the Administration of Industry Standards* expressly sets forth that foreign-invested enterprises shall be permitted to take part in the formulation of industry standards on an equal basis pursuant to the law.

In 2019, the Standardization Administration of China and the Ministry of Civil Affairs jointly promulgated the *Administrative Regulations for Group Standards* to expound on the intellectual property administration system of group standards. In addition, the Standardization Administration of China and the Ministry of Civil Affairs make clear group standards in non-conformity with mandatory standards, and instruct the relevant social groups to make corrections within specified deadlines. The relevant group standards would be abolished in case of failure to make corrections at the expiry of deadlines.

12. Please also explain in brief the differences between these five standards.

Reply: China's Standard System consists of five categories of standards, namely, national standards, industry standards, local standards, group standards, and corporate standards. The main differences among these standards are explained as follows:

Firstly, objects and scope of application of standards are different. Compulsory national standards must be formulated for technical requirements designed to protect personal health, security of lives and property of the people, national security and ecological environment security, as well as technical requirements for meeting the fundamental needs of economic and social management. Recommended national standards can be formulated to meet technical requirements designed to serve basic general purposes, assort with compulsory national standards and set the pace for various related industries. If recommended national standards are absent and technical requirements need to be unified in a certain industry across the country, industry standards can be formulated. In order to meet the special technical requirements for local natural conditions and customs, local standards can be formulated. The State encourages social organizations and enterprises to formulate such group standards and corporate standards that are more demanding than the relevant technical requirements of the recommended standards. The formulation of group standards must be aimed to

meet the market and innovation needs, lay store by new technologies, new industries, new business formats and new modes, and fill the gaps in the standards.

Secondly, the effectiveness of standards is different. Only national standards fall into mandatory standards and recommended standards. Other four categories of standards are all recommended standards.

Thirdly, the nature of standards is different. National standards, industry standards and local standards are promulgated by the governmental authorities, which are attributed to fundamental public benefits. Group standards and corporate standards are independently formulated by the market in order to meet the market and innovation needs.

3.3.5 State trading, state-owned enterprises, and privatization

Page 97 Para 3.198

The Secretariat mentioned that the China Tobacco International Inc. considered as STEs by authorities. Indonesia also notes that China has notified several State Trading Product and Enterprises to the WTO, including the China Tobacco International Inc. (CNTC).

Question:

13. As the biggest cigarette corporation of the world, could the CNTC influence the Chinese tobacco policy, including control the export and import of the tobacco industry in China? Please explain in detail.

Reply: Law of the People's Republic of China on Tobacco Monopoly and Regulation on the Implementation of the Law of the People's Republic of China on Tobacco Monopoly stipulate that "the State shall exercise monopoly administration in accordance with law over the production, sale, import and export of tobacco monopoly commodities, and adopt a tobacco monopoly license system" and "the tobacco monopoly administrative department under the State Council shall take charge of the nationwide tobacco monopoly affairs". China's tobacco policy is formulated by the tobacco monopoly administrative department under the State Council (the State Tobacco Monopoly Administration) in accordance with relevant laws and regulations. The China Tobacco International Inc. engages in the production, operation, import and export of tobacco monopoly products according to national laws and regulations and administrative license.

14. Is there any export and import restriction measures on tobacco industry? If so, may the Chinese government please explain the purpose and scope of the measures?

Reply: In order to control tobacco, fulfill *the WHO Framework Convention on Tobacco Control, the Protocol to Eliminate Illicit Trade in Tobacco Products* and our WTO accession commitments, China has taken relevant trade restriction measures. For details, please refer to China's notification on state trading.

3.3.6 Government procurement

3.3.6.2 Legal and institutional framework

Page 100 Para 3.211

There have been no major changes to China's legislative and regulatory regime concerning government procurement since the previous Review. The Government Procurement Law remains the primary legislation regulating government procurement activities. **It applies to procurements of goods, services, and construction works by state organs, public institutions, and social organizations.** The Government Procurement Law does not apply to SOEs; a large number of infrastructure projects and public utility works carried out by SOEs are therefore excluded from the scope of application of the Government Procurement Law. (...)

Question:

15. Please elaborate the definition of social organizations.

Reply: No definition of group organization is specified in China's current law. "Group Organizations", mentioned in *Government Procurement Law of the People's Republic of China*, refer to such relevant organizations that purchase with fiscal funds.

Page 100 Para 3.212

(...) the amended Tendering Law will, inter alia: (i) redefine its scope of application and deregulate tendering activities in private investments; (ii) enhance transparency of tendering activities; (iii) adjust the time periods in tendering procedures in order to improve efficiency; (iv) restrict the use of lowest price criteria in tender evaluation and encourage life-cycle cost assessment; (v) promote e-tendering; (vi) clarify tendering requirements in public-private partnership (PPP) projects; and (vii) enhance anti-collusion in tendering and the monitoring of contract performance (...)

Questions:

16. Please elaborate more on point (i) redefinition its scope of application and point (ii) enhance transparency of tendering activities.

Reply: Since 2018, the National Development and Reform Commission and relevant departments have officially launched the revision of the Tendering and Bidding Law, which has been included in the State Council's legislative plan for 2021. The Ministry of Justice is currently leading the legislative review work. The *Law of the People's Republic of China on Tendering (Revised Draft for Public Comment)* significantly expands the items to be included in the tender announcements, tender documents, and bid-winning announcements to fully guarantee the right of potential bidders and bidders to know the results of pre-qualification, bid evaluation and bid selection. It is the first time to make provisions for public bidding plans based on international practice. We vigorously promote the use of standard bidding documents.

17. What are the differences from previous Law?

Reply: The Tendering Law (Revised Draft for Public Comment) consists of 8 chapters and 94 articles. Changes include revision of 58 articles, inclusion of 28 new articles, and deletion of 2 articles. 8 articles have remained unchanged. The main amendments include the promotion of streamlining administration and delegation of powers in the field of bidding, improving the transparency and standardization of bidding, implementing the autonomy of bidders, and improving the efficiency of bidding.

Page 100 Para 3.212

(...) According to its Explanatory Note, the amended Government Procurement Law will, inter alia: (i) adjust the scope of application of the Government Procurement Law; (...)

Question:

18. Please elaborate regarding the adjustment of scope of application of the GP Law.

Reply: The Tendering Law (Revised Draft for Public Comment) further clarifies the scope of projects subject to tendering, greatly relaxes the requirements for the procurement methods of private investment projects, and stimulates the vitality of private investment. A number of pre-approval and record-filing matters, such as the approval of the bidding plan for enterprise investment projects and self-invitation bidding and record-keeping, have been cancelled, and more in-process and post-event supervision are adopted to reduce institutional transaction costs.

Page 102 Para 3.214

(...) The new Measures further strengthen the information release system and provide that a designated Internet media is the principal channel for publishing government procurement information. They specify that the Government Procurement website (www.ccgp.gov.cn) and its subordinate provincial-level websites should serve as the platform for the collection and publication of government procurement information.

Question:

19. Does it mean that central government procurement information is available in www.ccgp.gov.cn and local government procurement information is available in respective provincial-level websites? Please clarify and specify the provincial-level websites.

Reply: The government procurement information of central budget units is published on the China Government Procurement Network (www.ccgp.gov.cn). The government procurement information of local budget units is published on the corresponding provincial sub-network of China Government

Procurement Network, which can be accessed through links on the China Government Procurement Network.

Page 103 Para 3.219 and 3.120

3.219. With regard to e-procurement, China planned to fully implement e-tendering by end-2020 (...).

3.220. To enhance predictability of government procurement and facilitate suppliers' awareness of market opportunities, the MOF issued a Notice on Disclosure of Future Government Procurement Plans (MOF Notice Cai Ku No. 10, 2020), which requires that all procuring entities should disclose their procurement plans in advance where possible (...).

Question:

20. Indonesia would appreciate if China could provide the progress on implementation of e-tendering and disclosure of procurement plan.

Reply: According to *Notice on Disclosure of Government Procurement Intentions*, in principle, for procurement projects launched by provincial budgeters since 1 January 2021 and procurement projects launched by budgeters below the provincial level since 1 January 2022, procurement intentions shall be disclosed in accordance with regulations.

3.3.6.4 Other policy considerations in government procurement

Page 104 Para 3.223

Furthermore, Article 9 of the Government Procurement Law provides that government procurement shall be carried out to facilitate the realization of the economic and social development policy goals of the State, including environmental protection, assistance to underdeveloped or ethnic minority regions, and promoting the development of SMEs. According to the authorities, SMEs became more active in participating in government procurement activities in the past 10 years. More than 70% of China's government procurement in value terms is currently performed by SMEs. To address issues arising in the implementation of previous Measures, China issued the new Measures on Promoting the Development of Small and Medium Enterprises through Government Procurement (MOF Circular Cai Ku No. 46, 2020) on 18 December 2020. The new Measures came into force on 1 January 2021, and the previous Measures ceased to apply at the same time.

Question:

21. It is noted that new measures on promoting SMEs on more details on the SME contract set-aside policy. Since the implementation of new measures, has SMEs' participation in government procurement increased?

Reply: The Measures on Promoting the Development of Small and Medium Enterprises through Government Procurement came into force on January 1, 2021, and there is no relevant statistical data yet.

3.3.6.6 Supplier complaint mechanism

Page 106 Para 3.228

The supplier complaint mechanism remained unchanged during the review period.¹⁹¹ The Government Procurement Law and the Measures for Handling Challenges and Complaints against Government Procurement (MOF Order No. 94, 2017) require that the finance authorities at different levels of government review suppliers' complaints regarding government procurement activities at their respective levels. The results of complaint reviews are published in designated media.

Questions:

22. Is the supplier complaint mechanism the same for all type of procurement (goods, services, construction works)? If no, please explain.

Reply: This complaint mechanism is applicable to the procurement of goods, services, and projects specified in the Government Procurement Law, but not to the procurement of projects specified in the Tendering Law.

23. Does the designated media refer to Government Procurement Website (www.ccgp.gov.cn)?

Reply: Government Procurement Website (www.ccgp.gov.cn) and its provincial-level branches make public complaint handling decisions. In addition, *China Government Procurement News*, *China*

Government Procurement Magazine, China State Finance and other media also publish the relevant government procurement information.

3.3.6.7 Accession to the GPA and other international cooperation

Page 106 Para 3.228

3.230. China has not included any market access commitments in the area of government procurement in the context of any of the FTAs that it has negotiated with trading partners. According to the authorities, it remains China's priority to conclude its GPA accession before liberalizing its government procurement market through bilateral/regional tracks.

Questions:

24. Indonesia would appreciate if China can clarify whether foreign companies/suppliers can participate in government market in China at the moment?

Reply: China has not yet joined the GPA, nor has it signed agreements with other countries or regions on the opening of the government procurement market. Therefore, China's government procurement market is not yet open to foreign suppliers. The Foreign Investment Law implemented in January 2020 clearly stipulates that the state guarantees that foreign-funded enterprises participate in government procurement activities through fair completion according to the law. Products manufactured and services provided by foreign-funded enterprises within China shall be equally treated in government procurement according to the law. Foreign enterprises can participate equally in Chinese government procurement activities through registered enterprises in China in accordance with the law.

25. Could China provide information on its legal regime regarding the openness of government procurement market for foreign suppliers? (aside from market access commitments in bilateral/multilateral/regional agreements if they apply)

Reply: The Foreign Investment Law implemented in January 2020 clearly stipulates that the state guarantees that foreign-funded enterprises participate in government procurement activities through fair completion according to the law. Products manufactured and services provided by foreign-funded enterprises within China shall be equally treated in government procurement according to the law. Foreign enterprises can participate equally in Chinese government procurement activities through registered enterprises in China in accordance with the law.

26. What procedures shall be followed by government authorities where they intend to obtain imported goods?

Reply: Where products, needed by procurement demander, are unavailable or cannot be obtained under reasonable commercial conditions within the territory of China, and procurement of imported products are separately required according to the laws and regulations, procurement activities shall be carried out pursuant to the law under the premise of the approval by financial authorities in accordance with *Administrative Measures on Government Procurement of Imported Products*.

PART III: GENERAL QUESTIONS

Question:

27. With respect to anti-dumping measure, Indonesia notes that China has been imposed 6 (six) anti-dumping duties to Indonesian exporters, with 1 (one) anti-dumping duty imposition (20,2%) is currently on-going for Stainless Steel and Billet product. In this regard, based on Article 11 of the Anti-Dumping Agreement, an anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury and the authorities shall review the need for the continued imposition of the duty. Indonesia believes that since anti-dumping duty imposed in 2019, China's domestic industry shall be gradually recovered from injury. Could China please provide an update information referring to this matter?

Reply: On 23 July 2018, upon the application of domestic industries, the MOFCOM issued a notice on filing an anti-dumping investigation on imported stainless steel billets and hot rolled stainless steel plates/coils produced in the European Union, Japan, Republic of Korea and Indonesia. On 22 July 2019, the MOFCOM issued the announcement of the final ruling of the case and decided to implement anti-dumping measures for 5 years. After the ruling of the original trial, no relevant

interested parties applied for legal procedures to review the domestic industrial conditions. As of now, there is no new evidence showing that domestic industries have recovered from the damage.

28. Indonesia is aware that the Government of China has notified its new regulations (Decrees 248 and 249) to the related WTO Committees. In this regard, Indonesia would seek a clarification and explanation regarding:

- a) The timeline of the implementation these Decrees, including the transition period;
- b) The procedures and guideline for exporters to obtain an import permit from GACC, as well as the website to apply;

Reply a-b: Imported food safety is closely related to the health and life safety of the people, which is a major livelihood issue. In accordance with *Food Safety Law of the People's Republic of China*, regulations for its implementation and other laws and administrative regulations, China has amended two original administrative regulations on safety of imported and exported food and registration of overseas production enterprises of imported food. On April 12, 2021, *Administrative Measures of the People's Republic of China for Safety of Imported and Exported Food* (Decree No. 249 of the General Administration of Customs) and *Administrative Regulations of the People's Republic of China on Registration of Overseas Production Enterprises of Imported Food* (Decree No. 248 of the General Administration of Customs) were promulgated, which will take effect since January 1, 2022. Prior to the promulgation, China issued a notification in accordance with the relevant rules of the World Trade Organization (WTO), accepted the comments of WTO members, and adopted reasonable opinions and suggestions, which complied with the relevant WTO rules. The scope of application of these two regulations has been made clear in Article 2 of Decree No. 248 and Decree No. 249 of the General Administration of Customs. In the near future, China will *Administrative Measures of the People's Republic of China for Safety of Imported and Exported Food* (Decree No. 249 of the General Administration of Customs) and *Administrative Regulations of the People's Republic of China on Registration of Overseas Production Enterprises of Imported Food* (Decree No. 248 of the General Administration of Customs) in an appropriate form. Please stay tuned. Decree No. 248 of the General Administration of Customs will not hinder the enforcement of the bilateral protocol. In case that the relevant country (region) and China have agreed otherwise on the registration approaches and application materials, such agreement shall be honored in accordance with the agreement between the parties concerned.

- c) The coverage of these Decrees, detailed with HS code, since the government not specify which product included in "food-related products" category.

Reply: The HS code of the products involved with registration of overseas production enterprises will be released in the near future, which can be inquired on the official website of the General Administration of Customs at that time. According to the definition of food-related products in *Food Safety Law of the People's Republic of China*, given that such products and their production, processing and storage requirements differ from those of food, Article 2 of Decree No. 248 of the General Administration of Customs has clarified that this regulation is not applicable for production, processing and storage enterprises of food-related products.

- d) GACC also requires the importers to include a registration number on both the inside and outside of the packaging. Could the government ensure this measures do not create a barrier for importers, particularly in terms of cost?

Reply: It is required to mark registration number on the food label, and the relevant requirements of *National Food Safety Standard—General Rules for the Labeling of Prepackaged Food* (GB7718-2011) shall prevail. At present, with the exception of infant formula milk powder, the labels of other imported food in Chinese can be attached in customs warehouses or other designated locations prior to access into the market, which will not erect obstacles for importers.

29. Indonesia notes that Forest Law of the People's Republic of China has amended in December 2019 which entered into force in July 1, 2020. Indonesia is interested in learning more about the Forest Law's implementation, especially in relation to the prohibition of trade in timber products originating from illegal activities. Indonesia would also appreciate it if China could explain the implementation not only in domestic trade but also in global trade.

Reply: The Forest Law of the People's Republic of China is a domestic law, which requires that a timber distribution and processing enterprise shall establish a journal of receipt and shipment of raw

materials and products and buy timber from legal sources. It will have an indirect effect on combating the global trade in illegal timber products and promoting the trade in legal and sustainable forest products. China always upholds "zero tolerance" attitude, goes all out to crack down upon smuggling crime of endangered species and their products (including endangered timber), and vigorously conducts international law enforcement cooperation and exchanges.

30. Could China provide brief information or summary on how to conduct Mutual Recognition Agreement with regard to the importation of log and timber? Is this also regulated under Forest Law or stipulated in other regulations?

Reply: In order to promote the facilitation of regional legal timber trade, NFGA and Indonesia Department of forestry have some pre-coordination, and hope to determine the legality information of import timber on the place of origin, quantity, material, legal verification documents by signing legality mutual recognition agreement, helping enterprises from both parties to buy timber from legal sources. This agreement is not stipulated in the Forest Law of the People's Republic of China and requires a mutual recognition agreement signed by both countries.

INDONESIA – ADDITIONAL QUESTIONS

PART I: QUESTIONS REGARDING THE SECRETARIAT REPORT

3.3.7.5 Industrial property

3.3.7.5.1 Trademarks

Page 109 Para 3.252

Registration is a prerequisite for protection, and ownership is determined on a first-to-file basis. According to Article 18 of the Trademark Law, foreign businesses are required to appoint a Chinese trademark agent. The period of protection is 10 years. According to the authorities, the request to renew the registration is to be filed 12 months before the date of expiration.

Questions:

1. Where can importers get information about Chinese trademark agents?

Reply: The trademark agency information filed in China National Intellectual Property Administration has been published in "Trademark Agency" at "China Trademark website" (<http://sbj.cnipa.gov.cn>). The parties can check for themselves.

2. What kind of collaboration exists between Indonesian herbal medicine manufacturers and Chinese trademark agents? Please describe the requirements and procedures.

Reply: According to Article 18(2) of the *Trademark Law*, "a foreign national or a foreign enterprise intending to apply for trademark registration and handle other trademark-related matters in China shall authorize a legally formed trademark agency to do so". Indonesians can independently choose and entrust trademark agencies recorded in China National Intellectual Property Administration to handle trademark matters. According to the *Trademark Law* and its implementing regulations, the party who entrusted trademark agency to apply for trademark registration or handle other trademark matters, shall submit a power of attorney.

3. Given that herbal medicine is a cultural legacy of the country, what is the ownership status of Indonesian herbs that will be marketed in China? Is it still owned by the Indonesian herbal medicine manufacturer, or is it owned by a Chinese trademark agent? Please explain.

Reply: The trademark agency is entrusted by the agent to handle the trademark registration application or other trademark-related matters. It does not involve ownership issues. Therefore, the ownership of the goods remains with the Indonesian herb manufacturer.

4 TRADE POLICIES BY SECTOR

4.4 Services

4.4.1 Financial services

4.4.1.1 Overview

Page 156 Para 4.135

The sector accounted for 7.9% of GDP in 2019 and 2018; it employed 8.2 million people in 2019, up from 6.9 million in 2018. Its structure is still unbalanced, with a significant predominance of banks over other types of financial institutions. The stock market is relatively small. Market capitalization of listed domestic companies stood at CNY 8.5 trillion in 2019, representing roughly 59.3% of GDP.⁸⁵ By contrast, according to the World Bank, the ratio of total bank credit to GDP stood at 164.6% in 2019. Commercial banks' dominance of the sector is evident from their participation in the system's total assets: over 82% of assets and liabilities of banking institutions, up from some 78% for both indicators in 2018. The authorities indicated that in 2020, the market capitalization of listed domestic companies stood at CNY 79.72 trillion, representing 78.5% of GDP. In 2018, 2019, and 2020, equity financing⁸⁶ of non-financial sectors stood at CNY 861.5 billion, CNY 918.9 billion, and CNY 1.26 trillion, respectively; non-financial companies issued CNY 1.65 trillion, CNY 2.58 trillion, and CNY 3.45 trillion in corporate bonds (including corporate goods, convertible bonds, and exchangeable bonds), respectively, in those same years through the exchange bond market. The exchange bond market issued local government bonds totaling CNY 2.56 trillion, CNY 2.83 trillion, and CNY 2.42 trillion, respectively, in 2018, 2019, and 2020.

Question:

4. Could China please elaborate the regulation regarding the trading of foreign corporate or government bond conducted by the foreign bank? Is it possible for foreign bank to act as an agent to trade foreign corporate and government bonds, especially those with investment grade?

Reply: According to the *Regulation on the Administration of Foreign-funded Banks of the People's Republic of China*, foreign banks can issue, redeem and underwrite government bonds as agents, can buy and sell government bonds and financial bonds, and buy and sell negotiable securities denominated in foreign currencies other than stocks.

4.4.1.3.2 Regulatory developments in banking

Page 158 Para 4.146 and 4.147

Question:

5. We noted the developments in licensing of foreign banks within China in subsection 4.4.1.3.2.1 'Developments in licensing of foreign banks', it may not be directly related, however Indonesia would want to learn more about the process of new product licensing for foreign banks. Please provide more information.

6. Is there any substantial change in the process/procedure during the last several years?

Reply to Questions 5-6: According to Article 42 of the *Detailed Rules for the Implementation of the Regulation on the Administration of Foreign-funded Banks of the People's Republic of China*, "to launch a new product within its business scope, a for-profit foreign-funded bank or a branch office thereof shall, within five days after launching the product, file a written report with the CBIRC or the local CBIRC office." Therefore, the launch of new products within the scope of business of foreign banks does not require permission from the CBIRC, but is reported in written forms by foreign banks to the CBIRC or the local CBIRC office within 5 days after its operation. The regulation has not changed in recent years.

4.4.1.3.3 Regulatory developments in insurance

Page 161 Para 4.165

Foreign ownership limits were also lifted on life insurers and insurance asset management companies. In 2018, the PBOC announced that the foreign ownership cap on life insurance companies would be raised to 100% by 2021. Subsequently, in July 2019, the FSDC announced that China will accelerate this transition timeline by allowing Chinese life insurance companies to be fully foreign-owned in 2020. On 9 December 2019, the CBIRC released the Notice Concerning Clarification of the Time-frame for the Cancellation of Foreign Ownership Restrictions on Joint Venture Life Insurance Companies. The Notice states that all restrictions on foreign ownership of joint-venture insurance companies that engage in life insurance operations will be officially lifted starting 1 January 2020, giving foreign investors the opportunity for full ownership. In addition, in line with FSDC's announcement, the CBIRC is revising the Interim Administrative Regulations on Insurance Asset Management Companies, which lift the 25% foreign ownership cap on insurance asset management companies.

Questions:

7. Could you please clarify whether insurance asset management companies are the same with general (non-life) insurance companies? If they are not the same, kindly confirm if China's policy regarding foreign ownership limitation in general and life insurance within China is the same?

Reply: According to the relevant Chinese laws, insurance asset management companies are different market entities from life insurance companies and non-life insurance companies. There is no share ratio restriction for both foreign-owned life insurance companies and non-life insurance companies in China.

8. Furthermore, if foreign investors may have full ownership of an insurance company, will the insurance company still in the form of a Chinese company entity, or can it be transformed into a fully foreign entity?

Reply: The question requires further clarification. From the perspective of national treatment, foreign insurance companies in the Chinese market are subject to the same regulatory rules as Chinese insurance companies.

9. Could you please confirm whether the policy that lifted foreign ownership limits also applies to any new foreign insurance company that is planning to set up its company in China?

Reply: Any eligible foreign investor may establish a wholly-owned life insurance company in China.

4.4.1.3.5 Developments in pension fund management

Page 165 Para 4.182 - 4.184

Questions:

10. Could the government kindly elaborate more on pension system in China? Is there any minimum capital limitation difference for domestic and foreign entities to set up a private pension fund management companies in China?

11. From paragraph 4.182, stated that China will permit foreign financial institutions to set up or invest in Chinese private pension fund management companies. Could the government confirm whether it will be in the form of a branch, a representative office, or a joint venture only?

12. It is also mentioned in paragraph 4.184, that authorities are considering to formulate new laws and regulations in order to promote individual pillar-three pensions. Could the government provide more information on what will be regulated and the time-frame/plan to implement the new laws and regulations?

Reply to questions 10-12: Currently, China has put in place a pension insurance system encompassing urban workers and urban and rural residents. The employee pension insurance regime is comprised of three levels: basic pension insurance, enterprise (occupational) pensions, personal savings pension insurance and commercial pension insurance. On July 20, 2019, the Office of the Financial Stability and Development Committee released the Relevant Measures for Further Opening Up the Financial Industry, introducing 11 measures to open up the financial sector, including "allowing foreign financial institutions to invest in the establishment and participation of pension management companies". The CSRC has not set up a separate license for the "private pension fund company". The Chinese government attaches great importance to the development of personal savings pension insurance and commercial pension insurance (pension insurance as the third pillar), two tasks have been initially specified for the development of the third pillar: First, it is to create a market-oriented personal pension system backed by tax and other policies, with voluntary participation by individuals. Second, it is to regulate the development of personal commercial pension finance, in accordance with market rules of operation and supervision.

4.4.1.3.7 Developments in the fintech industry

Page 166 Para 4.192

Questions:

13. Based on paragraph 4.192, there is no comprehensive regulation that governs/regulates the financial technology (fintech) in the China. Fintech operators could also perform business as an administrative support service for financial services. Could the government explain further which regulator/authority supervises the fintech peer-to-peer lending.

Reply: According to the *Interim Measures for the Administration of the Business Activities of Online Lending Information Intermediary Institutions*, P2P lending is jointly supervised by multiple parties. The CBIRC is responsible for formulating policies and regulating business, while local governments are responsible for the supervision of online lending institutions, risk prevention and disposal, etc.

14. Could the government also inform whether there is any regulation which stipulates the obligation to implement anti-money laundering and counter-terrorism financing in the China? Is there a mechanism which allows the exchange of information between parties/regulators/authorities regarding shareholders that invest in peer-to-peer lending or any person that provides lending/investment to Indonesian company?

Reply: China has established a comprehensive anti-money laundering and counter-terrorism financing legal system, with the *Anti-Money Laundering Law*, the *Anti-Terrorism Law* and the *Criminal Law* as the legal basis for anti-money laundering and counter-terrorism financing. The PBoC is the administrative department of the State Council for anti-money laundering. The PBoC, either alone or in conjunction with relevant departments of the State Council, has formulated and issued regulations and normative documents such as the *Administrative Measures for the Freezing of Assets Relating to Terrorist Activities* and the *Provisions on Anti-money Laundering through Financial Institutions*, which are available on the Chinese government website and the official website of PBoC.

PART II: QUESTIONS REGARDING THE GOVERNMENT REPORT**2 GROUNDING ITS EFFORTS IN THE NEW DEVELOPMENT STAGE, APPLYING THE NEW DEVELOPMENT PHILOSOPHY, AND FOSTERING A NEW DEVELOPMENT PARADIGM SO AS TO PROMOTE HIGH-QUALITY DEVELOPMENT**

Page 4 Para 2.1 and 2.2

(...) China draws up the Outline for the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035, and embarks on a new journey towards the second centenary goal, which marks that China has entered into a new development stage. China's economy has shifted from a stage of high-speed growth to a stage of high-quality development. The basic national condition that China is still in the primary stage of socialism and will remain so for a long time has not changed. China's international status as the world's largest developing country has not changed.

Questions:

15. Could the Government of China please elaborate more on the implementation of the 14th Five-Year Plan for Economic and Social Development and Long-range Objectives through the Year 2035?

Reply: On March 11 this year, at the fourth session of the 13th National People's Congress, the *Outline for the 14th Five-Year Plan for Economic and Social Development and Long-Range Objectives through the Year 2035* (the Outline) was reviewed and adopted. At present, all provinces and departments are actively planning and advancing tasks clarified in the Outline. Given that it is still in the preliminary stage of implementation and summary and evaluation have not yet been carried out, the overall implementation of the Outline cannot be provided for the time being.

16. Indonesia observes that China's economy has shifted from a stage of high-speed growth to a stage of high-quality development by adhering to the concept of innovative, coordinated, green, open and shared development. What particular steps/measures will China take to achieve high-quality development, and how would it benefit the Chinese economy?

Reply: Promoting high-quality development is the fundamental requirement for determining development ideas, formulating economic policies and implementing macroeconomic regulation in both now and future. The Chinese government is making efforts to accelerate the creation and improvement of the institutional environment, and is gradually establishing an indicator system, policy system, standard system, statistical system, performance evaluation and performance assessment methods for high-quality development. We are also focusing on promoting high-quality development in key areas such as manufacturing, high-tech industries, service industries, and infrastructure and public services to drive and lead overall high-quality development.

17. Indonesia also observes that based on the Government Report and UNCTADstat of Country Classification, China's international status remains a developing country. Indonesia would like to share China's point of view on this issue, particularly in terms of the characteristics of developing and developed countries.

Reply: Under the strong and correct leadership of the CPC, the Chinese government has led the people of the whole country to adhere to the basic national policy of reform and opening-up, give full play to institutional advantages, and follow the general global trends. After decades of hard work and unremitting efforts, our economic and social development has indeed made considerable progress, and our comprehensive national strength is also increasing. However, China still faces the serious problem of unbalanced and inadequate development, and the task of its own development remains daunting. According to the report of the 19th National Congress of the CPC, China's international status as the world's largest developing country remains unchanged.

2.4.2 Foreign trade

Page 5 Para 2.8 and 2.9

Questions:

18. According to the report from China, overall imports and exports of Chinese goods grew by 12.5 %year on year. China also reported that its exports and imports of products had achieved all-time highs. What strategies did the government implement to ensure that goods exports and imports rose year after year? Please elaborate.

Reply: The Chinese government, in accordance with the requirements of high-quality development, has issued a number of documents, including the *Implementation Opinions of the General Office of*

the State Council on Advancing the Innovative Development of Foreign Trade, and Opinions of the General Office of the State Council on Accelerating the Development of New Forms of Business and New Models of Foreign Trade in the past two years, focusing on the following aspects: first, continue to promote the innovative development of foreign trade. Second, accelerate the development of new business models in foreign trade. Third, actively expand imports.

19. What specific measures has the Chinese government taken to facilitate trade?

Reply: In recent years, the Chinese government has taken a number of measures to continue to promote trade facilitation. First, we have enhanced the level of trade facilitation through the expansion of "single window" system in international trade. Second, we have expanded the scope of paperless import and export license application and customs clearance operations. Third, China's pilot free trade zones have played a pilot role in promoting trade facilitation.

PART III: GENERAL QUESTIONS

Question:

20. Regarding financial service sector, Could China please explain the regulation regarding offshore funding for banks?

Reply: In January 2017, PBoC issued the *Notice of the People's Bank of China on Matters Concerning the Macro-Prudential Management of Full-Covered Cross-Border Financing* (No. 9 [2017] of the People's Bank of China), which allows both enterprises and financial institutions to independently conduct cross-border financing business in both domestic and foreign currencies within the cross-border financing cap linked to their net assets and in accordance with relevant regulations.

REPUBLIC OF KOREA**PART I: Questions Regarding the Secretariat Report****Page 33 (Para 2.112)**

Reflecting China's broader industrial and economic goals, the Plan aims to widen market access for foreign investment by, inter alia, loosening foreign investment restrictions in various sectors such as manufacturing and finance, as recently reflected in the negative lists for foreign investments (Section 2.4).

Question 1:

The Chinese government is operating the negative lists for foreign investments for the purpose of widening market access for foreign investment, and recently the Chinese government also announced that it plans to introduce negative lists in the services sector as well. Could you please explain the prospects for the liberalization of audio-visual and digital contents service sector, if the negative lists in the service sectors should be introduced?

Reply: China will consider the possibility of further opening relevant service sectors according to the development needs of its domestic market.

Page 37 (Para 2.40)

With respect to cross-border remittances, in accordance with the FIL, a foreign investor may freely transfer inward and outward, in CNY or foreign currencies, inter alia, its capital contributions, profit, capital gains, proceeds from disposition of assets, royalties from IPRs, lawfully obtained compensation or indemnity amounts, and proceeds from liquidation. Under the FIL, no entity or individual shall illegally restrict, inter alia, the type of currencies, amount, or frequency of such remittances.

Question 2:

This paragraph stipulates that foreign investors are freely to transfer inward and outward capital contributions, profit, capital gains, proceeds from disposition of assets, royalties from IPRs, lawfully obtained compensation or indemnity amounts, and proceeds from liquidation. Could you provide a detailed explanation for the procedure, documents that need to be submitted, and the procedure period for the overseas remittance?

Reply: According to the *Regulations on Foreign Exchange Control of the People's Republic of China*, the state does not impose restrictions on current international payments and transfers. Foreign exchange receipts and payments under current accounts shall have a true and legal basis for transactions. The handling bank shall conduct a reasonable review of the authenticity of the transaction documents and their consistency with foreign exchange receipts and payments. For foreign exchange expenditures on capital items such as investment and capital contributions, the payment shall be made in banks that conduct foreign exchange settlement and sales business with valid documents in accordance with regulations. The documents to be reviewed by the bank and the processing period vary according to different businesses. Most of the time, the documents are mainly materials that verify the authenticity and legality of the remittance, such as copies of business licenses of relevant institutions, contracts, financial statements, tax vouchers, and profit distribution resolutions (required when profits are remitted), etc.

Page 42 (Para 2.58)

In the case of projects involving "serious" overcapacity, the approval process is outlined in the Guiding Opinions on Resolving Serious Production Overcapacity Conflicts, Guo Fa No. 41, 2013. In accordance with requirements of existing policies, projects designed to expand capacity in any of these sectors are strictly prohibited.

Question 3:

With regard to the projects of which the approval process is outlined in the Guiding Opinions on Resolving Serious Production Overcapacity Conflicts, could China explain details regarding the criteria for determining whether a certain project involves "serious" overcapacity?

Reply: The State Council's Guiding Opinions on Resolving Contradictions in Severe Overcapacity requires all localities not to approve and file new capacity projects in industries with severe overcapacity, and does not stipulate the project approval procedures. At present, projects in China's

overcapacity industries have basically implemented equal capacity and reduction replacements. Therefore, there is no overcapacity in a single project.

Page 42 (Para 2.59)

Pursuant to the Circular on the Establishment of a System for Security Review of Acquisition of Domestic Enterprises by Foreign Investors, foreign investments in Chinese domestic enterprises might be subject to national security review if the FDI is deemed to have an influence on national security. It applies only to certain types of foreign M&A transactions. The Circular provides for the scope, content, working mechanism, and procedures for the M&A security review, and it creates a unified and standardized security review system for M&A activities conducted by foreign investors. The FIL and its Implementing Regulations contain provisions on national security review. In April 2019, the NDRC issued Announcement No. 4, 2019, clarifying that the application materials for the security review of foreign investment shall be received by the NDRC Government Affairs Service Hall. On 19 December 2020, the NDRC and MOFCOM issued the Measures for the Security Review of Foreign Investment, further clarifying the review authorities, scope, and procedures, which aimed at improving the standardization, accuracy, and transparency of security review. The Measures came into force on 18 January 2021.

Question 4:

Pursuant to the Circular on the Establishment of a System for Security Review of Acquisition of Domestic Enterprises by Foreign Investors, FDI and certain types of M&As that are considered to influence national security might be subject to national security review. Which institutions decide whether a project influences national security and what is the legal basis to make such decision?

Reply: According to the Notice on Establishment of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors: The relevant review will be led by the National Development and Reform Commission and the Ministry of Commerce under the leadership of the State Council. According to the industries and fields involved in foreign mergers and acquisitions, M&A security reviews will be carried out in conjunction with relevant departments. The decision will be made in accordance with the relevant provisions of the Notice on Establishment of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors.

Page 46 (Para 3.4)

3.4. Import declarations may be submitted on paper or in electronic format through the single window system (see below). The use of a customs broker is mandatory. Documents to be provided with import declarations are listed in the Provisions on the Customs Administration of Declarations for the Import and Export of Goods. They include contracts, invoices, a packing list, a list of freight (manifest of cargo), bills of lading (transport bills), acting customs clearance authorization entrustment agreement, import licences, and any other import documents as prescribed by the GACC. The authorities indicate that since 2020 some documents, including contracts and packing lists, no longer need to be submitted to customs in the import declaration process, and other required documents have been simplified or optimized for the application and printing processes. The GACC does not charge fees for making customs declarations or for the use of the National Single Window (see below). With the consent of the GACC, import declarations may be filed, and customs clearance may take place, in advance of the goods' arrival in China⁸; according to the authorities, this is encouraged.

Question 5:

In spite of China's continued efforts to improve customs clearance, Chinese customs' administrative procedures still lack transparency. Also, excessive requests for document submission deter predictability. In this regard, could China explain its efforts at the central/local government level to increase transparency and predictability of customs?

Reply: Import declaration can be submitted in paper form or electronic form through the single window system. The consignee of imported goods and the entrusted customs declaration enterprise can declare to the customs. In August 2021, the General Administration of Customs of the People's Republic of China jointly launched 27 measures in 5 areas to enhance the level of cross-border trade facilitation and promote the high-quality development of foreign trade. In recent years, China has adopted various measures to continuously improve the level of transparency, and the relevant practices are highly consistent with international rules such as WTO. Regarding the so-

called "Chinese Customs administrative procedures still lack transparency" that the ROK mentioned, it is recommended that it be asked to provide specific examples and evaluation criteria.

Page 71 (Para 3.90./3.91/3.94/3.95)

3.90. On 17 October 2020, the Standing Committee of the NPC passed the Export Control Law, which entered into force on 1 December 2020. Under Article 2 of the Law, export control refers to "prohibitions or restrictions on transfer of controlled items from the territory of the People's Republic of China to overseas and the provision of controlled items by any citizen or incorporated or non-incorporated organization of the People's Republic of China to any foreign organization or individual".

3.91. The Law defines "controlled items" to include dual-use items (with both civilian and military applications), military products, and nuclear products. In addition, "controlled items" include "other goods, technologies, services that are related to the maintenance of national security and interests and the implementation of international obligations such as non-proliferation". It also requires exporters to provide documentation establishing the intended end-use and end-user for the controlled items to be issued by the end-user or the Government at the end-user's location. End-users are required to commit not to change the end-use or transfer the item to any third party without authorization from the Chinese export control authorities. Exporters and importers are further obliged to report any potential change in the end-use or end-user. 3.94. Exporters must apply for an export licence from the relevant export control authority in order to export any item listed on a control list or subject to temporary controls. Article 13 of the Law provides that approval or disapproval of exports will be based on eight criteria: national security and interests, international obligations and external commitments, the type of exports, the sensitivity of controlled items, the countries or regions they are bound for, the end-users and end-uses, relevant credit records of exporting companies, and "other factors stipulated by laws and administrative regulations". For goods, technologies, and services other than those listed on the export control list and temporarily controlled items, an exporter must apply to the national export control authorities for an export licence, if the exporter knows or should know, or has been notified by the national export control authorities, that the relevant goods, technologies, and services may endanger national security and interests, or may be used for the design, development, production, or use of weapons of mass destruction and their means of delivery, or may be used for terrorism. 3.95. Under the Law, China may take measures reciprocally, according to the actual circumstances, if any country or region "abuses" its export control measures in ways that endanger China's national security and interest.

Question 6:

China's Export Control Law includes "other goods, technologies, services that are related to the maintenance of national security and interests and the implementation of international obligations such as non-proliferation" in the "controlled items" defined in the law. Also, it allows China to take reciprocal measures when another country or region "abuses" its export control measures in ways that endanger China's national security and interest. Could China explain what the criteria of interpretation would be to ensure objective application of the terms "national security and interests" and "abuses" mentioned in the Export Control Law?

Reply: China's Export Control Law fully draws on international practices and provides for the purpose and scope of control, the controlled items, the control measures, supervision and management, and legal responsibilities, etc.

In recent years, certain countries have abused export control measures with unwarranted excuses. This is detrimental to the peaceful use of fruits of scientific and technological progress to promote development by countries, especially developing countries, detrimental to the normal scientific and technological exchanges and economic and trade cooperation of the international community, and detrimental to the secure and smooth operation of the global industrial and supply chains. It also seriously harms the common interests of the international community. China firmly opposes the practice and in response to it, China's Export Control Law includes corresponding clauses against foreign countries' abuse of export control measures. China's practice aligns with the basic norms of international relations and conforms to WTO rules and widely accepted international practices.

Page 71 (Para 3.92)

While the previous export control framework still remains in place on a number of fragmented lists of items, the new Export Control Law provides for the establishment of a single framework for restricting exports of controlled items through published control lists. According to the authorities, China has formulated six administrative laws and regulations on export control, including the Administrative Rules on Monitored Chemicals, the Regulations on the Control of Nuclear Exports, the

Administrative Regulations on the Export of Military Products, the Regulations on the Export Control of Dual-use Nuclear Items and Related Technologies, the Regulations on the Export Control of Missiles and Missile-related Items and Technologies, and the Regulations on the Export Control of Dual-use Biological Items and Related Equipment and Technologies. Specific export control lists were also released. In addition to the established control lists, the new legislation authorizes export control authorities to list items for "temporary controls" for a provisional period of up to two years before determining whether to list the items on a control list. The authorities indicate that China is in the process of formulating supporting regulations and shall release further regulations at a later stage.

Question 7:

Para 3.92 states that, in addition to the established control lists, China's new legislation authorizes export control authorities to list items for "temporary controls" for a provisional period of up to two years before determining whether to list the items on a control list.

In the case of when an item is listed for "temporary controls" before determining whether to be added on a control list, what is the subsequent effect on the export of the item? Will there be the same level of restriction as when the item is listed on the export control list?

Reply: The same management measures are applied to items for temporary controls and items on a control list. The Chinese government will conduct a timely assessment before the expiration of the temporary control period.

Page 71 (Para 3.93)

3.93. Besides the item-based control lists, the Law provides for the establishment of control lists of foreign business entities that fall under one of the following cases: (i) violate end-user or end-use restrictions; (ii) "possibly endanger national security and interests"; or (iii) use controlled items for terrorist purposes. Chinese exporters will be barred from dealing with foreign business entities on the controlled list. However, they will be able to request exemptions under certain conditions, according to the Law.

Question 8:

With regard to China's Export Control Law mentioned in para 3.93, what are the exemptions under which the Export Control Law does not apply? Also, what are the requirements to be fulfilled for a case to be exempted from the Law?

Reply: China is stepping up efforts to promote the formulation and revision of supporting regulations to further specify relevant exemptions and requirements and will enact such supporting regulations in a timely manner.

Page 72 (Para 3.94)

For goods, technologies, and services other than those listed on the export control list and temporarily controlled items, an exporter must apply to the national export control authorities for an export licence, if the exporter knows or should know, or has been notified by the national export control authorities, that the relevant goods, technologies, and services may endanger national security and interests, or may be used for the design, development, production, or use of weapons of mass destruction and their means of delivery, or may be used for terrorism.

Question 9

Could China explain on which standard the Chinese government determines if the exporter "knows or should know", with regard to applying for an export license for goods, technologies, and services other than those listed on the export control list and temporarily controlled items?

Reply: China's Export Control Law fully draws on international practice and mature practices of other countries and provides for comprehensive export control. According to the law, for items not on the export control list, if an exporter knows or should have known, or is notified by the export control administrative department of the state that the relevant items may have certain risks including endangering national security and interest, the exporter shall file an application for a license. It is so provided for the purpose of better fulfilling the international non-proliferation obligations and maintaining national security. Regarding the standards to determine "knows or should have known", China will make decisions and take actions in accordance with relevant laws and regulations while taking into consideration international practices and actual conditions.

Page 81 (Para 3.145)

Between January 2018 and 13 April 2021, China submitted 344 TBT notifications, most of them under Article 2.9 of the TBT Agreement.¹²⁸ In the Committee on Technical Barriers to Trade, between January 2018 and 13 April 2021, 25 specific trade concerns (STCs) were raised by Members regarding TBT measures maintained or planned by China, including 9 new STCs.¹²⁹

Question 10:

China's amended Safety technical specification on lithiumion cells and batteries used in portable electronic equipment, notified to WTO in March, requires to specify cell information even on cells used as components. The Safety technical specification used to include exceptions that, in the case cell manufacturers and end-product manufacturers agreed, cells used as components may not be required to specify cell information on them. Could China provide reasons why the exception was deleted? Also, could China reconsider the decision deleting the exception, as it would overburden enterprises?

Reply: Technical specification is very important for the safe use of cells and batteries. As important components of a battery, cells cannot be effectively traced and identified if without necessary specification. Recent years have witnessed quite a number of incidents where unspecified cells led to confusion for market regulators. Therefore, China, upon extensive survey and consultation, introduces relevant requirements for specifying technical information even on cells used as components in GB 31241-20XX.

Page 81 (Para 3.145)

Between January 2018 and 13 April 2021, China submitted 344 TBT notifications, most of them under Article 2.9 of the TBT Agreement.¹²⁸ In the Committee on Technical Barriers to Trade, between January 2018 and 13 April 2021, 25 specific trade concerns (STCs) were raised by Members regarding TBT measures maintained or planned by China, including 9 new STCs.¹²⁹

Question 11:

To Korea's knowledge, China has not notified the WTO TBT Committee of the Regulation on the Administration of Commercial Cypher Codes of China. Korea asks China to notify the WTO TBT Committee of the mentioned Regulation according to the WTO TBT 10.1.

Reply: In terms of commercial cypher code products, since 1 January 2020, the examination and approval of varieties and models of commercial cypher code products have been cancelled according to law, and a commercial cypher code authentication system uniformly implemented by the state have been established. The management of commercial cypher code products fully embodies the principles of non-discrimination and fair competition, equal treatment of domestic and foreign products and domestic and foreign-invested enterprises, implements compulsory testing and certification for commercial cypher code products involving national security, national economy and people's livelihood and social public interests, and implements voluntary testing and certification for other commercial cypher code products.

Page 86 (Para 3.163.)

MARA plans to introduce an edible agriculture product compliance certificate system and a National Agriculture Product Quality and Safety Traceability Platform. According to the authorities, these measures are only applicable to domestic production and operation of edible agricultural products.

Question 12

According to Para 3.163, MARA plans to introduce an edible agriculture product compliance certificate system and a National Agriculture Product Quality and Safety Traceability Platform. Could China explain the improvements in the edible agriculture product compliance certificate system compared to the certification of Pollution-free Agricultural Product?

Reply: In 2017, the Central Office and the State Council issued the Opinions on Innovating Systems and Mechanisms to Promote the Green Development of Agriculture, which proposed to improve the certification system for edible agricultural products in line with market access. In 2019, the Opinions of the Central Committee of the Communist Party of China and the State Council on Deepening Reform and Strengthening Food Safety Work proposed: to accelerate the establishment of a certification system for edible agricultural products. In the past two years of trial implementation, the certification system has been advancing quickly and has achieved remarkable results. Trial work

has been carried out in 760 counties across the country, and 335,000 production enterprises, cooperatives, family farms and 427,000 small farmers have issued certificates of compliance.

Page 93 (Para 3.185)

The mechanism requires that all administrative rules, norms, and measures in relation to market access, industrial development, investment promotion, tendering activities, government procurement, business operation norms, and qualification criteria go through fair competition review before being introduced. Any administrative measures that have the effect of eliminating or restricting competition should not be put into place unless they fall into the exceptions prescribed by the State Council Opinions.

Question 13

Para 3.185 states that there are certain exceptions allowing an administrative measure to have the effect of eliminating or restricting competition. Could China provide details regarding the exceptions prescribed by the State Council Opinions?

Reply: China established and implemented the fair competition review system in 2016. It is clearly provided that administrative agencies and organizations authorized by laws or regulations to perform the function of administering public affairs should conduct fair competition reviews to evaluate impacts on market competition and prevent the restriction or exclusion of competition when formulating regulations, normative documents, other policy documents, and specific policy measures on individual cases that are related to economic activities of market entities. Some exceptions are also provided for. In June 2021, five authorities including the State Administration for Market Regulation issued the Rules for the Implementation of the Fair Competition Review System, which further clarified the circumstances and conditions for exceptions and provided the regulatory basis for formulating policy measures where exceptions apply.

Page 97 (Para 3.197)

STEs in China have the exclusive right to import or export the following products: wheat, maize, sugar, tobacco, rice, cotton, crude and processed oil, refined coal, chemical fertilizers, tungsten and tungstate products, antimony, and silver. The authorities indicate that STEs in China operate following the market mechanism, with no government interference.

Question 14:

Para 3.197 states that the Chinese authorities indicated that STEs in China operate following the market mechanism, with no government interference. Could China provide a broad explanation on how Chinese STEs are operated according to the market mechanism, including how the price of items and total import/export quantities are determined?

Reply: Please refer to the latest notification on state trading submitted by China.

Page 97 (Para 3.200.)

The authorities indicate that, while privatization of SOEs is not planned, progress has been achieved in mixed-ownership reform. According to the authorities, in November 2020, the Central Commission for Comprehensive Reforms approved a new proposal for a structural plan of China's SOEs.

Question 15:

It is mentioned in Para 3.200 that the Central Commission for Comprehensive Reforms approved a new proposal for a structural plan of China's SOEs in November 2020. Could China elaborate on the newly approved structural plan of China's SOEs including the progresses achieved regarding mixed-ownership reform?

Reply: Mixed-ownership reform is an important way for the Chinese government to guide state-owned enterprises to deepen SOE reform. It aims to enable state capital and non-public capital to learn from each other's strengths and reinforce each other for common development through cross-shareholding and mutual integration. In recent years, China has actively carried out pilot mixed-ownership reforms in important areas, encouraging related enterprises to introduce social capital to optimize ownership structure, improve corporate governance structure, establish flexible and efficient market-oriented operating mechanism and effective incentive and restraint mechanism, and promote capitals of various ownership to learn from each other's strengths and reinforce each other for common development. First, the proportion of non-public capital rights and interests in mixed-ownership enterprises has further increased. Second, the governance system of mixed-ownership

enterprises has become more perfect. At present, among the state-owned enterprises that have completed the mixed-ownership reform, the number of enterprises in which non-public shareholders dispatch directors to participate in company management is 70%, initially forming a corporate governance system with clear accountability and shared responsibility mechanism, coordinated operation and effective checks and balances. Third, mixed-ownership enterprises are more dynamic. Nearly 70% of enterprises have made solid progress in the reform of labor, personnel and distribution systems, effectively stimulating the vitality of enterprise development momentum. After the mixed-ownership reform is completed, more than 70% of the state-owned enterprises have achieved profit growth.

Page 100 (Para 3.212)

3.212. Both the Government Procurement Law and the Tendering Law are currently under amendment. The draft amended Bid Invitation and Tendering Law was published online for public comment from 3 December 2019 to 1 January 2020. A further revised draft reflecting those public comments has been submitted to the State Council for review. At present, the Ministry of Justice is organizing a legislative review of the draft amendments. According to the Explanatory Note on the Draft, the amended Tendering Law will, inter alia: (i) redefine its scope of application and deregulate tendering activities in private investments; (ii) enhance transparency of tendering activities; (iii) adjust the time periods in tendering procedures in order to improve efficiency; (iv) restrict the use of lowest price criteria in tender evaluation and encourage life-cycle cost assessment; (v) promote e-tendering; (vi) clarify tendering requirements in public-private partnership (PPP) projects; and (vii) enhance anti-collusion in tendering and the monitoring of contract performance.

The draft amended Government Procurement Law was published online for public comment from 4 December 2020 to 5 January 2021. According to its Explanatory Note, the amended Government Procurement Law will, inter alia: (i) adjust the scope of application of the Government Procurement Law¹⁷⁶; (ii) give full play to the policy goals of government procurement policy by including provisions on promoting innovation and safeguarding the interest of vulnerable groups, and specify relevant competent authorities and implementation measures; (iii) improve and clarify government procurement methods and procedures; (iv) improve the system of government procurement contracts; (v) strengthen demand management in government procurement; (vi) enhance the position of procuring entities; and (vii) simplify supplier qualification procedures. According to the authorities, the revision of the two Laws will further align China's government procurement and tendering administration systems and harmonize the application of the two Laws.¹⁷⁶ The amended draft Law provides that government procurement refers to the act of obtaining goods, construction works, and services by state organs, public institutions, social organizations, and other procuring entities, for the purpose of fulfilling government affairs and public services, via contract means with fiscal funds or other public resources.

Question 16:

Para 3.212 states that both China's domestic law, namely Government Procurement Law and the Tendering Law, are currently under amendment. By when will the amendment procedure be completed for the Government Procurement Law and the Tendering Law? Also, will the amended Government Procurement Law be applied to SOEs? Lastly, what would the 'other procuring entities' on the footnote 176 imply?

Reply: The Chinese government is actively advancing the amendment to the *Government Procurement Law* and the *Tendering Law*. The time for the completion of the amendment depends on the opinions of the parties concerned and the coordination with relevant departments. The application of the *Government Procurement Law* will be adjusted in light of China's offer for joining the GPA. The definition of other procuring entities will be clarified through amendments.

Page 104 (Para 3.222)

3.222. It is also noted that the buy-national requirement does not apply to procurements by SOEs, as they are not considered as government procurement in China and are not bound by the Government Procurement Law. Therefore, the authorities state that there is no differential treatment of foreign goods, services, and suppliers in SOEs' procurements, including those in the areas of infrastructure and public utilities. In addition, Article 16 of the new Foreign Investment Law (FIL) (promulgated in March 2019) provides that "the State shall guarantee that foreign-invested enterprises can participate in government procurement activities through fair competition; products produced and services provided by foreign-invested enterprises within the territory of China shall be treated equally in government procurement".

Question 17:

Para 3.222 states that the buy-national requirement does not apply to procurements by SOEs, as they are not considered as government procurement in China and are not bound by the Government Procurement Law. In that case, could China explain what law or regulation would apply to administer and regulate procurement by SOEs?

Reply: State-owned enterprises must conduct tenders for the following construction projects, including project survey, design, construction, supervision, and procurement of important equipment and materials related to project construction, in accordance with the Tendering Law: (i) Large-scale infrastructure, public utilities, and other projects related to social public interest and public security; (ii) Projects that use state-owned funds or state financing in whole or in part; and (iii) Projects that use loans and aid funds from international organizations or foreign governments. The specific scope and scale standards of construction projects that are subject to bidding in accordance with the law shall be formulated by the development and reform department of the State Council in conjunction with relevant departments of the State Council, and shall be announced and implemented after being approved by the State Council.

Page 105 (Para 3.224)

3.224. With regard to environmental protection, China maintains policies to provide more favourable treatment to energy-saving products and environmentally friendly products in government procurement. Such policies were first introduced in 2004 and 2006. During the review period, China adjusted implementation measures in this regard. Specifically, in 2019, the MOF, the NDRC, the MEE, and the SAMR jointly issued a Notice on Adjusting and Optimizing Execution Mechanisms for Government Procurement of Energy-Saving Products and Environmentally Labelled Products (Cai Ku No. 9, 2019).¹⁸⁵ Under the old measures, relevant authorities published not only the catalogues but also the lists of brands and models that had been granted conformity certificates for such purposes.¹⁸⁶ Under the new measures, the authorities publish only the generic catalogues and energy conservation and environment protection standards¹⁸⁷, and not the lists of brands and models. Product brands and models that have been granted certificates by recognized certification agencies are eligible for favourable treatment in government procurement. According to the authorities, such adjustments made it unnecessary for suppliers to apply for being included on the list and provide more equal opportunities for suppliers. The new Measures also enhance the obligation of procuring entities to implement such policies.

Question 18:

According to Para.3.224, the authorities publish only the generic catalogues and energy conservation and environment protection standards, and not the lists of brands and models. However, the footnote 187 states that product lists are still published. This part is confusing, please clarify.

Reply: In accordance with the *Notice on Adjusting and Optimizing Execution Mechanisms for Government Procurement of Energy-Saving Products and Environmentally Labelled Products* (Cai Ku No. 9, 2019), energy-saving products and environmentally labelled products for government procurement are subject to item list management, and the list of energy-saving products for government procurement and the list of environmentally labelled products for government procurement are no longer released. The product lists mentioned in footnote 187 refer to item lists.

Page 105 (Para 3.224)

3.224. With regard to environmental protection, China maintains policies to provide more favourable treatment to energy-saving products and environmentally friendly products in government procurement. Such policies were first introduced in 2004 and 2006. During the review period, China adjusted implementation measures in this regard. Specifically, in 2019, the MOF, the NDRC, the MEE, and the SAMR jointly issued a Notice on Adjusting and Optimizing Execution Mechanisms for Government Procurement of Energy-Saving Products and Environmentally Labelled Products (Cai Ku No. 9, 2019).¹⁸⁵ Under the old measures, relevant authorities published not only the catalogues but also the lists of brands and models that had been granted conformity certificates for such purposes.¹⁸⁶ Under the new measures, the authorities publish only the generic catalogues and energy conservation and environment protection standards¹⁸⁷, and not the lists of brands and models. Product brands and models that have been granted certificates by recognized certification agencies are eligible for favourable treatment in government procurement. According to the authorities, such adjustments made it unnecessary for suppliers to apply for being included on the list and provide more equal opportunities for suppliers. The new Measures also enhance the

obligation of procuring entities to implement such policies.

Question 19:

Para 3.224 states that China maintains policies to provide more favorable treatment to energy-saving products and environmentally friendly products in government procurement. With regard to the more favorable treatment to environmentally friendly products in government procurement, does the environmental standard mentioned in Para.3.224 include only national standards? Or does it also accept international environmental standards?

Reply: China accepts relevant national certification results for government green procurement of energy-saving and environmentally-friendly products, and such certifications are granted in accordance with national standards and industry standards.

Page 106 (Para 3.229.)

China became an Observer in the WTO Committee on Government Procurement in 2002. It initiated its GPA accession negotiation in 2007. During the review period, significant progress was made on the accession. China submitted its 6th revised market access offer on 20 October 2019.¹⁹³ The new offer, for the first time, included non-sensitive military procurement. It also added seven provinces and municipalities, 16 SOEs, and 36 local universities. No minority autonomous regions at the provincial level were included in the new offer, and some SOEs in the infrastructure and public utility sectors are missing. Some services sectors are not included in the offer. On 29 May 2020, China circulated its updated Replies to the Checklist of Issues, which contain comprehensive information on China's government procurement regime.¹⁹⁴ Consultations continue between China and GPA Parties to address the remaining issues in the accession process.

Question 20:

Para 3.229 mentions China's continued effort to accede to the WTO Government Procurement Agreement. At the GPA committee formal meeting in June, China explained its endeavor to complete early accession to the GPA, and circulated its written replies to other GPA members' comments and requests. Could China provide explanations regarding its further plans to accede to the agreement?

Reply: The Chinese government is committed to joining the GPA as soon as possible. The level of the seventh bid for China's accession to the GPA submitted to the WTO in October 2019 is roughly equivalent to that of the participating parties. In May 2020, China submitted the State Report on China's Government Procurement (updated in 2020) to the WTO, which fully reflects the reform of China's government procurement legal system. While advancing the bid negotiation, the legal adjustment negotiation is also being promoted simultaneously. In June 2021, China again submitted to the WTO its responses to the EU and Australia's 7th bid for China's accession to the GPA and the list of issues in the Report on the State of China's Government Procurement (updated in 2020). Practical actions have demonstrated China's sincerity in joining the GPA and determination to safeguard the multilateral trading system. The GPA is a multilateral agreement. It is not enough to rely on China's unilateral efforts to join the GPA. It depends to a large extent on the positions and expectations of the participants. China always believes that the sooner China joins, the sooner all parties will benefit. It is hoped that the GPA participants will be based on the current situation and have a long-term view, pragmatically ask China for a price, and reach a mutually beneficial and win-win negotiation result for China's accession to the GPA as soon as possible.

Page 106 (Para 3.239.)

China amended its Anti-Unfair Competition Law in April 2019 and its Trademark Law in November 2020. The amendments to the Patent Law were reviewed twice by the NPC Standing Committee in October 2020 and are expected to be implemented from 1 June 2021. The Copyright Law was revised in November 2020. Other IP-related laws have remained unchanged since the previous Review (Table A3.3).

Question 21:

Korea highly appreciates China's overall maintenance of its laws and regulations to protect rightholders' intellectual property rights. However, problems including online infringement and bad faith trademark registration persist. We expect the Chinese government to take a more active role, making sure its various efforts to improve the system can effectively prevent infringements in the actual market. In this regard, could China explain if it has further plans to ensure the effective enforcement of policies mentioned in the Review?

Reply: China has amended many laws including the Patent Law, the Trademark Law, the Copyright Law, and the Anti-Unfair Competition Law to enact up to five times the amount of damage for infringements in its major intellectual property legal systems, the highest globally. This is intended for enhanced IP protection. China will dutifully enact relevant provisions on punitive damages, strengthen the civil proceedings for IP protection, give full play to the role of administrative courts in handling IP cases, process criminal IP infringement cases in accordance with the law, and severely crack down on IP crimes, in order to provide a strong legal and judicial support for the creation of a stable, fair, transparent, and predictable business environment.

China National Intellectual Property Administration has adopted strict measures to implement Article 4 of the Trademark Law regarding the rejection of malicious trademark registration applications with no intention for use, a further step to stop trademark hoarding at an earlier stage. It has to a certain extent curbed the proliferation of malicious trademark registrations. In 2020, China rejected 15,600 malicious trademark registration applications with no intention for use. The number of rejections was 46,000 from January to September 2021. This measure has reduced the time and economic costs for companies to protect their rights through subsequent procedures, and strengthened their confidence in intellectual property protection. It is also a powerful deterrent to potential malicious applicants. We are glad to see some preliminary fruits in restoring trademark registration order from the source.

In order to strengthen intellectual property protection, regulate the economic order of platforms, and promote the sustainable and healthy development of e-commerce, the State Administration for Market Regulation drafted the Decision on Amending the E-Commerce Law of the People's Republic of China (Draft for Comments) and proposed to make amendments to Article 43 and Article 84 of the E-Commerce Law of the People's Republic of China. In the next step, the State Administration for Market Regulation will work closely with the legislature to promote the adoption of the amendment to the E-Commerce Law as soon as possible.

Trade secrets belong to an important type of intellectual property. The protection of trade secrets forms an important part of China's anti-unfair competition efforts, including the administrative law-enforcement efforts. China revised the Anti-Unfair Competition Law in 2017 and in 2019 respectively to improve the provisions on the protection of trade secrets. At present, the State Administration for Market Regulation is advancing the formulation and enactment of the Regulation on the Protection of Trade Secrets in an orderly manner. The expected Regulation is now undergoing legal review.

Page 123 (Para 4.9)

4.9. Since China's previous Review, FDI restrictions on companies selecting and cultivating new varieties of crop and producing seeds have been eased, except for soybean and rice; the requirement for Chinese parties to be controlling shareholders now applies only to corn. With respect to wheat, the Chinese shareholding threshold has been reduced to 34% (Table A2.3).

Question 22

According to Para 4.9, China has eased FDI restrictions on companies related to seed production, except for corn. Could China please explain why corn is excluded?

Reply: Further opening up the seed production sector forms an important part of unfolding a new pattern of comprehensive opening up, and it reflects China's firm determination to actively open up to the outside world. It is also a concrete measure to meet the actual need of deepening the agricultural supply-side structural reform, which is conducive to speeding up the introduction of foreign premier, special, high-quality, and new varieties, accelerating the development of unique crop sectors, and meeting the needs of the people for special agricultural products. China will further optimize the development environment of the seed production sector. Foreign investors are welcome to invest in the seed production sector and engage in seed production activities in accordance with the law.

Page 125 (Para 4.11)

4.11. Policy objectives for modernizing the agricultural sector are also contained in China's 13th Five-Year Plan for Economic and Social Development (2016-20), which has four main elements: strengthening the capacity for ensuring the safety of agricultural products; (ii) establishing a modern agricultural operations system; (iii) improving technology and equipment and increasing information technology (IT) application in agriculture; and (iv) improving systems for providing

support and protection for agriculture. It also contains goals for developing the agricultural biotechnology segment, including genetically modified crops. In the 14th Five-Year Plan for Economic and Social Development, policy objectives in agriculture included: implementing the strategy of rural revitalization, strengthening the use of industry to supplement agriculture, and promoting the formation of a new type of urban-rural relationship between industry and agriculture. The authorities state that steps to implement the goals/reforms contained in the above-mentioned plans include promotion of large-scale construction of high-standard farmland, demarcation of functional areas of grain production and essential production areas for agricultural products, strengthened innovation in agricultural science and technology, and promotion of whole-process mechanized production of major crops. Additionally, support is being given to establishing modern agricultural industrial parks and townships and industry clusters, and developing new business models (i.e. leisure agriculture, rural tourism, and rural e-commerce). Other areas of focus include encouraging clean agricultural production, developing a three-year action plan to protect and restore the rural environment, promoting rural culture, and improving transport infrastructure, utilities, and public service delivery.

Question 23:

As mentioned in Para 4.11, China's 13th Five-Year Plan for Economic and Social Development includes the policy objective of (iv) improving systems for providing support and protection for agriculture. Could China provide a detailed explanation on specific methods it is considering to apply, or any legal or institutional basis it will use, in an effort to improve the system to protect agriculture?

Reply: The 14th Five-Year Plan and the Outline of Long-Term Goals for 2035 proposes to improve the agricultural and rural input guarantee system, build a new agricultural subsidy policy system, and improve the minimum grain purchase price policy. Deepen the reform of supply and marketing cooperatives. Allow rural employment and entrepreneurial personnel to settle in their place of origin or employment and entrepreneurship and enjoy relevant rights and interests, and establish a system of part-time and part-time pay for scientific research personnel in rural areas and leave their jobs to start a business.

Page 126 (Para 4.15-16)

4.15. The NDRC is responsible for allocating TRQs for grains and cotton, and MOFCOM allocates the rest. Some products subject to TRQs (i.e. grains, cotton, and sugar) are also subject to state trading. In these cases, one part of the quota is allocated to state trading enterprises and the other part to other enterprises. The administration methods of the TRQs as described by China in its notification to the WTO remained unchanged.

4.16. The importation of grain (wheat, maize, and rice), sugar, tobacco, and cotton is subject to state trading.

Question 24:

With regard to the importation of grain (wheat, maize, and rice), sugar, tobacco, and cotton which are subject to state trading, what percentages of the TRQs for these items are allocated to state-owned enterprises and private enterprises respectively?

Reply: Please refer to the latest notification on state trading submitted by China.

Page 136 (Para 4.43)

China is a major player in the distant water fisheries segment. As indicated by the FAO, China reported about 2.26 million tonnes from its "distant water fishery" in 2018; however, this is considered to be an underestimate, as the report provided details on species and fishing areas only for catches marketed in China (about 40% of the total of distant water catches).³⁵ The authorities indicate that China has taken measures recently to strengthen monitoring and control of fishing vessels, enhance its international compliance capability, fulfil its international obligations to conserve high-seas fishery resources, and prevent illegal, unreported, and unregulated (IUU) fishing activities (Box 4.1). They also indicate that China has undertaken investigations into various kinds of illegal fishing activities, and punished illegal enterprises and fishing vessels in accordance with the law. According to the authorities, between January 2018 and early 2021, the Government imposed different levels of penalties on 84 deep-sea fishing vessels belonging to 51 enterprises.

Question 25:

With regard to the Illegal, Unreported, and Unregulated(IUU) fisheries, Para 4.43 said the Chinese government imposed penalties on 84 vessels during the past three years. Could China explain what the penalties were and how effective these were in preventing reoccurrence of IUU fisheries? Also,

please elaborate on the Chinese effort to prevent Chinese fishing vessels' IUU fishing in unauthorized area.

Reply: China is very concerned about IUU ships. It will never tolerate and has adopted concrete measures to severely crack down on IUU fisheries. Firstly, China has established a multi-agency joint coordination mechanism to strengthen interdepartmental collaboration and urge local authorities to shoulder their responsibilities. Secondly, China has strengthened port management. All IUU ships and illegal catches, once identified, will be confiscated and destroyed. Those responsible, including ship owners and crew members, will be held accountable and their liabilities, including criminal liabilities, will be investigated in accordance with the law. Thirdly, China has organized a series of special law-enforcement actions, known collectively as "Liangjian" or Sword Up, to eliminate IUU fishing boats and IUU fisheries, and to strengthen maritime cruises. IUU fishing boats are seized and responsible persons strictly punished in accordance with the law, with those suspected of having violated the law handed over to the police. In the next step, China will continue to urge local authorities to take their territorial responsibilities, strengthen interdepartmental coordination, and always maintain a high-pressure strike on IUU boats. At the same time, China will strengthen the law-enforcement forces of fishery administrations and fishing ports and further improve their supervision and law enforcement capabilities.

Page 142 (Para 4.64)

In December 2017, China launched the construction plan for the National Carbon Emission Right Trading Market (Power Generation Industry) to start building its National Carbon Emission Trading System. According to the plan, the power generation industry will be the first to carry out transactions on the national carbon market, which will be gradually expanded to other industries. In 2018, the work of responding to climate change was adjusted and incorporated into the mandates of the newly formed Ministry of Ecology and Environment.

Question 26:

Under the construction plan for the National Carbon Emission Right Trading Market launched in December 2017, Chinese carbon emission trading system (ETS) is currently applied only in the power generation sector. Para 4.64 states that the transactions on the national carbon market will be gradually expanded to other industries. Please elaborate if there is any concrete plan on this, and what industries are being considered for future application of the ETS system?

Reply: The construction of China's carbon emission trading market is in its infancy, and relevant laws and regulations are still being explored and improved. In the future, the capacity of the carbon emission trading market will be gradually expanded depending on the operation of the carbon emission trading market. China will expand the scope of the market to cover industries on the basis of the good operation of the carbon market in the power generation industry. In order to make basic preparations for expanding the coverage of the national carbon market, we have organized and carried out data accounting, reporting and verification of high-emission industries such as power generation, petrochemical, chemical, building materials, steel, nonferrous metals, paper and aviation for many years, and have a relatively solid data foundation. In the next step, we will systematically reduce carbon dioxide emissions from other sectors by expanding the scope of the carbon market to cover industries and optimizing allowance allocation methods. On the basis of the good operation of the carbon market in the power generation industry, we will expand the scope of market coverage to more high-emission industries and optimize the specific methods for adjusting the allocation of allowances and give full play to the important role of market mechanisms in controlling greenhouse gas emissions, promoting green and low-carbon technological innovation, and guiding climate investment and financing.

Page 46 (Para 4.87)

In 2019, China lifted the requirements that the construction and operation of gas pipeline networks in cities with a population of more than 500,000 must be controlled by Chinese shareholders. However, for construction and operation of nuclear power plants, the Chinese parties must be the controlling shareholders (Table 4.19). Private investment, including foreign investment, is encouraged in the development of the renewable energy sector. In the new 36-Clause on Private Investment (State Council Circular 2010/13), domestic private capital is "encouraged" to build new energy sectors such as wind, solar, geothermal, and biomass power. Electricity generation from wind, solar, or biomass power is also listed in the "encouraged" section of the Catalogue of Encouraged Industries for Foreign Investment (2020 edition). China also promotes electricity generation with nuclear energy; as in the case of renewable energy, FDI is encouraged.

Question 27

It is mentioned in Para.4.87 that China promotes electricity generation with nuclear energy in line with encouraging to build new energy sectors such as wind, solar, geothermal, and biomass power. Could China explain the long term policy direction regarding construction and operation of nuclear power plants?

Reply: Nuclear power is a stable and reliable clean and low-carbon energy, and it is an important way to ensure energy security and respond to climate change. To realize China's "carbon peak and neutrality" goals, China will actively and orderly develop nuclear power on the premise of ensuring safety, and contribute to the global response to climate change and the transformation towards green energy.

Page 169 (Para 4.204)

4.204. The regulations on foreign investment in telecommunications services in China are stipulated in, *inter alia*, the Special Administrative Measures on Access to Foreign Investment (National Negative List) and the Pilot Free Trade Zone Special Administrative Measures on Access to Foreign Investment (PFTZ Negative List). Telecommunications companies are subject to the provision of telecommunications services pursuant to the market opening commitments made at China's accession to the WTO. These specify that the foreign share ratio for value-added telecommunications services (except for e-commerce, domestic multi-party communications, storage-forwarding, and call centres) shall not exceed 50%; for basic telecommunications, the controlling stake shall be held by the Chinese national. Within the PFTZs, there is no restriction on the foreign share ratio for investment in information services (application store only) and Internet access service. For investment in domestic virtual private network (VPN) services, the foreign share ratio shall not exceed 50%.

Question 28:

Para 4.204 states that the foreign share ratio for value-added telecommunications services (except for e-commerce, domestic multi-party communications, storage-forwarding, and call centers) shall not exceed 50%. Please explain if China has any plan to additionally extend the mentioned exception lists (e-commerce, domestic multi-party communications, storage-forwarding, and call centers) which are not subject to foreign equity limitation (50%) in the value-added telecommunication services sector.

Reply: China will study the possibility of further opening up related services in accordance with the development needs of the domestic market.

PART II: Questions Regarding the Government Report**Page 6 (Para 2.17)**

In 2018, 2019 and 2020, the flows of outbound direct investment reached USD 143.04 billion, USD 136.91 billion and USD 132.94 billion respectively. The investment of Chinese enterprises in host countries expanded local employment and tax revenue. In 2019, overseas Chinese enterprises contributed a total of USD 56 billion in taxes revenue to the invested countries or regions. By the end of 2019, overseas Chinese enterprises employed 2.266 million foreign employees, accounting for 60.5% of the total overseas employees.

Question 1

Regarding the statistics mentioned in the para 2.17, could China provide the following statistics respectively for each country China's outbound direct investment headed to?

i) foreign direct investment of Chinese enterprises, ii) taxes revenue to the invested countries or regions, iii) overseas employees

Reply: Please refer to the Statistical Bulletin of China's Outward Foreign Direct Investment over the years, available on the official website of the Ministry of Commerce of China, for relevant statistics on China's outbound direct investment.

Page 21 (Para 5.4)

From 2016 to 2018, China had reduced more than 150 million tons of crude steel production capacity, meeting the target of the 13th Five Year Plan two years ahead of schedule.

Question 2

Para 5.4 provides statistics regarding reduction of crude steel production capacity from 2016 to 2018. Could China additionally provide statistics for reduction of crude steel production capacity from 2019 to 2020?

Reply: China has completed the 13th Five-Year Plan of Crude Steel Capacity Reduction in advance by the end of 2018 and submitted relevant statistics. There is no new crude steel capacity reduction data for 2019-2020.

Page 23 (Para 5.11)

The Copyright Law, amended in November 2020, improves the concepts and systems related to works and rights, and scales up the penalty on infringement.

Question 3

According to the article 12 of China's Copyright Law (Revised in November 2020), the natural person, legal person or unincorporated organization whose name is attributed to the work is its author and has corresponding rights in the work, except where there is evidence to the contrary. Currently for foreign rightholder's work to be distributed in China, the authorization that the rightholder owns the copyright or related rights is required. As it seems that the revised article regarding legal presumptions of copyright ownership could affect the current authorization system, Korea would like to ask if there will be any changes on the current authorization system following the revision of the Copyright Law.

Reply: Article 12 of China's current Copyright Law is about how to identify the author and register a work. It is not related the authorization system and does not affect the current authorization system.

Page 23 (Para 5.11)

The Copyright Law, amended in November 2020, improves the concepts and systems related to works and rights, and scales up the penalty on infringement.

Question 4:

The article 45 of the Copyright Law (Revised in November 2020) stipulates remuneration for the producers of phonogram where phonograms are used in wired or wireless public dissemination, or for public broadcast through technical equipment for transmitting sound. Could you provide the detailed process of collecting remuneration and payment to the producers of phonogram, reflecting the revision? Also, how could the performers that have related rights to the performance fixed on phonogram possibly exercise their right, regarding wired or wireless public dissemination or public broadcast through technical equipment for transmitting sound?

Reply: China will further improve and clarify the process for the collection of remuneration and payment for the producers of phonogram in practice according to the revised Copyright Law. The Copyright Law does not stipulate the rights of performers to the performance fixed on phonogram.

Page 27 (Para 6.3.)

China will further implement the United Nations Framework Convention on Climate Change and the Paris Agreement to address climate change. Moreover, China will strive to peak carbon dioxide emissions by 2030 and achieve carbon neutrality by 2060 to promote sustainable development.

Question 5

According to Para 6.3., in further implementing the United Nations Framework Convention on Climate Change and the Paris Agreement to address climate change, China has set a goal of achieving carbon neutrality by 2060. Could China explain if it has any specific action plans toward the goal?

Reply: China has issued opinions on peaking carbon emission and achieving carbon neutrality and action plan for peaking carbon emission before 2030, and will successively issue implementation plans for peaking carbon emissions in key areas and industries and a series of supporting and safeguarding measures, and achieve emission reduction goals through a package of practical and effective measures. China continuously promotes the adjustment of industrial structure and energy structure, vigorously develops renewable energy, and speeds up the planning and construction of large-scale wind power photovoltaic base projects in desert, Gobi and wilderness. The first batch of

projects with installed capacity of about 100 million kilowatts have been launched in an orderly manner recently. Strict control should be imposed on coal-fired power projects and the growth of coal consumption during the 14th Five-Year Plan period. The growth of coal consumption will be gradually reduced during the 15th Five-Year Plan period. China will vigorously support the green and low-carbon energy development of developing countries, stop building new coal-fired power projects overseas, and contribute to the global response to climate change.

PART III: Other Questions

Question 1

In order to maintain economic activities between Korea and China amid the ongoing pandemic, the two countries have introduced a "Fast Track". Recently, however, business people with an invitation letter are required to undergo a 2-to-3-week quarantine period. In this vein, the effectiveness of the Fast Track does not meet our expectations. Could China provide any future plans to ensure that the Fast Track works properly according to its original purpose, if there's any?

Reply: It is suggested that this issue be solved through bilateral channels.

Question 2

In the case of when medical equipment made in Korea is exported to Korea and re-imported to China with the purpose of breakdown repair service, import prohibitions apply under China's Law on Inspection and Management of old/second-hand mechanical and electrical equipment, Article 31. When it comes to export and re-import for breakdown repair services, could China explain why these cases become subject to import prohibitions? Also, could China consider institutional improvement to regard the above mentioned cases as an exception to import prohibition?

Reply: According to the Foreign Trade Law of the People's Republic of China, in order to safeguard national security, social and public interests, protect people's health or safety and the environment as well as other reasons, the Ministry of Commerce and the General Administration of Customs have included some used mechanical and electrical products in the catalogue of used mechanical and electrical products prohibited from import. In 2018, The Ministry of Commerce and the General Administration of Customs adjusted the catalogue of used mechanical and electrical products prohibited from import. In view of the fact that used mechanical and electrical products such as aircraft engines, marine engines, non-medical X-ray equipment and electronic game machines have limited risks in safeguarding national security, social public interests, protecting people's health or safety, and protecting the environment, the above products have been deleted from the prohibited import catalogue. In 2020, the State Council issued *Several Measures on Promoting the Reform and Innovation of Trade and Investment Facilitation in Pilot Free Trade Zones* and the State Council issued *Opinions of the General Office of the State Council on Accelerating the Development of New Forms of Business and New Models of Foreign Trade*, all of which provided policy support for the development of bonded maintenance business. Please refer to http://www.gov.cn/zhengce/content/2021-09/03/content_5635110.htm and http://www.gov.cn/xinwen/2021-07/13/content_5624621.htm

Question 3

It is known that China is pursuing the accession to the CPTPP, and in the subsequent Korea-China FTA negotiations, the investment regime is under discussion. Could you please explain if China is willing to discuss the CPTPP-level investment regime in the ongoing subsequent Korea-China FTA negotiations?

Reply: China and Republic of Korea are actively promoting the second phase of bilateral FTA negotiations in accordance with the consensus already reached, and conducting consultations on service trade and investment liberalization by negative lists.

Question 4

China deleted joint-venture foreign investment restrictions for private hospitals under the CAI, and we would like to know if this is applied only to the EU. If so, please explain how China would exclude other countries so that they cannot be applied to this new rule.

Reply: The CAI has not yet come into effect. China will study the possibility of further opening up relevant markets based on the development needs of the domestic market.

INDIA**Page 4 Paragraph 1.3****Background:**

China further advances the building of free trade areas, continuously improves the level of South-South cooperation, and makes economic globalization more open, inclusive, beneficial to all, balanced, and win-win.

Question 1:

Can China explain the steps taken to support the objectives of South-South cooperation, globalization more open, inclusive, beneficial to all, balanced and win-win?

Reply: As a member of the developing world, China has always been sharing its development opportunities with other developing countries. With the Fund for South-South Cooperation, China has collaborated with the WTO, the International Trade Center (ITC) and other international organizations on personnel training, database development and organization of investment facilitation forums. Under the WTO's Aid for Trade initiative, China has also made donations to set up the "China's LDCs and Accession Program" to help LDCs better integrate into the multilateral trading system and share the fruits of economic globalization. In addition, China actively encourages APEC, G20 and other multilateral platforms to jointly support the multilateral trading system and foster an open, inclusive, balanced and win-win investment and trade environment for all.

Page 4 Paragraph 2.1**Background:**

China's economy has shifted from a stage of high-speed growth to a stage of high-quality development. The basic national condition that China is still in the primary stage of socialism and will remain so for a long time has not changed. China's international status as the world's largest developing country has not changed.

Question 2:

As per the Per capita income level, the Chinese economy belongs to 'upper-middle income' (World Bank). How can China still claim to be a developing country?

1. *What are the indicators which China is using to claim such a status?*
2. *What measures are taken to address/balance the contradictory goals of high-speed growth and the primary stage of socialism?*

Reply: The concept of developing countries is relative to developed countries, and international organizations do not have a unified definition of developing countries. However, on the whole, compared with developed countries, developing countries lag far behind in economic strength, per capita income, economic structure, industrial competitiveness, social security system, environmental protection and the ability to participate in global governance. Since reform and opening up, China has witnessed remarkable economic and social progress. However, the problem of unbalanced, uncoordinated and unsustainable development remains obvious. There is a wide gap between urban and rural areas and between different regions, with a relatively extensive development mode. And China is clearly ill-equipped for scientific and technological innovation. Taken together, the objective fact that China remains a developing country is unassailable. China is still in the primary stage of socialism and will remain so for a long time has not changed. China's international status as the world's largest developing country has not changed.

Page 4-5 Paragraphs 2.1 & 2.3**Background:**

The potentials of vast market and domestic demand of China's 1.4 billion people and more than 400 million middle-income population will be fully unleashed. In the process of building a new development paradigm, China will further improve its level of opening up, develop a new system for a higher-standard open economy, and create more demand for the world, while providing broad markets and more development opportunities for all countries.

Question 3:

China is requested to provide justification for the following:

"China's economy has shifted from a stage of high-speed growth to a stage of high-quality development." Explain the part of para 2.3 as well mentioned as background.

Reply: High-quality development is an embodiment of the new development concept, where innovation becomes the first driving force, coordination an endogenous feature, green the universal form, openness the necessary path, and sharing the fundamental purpose. Entering the stage of high-quality development, the main characteristics of China's economic development are: shifts from high-speed to medium-high speed in economic growth, from pursuit of scale and speed to quality and efficiency in economic development, from a focus on capacity increase to a balance between adjusting existing resources and optimizing additional resources. Besides, our development driver has shifted from factor inputs to innovation. Grounding our efforts in the new development stage, China will implement the new development concept completely, accurately and comprehensively, accelerate the fostering of a new development pattern, promote high-quality development, and pursue high-standard opening up, so as to break new ground for win-win cooperation, and inject stronger energy into the world economy.

Page 5 Paragraph 2.6

Question 4:

What are sidelined products? Can China provide a detailed list of Sidelined Products mentioned in para 2.6?

Reply: China has no such list for now.

Page 7 Paragraph 3.3

Background:

Since the last review, China has further streamlined import administration procedures and continuously lowered import tariffs. In November 2018, China lowered the import duties on 1,585 tariff lines covering mechanical and electrical equipment, parts and raw materials, etc. In each January from 2019 to 2021, China implemented interim import tariff rates, which are lower than the MFN tariff rates of over 700 items of goods, including some advanced equipment, spare parts, resource products and pharmaceutical raw materials.

Question 5.

Chinese tariff applications have seen an increase in the application of non-ad valorem tariffs. The WTO's TAO database indicates NAVs tariffs on two six-digit HS Codes 852110 and 852580. The Online WITS database indicates the presence across seven tariff lines like 8521101100B, 8521101900B, 8521102000B, 8525801200B, 8525801301B, 8525801302B, 8525801390B. Both these tariff lines belonged to the electrical and electronics sector. Further the application of NAVs tariff has been observed to influence the MFN applied averages.

Is it a new trend that has been followed by China, and does the Chinese applications of Non-Ad Valorem tariffs on new national lines reflects the domestic compulsions?

Reply: China has never applied Non-Ad Valorem tariffs (NAVs) on new national lines. Since China's accession to the WTO, NAVs have been implemented on tariff lines 852110, 852530 and 852540. According to the 2007 revisions of the WCO Harmonized Commodity Description and Coding System, all the goods in the new line 852580 are from lines 852530 and 852540, so NAVs are also applicable.

1. If this is true, China is requested to provide a complete list of NAV tariff lines. In China's view, why are these NAVs WTO compatible measure?
2. Further, China is requested to provide Ad Valorem Equivalent's (AVEs) of these NAVs tariff applied on the national tariff lines. How does such a non-transparent tariff become facilitating trade measures?

Reply 1-2: Non Ad-valorem tariffs (Ad Valorem Equivalents) implemented over the years since China's accession to the WTO are converted strictly in accordance with the Ad-valorem tariff rate of China's WTO commitment, and the NAV rate is recalculated on a regular basis to ensure that the actual rate does not exceed the Ad-valorem tariff level of China's commitment. The list of NAV lines is included in the Import and Export Tariff of the People's Republic of China released annually, which is available in "Policy Release" of the website of the Tariff Department of China's Ministry of Finance. See the website link: <http://gss.mof.gov.cn/gzdt/zhengcefabu>.

Page 7 Paragraph 3.7**Question 6:**

China is requested to share the sector-wise, FCL and LCL-wise time taken for customs clearance and other procedures; and Further, the composition and weightage of these in terms of sector, FCL and LCL-wise in the overall trade (imports and exports).

Reply: Currently, China Customs adopts the WCO's methods to measure the time required for the release of goods to gauge the overall clearance time. The overall customs clearance time is calculated by customs declaration units, which mainly spans from the arrival of import and export goods to the lifting of import and export supervision by the Customs. The overall customs clearance of import goods begins with the declaration of arrival of the means of transport carrying the import goods in China, and that of export goods starts with the arrival of goods at the supervision site. The time is measured in hours. The declaration form included in the calculation of customs clearance time serves as the actual inbound and outbound customs declaration form, and the overall customs clearance time is the arithmetic average of the total customs clearance time of each declaration form included in the calculation of customs clearance time. The overall customs clearance time of each declaration form = end time - start time. At the beginning of 2020, China has notified the WTO on the advance implementation of the "determination and publication of average clearance time" measures specified in the Trade Facilitation Agreement. Relevant data have been publicly released at a press conference of the General Administration of Customs on imports and exports in 2020. As for the question raised by India, it is suggested that the Indian side further clarify the connotation and specific concerns of the "sector" in the phrase "sector-wise" and the "other procedures" in "customs clearance and other procedures", so that the Chinese side can provide targeted answers.

Page 22 Paragraph 5.8

Question 7: China states that in recent years it is committed to improving its agricultural subsidies paradigm. In this context, it is requested to provide information about the incentive and disincentive mechanisms that are being implemented by the government in recent years to rationalize the agricultural subsidies.

Reply: In 2016, the Ministry of Finance and the Ministry of Agriculture jointly issued the "Reform Program for Establishing a Green and Ecological-oriented Agricultural Subsidy System", focusing on the role of market in price formation, motivating farmers and various sectors of the society, and improving the efficiency of the use of subsidies. The reform of agricultural "three subsidies", including the comprehensive agricultural subsidies, direct subsidies for grain farmers and subsidies for good crop seeds, has been pushed forward. Agricultural ecological resources have been better protected and arable land have become more fertile. We encouraged the development of moderate-scale agricultural operations of various forms, implemented the strictest system of arable land protection in China, explored arable land rotation fallow system, and expanded the scale of the new round of forestation programs.

Questions based on Secretariat Report (WT/TPR/S/415)**Page 10 Paragraph 1**

Question 8: Can China list out some of the major market oriented reforms which has helped in poverty alleviation.

Reply: First, we have developed leisure agriculture, rural tourism and other new business forms through a number of approaches including strengthening the construction of supporting facilities, and developing special tourism products; second, we have supported the establishment of poverty alleviation industrial parks, so as to achieve the integrated development of the first, second and third industries; third, we have strengthened the construction of the origin market system of agricultural products in poor areas. For example, we set up distribution centers and packaging and refrigeration facilities, built wholesale markets, and strengthened the construction of cold chain logistics and distribution system; fourth, we have broadened marketing channels for agricultural products, such as promoting the connection between production and marketing of agricultural products in poor areas, introducing agricultural products through "Internet +" projects, and promoting poverty alleviation by means of e-commerce; fifth, we have intensified efforts in production and marketing of information services, including bringing information services to villages and rural households, which has helped poor households to better search information and made their lives more convenient. Cell phones have become "new farming tools" for poverty-stricken households.

Page 10 Paragraph 2

Question 9: What was the reason due to which financial services and information technology remained unaffected from COVID-19?

Reply: For the moment, China's banking and insurance industries are operating soundly with risks generally under control, and the operating and regulatory indicators are in a relatively good state. There are several main reasons for this. First, we have always taken banking and insurance institutions' services and support for the real economy as the starting point and ultimate purpose of our work. Second, we have paid attention to and taken a lot of measures on the prevention and disposal of stock risks. High-risk institutions have been subjected to stricter inspection and risk disposal. Third, we have proactively adopted some risk prevention measures to enhance the risk resistance capacity of banking and insurance institutions. At present, all the risks, whether at individual, regional or systemic level, are well under control.

Page 10 Paragraph 3

Question 10: Can China provide an insight on its regulations on capital movements which are in place on inflows and outflows? Please also share the detailed list of countries to which it has provided bilateral lending.

Reply: Please refer to the Monetary Policy Implementation Report regularly updated on the website of the People's Bank of China and the website of the Bureau of Foreign Exchange <https://www.safe.gov.cn/>.

Page 11 Paragraph 9

Question 11: Can China provide the list of top 20 Sectors of its FDI? For those sectors provide the eligibility criteria or eligible entities, available routes and sectoral caps on investment. Also provide the details of investment under Belt Road Initiative.

Reply: China publishes Foreign Investment Statistical Bulletin every year, which provides detailed information about foreign investment flowing into China, including the main sources, total amount and industrial distribution. For more information on the 2020 Foreign Investment Statistical Bulletin, please see <http://wzs.mofcom.gov.cn/article/ztxx/>.

Page 11 Paragraph 11

Background: A new Foreign Investment Law was adopted, with the aim of, inter alia, improving China's business environment for foreign investors and ensuring that they participate in market competition on an equal basis. The legislation stipulates that investor is protected against expropriation, restrictions on cross-border remittances, IPR infringement, and forced transfer of technology.

Question 12: India would like to understand are there any exception under the foreign investment law of China where State may expropriate the foreign investors? If yes then please enlist details under what conditions protection against expropriation are not available to the foreign investors.

(In their new legislation on investment (under article 20) they have carved out an exception)

Reply: Please see relevant provisions of the *Foreign Investment Law*.

Page 12 Paragraph 17

Background: Some changes were made in the import regime on prohibition and licensing. Since 1 January 2021, imports of all solid waste products have been prohibited, and the previous regime for allowing imports of certain wastes under licensing conditions has been terminated. Certain recycling materials for brass, iron-steel materials, copper, and cast aluminum alloys may be imported if they meet the required standards. Automatic import licensing requirements, in place for monitoring purposes have been removed on certain items and non-automatic import licensing requirements were removed for some used mechanical and electrical products.

Question 13: Against the above-mentioned background India requests China to provide an insight into its updated import licensing regime focusing on the key changes made and the requirements for imports in the new regime.

Reply: Since 2021, China has completely banned all solid waste imports. Raw materials that are obtained from solid waste processing are not regarded as solid waste, provided they are in line with

mandatory national product quality standards and do not endanger public health and ecological safety. Recycled copper raw materials, and recycled iron and steel raw materials mentioned in the question can enter China through normal product trade.

Page 13 Paragraph 23

Question 14: India requests China to provide the details of incentives and financial support it provides to different sectors and industries. Also provide the detailed information on how many such programmes are active at present? Does China agree to the fact its financial support programme which are currently active are compatible with the WTO Agreement on Subsidies and Countervailing Measures?

Reply: Please refer to the latest notification on subsidies submitted by China. Since the accession to the WTO, China has comprehensively strengthened alignment with multilateral trade rules and strictly complied with the WTO disciplines on subsidies.

Page 20 Paragraph 1.16

Background: China has a managed floating exchange rate regime. Since 2015, the exchange rate of the Chinese yuan (CNY) has been determined with reference to a basket of currencies with a publicly known composition; the CNY's central parity is determined daily as a "fix"...

Question 15: Against the above-mentioned background India request China to throw some light on its existing exchange rate regime and explain the composition to a basket of currencies.

Reply: In 2005, China began to implement a managed floating exchange rate system based on market supply and demand, adjusted by reference to a basket of currencies. 2015 saw further improvements to the market-based RMB exchange rate formation mechanism, reflecting the decisive role of market supply and demand in determining exchange rate, especially in terms of the reference rate.

Since 2015, the China Foreign Exchange Trade Center (CFETS) has released a number of RMB exchange rate indices, including the China Foreign Exchange Trade Center (CFETS) RMB exchange rate index, the RMB exchange rate index with reference to the Bank for International Settlements (BIS) currency basket, and the RMB exchange rate index with reference to the special drawing rights (SDR) currency basket. Taking the CFETS RMB exchange rate index as an example, the currency basket includes USD, EUR, JPY, GBP, AUD, NZD, SGD, CHF, CAD, Malaysian Ringgit, Russian Ruble, etc.

Page 20 Paragraph 1.18

Background: China continued its efforts during the review period to further internationalize the CNY; for example, it took measures including bilateral swap agreements, the pursuit of alternatives to the SWIFT interbank payments system, and investment in credit rating agencies for sovereign debt.

China promotes the two-way opening of the capital market, facilitates foreign investors to invest in CNY assets....

Question 16: What would be the impact of bilateral swap agreements and other arrangements/measures mentioned in the text on international trade and economic growth? Which countries currently have access to China's capital market? What are the conditions of opening up the market for any country?

Reply: In terms of currency swaps, bilateral local currency swap arrangements are an important component of the global financial safety net, as they can provide emergency liquidity support and enhance market confidence, and have played a positive role in safeguarding the normal operation of international trade activities and maintaining economic and financial stability.

In terms of capital market liberalization, China has lifted the restrictions on the pilot countries and regions for Renminbi Qualified Foreign Institutional Investors (RQFII). Now, investors from all countries and regions around the world can invest in China's capital market in accordance with relevant regulations.

Page 20 Paragraph 1.21

Question 17: Are the regulations on capital movements available? If so, please provide the details and means of accessing such regulations.

Reply: Please refer to the *Monetary Policy Implementation Report* regularly updated on the website of the People's Bank of China and the website of the Bureau of Foreign Exchange <https://www.safe.gov.cn/>.

Page 31 Paragraph 2.3

Background: Steps were also taken in recent years to further modernize the judicial specialization for issues related to e-commerce. In addition to the Hangzhou Internet Court, which was established on 18 August 2017, the Beijing Internet Court and the Guangzhou Internet Court were established on 9 September 2018 and 28 September 2018, respectively. They aim to handle 11 types of Internet related cases, including contracts for financial loans, the purchase of goods, services, online disputes about torts, and copyright infringements. The authorities state that the three Internet Courts had dealt with 248,258 Internet-related cases by end-December 2020.

Question: 18. Against the above-mentioned background can China throw some light on establishment and operational mechanism of the internet courts?

Reply: In addition to the Hangzhou Internet Court, which was established on 18 August 2017, the Beijing Internet Court and the Guangzhou Internet Court were established on 9 September 2018 and 28 September 2018, respectively. The Supreme People's Court of China issued and implemented the Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Cases by Internet Courts (Fa Shi [2018] No. 16) on September 6, 2018, which provides a series of regulations on the jurisdictions and appeal mechanisms of Internet Courts and the construction of litigation platforms, as well as litigation rules such as identity authentication for online litigation.

In terms of trial mode, the internet courts fully integrate Internet technology into the case processing process with the idea of "online trial of Internet-related disputes" to redesign each process. At the filing stage, the parties' application for filing and prosecution materials can be submitted to the court online, and the court verifies the identity of the parties through real-name authentication software; after filing, the court serves the litigation materials to the parties by electronic service; at the court session, with the prior consent of the parties, the court adopts the online authentication of the parties' identity information and intelligent voice recognition conversion for the court trial. The court hearing is conducted in an online trial mode. At the same time, the court can also be converted online and offline according to the parties' wishes and trial needs. The trial transcript is an electronic document automatically converted from the trial process by the voice recognition system, which is sent to the parties for verification after the trial. If the parties have objections to the transcript, they can send their amendment suggestions to the clerk and confirm online; finally, after the case is closed, the one-click filing system embedded in the court platform is used to file all kinds of litigation materials.

In terms of collection, cross-examination and authentication of evidence, for the evidence that needs to be presented in the trial, electronic evidence generated and stored in the online platform can be imported in one click. Non-electronic evidence can be converted into electronic evidence for submission by scanning or taking photos, but physical comparison is required. If the parties make any objection, it needs to be transferred to offline for further verification. For the evidence that has been uploaded to the Internet Court platform before the trial, the parties can both express their cross-examination opinions in text form online and supplement their cross-examination opinions during the trial.

Page 33 Paragraph 2.16-17

Question 19: What are the incentives provided under these Pilot Free Trade Zones (PFTZs)? What does the PFTZs provide additional to other programmes/schemes? The PFTZs were established on a pilot basis and have expanded in number. Are these going to be made permanent?

Reply: The Pilot Free Trade Zone is a testing ground for the Chinese government's independent reform and opening up. The purpose of building the FTZs is to further promote high-standard opening-up by implementing a series of pilot initiatives in such areas as liberalization and facilitation of investment and trade, financial services for the real economy, and the transformation of government functions. The institutional innovations made will be promptly expanded to a wider scope after summary and evaluation. The overall plan of each pilot FTZ sets out its general requirements, functional positioning, location layout, main measures and guarantee mechanisms, etc., which is available at <http://www.gov.cn> or <http://www.mofcom.gov.cn>.

Since 2013, the number of China's pilot FTZs have gradually increased from 1 in Shanghai to 21 across China. President Xi Jinping emphasized that both China's reform and opening up will not stop. China will play a leading role in the pilot FTZs and promote the construction of a new higher-standard open economy.

Page 45 Paragraph 3.3

Question 20: What are the various measures China has undertaken to simplify and facilitate registration procedures? Under what circumstances will China not check the approval certificate of Foreign-invested enterprises (FIEs)?

Reply: The measures China has undertaken to simplify and facilitate registration procedures are as follows:

1. Branches established by the consignee or consignor of import and export goods according to law may register themselves, for which the consignee or consignor shall apply to the customs office where the branch is located with the Registration Form of Customs Declaration Entities. The consignor or consignee of import and export goods and their branches registered at the customs may handle import and export declaration throughout the country. (Announcement No. 191, 2018 of the General Administration of Customs)
 2. For enterprises registered in pilot free trade zones to apply for "Registration of Customs Declaration Units", "record-filing instead of examination and approval" shall apply. (Announcement No. 182, 2019 of the General Administration of Customs)
 3. The registration validity period of customs declaration enterprises and their branches will be canceled nationwide and replaced with long-term validity. (Announcement No. 213, 2019 of the General Administration of Customs)
 4. To cancel the "Registration of Customs Declaration Enterprises" subject to customs administrative examination and approval. (Order No. 81 of the President of the People's Republic of China)
- The Customs will no longer check the Approval Certificate of Foreign-invested Enterprises when the foreign-invested international forwarding agent applies for customs declaration for inbound and outbound express and the consignee or consignor of foreign-invested import and export goods cancels the registration at the Customs. (Announcement No. 226, 2019 of the General Administration of Customs)

Page 46 Paragraph 3.4.

Question 21: What are the various documents that need not be submitted as part of import declaration process? Can a list of the required documents under the new procedure be accessed online?

Reply: According to Article 27 of Chapter 4 of the Provisions of the Customs of the People's Republic of China on the Administration on Declaration of Import and Export Goods, the documents and instruments attached to the declaration form for import and export goods include: (1) Contracts; (2) Invoices; (3) A packing list; (4) A list of freight (manifest of cargo); (5) Bills of lading (waybills); (6) A power of attorney for customs declaration; (7) The license certificate for import and export; (8) The manual for processing trade required by the customs. A list of the relevant documents is available online.

Page 46 Paragraph 3.5

Background:

In 2019, the GACC launched a reform of the "two-step declaration" for imports, which means that enterprises do not need to submit all declarations and documents at one time. The first step involves making the summary declaration with the bill of lading to pick up the goods. The second step involves completing the whole declaration process within a specified time.

Question 22: What is the specified time for completion of the whole declaration process?

Reply: The second step declaration refers to the completion of the whole declaration, payment of duties and other customs clearance procedures by enterprises within 14 days as of the date when the arrival of the means of transport in China.

Page 68 Paragraph 3.73

Question 23: What is the risk management system in China? What are different categories of risk? What are the parameters of calculation of such risk? Can such information be accessed online?

Reply: Referring to the requirements on risk management in the Revised Kyoto Convention and the WCO Customs Risk Management Compendium, the Risk Prevention and Control Center serves as the platform and channel where the whole-process management requirements of the business function management department to act on the site. It connects the site through parameters, rules and instructions to support the business function management. The Center is responsible for decision execution under the management framework of selection, inspection and execution, and direct operations on site through parameters, rules, instructions. It helps improve the integrated customs rapid response and emergency management mechanism. It has a closed-loop risk management mode with information collection, risk analysis, early warning, risk disposal and instruction evaluation as the main links. Starting from the integration of internal and external risk information, and based on big data and analysis of the information, it releases early warning as proper and disposes of the risk in a timely manner (through issuing risk instructions, different disposal means such as control and examination by on-site units, launching inspections, and handing over to anti-smuggling authorities will be adopted). At last, according to the execution results of the law enforcement department, the instructions are evaluated. Meanwhile, the execution and evaluation results will be incorporated into the risk information, so as to form a loop optimization mode and continuously raise the accuracy of risk management.

Types of risk include transport tool risks (such as concealing in or modification of transport vehicles, plant residues, zoonotic vectors, etc.), container risks (such as concealing in empty containers, unqualified quarantine treatment process, etc.), wood packaging risks (IPPC logo not attached, live insects, etc.), goods risk (such as those from countries or regions affected by an infectious disease, etc.).

Page 69 Paragraph 3.85

Background:

The authorities state that the measures of administration at designated ports for the export of liquorice and liquorice products, and natural sand shall be cancelled in 2021.

Question 24: By when does China anticipate that the measure of administration at designated ports for the export of liquorice and liquorice products, and natural sand shall be removed?

Reply: According to *Announcement No. 71 [2020] of the Ministry of Commerce and the General Administration of Customs—Announcement on Issuing the Catalogue of Goods Subject to Export License Administration*, which was released on December 30, 2020, the measure of administration at designated ports for the export of liquorice, liquorice products, and natural sand (to Hong Kong, China, Macao, China, and Chinese Taipei) shall be cancelled. The announcement has been implemented from January 1, 2021.

Page 69 Paragraph 3.89

Question: 25. Could China clarify on what is the criteria on the basis of which competent commerce authority at the provincial level grants approval regarding transfer of any technology subject to export restrictions.

Reply: When reviewing applications for export of restricted technologies, the provincial commerce authority, together with the science and technology administration, will assess whether a technology export may affect national security, public interest or public morality, human health or safety, the lives or health of animals and plants, and whether it will damage the environment, based on Article 16 of the Foreign Trade Law and Article 8 and 9 of the Measures for the Administration of Technologies Prohibited or Restricted from Export, and then decide whether to approve the exports accordingly.

Page 71 Paragraph 3.89

Question 26: Could China clarify what is the competent commerce authority whose approval is required for exports of technology? Are the decisions of such authority final in such matters? Can such decisions be appealed to any higher authority? If so, please specify the authority. What are the parameters the competent commerce authority evaluates when considering a request for export of technology?

Reply: In China, technology exports fall into three categories: prohibited technology exports, restricted technology exports, and free technology exports. The vast majority of technologies can be exported freely, contracts related to which take effect from the date of signing and do not require the approval of government departments. Export licenses for restricted export technologies are

managed by the competent department of commerce of the province, autonomous region or municipality directly under the Central Government where the technology export operator is located, together with the competent department of science and technology administration. The decision made by the competent provincial department is final. Whoever that is not satisfied with the approval, permission and other decisions of the competent department can apply to the Ministry of Commerce or the provincial people's government for administrative reconsideration or bring a lawsuit to the people's court. Provincial commerce departments, together with the competent administrative departments of science and technology review the application for export of restricted technologies. Based on Article 16 of the Foreign Trade Law and Article 8 and Article 9 of Measures for the Administration of Technologies Prohibited or Restricted from Export, they make assessments on whether the export of relevant technologies may affect national security, public interest or public morality, human health or safety, animal and plant life or health, and whether it will damage the environment, and grant approvals accordingly.

Page 71 Paragraph 3.90-3.91

Question 27: Could China provide further clarification as regards their alignment with international security standards and their conformity with WTO Agreements.

Reply: They are consistent with WTO rules and international practices.

With such a broad definition of "controlled items", could China clarify the interpretation of "dual-use items" under it? Are all "dual-use items" subject to export control under the Export Control Law? What is the process for evaluating the same?

Reply: The Export Control Law provides for the scope of application, and the Chinese government, in order to safeguard national security and interests and fulfill international obligations such as non-proliferation, will develop and adjust the control list in accordance with international treaties to which it is a party and multilateral mechanisms for export control, taking into account prevailing international practices, and make timely public announcements.

Page 71 Paragraph 3.92

Background:

While the previous export control framework still remains in place on a number of fragmented lists of items, the new Export Control Law provides for the establishment of a single framework for restricting exports of controlled items through published control lists. According to the authorities, China has formulated six administrative laws and regulations on export control, including the Administrative Rules on Monitored Chemicals, the Regulations on the Control of Nuclear Exports, the Administrative Regulations on the Export of Military Products, the Regulations on the Export Control of Dual-use Nuclear Items and Related Technologies, the Regulations on the Export Control of Missiles and Missile-related Items and Technologies, and the Regulations on the Export Control of Dual-use Biological Items and Related Equipment and Technologies. Specific export control lists were also released. In addition to the established control lists, the new legislation authorizes export control authorities to list items for "temporary controls" for a provisional period of up to two years before determining whether to list the items on a control list. The authorities indicate that China is in the process of formulating supporting regulations and shall release further regulations at a later stage.

Question 28: Could China provide further clarification as to the list of items for which the previous export control framework still remains in place? India also notes that China seeks to formulate supporting regulations that shall be released at a later stage. Could China provide an approximate time frame regarding the sharing of supporting regulations in public domain and its eventual implementation?

Reply: Since the 1990s, China has issued six administrative regulations and one departmental rule in the field of export control, with separate lists of controlled items, covering military chemicals, nuclear chemicals, and controlled chemicals as well as nuclear, biological, chemical, and missile-related dual-purpose items and technologies. In addition, the Ministry of Commerce has also issued relevant lists and supervision announcements. After the introduction of China's Export Control Law, we are stepping up in developing and revising supporting regulations, improving the control list, and promoting timely release in accordance with the legislative procedures.

Page 71 Paragraph 3.93

Question 29: Could China please provide further clarification as regards establishment of control lists of foreign business entities?

India understands that China has sought to implement a "Unreliable Entities List", that suspends normal transactions from any foreign persons or entities which engage in certain activities endangering China's national sovereignty, security or development, causing serious damage to the legitimate rights and interests of Chinese enterprises, organizations.

Are these the same?

China is also requested to also clarify whether such a list is aligned with international security standards and their conformity with WTO Agreements.

Reply: The control list and the list of unreliable entities under Article 18 of the Export Control Law are different regimes with different legal bases. The former is based on the Export Control Law and the latter on Provisions on the Unreliable Entity List. Legislative purpose, scope of application, specific measures and procedures of the two list regimes are completely different. The relevant measures are consistent with WTO rules.

Page 72 Paragraph 3.94

Question 30: Could China please clarify whether the criteria proposed is in conformity with international security standards and their conformity with WTO Agreements?

Reply: The Chinese government firmly upholds WTO rules and strictly fulfills its relevant obligations. The relevant legislation is in line with WTO rules.

Page 72 Paragraph 3.95

Question: 31. Could China please clarify the types of measures that it seeks to take in the event of such alleged "abuses" and explain whether such measures will be in conformity with its obligations under the WTO Agreements?

Reply: China firmly opposes the abuse of export control measures by individual countries in the name of "trumped up charges" to hinder normal international scientific and technological exchanges and economic and trade cooperation, which is detrimental to the common interests of the international community. To this end, the Chinese government, based on extensive suggestions from various parties, has set up reciprocal provisions in the Export Control Law against foreign abuse of export control measures, which is in line with the basic norms of international relations, WTO rules and international practices.

Page 72 Paragraph 3.100; 3.101**Background:**

The latest adjustment to VAT rebate rates (Announcement No. 15, 2020) increased VAT refund rates for 1,464 goods as from 20 March 2020.¹⁰¹ The announcement includes 380 agricultural and agricultural-related items and increases the rebate rate from 6% to 9%. The rate for the remaining 1,084 tariff lines in the Announcement increased from 9% to 13%.

Following the most recent round of adjustments of VAT rebate on exports, four refund rates are in force: 13%, 9%, 6%, and 0%, with the proportion of tariff lines subject to each rebate rate being 61.2%, 18.9%, 0.1%, and 19.6%, respectively. Products not subject to VAT rebate include high-energy-consuming products, high-polluting products, and endangered species of fauna and flora.

Question 32: Could China elaborate how the VAT rebate on exports is calculated and/ or fixed? What are the indirect taxes taken into account? How are the inputs consumed in the production of export product accounted for?

Reply: After the issuance by the Ministry of Finance (MOF) and the State Taxation Administration of the Announcement on Increasing the Export Tax Refund Rate of Some Products in 2020, the VAT rebate rate of all products, except for the high-pollution, high-energy consuming, and resource-based products, became equal to the applied rate.

Page 72 Paragraph 3.102

Question: 33. Could China elaborate on the conditions that make PFTZs attractive for exports? Are the listed benefits available to only those companies that export? Are the benefits specific to the

listed industries? Could China please clarify whether its Pilot Free Trade Zones (PFTZs) are in conformity with the Agreement on Subsidies and Countervailing Measures (ASCM)?

Reply: Since the establishment of the Pilot Free Trade Zones in 2013, we have conducted a number of reforms to achieve trade and investment liberalization and facilitation. For example, the introduction of international trade "single window", and "integrated customs clearance" have significantly promoted trade facilitation and reduced business operating costs. These measures are in principle applicable to all market players in the PFTZs. The higher level of independent reform and opening initiatives implemented in the PFTZs are in line with WTO rules and China's WTO accession commitments.

Page 72 Paragraph 3.103

Background:

Companies located in the Shanghai PFTZ can produce either in bonded or non-bonded areas. The payment of import tariffs by companies located in bonded areas is suspended and only becomes effective when final products are sold to the rest of China. The PFTZ also features a distinctive mechanism for dispute resolution, with arbitration governed by a separate set of Arbitration Rules issued by the Shanghai International Arbitration Centre.

Question: 34. Could China clarify whether import tariffs are only exempted for those companies that do not sell their products in the rest of China?

Reply: There are some misinterpretations of this policy on the Indian side. With reference to the Special Appendix No. 4 of the WCO International Convention on the Simplification and Harmonization of Customs Procedures on pilot free zone rules, in terms of import tariff policy, the bonded goods that enter the bonded area and other areas under special supervision of the Customs but have not yet been sold the domestic market are deemed to be outside the customs territory and don't have to deal with the tariff formalities until they finally enter the domestic market. They are NOT exempted from import tariffs. The policy applies uniformly across the country and is not unique to the Shanghai Pilot Free Trade Zone.

Page 73 Paragraph 3.108

Background: Export finance, insurance, and guarantees are predominantly granted by a number of policy financial institutions with the mandate to promote foreign trade and cross-border investment. The bulk of export finance is provided by the China Export-Import Bank (China Exim bank), which provides export finance, and the state-owned China Export & Credit Insurance Corporation (SINOSURE), which provides export credit insurance and related guarantees. Foreign-owned companies are also eligible for the services of China Exim bank and SINOSURE. China is not a member of the OECD; it does not participate in the OECD's Arrangement on Officially Supported Export Credits. The authorities indicate that China has always been actively involved in the consultation of the International Working Group on export credits, including its technical working group.

Question 35:

1. (a) Could China elaborate on what terms and conditions is the export finance provided by China Exim Bank? (b) What is the rate of interest?
2. Is it comparable with market interest rate? What are the terms of export credit insurance and guarantees? Can the exporter secure export finance in the absence of a guarantee? What is the rate of insurance premium for such credit guarantee?

Reply: The interest rate of export credit shall be determined according to the following principles: on the basis of actuarial cost and risk quantification, with the goal of sustainable operation and be in line with the market rate of interest, overall considering the comprehensive contribution of customers and various costs such as capital, risk, tax and management expenses, predicting the trend of the interest rate, and determine according to market competition and the principle of risk-return matching.

Whether export credit insurance is required for a borrower is determined on a case-by-case basis. China Exim Bank does not require all loan projects to be covered by export credit insurance.

Page 73 Paragraph 3.109**Background:**

China Exim bank is a state-owned policy bank with the status of an independent legal entity. It is dedicated to supporting China's foreign trade, investment, and international economic cooperation. It was created in 1994 to provide financing for the importation and exportation of capital goods and services and for Chinese companies that undertake overseas construction and investment projects. Its main mandate includes facilitation of export and import of equipment and new- and high-tech products, and assisting Chinese companies with comparative advantages in their offshore projects. According to the authorities, the Government injects capital into China Exim bank as its shareholder; in the course of business, China Exim bank raises funds mainly by issuing bonds in both domestic and international capital markets.

Question 36: Could China elaborate on the 'comparative advantages' which the Exim bank provides to Chinese companies? What is the financial contribution made by the Chinese government in Exim bank?

Reply: The Export-Import Bank of China assists Chinese enterprises in overseas business by providing financing services according to its business responsibilities. The Measures for the Supervision and Administration of the Export-Import Bank of China (Order No. 3 of 2017 by CBRC) stipulates that the Export-Import Bank of China shall establish a market-oriented operational and restrictive mechanism to develop into a policy-based financial institution with clear positioning, distinct businesses, prominent functions, sufficient capital, standardized governance, strict internal control, safe operation and good services. In practice, the Export-Import Bank of China implements the development requirements of modernized finance, and its operation, management and types of business are all carried out pursuant to the bank operational regularity.

Page 73 Paragraph 3.110

Question 37: Could China elaborate what is understood by 'tied to Chinese exports' in the context of concessional loans offered to developing countries? How are these loans tied to Chinese exports? What is the rate at which such loans are given?

Reply: The Export-Import Bank of China sets the loan interest rate on the basis of the overall consideration of macro policy orientation, capital supply and demand, loan capital cost, capital occupation cost, project risk compensation, operation and management expenses, interbank quotation level and other factors.

Page 74 Paragraph 3.111

Question 38: Could China provide the value of investment/ concessional business made by Exim bank in the 90 countries in the ASEAN region, South Asia, Central Asia, West Asia, Africa, Latin America, and the South Pacific.

Reply: From 2013 to 2018, China provided RMB 131.1 billion in preferential loans for foreign aid, accounting for 48.52% of the total foreign aid.

Page 75 Paragraph 3.115

Question 39: Could China list the sectors and industries to which it has provided incentives and financial support?

Reply: Please refer to the latest notification of subsidies submitted by China.

Page 76 Paragraph 3.118

Question 40: Could China clarify how many programmes are currently active at the central as of this FY? What is the amount of support specifically provided to the fisheries sector?

Reply: Please refer to the latest notification of subsidies submitted by China.

Page 77 Paragraph 3.124**Question 41:**

a. Could China further elaborate on these "government guidance funds"? What are these funds? How are these funds financed? What is the amount that the Chinese government contributes to these funds?

- b. As mentioned, "according to some external sources, they are mostly financed by the Central Government and local governments, large SOEs, and state-owned financial institutions"; If so, what are the policy objectives of such funds?
- c. Are the funds utilised for promoting certain specific industries, or are these available to all industries?
- d. Can the funds deployed can be treated as financial contribution by government through entrustment to a private body to carry out functions which would normally be vested in the government, as in Article 1.1 (a)(1)(iv) of ASCM ?
- e. Could China please provide additional information on the disbursement and beneficiaries of such funds? What are the criteria for receiving the incentives under these funds?

Reply to Questions a-e: The investment management and decision-making of the government guidance fund is completely market-oriented. Government departments do not interfere with and are not involved in any investment project decisions of the fund, which is established and operated with a market orientation in accordance with China's Company Law. China has not provided subsidies to any industry through the Fund, therefore no notification to the WTO is required.

Page 78 Paragraph 3.125

Background:

In addition, some other funds that are related to government policies appear to conduct direct investments to support a particular policy initiative (Table 3.16). These funds include expenditures under the Belt and Road Initiative (BRI), and funds for China's SOEs. According to the authorities, the incentives provided by these funds do not constitute subsidies and are not required to be notified under the SCM Agreement.

Question 42: Could China elaborate on the value of investments made by these funds till date? Are there any more such funds (other than those mentioned in the Secretariat's report)?

Reply: The investment management and decision-making of the government guidance fund is completely market-oriented. Government departments do not interfere with and are not involved in any investment project decisions of the fund, which is established and operated with a market orientation in accordance with China's Company Law. China has not provided subsidies to any industry through the Fund, therefore no notification to the WTO is required.

Page 78 Paragraph 3.126

Question 43: Can China provide the details of financial support provided to the semiconductor sector at national, provincial and municipal levels?

Reply: Please refer to the latest notification of subsidies submitted by China.

Page 78 Paragraph 3.127

Background:

Given the importance of the Chinese economy and the size of government support accorded to individual companies, China's support measures are reported to be susceptible to affect global markets, downstream industries, and individual value chains. Such effects of China's support cannot be quantified in general, as relevant data are not publicly available. Nevertheless, a study by the OECD found, for example, that China's financial support on energy and concessional finance for aluminium smelting, coupled with export restrictions on raw aluminium, provide Chinese exporters of semi-finished aluminium goods with a significant cost advantage, leading to important repercussions in global markets. The authorities state that they do not agree with this view, and indicate that China does not provide subsidies on energy and concessional finance for aluminium smelting.

Question 44:

- a. Could China clarify whether financial support on energy and concessional finance for aluminium goods can be treated as a subsidy within the meaning of Article 1 of WTO ASCM?
- b. If so, whether China will notify such subsidy programme to the WTO? And if not, why China does not agree that such programmes are subsidies within the meaning of ASCM?
- c. What kind of concessional financing is available for aluminium smelting? Which sectors specifically benefit from the export restrictions on raw aluminum? Is there any data to quantify such benefits?

Reply to a-c: China does not encourage the development of high energy-consuming and high-polluting industries, nor will China encourage relevant enterprises to expand their production capacity.

Electrolytic aluminum, identified as resource product that is highly energy-consuming and highly-polluting, is subject to restrictions on financing, and there is no related subsidies for it.

China has always attached great importance to deepening the supply-side structural reform of electrolytic aluminum industry. In order to regulate the investment and construction order of electrolytic aluminum industry and strictly control the new capacity, The State Council issued the Guiding Opinions on Resolving the Serious Overcapacity Contradiction (Guo Fa [2013] No. 41) in 2013. We explicitly required local governments to review and abolish preferential policies on land, resources, taxation and electricity prices that hurt fair competition in the process of attracting investment. We strictly controlled the increase of production capacity, achieving good results and keeping the bottom line of total production capacity control.

In recent years, China has been actively advancing the high-quality development of aluminum industry, and accelerating the establishment of a "dual circulation" development pattern in which domestic economic cycle plays a leading role while international economic cycle remains its extension and supplement. The price of electrolytic aluminum at home and abroad is determined by market supply and demand. Aluminum processing enterprises do not have raw material cost advantages, and they improve their international competitiveness mainly through technological progress and optimized management. Moreover, China's aluminum products are mainly for domestic consumption demand, with exports taking up a relatively small proportion of the output. In 2020, China's aluminum exports were 4.63 million tons, down 10% year-on-year, only accounting for 8% of China's aluminum output.

Page 79 Paragraph 3.132

Background:

Available figures indicate that China also continued to provide substantial support to its fisheries sector. China's subsidy notification refers to six different programmes at the Central Government level and 25 programmes at the local level.¹²⁰ For example, CNY 398.5 million was provided in 2017 and 2018 for stock enhancement. According to external estimates, China's government support to its fisheries sector totalled USD 7.3 billion in 2018.¹²¹ Moreover, a large share of China's government support to the sector is considered as "capacity-enhancing". The authorities indicate that a new fisheries policy would be issued soon.

Question 45:

- a. Could China further elaborate on the kind of "capacity-enhancing" support it has been providing?
- b. The estimates of other research point to subsidies of the order of USD 7.3 Billion in 2018. How much of China's fisheries support is reported to the WTO as Subsidies?
- c. What are main components of China's fisheries subsidies? Are there any fuel subsidies?

Reply a-c: For details on China's fishery subsidy policies, please refer to the notification on subsidies submitted by China to the WTO. As early as 2015, China has decoupled fishery subsidies from oil consumption and oil price. For details, please see the Notice of Ministry of Finance and the Ministry of Agriculture and Rural Affairs on Adjusting Oil Price Subsidy Policies for Domestic Fishing and Breeding Industry to Promote Sustainable and Healthy Development of the Fishery Industry (Caijian [2015] No. 499). India's claim that "the estimates of other research point to subsidies of the order of USD 7.3 Billion in 2018" is not from official sources, and grossly overestimates China's subsidy figures.

Page 79 Paragraph 3.133

Question 46: Can China please elaborate the key changes introduced by virtue of the revised Standardization Law?

Reply: First, the scope of standard formulation has been expanded. The newly revised Standardization Law expands the scope of standard formulation from the original focus on the industrial sector, to agriculture, service sector and social institutions among others.

Second, the unified management of mandatory standards has been strengthened. The newly revised Standardization Law integrates the original mandatory national standards, industry standards and

local standards to mandatory national standards, and sets a strict definition on the scope of mandatory standards.

Third, the legal status is given to association standards. The newly revised Standardization Law provides that the state encourages social organizations to develop their standards to satisfy the needs of the market and innovation. This move has changed the standard system of China solely provided by the government.

Fourth, the disclosure and supervision system for self-declaration of enterprise standards has been established. The newly revised Standardization Law has abolished the original filing system for enterprise standards, and replaced it by a disclosure and supervision system for self-declaration of enterprise standards. It requires enterprises to disclose to society the information on implementing product and service standards.

Fifth, internationalization of standards has been enhanced.

Background:

Since its previous Review, China introduced or revised various laws and regulations related to standards and other technical requirements. On 1 January 2018, the revised Standardization Law entered into force and included new provisions such as those on association standards. According to the authorities, the Law improved the procedures for setting mandatory standards (or technical regulations), clearly defined local and sector standards, and established a disclosure system for self-declaration of enterprise standards. On 6 January 2020, the SAMR promulgated the Measures for the Administration of Mandatory National Standards, which stipulate the procedures for making and revising mandatory standards. They entered into force on 1 June 2020. On 16 January 2020, the SAMR promulgated the Measures for the Administration of Local Standards, which stipulate procedures for making and revising local standards; they entered into force on 1 March 2020.

Question 47: China is requested to make available all laws, regulations, technical documents and standards in English or either of two WTO languages. Such notification would help the developing country MSME's trade and facilitate overall trade, enhancing the south-south development.

Reply: On January 6, 2020, the Measures for the Administration of Mandatory National Standards was promulgated by the SAMR Order No. 25. The draft of these measures for public comments was notified to the WTO in May 2019. The Measures for the Administration of Mandatory National Standards (Chinese-English version) has been published.

Page 79, Paragraph: 4.1.2.4.3.3

Background:

"Under a subsidized agricultural insurance scheme, insurance premiums are subsidized by the Central Government and local governments, so that farmers pay only a balance of 20%-30% of the premium. The insurance scheme covers natural disasters such as rainstorms, floods, and droughts, but not income or levels of production. The distribution of financing between the Central Government and local governments varies by crop (Table 4.11). Data on total expenditures were not available."

Table 4.11 Distribution of the financing of the agricultural insurance scheme between central and local authorities

	Crops	Breeding	Non-Commercial Forestry	Commercial Forestry	Tibetan Varieties and Natural Rubber
Central Government	40% in central and western regions; 35% in the eastern region	50% in central and western regions; 40% in the eastern region	50%	30%	40%
Local Governments	25%	30%	40%	25%	25%

Question 48:

- How many agricultural products are covered under this agricultural insurance scheme? Could China share a list of such products?
- Has China notified this agricultural insurance scheme to WTO? How does this scheme comply with the provisions under the AoA?

Reply: China will soon submit a notification on domestic support of agriculture. China implements agricultural support policies in strict accordance with the WTO Agreement on Agriculture and related rules.

Page 80 Paragraph 3.134

Background:

The Standardization Law classifies China's standards into five major categories: national, sector, local, association, and enterprise. The national standards include both voluntary and mandatory standards. Sector standards and local standards are voluntary. The Law also stipulates that, where there are other provisions on the formulation of mandatory standards in laws, administrative regulations, and decisions of the State Council, such provisions shall prevail.

Question 49:

China is requested to provide details of the differential treatment regarding mandatory and non-mandatory standards. Further, it is requested to answer the following questions:

- a. Does it apply conditional access restrictions in its national, sector, local, association-wise legislations and orders?
- b. What is the role of non-mandatory standards? Is it used as a building block to prepare Chinese local (domestic) firms' for external markets?

Reply to a: According to the Standardization Law, mandatory national standards shall be formulated for technical requirements regarding people's health, life and property, national security, ecological and environmental security, and the basic needs of economic and social management. Mandatory standards must be implemented for such areas. Products and services failing to meet the mandatory standards must not be produced, sold, imported or provided. At the same time, the Measures for the Administration of Mandatory National Standards further clarifies that mandatory national standards shall be managed by a designated supervision department which may handle violations of mandatory national standards based on laws, administrative regulations and departmental rules. These measures clarify that the universality principle shall be followed in developing mandatory national standards and give priority to developing standards for cross-disciplinary products or services.

Reply to b: Voluntary national standards are developed for technical requirements used for meeting the general needs, supporting mandatory national standards or guiding related industries. Enterprises are encouraged and guided to implement such standards, so as to provide technical support for economic and social development. China's non-mandatory standards are not used as a building block to prepare Chinese local (domestic) firms' for external markets.

Page 81 Paragraph 3.144

Background:

As at end-2020, there were 39,460 national standards (2,133 mandatory and 37,327 voluntary standards). According to the authorities, at end-2020, among the national standards that correspond to the relevant international standards, 92.4% of mandatory standards and 91.4% of voluntary standards were adoptions or adaptations of international standards, compared with 74.3% and 85.9% at end-2017. Of the national standards approved in 2020 (before 15 July), 4.0% were mandatory, compared with 2.8% in 2018.

Question 50: China is requested to furnish the sectoral distribution of 2,133 mandatory standards and used for import restrictions. Further, it is requested to answer the following questions:

Reply: The 2,133 mandatory national standards are divided into five categories: human, animal and plant health, life and property safety, national security, ecological and environmental security and economic and social management. Specifically, human, animal and plant health mainly includes health, medical devices, animal and plant health; life and property safety mainly includes the safety of consumer goods and general industrial products; ecological and environmental security mainly includes pollutant emissions and resource conservation. The 2,133 mandatory national standards are managed by 33 designated organs of the State Council, including the Ministry of Industry and Information Technology, the State Administration for Market Regulation, the Ministry of Emergency Management, the Ministry of Ecology and Environment, the Ministry of Agriculture and Rural Affairs and the National Medical Products Administration. The list of competent departments of mandatory national standards can be obtained at the National Public Service Platform for Standards Information. Mandatory national standards are accessible by the public for free.

According to the Standardization Law, products and services failing to meet the mandatory standards must not be produced, sold, imported or provided. Therefore, products exported to China shall comply with the technical requirements of China's mandatory standards.

1. Are these mandatory standards applied to products at the chapter, heading or sub-heading levels?

Reply: Products regulated by mandatory national standards, with matching products at the chapter, heading or sub-heading levels of the HS system, corresponds to such products.

2. Is China Standards mapped to the HS system?

Reply: For non-adoption of international standards or inconsistency of mandatory national standards with technical requirements of the relevant international standards that poses a significant impact on the trade of other WTO members, China will notify according to WTO requirements, with the content including the HS code of the product involved.

3. Has China undertaken any assessment regarding the impact of these standards and mandatory measures on imports into the country?

Reply: In the standard-making process, the impact of technical content on the import and export trade and industrial development of the products concerned are taken into account.

Page 82 Paragraph 3.149

Question 51:

- a. Can China please clarify on what basis products are selected to be listed in the Compulsory Product Certification Catalogue (CCC Catalogue)?

Reply: Article 28 of China's Certification and Accreditation Regulation clearly provides that for protecting national security, preventing fraud, protecting human health or safety, protecting animal and plant life or health, and protecting the environment, products subject to compulsory certification requirement shall be certified and marked with a certification mark before leaving the factory or being sold, imported or used in other business activities.

- b. China is also requested to clarify whether these mandatory certification requirements are in conformity with the Agreement on Technical Barriers to Trade (TBT Agreement).

Reply: Article 28 of China's Certification and Accreditation Regulation clearly provides that for protecting national security, preventing fraud, protecting human health or safety, protecting animal and plant life or health, and protecting the environment, products subject to compulsory certification requirement shall be certified and marked with a certification mark before leaving the factory or being sold, imported or used in other business activities. This provision is in full compliance with the TBT Agreement. The CCC catalogue is also made according to this article.

Page 84 Paragraph 3.187

Question 52: Could China please provide a broad timelines regarding the implementation of Measures for Supervision and Administration of Food Labelling and Wildlife Protection Law as well as information regarding their key features or changes it seeks to implement.

Reply: Measures for Supervision and Administration of Food Labelling is currently under demonstration, discussion and coordination, and the legislation procedures will be expedited after the consensus is reached.

Page 85 Paragraph 3.161

Question 53: Could China kindly provide information on the key features of the Implementing Regulations of the Food Safety Law and its implications after it has entered into force in December 2019?

Reply: The Implementing Regulations of the Food Safety Law revised in 2019 implements the requirements of strengthening food safety, targets problems, promotes institutional innovation, and ensures the full implementation of the provisions of the new food safety law. It clarifies the legal obligations and responsibilities of food producers and marketers, strengthens food safety supervision and administration, elaborates on discretion, and further enhances the operability of the law.

Page 85-86 Paragraph 3.162

Question 54: How does the Chinese legislation governing the country's sanitary and phytosanitary requirements incorporate the principles contained in the WTO Agreement on the application of SPS measures?

Reply: China's legislation governing sanitary and phytosanitary issues is in full compliance with the principles set in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, provides equal treatment to members and follows the non-discriminatory principles of national treatment and MFN treatment of the SPS Agreement. Risk assessment has been conducted for relevant measures to provide sufficient scientific basis for implementation. The measures are moderate and do not constitute obstacles to trade. Based on international standards, mutual recognition of measures with other members has been actively promoted. At the same time, China fully fulfills the obligation of transparency, notifies the draft, and provides other members with sufficient transitional period and time for comment. In short, China fully considers the principles and provisions of the SPS Agreement in the legislative process, conducts domestic compliance assessment at the draft stage, and notifies the WTO to seek comments from other members. Further, China sincerely considers the members' comments and makes amendments as appropriate to relevant measures. China's SPS-related measures, from the substantial connotation to the legislative process, are in full compliance with the relevant requirements of the WTO SPS Agreement.

Page 86 Paragraph 3.164 & 3.3.3.2

Question 55: Which trading partners has China signed a memoranda of understanding or cooperation protocol on SPS related issues? Could China provide information on how it applies international standards?

Reply: Relevant Chinese authorities have been committed to practical cooperation with customs and inspection and quarantine departments of trading partner countries and improvement of communication and coordination mechanisms. We have expanded market access for high-quality food and agricultural products while maintaining biosecurity and food safety of agricultural products, and implemented higher-standard cross-border trade facilitation measures.

Page 86 Paragraph 3.166**Background:**

The authorities indicate that, over the period January 2018 to December 2020, China issued 22 national standards, including 4 revised ones, for animal health and 77 national standards in the phytosanitary area (including 2 revised standards). In 2019, China released the latest versions of the National Food Safety Standard – Maximum Residue Limits for Pesticides in Foods and the National Food Safety Standard – Maximum Residue Limits for Veterinary Drugs in Goods, which are applicable to foods sold in the Chinese market.

Question 56:

Could China provide details of where the risk assessment undertaken by it in respect of standards that are not based on internationally accepted standards can be accessed in English? Further, China is requested to answer the following question:

1. Explain why it applied a national standard instead of following internationally accepted Codex standards? Was the measure based on the guideline by the Codex for establishing the MRL standards for pesticides and veterinary drugs for foods followed?

Reply: China's standards in this regard are developed in accordance with the provisions of the WTO SPS Agreement, and are based on existing international standards, guidelines or recommendations.

Page 86 Paragraph 3.168**Background:**

In order to prevent the reintroduction of the COVID-19 virus through imported cold-chain food and to protect the health and safety of consumers, the GACC implemented emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid results. This was notified to the WTO as an emergency measure in 2020, which is still in force. It has been reported that, in 2020, the city of Shenzhen introduced COVID-19 handling and testing requirements for imports of frozen meat and seafood. In response to the pandemic, China

has also taken measures to facilitate the imports of food and agricultural products and simplify sanitary approval for imported special medical supplies.

Question 57.

To prevent the reintroduction of the COVID-19 virus, GACC implemented preventive measures for foreign manufacturers of imported cold-chain foods to protect the health and safety of the country, as China has started to open the wet market.

In this regard, India requests China to provide information on other measures, besides consignment being confiscated, taken by China to avoid the risk of spreading the virus?

Reply: China adopts necessary temporary preventive measures to strengthen the supervision of imported cold-chain foods for protecting people's life and health. Relevant practices are in full compliance with international rules and have not negatively affected the food exports to China. China conducts sampling tests of nucleic acid of COVID-19 virus on imported cold-chain food and its packaging, with the aim of preventing the spread of COVID-19 through cold-chain food. On October 17, 2020, the Chinese Center for Disease Control and Prevention announced that live COVID-19 virus was found from the outer package of imported aquatic products, further confirming that contact with outer packaging contaminated with live COVID-19 virus can lead to infection. China welcomes the export of high-quality and safe food products to China. China's attitude of expanding openness and imports is consistent and clear. However, as the global pandemic continues to evolve, consumers' concerns and doubts about the safety of the food supply chain have deepened, and we believe that without consumer confidence there is no market and without market there is no trade. Under the current epidemic situation, we hope that countries (regions) exporting food to China follow the relevant guidelines issued by the FAO and require food exporters to implement all preventive measures to ensure that the food exported to China is not contaminated by the COVID-19 virus.

Page 87 Paragraph 3.169

Background:

During the review period, eight new STCs were raised in the SPS Committee, regarding: (i) restrictions on imports of US beef; (ii) administrative measures for registration of overseas manufacturers of imported food; (iii) actions related to COVID-19 that affect trade in food and agricultural products; (iv) restrictions related to Highly Pathogenic Avian Influenza (HPAI); (v) recognition of equivalence for third parties as part the China-United States Phase 1 Economic and Trade Agreement; (vi) a proposed new health certificate format for shrimp imports; (vii) restrictions on bovine meat imports; and (viii) delays in approving requests for new listings or reinstatements of export establishments. An additional five STCs were raised in the SPS Committee regarding Chinese measures in place prior to this review period (Table 3.19).

Question 58: Could China indicate its decision and next steps regarding new health certificate format for shrimp imports?

Reply: China adopted the Official Letter of the Food Bureau of the General Administration of Customs on Revising the Hygiene Certificate for Aquatic Products Exported to China (Shi Pin Han (2020) No. 288) in November 2020 and provide the copy of the new Hygiene Certificate for Aquatic Products Exported into China to all relevant countries or regions, including India. Please provide feedback to China in a timely manner.

Page 88 Paragraph 3.171

Question 59:

(a) Could China clarify key features of the amendment of the regulations on safety assessment, import approval, and labelling of agricultural GMOs?

Reply: In 2018, China did not revise the regulations and rules related to the safety of agricultural GMOs.

(b) What is the rationale behind additional in-country trials and studies on new biotech events as part of the dossier submission process?

Reply: In 2018, China did not revise the regulations and rules related to the safety of agricultural GMOs.

Page 89 Paragraph 3.172**Question 60:**

China is requested to provide details of how it proposes to implement the Food Safety Law regulations, which would enforce the conspicuous labelling of GMO's when it has not streamlined the earlier rules on GMOs of 2018.

India requests China to provide details on the measure it proposes to address and avoid overlapping laws and regulations.

Reply: The Food Safety Law of the People's Republic of China and the Implementing Regulations of the Food Safety Law of the People's Republic of China clearly provide that the production and marketing of genetically modified food are subject to conspicuous labelling. Regarding the management of genetically modified food, the Regulations on the Safety Management of Agricultural Genetically Modified Organisms, the Measures for the Safety Assessment and Management of Agricultural Genetically Modified Organisms, the Measures for the Management of Agricultural Genetically Modified Organisms Labeling and other regulations, rules and relevant standards introduced by China's agricultural sector are building blocks of the regulatory system for the safety of agricultural GMOs. The State Administration for Market Regulation will work with the Ministry of Agriculture and Rural Development to study and formulate the Measures for the Labeling of Genetically Modified Food.

Page 89 Paragraph 3.173

Question 61: Could China please clarify the provincial and local enforcement of the Anti-Monopoly Law.

Reply: The second paragraph of Article 10 of China's Anti-monopoly Law provides that the anti-monopoly enforcement agency of the State Council may, in accordance with its work, authorize the corresponding agency of the people's governments of provinces, autonomous regions and cities directly under the Central Government to be responsible for the relevant anti-monopoly enforcement. In 2018, the State Administration for Market Regulation issued the Notice on Anti-monopoly Enforcement Authorization, which clarifies that provincial market regulation departments are responsible for anti-monopoly enforcement of cases regarding monopoly agreements, abuse of dominant market position, and abuse of administrative power to exclude competition within their administrative regions. Since the implementation of China's Anti-Monopoly Law in 2008, more than 350 monopoly cases have been investigated and handled by local agencies, effectively protecting fair market competition and safeguarding consumer interests.

Page 91 Paragraph 3.176

Question 62: How does the SAMR interacts with ministries in charge of industrial policies? Could China also clarify how coordination between AML policy and industrial policies are conducted, including the manner in which different policies are prioritized?

Reply: There is no conflict between China's Anti-Monopoly Law and industry policies, and the State Administration for Market Regulation will seek and consider the views from relevant sectors in monopoly case investigations and concentrated anti-monopoly reviews of operators. In 2016, China established a fair competition review system specifying that administrative organs and organizations authorized by laws and regulations to manage public affairs shall conduct fair competition reviews, assess the impact on market competition, and prevent the exclusion and restriction of market competition when formulating rules, regulatory documents, other policy documents and case-by-case review measures related to economic activities of market entities. China emphasizes the primary role played by competition policies and clarifies to coordinate industrial and other related policies based on the competition policy.

Page 97 Paragraph 3.197

Question 63: Could China please indicate the working procedure of the STEs with the exclusive right to import or export the mentioned products?

Reply: Please refer to the state trading notification already submitted by China.

Page 100 Paragraph 3.212

Question 64: Could China clarify by when it envisages the amendments of its draft Government Procurement Law and the Tendering Law are supposed to come into force?

Reply: The Chinese government is actively promoting the revision of the government procurement law and the bidding law. When the law revision work to be completed shall be decided after consultation with relevant parties and coordination with relevant departments.

Page 102-103 Paragraph 3.215

Question 65: Can China provide statistics and data on the value of PPP projects?

Reply: China does not yet have statistics on the value of PPP projects nationwide.

Page 103 Paragraph 3.219

Question 66: Could China please describe how these e-commerce procurement models operate?

Reply: China has been steadily promoting electronic procurement since the launch of the "Chinese government procurement website" in 2000. The central government and all provinces have established information systems that include government procurement plan filling, evaluation expert management, agency management and other functions. Some centralized procurement agencies have built transaction systems such as electronic shopping malls, and relevant central departments have also built electronic procurement platforms in areas such as agricultural products and official air ticket procurement.

Page 104 Paragraph 3.221

Question 67: Does China plan to adjust its domestic procurement framework to comply with GPA rules?

Reply: China will revise its domestic laws and regulations to comply with GPA-related requirements after completing negotiations to join the GPA.

Page 106 Paragraph 3.233

Background:

China's participation in trade in IP has increased, as shown by the growth in total receipts of fees for the use of IP from USD 14 billion in 2010 to USD 41 billion in 2019. The trade deficit in this rubric has incrementally narrowed down since 2010, reflecting the export activity related to royalties and licensing fees.

Question 68:

Kindly provide a complete break up in terms of different IPRs' (including patent, trademark, undisclosed information, among others) contribution to the revenue generated from IP.

Reply: According to statistics, in 2019, the added value of China's patent-intensive industry reached RMB 11.5 trillion, up 7% year-on-year, accounting for 11.6% of the GDP; the added value of China's copyright sector reached RMB 7.3 trillion, up 10.34% year-on-year, accounting for 7.39% of the GDP.

Page 107 Paragraph 3.235

Question 69: Kindly explain whether Intellectual Property Pledge Financing has been successful in case of smaller businesses including MSMEs? Whether IP Pledge Financing has been successful in sectors other than film and music industries, biotech and software industries? Whether such support is provided to foreign entities as well?

Reply: 1. China encourages commercial banks to increase their support for intellectual property pledge financing for innovative (technology-based) small and micro businesses. 2. At present, intellectual property pledge financing mainly focuses on patent rights and trademark rights. 3. Subject to relevant laws of China, commercial banks can provide intellectual property pledge financing to foreign entities.

Intellectual property pledge financing broadens the financing channels of MSMEs and effectively alleviates their burden of the financing. In addition, intellectual property pledge financing is available to all sectors with IPR, and there are enterprises in all sectors that have received financing support through IPR. Intellectual property pledge financing is also open to foreign entities. As per the Measures for Pledge Registration of Patent Rights and Provisions on Procedures for Pledge Registration of Exclusive Rights to Registered Trademarks, China National Intellectual Property Administration handles pledge registration for foreigners, foreign enterprises or other foreign organizations that apply for pledge registration of patent rights or exclusive rights to trademarks

and are qualified after examination. According to incomplete statistics, in 2020, five foreign enterprises received pledge financing support, with an amount exceeding USD 800 million.

Page 108 Paragraph 3.245-246

Question 70: Post the advent of coming-of-age technologies including Machine Learning, Artificial Intelligence and Internet of Things, has there been any change in the way computer software is protected in the territory of the China? Is computer software is also protected under the patent regime?

Reply: The Regulation for Protecting Computer Software were formulated according to the Copyright Law to protect the rights and interests of computer software copyright owners, adjust the interests in the development, dissemination and use of computer software, encourage the development and application of computer software, and promote the development of software industry and national economic informatization. A new round of amendments to the regulation will be made per the newly revised Copyright Law. As per Article 6 of the Measures for the Registration of Computer Software Copyright, the National Copyright Administration is the competent department for nationwide software copyright registration, and it certifies the Copyright Protection Center of China as the registration agency. With the approval of the National Copyright Administration, the center may set up local software registration offices.

Page 109-110 Paragraphs 3.250 and 3.254

Question 71: How does China determine whether a trademark application/registration is a bad faith application/registration?

Reply: Provisions on Regulating Application for Trademark Registration, a departmental regulation, came into effect on 1 December 2019 to support the revised Trademark Law. The provisions provide the requirements for applying for trademark registration, the types of non-standard applications, and the factors that the trademark registration departments may consider when judging malicious trademark registration applications that are not for the purpose of use. According to Article 8, the trademark registration department may consider the following factors when judging whether the trademark registration application violates Article 4 of the Trademark Law. (1) The number of trademarks applied for registration by the applicant or his/her affiliated natural persons, legal persons, other organizations, and designated categories of use, trademark transactions, etc.; (2) the industry that the applicant is involved, business conditions, etc.; (3) the applicant has been confirmed by effective administrative decisions or rulings or judicial decisions to have engaged in bad-faith registration of trademarks and infringement of the exclusive right of others to register trademarks; (4) the trademark applied for registration is the same or similar to others with a certain degree of popularity; (5) the trademark applied for registration is the same or similar to the names of well-known figures, business names, short names of enterprises or other businesses marks, etc.; (6) other factors that the trademark registration department deems necessary for consideration.

Page 111 Paragraph 3.263

Question 72: What is IP regime applicable on "data" in China?

Reply: At present, although "data" itself is not within the scope of works explicitly listed in China's Copyright Law, the database can be protected by the Copyright Law. In addition, big data-related technical solutions for solving certain technical problems enjoy patent protection if the conditions for patent authorization are met. Conspicuous marks used on data products with distinguishing effect can be applied for trademark registration. Internal data and information of the enterprise can be protected as trade secrets before disclosure.

Page 113 Paragraph 3.271

Question 73: China's laws on patents have undergone significant changes post signing of China-US Phase 1 Economic and Trade Agreement. China has introduced revisions allowing for "Effective Patent Term Extension" and "Effective Mechanism for "Early Resolution of Patent Disputes". What has been the impact of such provisions on the domestic pharmaceutical industries? Has there been any surge in patent infringement cases post this revision?

Reply: The above provisions of the Patent Law can stimulate the development of innovation in the pharmaceutical industry and protect the interests of patent owners. No surge in patent cases has been observed as a result of the amendment.

This amendment has a positive effect on both innovative and generic drug enterprises. It enhances the protection of the legitimate rights and interests of patent owners, promotes the balance between innovative and generic drug enterprises and increases the accessibility of drugs. As the new law has been in effect for a relatively short time, the number of relevant cases needs to be further evaluated.

Page 110 Paragraph 3.260

Question 74: Has there been any study identifying reasons why GI protection as certification marks or collective marks under Trademark Law outnumbers the number of GI filed/protected under the *sui generis* system of protection?

Reply: First, the procedures of GI trademark confirmation have become more concise and efficient, and are flexible to respond to market demand. The applicant can adjust its GI trademark (such as changes on font, color and figure, etc.) and register again according to the development of the times, market environment and different consumer groups to enhance market competitiveness and attract different consumers. Second, the legal basis for GI trademark protection has become more systematic and comprehensive through laws, regulations and rules, namely the Trademark Law, the Implementing Rules of the Trademark Law, and the Measures for the Registration and Administration of Collective and Certification Trademarks. Third, the protection of GI trademarks has become more effective and all-round, the exclusive rights of registered GI trademarks are protected by law, and no one is allowed to use it without the permission of the right owner. The registered GIs enjoy all-round protection in trademark registration, customs filing, civil litigation, administrative enforcement and criminal protection. The right holder and interested parties can also claim their rights and interests and timely seek remedies through procedures such as opposition, invalidation and revocation. Fourth, GI trademarks can be registered in other countries through the Madrid System to fully protect their interests in overseas markets.

Page 110 Paragraph 3.256

Question 75: Does the *sui generis* system provide for the protection of products other than wines, spirits, and agricultural products? If yes, whether the protection of such goods is equal to the one granted to wines and spirits? Whether foreign GI products (such as textiles, handicrafts, and other manufactured goods) are also accorded protection under the *sui generis* system of protection?

Reply: As per Article 2 of the Regulations on the Protection of Geographical Indication Products, GI products shall originate from a specific region, whose quality, reputation or other characteristics are essentially dependent on the natural and human factors of the origin, and are examined and approved to be named after the geographical name, including: (1) planting and breeding products from the region; (2) products produced or processed in the local region according to specific procedures, with raw materials from the region or partly from other regions. For foreign GI products, Measures for Foreign Geographical Indication Protection, a normative document issued by China National Intellectual Property Administration, specifies the provisions and procedures for their registration and protection in China, and those that meet the requirements can be recognized and protected.

Page 116 Paragraph 3.7.6

Question 76: When are the interim tariffs applied? What class of goods are subject to this tariff and what is the maximum rate of the tariff imposed? What is the time limit for such interim tariff? Can the information on the rate of interim tariff, time period and reasoning for such imposition available publicly/online? If so, please provide the same.

Reply: China adjusts the interim tariff rate each year based on the actual situation, and the list of goods with interim tariff rate is included in the Customs Import and Export Tariff of the People's Republic of China released annually. It can be obtained from the "Policy Release" module of the official website of the Tariff Department of the Ministry of Finance at <http://gss.mof.gov.cn/gzdt/zhengcefabu>.

Page No. 124, Table 4.4
Background:

Table 4.4 Main agriculture-related laws, December 2020

Law (date of last amendment)	Coverage
Law on Promotion of Agricultural Mechanization, 2004 (2018)	Provisions to encourage and support peasants and agricultural production and operation organizations to use advanced machines, promote mechanization, and develop modern agriculture.

Question 77:

a. What type of measures are provided in the Law on Promotion of Agricultural Mechanization? The law has eight chapters and 35 articles, around the promotion of agricultural mechanization development of scientific research and development, quality assurance, promotion of the use of social services and support measures and other related links to make provisions. Measures include: state support for agricultural machinery producers plus research and development inputs to support technological innovation in the agricultural machinery industry; strengthen the construction and maintenance of agricultural mechanization infrastructure; local people's governments at or above the county level in charge of agricultural mechanization work departments should provide free information services for farmers and agricultural production and management organizations.

b. What has been the impact of the law on the mechanization process till now? Which of the measures has been the most efficient?

Reply: Since the implementation of the Law on Promotion of Agricultural Mechanization, the State Council and local governments at all levels has been fully implementing the law, adhering to the principle of combining government support and market guidance, and promoting the rapid growth in the number of agricultural machinery and equipment, continuous expansion of agricultural machinery operating area, and steady improvement in the level of agricultural mechanization. China's agricultural production has achieved a historic leap from using human and animal labor to mechanical operations. By the end of 2020, the number of China's agricultural machinery and equipment reached 204 million units, with the total power of agricultural machinery reaching 1.056TW, an increase of 64% than in 2004. Since the promulgation of the Law on Promotion of Agricultural Mechanization, the main system provided by the law have been effectively implemented. First, the capacity in scientific research and innovation has been steadily improved. Second, advanced and applicable agricultural machinery is widely used. Third, agricultural machinery operation enjoys rapid development.

Page 126 Paragraph 4.18

Question 78: Could China please clarify whether export subsidies were provided in 2020 to agricultural products?

Reply: No export subsidy has been provided for agricultural products since China's accession to the WTO in 2001.

Page 127 Paragraph 4.19

Background: 4.19 Export taxes are levied on four tariff lines (at the HS 8-digit level) relating to products of animal origin, and two tariff lines on raw hides and skins (Table 3.11).

Question 79: China imposes export taxes on four tariff lines related to bones treated with acid, powder and waste of bones, and dried hides and skins of goats. It is requested to provide reasons for imposing export taxes on these specific tariff lines.

Reply: According to Annex 6 of the Protocol of Accession of the People's Republic of China to the WTO, China may retain export tariffs on a small number of products. Export tariffs are not levied on other products. All products for which China currently levies export tariffs are consistent with China's WTO accession commitments, and all export tariff rates do not exceed the upper limit of China's WTO accession commitments.

Page 129-30 Paragraph 4.25

Background:

Only when the market prices of rice and wheat fall below the minimum procurement prices (MPPs) can farmers sell the commodities that meet quality requirements to designated enterprises, so as to reduce losses caused by falling grain prices. These prices, as well as limited total purchase volumes,

are set on a yearly basis by the NDRC in consultation with MARA and other government agencies. The MPP of rice in 2018 was substantially lowered, while the MPPs of wheat in both 2018 and 2019 were slightly lowered. (Table 4.10).

Question 80:

India has the following questions regarding China's Public Procurement and Distribution policies:

- a. It is evident from the Secretariat Report that minimum procurement prices (MPPs) for all commodities listed in Table 4.10 have fallen. What is the reason for such decline in prices?

Reply: The minimum purchase prices for rice and wheat are determined by factors such as the cost of grain production, market supply and demand, domestic and international market prices and development of industries.

- b. MPPs and limited total purchase volumes are set on a yearly basis. How are the limited purchase volumes determined? What are the crops for which China has determined limited total purchase volumes?

Reply: b.China has a pre-determined target on the volume of rice and wheat for the minimum price purchase. The pre-determined target is 50 million tons for rice in 2020. The pre-determined target is 37 million tons for wheat in 2020.

- c. How does the government dispose of the procured quantities?

Reply: c.Public stocks are auctioned according to domestic rules, without designating usage. All eligible companies can participate in the auctions.

Page 130 Paragraph 4.29

Background:

In December 2018, China notified its domestic support commitments for the calendar years 2011 to 2016. These notifications show no support under the Blue Box (production limiting schemes) until 2016, when China notified corn producer subsidies paid, based on fixed area and yields.

Question 81: According to China's DS:2 notification (G/AG/N/CHN/49), the corn producer subsidy (Blue Box measure) became effective in 2016 and was supposed to apply till 2018.

Regarding China's Blue Box measures, India has the following questions:

- a. Is China continuing with the corn producer subsidy beyond 2018? How long does China intend to continue its application?

Reply: a.China has a pre-determined target on the volume of rice and wheat for the minimum price purchase. The pre-determined target is 50 million tons for rice in 2020. The pre-determined target is 37 million tons for wheat in 2020.

- b. In DS:2 notification (G/AG/N/CHN/48), China notified a blue box measure for target price policy reform of Cotton. This was supposed to apply till 2019. Is this measure still in application?

Reply: b. Yes.

Page 130-131 Paragraph 4.30

Background:

The OECD continues to calculate estimates of support to agriculture in China that provide more up-to-date indicators over the review period (with data available up to 2019) than do China's support notifications to the WTO (which cover up to 2016). However, the authorities indicate that OECD data do not reflect China's official position and that they could not confirm OECD estimates; they do not agree with the methodologies or data source of the estimation.

Question 82: How does OECD's methodology differ from China's?

Reply: China welcomes the discussion of different methodologies at the technical level.

Page No. 130, Table 4.10**Background:****Table 4.10 Minimum procurement prices, 2016-21**

Commodities	2016 (CNY/Tonnes)
Rice – early long-grain non-glutinous	2,660
Rice – late long-grain non-glutinous	2,760
Rice – round-grained non-glutinous	3,100

Question 83: It has been identified that in DS:1 notification for the year 2016 (G/AG/N/CHN/47) China had provided the procurement price data for Indica and Japonica Rice. But, in Secretariat Report (Reference Table 4.10), data is given only for rice. So, could China provide the break up and calculation of procurement prices of Indica and Japonica Rice for 2016 onwards?

Reply: The minimum purchase price for early Indica, medium and late Indica and Japonica rice produced in 2016 was 2.66, 2.76 and 3.1 yuan per kilogram respectively, those produced in 2017 was 2.6, 2.72 and 3 yuan per kilogram respectively; those produced in 2018 was 2.4, 2.52 and 2.6 yuan per kilogram respectively; those produced in 2019 was 2.4, 2.52 and 2.6 yuan per kilogram respectively; and those produced in 2020 was 4.84, 5.08 and 5.2 yuan per kilogram respectively.

Page 135 Paragraph 4.37

Question 84: Does this law regulate China's fishing activities in high seas and other nations' territorial waters (distant water fisheries)? Can China specify of the conventions on sustainable fishing it is member/party?

Reply: The Fisheries Law regulates China's fishing activities on the high seas and in waters under the jurisdiction of other countries. China is revising the Fisheries Law and will develop detailed provisions on the management and punishment of offshore fisheries. As of now, China is a signatory to the United Nations Convention on the Law of the Sea and a party of nine international and regional fisheries organizations, i.e. the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission (IOTC), the International Whaling Commission (IWC), the Western Central Pacific Fisheries Commission (WCPFC), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Inter-American Tropical Tuna Commission (IATTC), South Pacific Regional Fisheries Management Organisation (SPRFMO), the North Pacific Fisheries Commission (NPFC), and the South Indian Ocean Fisheries Agreement (SIOFA).

Page 135 Paragraph 4.38**Background:**

Under the Fisheries Law, foreigners and foreign fishing vessels engaging in fishery production in waters under China's jurisdiction must be approved by MARA.

Question 85:

- India request China to further elaborate on the criteria based on which foreign fishing vessels are approved?
- Additionally, are there any differences between the former and the criteria based on which domestic fishing vessels are approved? If yes, can China please list them?

Reply: China reviews and approves the entry of foreign fishing vessels according to the provisions of bilateral agreements. The standards of fishing vessels shall comply with the provisions of respective bilateral agreements.

Page 135 Paragraph 4.39**Background:**

The Plan's basic principles are to: (i) adhere to ecology as a priority and promote green development, with a shift in focus from quantity growth to improving quality and efficiency; (ii) promote innovation and scientific development; (iii) implement a "going out" strategy involving, inter alia, the orderly development of deep-sea fisheries, improvements to the industrial chain, and strengthening of bilateral and multilateral fishery cooperation;

Question 86: Could China further elaborate on what does the "going out strategy" entail? Whether any subsidies are being given for the achievement of the goals of this Plan, especially capacity building subsidies?

Reply: As per the rights vested by international laws and relevant bilateral cooperation agreements, China rationally develops and uses international marine biological resources through its deep-sea fisheries. In order to develop deep-sea fisheries responsibly, China attaches great importance to the scientific conservation and sustainable use of fishery resources and actively fulfills its international obligations. China has established a comprehensive management system for deep-sea fisheries by revising the Regulations on the Administration of Deep-sea Fisheries, and implements the most stringent management measures for monitoring the position of fishing vessels in the world. In particular, China has taken the initiative in recent years to order fishing bans for itself in some high seas areas and conduct strict supervision on transshipment activities in the high seas. China has joined eight regional fisheries management organizations and ranks high in compliance. At the same time, China actively works with the international community to crack down on IUU.

In May 2021, the Ministry of Finance and the Ministry of Agriculture and Rural Affairs issued the Notice on Implementing Fisheries Support Policy for Its High-Quality Development. The highlight of this latest adjustment to the fisheries support policy is that, for the first time, China made it a key part of the subsidies to support survey and conservation of fishery resources and international compliance capability enhancement. The subsidy amount is determined on the annual rating of deep-sea fishery companies and their vessels on their compliance performance. In this way, China incentivizes fishing companies and fishermen to enhance their compliance capability, supports deep-sea fishing vessels to better fulfill international conventions and guides the rational use and conservation of marine fishery resources. At the same time, China supports the survey and monitoring on global fisheries resources and strives to provide further scientific support on conservation and sustainable utilization of high seas fishery resources. China's new policy on fisheries subsidies is a significant adjustment on domestic fisheries support policies to follow the general direction set by the WTO fisheries subsidies negotiations. It is conducive to restoring oceanic resources, protecting ocean ecosystem and promoting sustainable development of global fisheries resources.

Page 136 Paragraph 4.40

Question 87: Have the fuel subsidies been terminated as of now?

Reply: China has terminated fuel subsidies.

Page 136 Paragraph 4.43

Question 88: Can China provide more information on how it defines illegal fishing activities?

Reply: Illegal fishing activities, in general sense, refer to those violating the laws and regulations of the country with jurisdiction over the relevant waters or of international organizations, or those violating the laws and regulations of the flag state. Chinese ocean fishing vessels operating in the waters of other countries, regardless of their flags, shall comply with relevant Chinese laws and regulations at the same time, otherwise they will be considered as IUU.

Page 139 Paragraph 4.51

Background:

According to the authorities, in 2018 alone, 1,248 mining rights were granted, of which 772 were allocated through competitive procedures, 55 through agreements, and the remainder through automatic allocation to the holders of the related exploration rights. Three hundred sixty exploration rights were granted, of which 175 were funded by the Government, 90 were granted through competitive procedures, 37 were filed through prior applications, and 58 were granted through agreements.

Question 89: Out of the 1,248 mining rights that were granted, could China specify how these were distributed between domestic and foreign companies?

Reply: Both Chinese and foreign companies can participate in the allocation of mining rights in accordance with the relevant procedures.

Page 139 Paragraph 4.52

Background:

Some specific measures were adopted to further standardise and strengthen the approval management of rare earth and tungsten exploration and mining.

Question 90: Can China please specify and elaborate on the measures adopted to standardise and strengthen the approval management of rare earth and tungsten exploration and mining?

Reply: Please refer to *Notice by the Ministry of Natural Resources of Further Regulating the Administration of Approval of Rare Earth and Tungsten Mineral Rights* at http://www.gov.cn/xinwen/2018-12/27/content_5352593.htm

Page 142 Paragraph 4.62

Background:

The broader objectives set for green and low-carbon energy development in the 13th Five-Year Plan for Energy Development include that by 2020: (i) the proportion of non-fossil energies in total energy consumption should be over 15%; and (ii) the carbon dioxide emission per unit of GDP should decrease by 18% compared with that in 2005.

Question 91: Can China specify whether it was able to achieve the objectives mentioned?

Reply: As planned by the 13th Five-Year Plan for Energy Development, China has been accelerating the green and low-carbon energy transition since the 13th Five-Year Plan was issued. By 2020, the proportion of non-fossil energy in China's total energy consumption had reached 15.9%, and CO₂ emissions per unit of GDP had decreased by 18% compared to 2015, outperforming the targets set in the 13th Five-Year Plan.

Page 142 Paragraph 4.63

Background:

In December 2017, China launched the construction plan for the National Carbon Emission Right Trading Market (Power Generation Industry) to start building its National Carbon Emission Trading System.

Question 92:

India requests China to share its insights on the working of the National Carbon Emission Right Trading Market. Is it open to all sectors? The sectors and industries allowed under the NCERTM?

Reply: At the end of 2020, the Ministry of Ecology and Environment issued the Measures for the Administration of Carbon Emissions Trading (for Trial Implementation), primarily establishing the regulatory system of the national carbon market. The Measures specified the targets, contents and measures of market regulation of departmental, provincial and municipal ecological and environmental authorities, standardized the market activities of key GHG emitters, and specified relevant responsibilities and obligations.

The national carbon market officially came online and started trading in July this year. It included 2,162 key emitters in the power generation industry in the first performance cycle. For many years, China has also carried out the emission accounting, reporting and inspection of other high-emission industries such as petrochemical, chemical industry, building materials, iron and steel, non-ferrous metals, paper making and aviation, gathering solid statistics. Next we will systematically reduce the CO₂ emission in other sectors by broadening the industrial coverage of the carbon market and optimizing the methods of quota distribution. Building on the sound operation of the carbon market for power generation industry, we will expand the market to cover more high-emission industries, improve the methods of emission quota distribution, and give full play to the market's important role in controlling GHG emissions, promoting innovation in green and low-carbon technologies, and guiding climate investment and financing.

Page 142 Paragraph 4.66

Background:

On 1 January 2018, China implemented a new environmental tax policy aimed at promoting environmental protection and reducing pollution.

Question 93: India would welcome further information from China regarding how the working of the new environmental tax policy. Which sectors or companies are affected? What has been the outcome of the policy so far?

Reply: Since January 2018, the Environmental Protection Tax Law of the People's Republic of China has been officially implemented, and Article 10 specifies the emissions of taxable air pollutants,

water pollutants and solid waste and decibels of noise, as well as the calculation method and order. In April 2021, in order to further implement the Environmental Protection Tax Law of the People's Republic of China, the Ministry of Ecology and Environment, together with the Ministry of Finance and the State Taxation Administration, issued the Announcement Issuing Pollutant Discharge Coefficients and Material Balance Methods for Taxable Pollutant Discharges Subject to Environmental Protection Tax (No. 16 of 2021), which provides for the calculation methods of emissions of taxable pollutants for pollutant emitters that do not have monitoring conditions.

Page 143 Paragraph 4.69

Question 94: Can China elaborate on the measures undertaken to control the new capacity of coal-fired power strictly?

Reply: China will strictly control coal-fired power projects. In principle, China will not construct new coal-fired power projects solely for the purpose of power generation and will consider the demand for approving supporting power source projects with a certain scale to ensure the security of power supply and regulatory power source projects to promote new energy consumption. Continuous efforts are made to phase out backward coal-fired power production capacity, and close and integrate small coal-fired power plants. China vigorously develops new energy, such as wind and photovoltaic power, coordinates the construction of wind and photovoltaic power projects and the upgrading of coal-fired power plants, and gives full play to the supportive and regulatory role of coal-fired power to new energy development and consumption. China promotes the energy-saving and emission-reducing transformation, heat supply transformation and flexible transformation of coal-fired power units. China encourages thermal power enterprises to seek comprehensive energy services transformation characterized by "power generation +", and vigorously studies carbon capture, utilization and storage (CCUS) and resource recycle and utilization technology.

Page 148 Paragraph 4.91

Background:

The trial of "pilot spot markets", where trading of electricity takes place on a spot basis instead of by medium- to long-term contracts, began in August 2017 in eight areas (Guangdong, west of Inner Mongolia, Zhejiang, Shanxi, Shandong, Fujian, Sichuan, and Gansu).

Question 95: China is requested to share its finding from the trial of the pilot spot market where electricity trading takes place? What were the challenges it came across? Does China plan to enforce the programme permanently?

Reply: At present, China has identified 14 pilot spot markets in two batches, of which the first eight ones have conducted trial operations with different settlement intervals. As the spot market development is still in the initial stage, pilot areas have been summing up experience and improving trading rules. China will continue the market-oriented reform on the power sector, accelerate the construction of spot markets for electricity, optimize the allocation of power resources, and promote clean and low-carbon energy development.

Page 148 Paragraph 4.94

Question 96: Can China elaborate in detail on the policy initiatives in force to address the challenges facing manufacturing?

Reply: First, China promotes industrial base upgrading and modernization of the industrial chain. Second, China expedites the development of high-end, smart and green manufacturing. Third, China continues to deepen reform and opening up. China deepens reforms on streamlining administration and delegating power, improving regulation, and upgrading services and on other key areas, further expands the high-level opening of the manufacturing sector, and improves the market-oriented, law-based and international business environment.

Page 148 Paragraph 4.94

Background:

As described in detail in the previous Review, major initiatives include the Made in China 2025 (or China Manufacturing 2025) initiative (launched in 2015), and the Internet Plus initiative (launched in 2015).

Question 97: What is the major initiative of Made in China 2025?

Reply: Made in China 2025 is the first ten-year guideline of China to implement the strategy of rejuvenating the country through manufacturing. It focuses on nine strategic tasks, including improving manufacturing innovation capacity, strengthening basic industrial capabilities and improving brand quality, and five projects, namely constructing manufacturing innovation center, strengthening industrial foundation and promoting intelligent manufacturing, green manufacturing and high-end equipment innovation.

a. Can China elaborate on the Made in China and Internet Plus initiatives?

Reply: The Opinions on Active Promotion of 'Internet +' is the guideline for pacing up the in-depth integration between the Internet and various fields and for encouraging innovation-driven development. Eleven key tasks have been assigned based on "Internet +" entrepreneurship and innovation, collaborative manufacturing, modern agriculture and intelligent energy among others. Both documents are publicly released and are available online.

b. Which sectors are going to be affected? What are its salient features? What has been the outcome so far?

Reply: The most notable feature of the two documents is the adherence to the market-oriented principle to highlight the main role of enterprises in the market. Made in China 2025 and the Opinions on Active Promotion of 'Internet +' significantly improve industrial innovation capacity, optimize the industrial structure, and significantly enhance the level of open development. The shareholding restrictions of foreign equity in automobiles, ships and aircraft are gradually being lifted. Tesla, BASF, ExxonMobil, Samsung and other multinational enterprises have expanded their investments in China. China welcomes enterprises from all over the world to actively participate in China's manufacturing development, share development opportunities and market space brought by the opening up of China's manufacturing industry, and achieve win-win cooperation.

Page 149 Paragraph 4.96

Question 98: Can China elaborate on the "Supply-side Structural Reform?" How successful has it been? What are the challenges they are facing?

Reply: The supply-side structural reform focuses on liberating and developing social productivity, promoting structural adjustment and enhancing total-factor productivity. Main measures include: expediting clearance of more industries with overcapacity, establishing fair, open and transparent market rules and a law-based business environment, reducing the business cost of all types in the society, shoring up shortcomings in infrastructure, giving full play to the initiative of enterprises and entrepreneurs, upgrading the industrial chain, accelerating the construction of a unified, open, competitive and orderly modern market system, and improving the financial system's ability to serve the real economy. During the 13th Five-Year Plan period, a total of 64.74 million tons of crude steel production capacity of "zombie enterprises" were phased out. At present, the international and domestic environment for manufacturing development is undergoing profound changes, and China is still facing shortcomings of weak independent innovation capability and insufficient support of scientific and technological innovation to the manufacturing industry.

Page 150 Paragraph 4.107

Question 99: Can China share the progress made under The Automobile Mid- and Long-term Development Plan launched in 2017? Has the ongoing pandemic impacted the Plan in any way? What are the challenges that China is facing vis-à-vis the Plan?

Reply: The Development Plan is a guidance document rather than a compulsory one.

Page 151 Paragraph 4.111

Background:

The authorities note that machinery industry policy aims to pursue innovation-driven development; promote the transformation towards an intelligent, green, and service-oriented machinery industry; promote the optimization of industrial structures; improve product quality; improve the utilization rates of resources and energies; and reduce pollutant emissions

Question 100: Against the backdrop of the understanding that any industrialisation efforts will eventually lead to environmental degradation (forwards or backwards). Can China share how it plans to pursue an innovation-driven, intelligent, green, and service-oriented machinery industry in detail?

Reply: China will focus on the in-depth integration of the new generation of information technology and advanced manufacturing technology, speed up the development of intelligent manufacturing, continue to promote technique innovation, equipment upgrading, management optimization and smart production, and further promote the digital transformation and intelligent upgrading of the machinery industry.

Page 155 Paragraph 4.134

Question 101: Could China explain any proposed steps in its "market based" approach to developing this new market?

Reply: China would like India to further clarify the question.

Page 156 Paragraph 4.137

Question 102: How many joint stock commercial banks does China have?

Reply: Up to now, there are 12 national joint-stock commercial banks in China. In addition to these, most of the large state-owned banks and city commercial banks also operate as companies limited by shares.

Page 158 Paragraph 4.145

Question 103: Are these reform measures already in effect? In so, could China provide comparative statistical information about performance of the sector before and after the implementation of these measures? If not in effect, when are they slated to be implemented?

Reply: In terms of allowing foreign institutions to enter the interbank bond market, China has steadily promoted the opening up of the interbank bond market to the outside world in recent years. The restrictions on QFII/RQFII investment quota and RQFH pilot countries and regions have been lifted in September 2019. In terms of allowing foreign financial institutions to obtain Class A underwriting licenses in the interbank bond market, the market evaluation of foreign banks' participation in the Class A principal underwriter business of debt financing instruments for non-financial enterprises was launched. In terms of allowing foreign participation in credit rating, in January 2019 and May 2020, S&P and Fitch, two of the three major international rating agencies, have been allowed to enter the Chinese market to develop their business in the form of sole proprietorship, and Moody's has entered the Chinese market in the form of joint venture.

Page 168 Paragraph 4.200 Box 4.2

Background: Foreign ownership participation in telecom companies (2019): In the basic telecoms sector, the proportions of overseas public shares of China Telecom, China Mobile, and China Unicom were 17.15%, 27.28%, and 20.1%, respectively. By end-2020, a total of 395 foreign-invested enterprises had entered China's telecoms market, mainly engaged in information services and e-commerce-related businesses.

Question 104: Could China provide the details of its GATS commitments in the telecom sector, particularly in Modes 1 and 3? Does China have any proposed steps to liberalise foreign ownership participation?

Reply: Please refer to the Table of Specific Commitments For Concessions on China's Trade in Services (WT/L/432). China will study the possibility of further liberalization in accordance with the development needs of the domestic market.

Page 169 Paragraph 4.204

Background: These specify that the foreign share ratio for value-added telecommunications services (except for e-commerce, domestic multi-party communications, storage-forwarding, and call centres) shall not exceed 50%.

Question 105: What are the limits on e-commerce and other services provide by means of digital trade? Could China clarify how they are classified as per the UN CPC?

Reply: Please refer to the Special Administrative Measures for Foreign Investment Access (Negative List) for details. The Chinese negative list of open areas is classified according to China's National Economic Classification.

Page 170 Paragraph: 4.4.2.2.6

Question 106: Could China explain the measures it takes for regulating the cross-borders flows of data from China to abroad? On the corollary, what are the laws protecting the data when transferred to China from abroad? Is there any authority exercised by the State over such transferred data?

Reply: The Network Security Law, the Data Security Law and the Personal Information Protection Law have made clear provisions on the management of cross-border flow of data, including the responsibilities and obligations undertaken by enterprises and other entities of cross-border flow of data, and the state's regulatory requirements for cross-border flow of data.

Page 173 Paragraph 4.230

Background: Regarding foreign business, the E-commerce Law provides that China shall encourage cross-border e-commerce (CBEC) development. In practice, the authorities have been promoting CBEC (activities of purchasing or selling products via online shopping across national borders).

Question 107: Can China clarify what are the customs duties that are imposed on these items, and other kinds of digital goods and services?

Reply: Tariffs imposed on imported goods is in accordance with the tariff rules of the People's Republic of China. For digital products and services realized through electronic transmission, China currently maintains the practice of not imposing tariffs in accordance with the requirements of WTO regulations.

INDIA - ADDITIONAL QUESTIONS

Questions based on Secretariat Report (WT/TPR/S/415)

Page 86 Paragraph 3.168

Background:

In order to prevent the reintroduction of the COVID-19 virus through imported cold-chain food and to protect the health and safety of consumers, the GACC implemented emergency preventive measures for foreign manufacturers of imported cold-chain foods with positive novel coronavirus nucleic acid results. This was notified to the WTO as an emergency measure in 2020, which is still in force. It has been reported that, in 2020, the city of Shenzhen introduced COVID-19 handling and testing requirements for imports of frozen meat and seafood. In response to the pandemic, China has also taken measures to facilitate the imports of food and agricultural products and simplify sanitary approval for imported special medical supplies.

Questions:

1. What is the scientific basis for various non-tariff barriers placed by China in importing cold chain food products- especially meat, fishes, shrimps, etc.?
2. What is the scientific basis for suspending import declaration of establishments whose consignments have tested positive for COVID-19 nucleic acid?
3. What is the basis for undertaking video inspection on establishments whose consignments have tested positive for COVID-19 nucleic acid?

Questions 1-3 are answered together with questions 13 and 14. Please refer to the replies to questions 13 and 14.

4. So far, how many video inspections have been carried out in establishments across the world?
5. So far, how many establishments in the world have been suspended indefinitely from exporting to China and which countries do these establishments belong to? Can the Chinese side provide a country wise break up of number of establishments which have been suspended indefinitely?
6. So far, how many suspensions of establishments have been revoked after the establishments undertook corrective actions. Can the Chinese side provide a country wise break up of number of establishments whose indefinite suspensions have been revoked?

Reply to questions 4, 5 and 6: Relevant information has been published on the website of the General Administration of Customs of China. Please log on the website for detailed information.

7. What are the criteria for suspending establishments indefinitely and can Chinese side provide the relevant GACC notification in this regard?

Reply: China does not have a measure in place for suspending establishments indefinitely from exporting goods to China.

8. How can mere presence of COVID-19 nucleic acid in the packages be equated to presence of a virulent virus?

Reply: Mere presence of COVID-19 nucleic acid in the packages does not mean the presence of a virulent virus.

9. Can the Chinese side share the scientific basis for possibility of transmission of COVID-19 through cold chain food items?

Reply: Please refer to "Suggestions of Chinese Experts on the Second Phase of SARS-CoV-2 Global Traceability Research Convened by WHO".

10. Can the Chinese side share the technical details of sample tests done by its Customs authorities?

Reply: China strictly follows Chinese food safety related laws and regulations as well as national food safety standards to conduct sample tests.

11. What is the view of the Chinese side on the updated guideline issued by FAO on August 02, 2021 on preventing transmission of COVID-19 within food business which clearly states that COVID-19 is not a food safety hazard?

12. Why does the Chinese side continue to test for COVID-19 nucleic acid in packages when the updated guideline states that there is no evidence to date of the virus being transmitted by food or food packaging as COVID-19 cannot multiply in food and needs animal or human hosts to multiply?

Reply to questions 11-12: "Prevention and control on both people and objects" is one of the important experiences of China in effectively responding to COVID-19 pandemic. China has carried out systematic and continuous monitoring and evaluation on the risk of cold chain food contaminated by COVID-19 virus and its transmission. Through comprehensive analysis of monitoring data of tens of millions of foods and their packagings, combined with the traceability evidence of several epidemiological outbreaks in COVID-19 pandemic (and one of them was traced to the source of live COVID-19 virus detected on the surface of cold chain food packaging), it is determined that cold chain food and its packaging may become a carrier for spreading COVID-19 virus because they are contacted by COVID-19 patients during production and processing, and low temperature conditions are favorable for the survival of COVID-19 virus. Without effective protection, frequent close contact with the packaging or means of transport contaminated by live COVID-19 virus may lead to human infection. At the same time, National Health Commission organized experts from the National Food Safety Risk Assessment Center to conduct a comprehensive study on the risks of cold chain food spreading to COVID-19 virus and the prevention and control strategies.

13. How does Chinese side view the statement by FAO that "such contamination may precipitate unjustified trade restriction, even though it is not a food safety hazard?"

14. The non-tariff barriers placed by Chinese side on seafood exporting industry have led to decline in exports of marine products from several countries and have led to several complaints and trade disputes. Is the Chinese side willing to compensate the losses which arose due to these unjustified trade restrictions?

Replies to questions 1, 2, 3, 13 and 14: The COVID-19 pandemic has seriously jeopardized the safety and health of human lives, and has had a grave impact on the economic and social order and production of countries around the world. China has made great efforts to effectively control the pandemic in its territory, but still is exposed to significant risk of reintroduction of COVID-19 through importation. Since last year, some countries have lifted the lockdown despite the increased new cases, and people started working while still suffering from illness. As a result, many overseas manufacturing companies have reported clusters of infections among their employees. Chinese customs and local authorities have repeatedly detected positive nucleic acid for COVID-19 virus on the inner and outer packaging of imported cold-chain food products or on the product itself, which indicates deficiencies in the food safety management systems of some overseas food companies that export to China. In this context, the General Administration of Customs (GAC), in order to protect food safety and consumer health, has deployed emergency preventive measures to monitor the risk of imported cold chain foods, suspend the import of products from companies reported with clusters of infections, and apply a 1-week or 4-week suspension to overseas producers of imported cold chain foods that have tested positive for nucleic acid of the COVID-19. These measures have received proactive support and cooperation from many countries and establishments, and many of the exporters that experienced clusters of infections have suspended their exports to China voluntarily. Certainly, the establishments involved can resume their exports to China after taking measures to effectively eliminate the relevant risks and ensure food safety for their exports to China. China has notified the WTO of the above circumstances in the appropriate form.

COVID-19 is a new virus, and many of its epidemiological characteristics remain uncertain. Considering the global prevalence, high contagiousness, and high pathogenicity of Covide-19, China has taken corresponding emergency response measures, which are important moves to prevent the risk of importation of Covide-19 virus through imported cold chain foods. On 17 October 2020, the Chinese Center for Disease Control and Prevention and Control (CDCPC) announced to the public that the live virus was detected on the outer packaging of imported cold-chain foods, which is the first time to confirm out of laboratory that COVID-19 can survive for a longer period of time on the outer packaging of items under special conditions of cold-chain transportation, suggesting that the virus has the possibility of cross-border importation over long distances with cold-chain items as the carrier. Given this situation, China has tightened the regulation of cold chain foods based on risk assessment, and the relevant practices conform to WTO rules. As a necessary measure to protect people's health, it does not undermine the normal operations of international trade.

China welcomes high-quality, safe foods from all countries to enter the Chinese market in strict compliance with WTO rules. At present, as the global pandemic prevention and control is still in a

critical stage, we call upon relevant countries and regions to establish effective food safety management systems in strict accordance with the guidelines jointly issued by the FAO and WHO, and to take preventive measures to avoid the contamination of exported foods with COVID-19. China stands ready to keep in touch with the competent authorities of WTO members on related matters to ensure food safety at source, enhance consumer confidence, and work together to safeguard the safety of the international food supply chain.

Page 79 Para 3.3.2

Questions

1. Can the Chinese side explain the extra-ordinary delays in updating lists of enterprises exporting fruits and vegetables which are shared with GACC by various countries?

Reply: In accordance with the requirements of Chinese laws and regulations related to imported fruits, all enterprises that export to China can engage in relevant trade during the valid period after being registered by China. Before the expiration, if the enterprises apply for extension of registration, the official authorities of the exporting countries need to check and verify their compliance with the protocol and China's import veterinary and phytosanitary requirements before recommending the extension of registration to China. China will conduct a retrospective inspection and decide whether to accept the applications for extension of registration.

Some exporting countries cannot provide materials in time or fail to cooperate with China to carry out relevant assessment and inspection work, thus making it impossible for China to review and ratify the applications of the enterprises concerned.

2. Can Chinese side explain the logic of not updating the list of fruits exporting establishments from several countries on the premise of COVID-19?

3. Can Chinese side explain the basis for arbitrarily demanding video inspections of establishments exporting fruits and vegetables on the premise of COVID-19?

Reply to Q2-3: The issues mentioned in the Q2-3 do not exist. In case of no update, it is because some exporting countries cannot provide relevant materials in time or fail to cooperate with China to carry out relevant assessment and inspection work, thus making it impossible for China to review and ratify the applications of the enterprises concerned.

China conducts video inspections on fruit exporters for the prevention and control of COVID-19, in an effort to forestall the spread of COVID-19 through fruits. Since the outbreak of COVID-19, the Chinese authorities have repeatedly detected positive nucleic acid of COVID-19 on imported fruits and packaging samples from some countries, indicating contamination by COVID-19. China has taken the necessary provisional preventive measures to tighten supervision of fruit exporters in order to protect people's life safety and health. Relevant practices are fully consistent with international rules and have not adversely affected the fruit trade destined for China.

Page 86 Paragraph 3.166

Questions

1. Has the China imposed pesticide residue certificate requirements for each batch of products such as Spices imported from any country? What is the usual timeline provided to these countries for implementing this certificate requirement?

Reply: China does not require countries to provide pesticide residue test certificates for every batch of their products exported to China, and only requires that each batch of Indian cumin seeds exported to China be accompanied by an official test report on specific pesticide residue items issued by India effective 1 October 2021. Since 2020, Indian cumin seeds exported to China have been detected by the Chinese customs authorities for a number of times in a row with pesticide residues exceeding the Chinese national standards. India has not responded positively to the three notifications from China and has not adopted measures to effectively control the problem of pesticide residues in cumin seeds exported to China. In view of the fact that the problem of excessive pesticide residues in Indian cumin seeds exported to China has not been effectively controlled for a long time, in order to protect the health of Chinese consumers, China has to take early warning and control measures, requiring that effective from 1 October 2021, each batch of Indian cumin seeds exported to China should be accompanied by a test report on specific items of pesticide residues.

2. Is China aware that such additional test requirements without providing reasonable timeline for implementation act as a serious non-tariff barrier towards spices imported into China?

Reply: China has notified India of the relevant requirements in August 2021. However, no response has been received from India. As of 11 November, China has not obtained any pesticide residue test report format from India that meets China's requirements.

Page 86 Paragraph 3.168

Questions

1. What is the basis for Chinese side testing COVID-19 nucleic acid materials in non-cold chain non-food items such as leather, cotton yarn and engineering goods, etc., even when the consignments have taken more than a month on transit in sea?
2. Does the Chinese side realize that such unscientific testing leads to negative importer sentiment and acts as a non-tariff barrier in trade of these commodities?
3. Is China aware that raising unnecessary concerns regarding COVID-19 contamination negatively impacts imports from other countries? What measures has China taken to avoid using the pretext of COVID-19 contamination as an economic coercive tool?

Replies to Questions 1-3: China has no intention to set up non-tariff barriers, much less the alleged "economic coercion". China is strongly opposed to unilateralism and protectionism measures, including the economic coercive measures. China actually is a victim of these measures itself.

Page 12 Para 21

Background: During the review period, a new Export Control Law was adopted; it provides for the establishment of a single framework for restricting exports of controlled items, i.e. dual-use items (with both civilian and military applications); military products; nuclear products; and goods, technologies, and services that are related to the maintenance of national security and interests and the implementation of international obligations such as nuclear non-proliferation.

Questions

1. Will China's Export Control Law impact exports of materials which are declared to be used for civilian purposes?
2. Is China's export control law impacted by political considerations?

Reply to questions 1-2: China's Export Control Law provides for controlled items. In order to safeguard national security and interests and fulfill international obligations such as non-proliferation, the Chinese government will formulate and adjust control lists in accordance with international treaties and multilateral export control mechanisms to which it has acceded, and refer to international practices, and issue the lists publicly in a timely manner.

China's Export Control Law is a comprehensive and basic law to strengthen and regulate export control activities in order to further safeguard national security and interests and fulfill international non-proliferation obligations in the new situation. This law draws experience from international practices and provides stronger legal guarantee for export control.

Page 177 Section 4.4.3.2 & Para 4.253 on Page 178

Questions

1. What is the scientific basis for "five-ones" policy and circuit breaker system in the aviation sector?

Reply: Since the outbreak of COVID-19, China has adopted a series of provisional control measures for international passenger flights in accordance with the relevant provisions of the International Health Regulations and the Convention on International Civil Aviation, as well as the Law on Health and Quarantine at the State Borders, the Law on Emergency Response and the Civil Aviation Law, which have effectively prevented the spread of the pandemic across borders while meeting the needs of people-to-people movement. The "Five-Ones" policy is an interim measure taken due to the impact of the pandemic and the irregular aviation order. It applies equally to international flights operated by Chinese and foreign airlines.

2. Does China realize the adverse impact of its aviation sector policies on the overall trade and people-to-people movement?

Reply: The global aviation industry has been devastated by the pandemic. In the Chinese market alone, for example, the Chinese civil aviation industry was estimated to suffer a total loss of USD 15.1 billion in 2020, including a loss of USD 12.3 billion for airlines and USD 3.6 billion for airport companies. In addition, the pandemic has caused immeasurable negative impacts such as lack of confidence among the traveling public, loss of talents in the industry, and disruptions in the

global supply chain. To promote the industry's recovery, China's civil aviation has taken a series of measures to effectively prevent the spread of the pandemic across borders while meeting the needs of people-to-people movement. China firmly supports the work of ICAO and hopes to work hand in hand with other countries for the recovery, revitalization and sustainable development of the industry in the post-pandemic era.

3. What were the reasons that China decided to implement these measures without any form of consultations whatsoever with stakeholders?

Reply: Since the outbreak of COVID-19, China has adopted a series of provisional control measures for international passenger flights in accordance with the relevant provisions of the International Health Regulations and the Convention on International Civil Aviation, as well as the Chinese Law on Health and Quarantine at the State Borders, the Law on Emergency Response and the Civil Aviation Law, which have effectively prevented the spread of the pandemic across borders while meeting the needs of people-to-people movement.

4. What are the reasons for the Chinese side denying permissions for operations of chartered flights from countries even after confirmation that the flight will not have any incoming passengers into China?

5. Why are foreign airlines denied landing rights to Beijing while Chinese carriers were allowed to have flights which provided them undue commercial advantages?

Reply to Q4-5: After the outbreak of the pandemic, in accordance with Chinese Law on Health and Quarantine at the State Borders, Emergency Response Law, Civil Aviation Law and other laws and regulations, China has taken measures to divert international passenger flights destined for Beijing at the first point of entry, which is an interim measure taken due to the impact of the pandemic and irregular aviation order. There is no discrimination between Chinese and foreign airlines for international flights. The working mechanism for the prevention and control of the pandemic in Beijing provides coordination for the gradual resumption of direct flights to Beijing. At this stage, the number of flights that can resume direct flights to Beijing and the number of inbound passengers that can be accommodated are very limited.

6. Did China place restrictions on imports of consignments through air freight from countries which were affected by COVID-19 pandemic?

Reply: For the air transportation of cargo, Chinese civil aviation enforces ICAO standards and does not impose additional restrictions on air cargo imported from countries affected by COVID-19.

7. Is the Chinese side aware that unofficial instructions or orders are being issued to Chinese carriers to follow restrictions on imports of consignments through air freight from countries which were affected by COVID-19 pandemic?

Reply: For the air transportation of cargo, Chinese civil aviation enforces ICAO standards and does not impose additional restrictions on air cargo imported from countries affected by COVID-19.

8. What are the steps that the Chinese side has adopted to prevent using informal channels and pressure to impose restrictions on imports from other countries?

Reply: For the air transportation of cargo, Chinese civil aviation enforces ICAO standards and does not impose additional restrictions on cargo transport.

Page 86 Para 3.165

Questions

1. Will decrees 248 and 249 issued by GACC increase non-tariff barriers for export of food and agricultural products to China, especially from developing countries?

2. Will existing trade in food products be negatively impacted because of implementation of these decrees 248 and 249?

Reply to Q1-2: Provisions on the Administration of Registration of Foreign Enterprises Producing Imported Food (General Administration of Customs Decree No. 248) aims to optimize the registration process, apply classification management to different categories of foreign manufacturers, clarify the main responsibility of enterprises and regulatory responsibility of the competent authorities of

the host country (region), and improve the applicability of the provisions to enhance operability. The said provisions will not affect the implementation of the agreements that have been negotiated between the relevant members and China. In order to ensure the normal operation of food trade destined for China after the implementation of Decree 248 and 249 of the General Administration of Customs, the General Administration of Customs informed the relevant countries (regions) by letter at the end of September 2021 on the application for registration of different types of overseas imported food production enterprises and the material requirements to be submitted.

3. What are the objective criteria used to assess whether relevant competent authority in a country has passed the equivalence assessment and review of GACC?

Reply: The contents and standards of the equivalence assessment and review will be enforced based on the relevant guidelines of the WTO, OIE, IPPC and CAC, the relevant inspection and quarantine requirements agreed between the General Administration of Customs and the competent authorities of the host country (region), relevant Chinese laws and regulations and national food safety standards.

General Administration of Customs is responsible for organizing the assessment and review team to carry out assessment and review, and will communicate and consult with the competent authorities of the host country (region) where the enterprise is located in advance based on the risk assessment results and international practices.

4. What will be the impact of these decrees on some of the bilateral protocols which have been signed between China and other countries on export on food items and agricultural products?

Reply: The General Administration of Customs Decrees 248 and 249 will not affect the implementation of the bilateral protocols. Where the relevant countries (regions) and China have otherwise agreed on the registration method and application materials, it shall be implemented in accordance with mutual agreements.

5. Since time is short and China has not released many details on equivalence assessment and review of the GACC, will China extend the implementation date for decrees 248 and 249?

Reply: China published on 12 April 2021 the Measures for the Safety Administration of Imported and Exported Food (General Administration of Customs) and the Provisions on the Administration of Registration of Foreign Enterprises Producing Imported Food (General Administration of Customs Decree No. 248), which will come into effect from 1 January 2022. The General Administration of Customs has granted a corresponding transition period between the issuance and implementation of Decree No. 248 and Decree No. 249.

6. Will China accept the list of establishments provided by equivalent agency and update the lists as provided or insist on other measures before these establishments are accepted? If yes, what will be the other measures and what are the objective criteria for accepting establishment?

Reply: China has published the Measures for the Safety Administration of Imported and Exported Food (General Administration of Customs Decree No. 249) and the Provisions on the Administration of Registration of Foreign Enterprises Producing Imported Food (General Administration of Customs Decree No. 248) on the website of the General Administration of Customs. Please clarify the meaning of the term "equivalent agency" before further reply could be made.

Page 100 Para 3.3.6.2

Questions

1. Do article 533 and article 566 in China's civil code affect the sanctity of commercial contracts signed by foreign enterprises with Chinese enterprises?
2. Do article 533 and article 566 provide an easy premise for Chinese companies to violate commercial contracts with foreign enterprises?
3. How does China ensure that the provisions in China's Civil Code related to change in contract situation are enforced only in exceptional cases and do not provide Chinese companies an easy premise to engage in price gouging?

Reply to questions 1-3: China's Civil Code provides that the legal status of the parties to civil legal relations is equal. Article 4 of China's Civil Code stipulates that all parties to civil legal relations are equal in legal status in civil activities. In civil activities within the territory of the

People's Republic of China, the Civil Code shall be equally applied to foreign and Chinese enterprises without differences.

China's Civil Code adheres to the principle of good faith and stipulates that contracts shall be fully performed. Article 7 of the Civil Code stipulates that the parties to civil legal relations shall conduct civil activities under the principle of good faith, adhere to honesty, and fulfill their promises. Article 509 of the Civil Code stipulates each party shall fully perform its own obligations as agreed. Chinese enterprises and foreign enterprises should follow the principle of good faith, uphold honesty, keep promises and fully fulfill their obligations according to the agreement. Either party should strictly abide by the contract.

Article 533 of the Civil Code conforms to the international common practice, which is based on the principle of fairness and protects the rights of the parties more comprehensively. Article 533 stipulates that where the basic conditions of a contract undergo a material change unforeseeable by the parties at the time of contracting which is not a commercial risk after the formation of the contract, rendering the continuation of the performance of the contract unconscionable for either party, the adversely affected party may renegotiate with the other party; and if the renegotiation fails within a reasonable time limit, the party may request the people's court or an arbitration institution to modify or rescind the contract. The people's court or arbitration institution shall change or rescind the contract based on the actual circumstances of the case, in accordance with the principle of fairness. This provision is limited to circumstances, in which significant changes have taken place after the contract is established in the basic conditions of the contract that cannot be foreseen by the parties at the time of concluding the contract and are not commercial risks. If it is unfair for one party to continue to perform the contract, it is impossible for both parties to foresee, control, based on the principle of fairness, and does not belong to commercial risks after the establishment of the contract. Due to the imbalance of contractual interests caused by the change of basic conditions of contract and the fair adjustment based on the principle of fairness, Germany, France, the UK., and the United States and the General Principles of International Commercial Contracts all have similar systems, which are in line with international common practice. Article 566 is a general provision on the legal consequences after the termination of the contract. Neither Article 533 nor Article 566 will provide a loophole for the breach of a signed commercial contract by either party to the contract.

The relevant provisions are the confirmation of the consistent practice. Articles 533 and 566 of China's Civil Code have been practiced for many years. Whether in domestic or international trade, China has strictly applied relevant regulations in accordance with the law, which has effectively protected the orderly development of international trade. It is impossible to facilitate any party to violate good faith, default on contractual obligations or commit fraud, and will continue to provide strong legal guarantee and a fair, just, and good legal environment for international trade.

Page 99 Para 3.3.6

Questions

1. Can China provide a list of all central government tenders / contracts in which foreign companies competed with domestic companies for the past five years? In all such tenders, how many of these tenders were won by foreign companies? How many of these tenders had requirement for domestic brands and indigenous designs? What is the value of the contracts won by foreign companies?

Reply: China has not yet joined the GPA, nor has it signed any government procurement market-opening agreements with other countries or regions. As specified by the Foreign Investment Law implemented in January 2020, foreign-invested enterprises are protected and entitled to participate in government procurement activities through fair competition following the law, and the products produced, and services provided by foreign-invested enterprises in China will be treated equally in government procurement. Foreign enterprises may, on an equal footing, participate in Chinese government procurement activities through enterprises registered in China. China currently does not have any statistics on the awarding of government procurement contracts to foreign companies. China will fulfill relevant transparency obligations as per Article 16 of the GPA after joining the GPA.

2. In China's government procurement at Central and local level, is there a standard definition of what constitutes a "domestic product"? What are the rules / basic principles adopted in defining domestic products?

Reply: At present, for the purpose of government procurement, no definition standard for domestic products, projects and services has been established, and no appropriate identification work has been carried out in this regard. Except for procurement projects involving national security and state secrets, the Chinese government will equally treat all products produced and services provided in China by foreign-invested enterprises and local enterprises in procurement.

3. The dual circulation strategy has laid a great deal of emphasis on building domestic brands. Chinese state media is rife with articles about increase in consumption of domestic brands. What specific measures have China adopted to give foreign brands and foreign companies a level playing field in government procurement?

Reply: The Chinese government practices fair competitive procurement to ensure that all legal persons of different ownerships and unincorporated organizations established in China, no matter Chinese enterprises or foreign-owned enterprises, will participate in government procurement activities through fair competition. According to the Government Procurement Law, the government shall procure domestic products, projects and services. Except for procurement projects involving national security and state secrets, the Chinese government will provide equal treatment to all products produced and services provided in China by foreign-invested enterprises and local enterprises in procurement. The Chinese government has lately issued the Notice on Implementing Equal Treatment Policies to Chinese and Foreign Enterprises in Government Procurement Activities to further regulate the implementation of the policies in different provinces and municipalities. In the government procurement activities, any Chinese or foreign enterprises who believe that their rights and interests have been compromised by any procurement documents, procurement process, contract award, or the concluded scope of work, may raise a question or complaint as per applicable regulations. The financial department at different levels will accept and fairly handle complaints from suppliers as according to the law. No differential or discriminatory treatment shall be given to Chinese and foreign enterprises in the complaint acceptance. The legitimate rights and interests of suppliers involved in the government procurement shall be well protected.

Page 113 Paragraph 3.271

Questions

1. It is difficult to patent specific therapeutic methods in China, including for traditional medicines. Could China explain how these restrictions comply with TRIPS Article 27.1?

Reply: Article 25(1)(3) of the Chinese Patent Law stipulates that "the methods for diagnosis and treatment of diseases" shall not be granted as patent rights. Chapter 1(4.3), Part II of the Patent Examination Guidelines stipulates that "for humanitarian considerations and social ethical reasons, doctors should have the freedom to choose various methods and conditions in the process of diagnosis and treatment. In addition, such methods are implemented directly on living human or animal bodies, which cannot be utilized in industry and are not inventions in the meaning of patent law. For this reason, methods for diagnosis and treatment of diseases are not patentable." Article 27.3 of the TRIPS Agreement also clearly stipulates that member countries may exclude the patentability of methods for diagnosis and treatment of diseases, and China's provisions are consistent with that of the TRIPS Agreement.

2. The registration of APIs for exports takes only a couple of months in market economies, but the Chinese side insists on registration of formulation also for the export of APIs. The registration of formulation takes almost two-three years and hence, the simple process of registration of API also gets unduly delayed. Could you explain how does these provisions comply with the provisions of WTO?

Reply: APIs shall be reviewed and approved together when the application for registration of pharmaceutical preparations is submitted, and APIs used for imitating or importing domestic on-market drugs' pharmaceutical preparations can be reviewed and approved separately.

3. Before registration of formulation, testing on formulation is carried out by NIFDC. Even though the standard time period for testing of formulation, as mentioned by NIFDC, is 30 days, in selective cases the testing of formulation gets delayed giving advantage to the local manufacturers. China is requested to share details of the time taken in testing the formulations of the local manufacturers as compared to the formulations sent by the foreign companies.

Reply: Pursuant to the 2007 Regulations on the Administration of Drug Registration, the standard time period for testing of drugs during their registration is 30 days, which is in line with the drugs manufactured abroad. The 2020 Regulations on the Administration of Drug Registration implemented on 1 July 2020 also raises the same requirements for the time taken in testing the drugs of local and foreign manufacturers, and no discrimination is found.

4. The lack of harmonization and convergence with international standards of China's drug and vaccine traceability standards remain top concern of the industry. China has joined the International Council for Harmonization of Technical Requirements for pharmaceuticals for human use (ICH) in 2017 and NMPA has recently released road-map specifying time-lines for implementing ICH guidelines. Will NMPA provide enough time for manufacturers and all parties involved in the supply-chain to ensure a smooth transition to international standards especially for the imported drugs?

Reply: After joining ICH, China has fully accepted ICH ideas and technical requirements that represent a higher level of registration of pharmaceuticals across the globe, and it is gradually aligning with international rules. Since then, China has fully assessed and analyzed the guidelines already approved or being coordinated by ICH. First, for the existing ICH guidelines before its entry, China has organized competent functional units to explore the feasibility of directly implementing ICH guidelines in China, and proposed its own timelines and roadmaps. After taking advice of domestic and overseas industrial suggestions, soliciting public opinions, and making adequate research, China finalized the timelines and roadmaps for implementing ICH guidelines and released an announcement on applicable ICH guidelines. Second, for the ICH guidelines under coordination, China dispatched experts to participate in the formulation and revision work together with those experts from other ICH member states, and in accordance with the coordination progress, simultaneously organized domestic regulatory bodies and industry experts to discuss subsequent timelines and roadmaps of implementing ICH guidelines, including setting up a transition period for accommodating new ICH guidelines. After the coordination work is done by ICH, China will release an announcement on applicable guidelines after fully soliciting industry opinions. Meanwhile, China did not release the translated ICH guidelines in Chinese together with the applicability announcement for ensuring the consistence and convergence of ICH international standards.

5. Chinese Volume Based Procurement (VBP) Policy has significantly reduced drug prices. However, the problems with drug selection, procurement and quality supervision has taken a toll on the market competition. China announces drugs to be taken up in VBP at the last moment which is detrimental to the foreign companies giving them limited time for preparation to apply for VBP. Will China announce list of drugs to be included in the next three years so as to give level-playing field to all the players? What step is China taking to halt the VBP conducted at provincial level considering the high risk of treatment replacement for patients? What step is China taking to introduce reasonable price competition rules and avoid awarding bids quoting extremely low prices so as to increase companies motivation to maintain and improve drug quality?

Reply: China Anti-monopoly Enforcement Regimen protects a fair market competition and maintains the interests of consumers in strict compliance with applicable laws. During the enforcement of laws, China treated all kinds of enterprises in the same way, including foreign enterprises, creating a market-oriented, legitimate, and international fair competition environment for domestic and foreign ones.

Most drug prices are independently determined by manufacturers based on production costs and competitiveness in a competitive market. Chinese Volume Based Procurement (VBP) Policy makes it possible for drug manufacturers to calculate production costs by estimating sales and lower these costs through mass production, which plays a great role in bringing down drug prices. During the tendering process, China is improving the practice of awarding bids quoting extremely low prices, and introducing sanctions such as including those drug enterprises having won the VBP bid at low prices but refused to perform the contracts into the list of violations, and paying extra expenses arising out of the guarantee of supply. According to the Price Law of the People's Republic of China, other pricing acts of drug enterprises are also prohibited, such as dumping the drugs at prices lower than their costs to rule out the competitors or monopolizing the market, disturbing normal production order, or injuring legitimate interests of China or other enterprises. The above measures can be adopted for effectively avoiding awarding bids quoting extremely low prices and protecting the motivation of drug manufacturers to constantly improve their drug quality.

Questions based on Government Report (WT/TPR/G/415)**Page 20 Para 5.1.****Background**

China has proposed Dual Circulation Strategy (DCS) as a new economic and developmental model that seeks to spur domestic demand in China.

Questions

1. Through DCS, is China promoting economic nationalism over free market economy?

Reply: Building a new development pattern is a strategy to upgrade China's economic development level in the new era, and to shape China's international economic cooperation and new competitive edges. A new development pattern never means a closed domestic circulation, but represents an open domestic and international dual circulation. China will open its door wider instead of closing it. China's links with the world economy will be closer. It provides broader market opportunities to other countries, and becomes a great attraction for international commodities and factor resources. China will further reduce tariffs and institutional costs, set up a batch of innovation demonstration zones for promoting imported trade, and increase the imports of high-quality products and services. Furthermore, China will continue to encourage free trade zones, advance the construction of Hainan Free Trade Port, and build a new highland for opening-up. China is glad to sign high-standard free trade agreements with more countries, and accelerate the execution and implementation of China-Europe Investment Agreement and other agreements.

2. Will DCS negatively impact market access for foreign products in China?

Reply: China proposes to accelerate efforts to foster a new development paradigm with domestic circulation as the mainstay and domestic and international circulations reinforcing each other. As mentioned in the keynote speech by President Xi Jinping at the Fourth China International Import Expo, China will resolutely advance a higher-level opening-up, expand exports and promote balanced trade development. As a result, a new development pattern does not mean a closed domestic circulation, but represents more open domestic and international dual circulation. In this process, China will give further play to the role of imports, and share market opportunities with the world.

According to the statistics, from January to October this year, China's total imports reached RMB 14.18 trillion, with a year-on-year growth of 21.8%. Steadily increased imports promotes domestic grand circulation and effectively guarantees economic development, industrial transformation and consumption upgrade.

3. Will DCS negatively impact foreign investments and Foreign Invested enterprises in China?

Reply: Accelerating the formation of a new development pattern is a decision made by China based on its own development status and the changes in environment and conditions, as well as a strategic plan focusing on the present and looking into the future. Building new development pattern never means a closed domestic circulation, but represents more open domestic and international dual circulation. Foreign investments are an integral part of domestic grand circulation and a key link in domestic and international dual circulation. Under the new development pattern, China insists on the strategic base point of expanding domestic demand, fully enhancing the level of opening-up, optimizing foreign investment environment, promoting the attraction of global factor resources, introducing new technologies, new economy, and new types of operation, and making better use of domestic and international resources. In this way, foreign-invested enterprises will enjoy more development opportunities and broader development space in China, go deeper into China's development process, and achieve win-win cooperation.

4. Can Chinese side elaborate on how it plans to integrate the domestic and global economies via DCS?

Reply: By tapping the potential of domestic demand, China will facilitate the connection between domestic and international markets, and make better use of these two markets for more robust and sustainable development. In the past, under the external environment of economic globalization, by putting both ends of the production process on the whole market, market and resources contributed a lot to China's rapid development. In the context of increased protectionism, depressed world economy, and declining global market, China must give full play to its domestic super-large market

advantages, and add momentum to domestic economic development and global economic recovery by flourishing domestic economic and promoting domestic grand circulation.

Additional Questions from India for China Trade Policy Review

Paragraph 4.191 of the Secretariat Report:

Baidu, Alibaba, and Tencent are responsible for most of the high-profile innovations that have occurred in China's finance industry. Millions of people use Tencent's WeChat Pay and Alibaba's Alipay daily to make third-party mobile payments. The fintech products currently offered include mainly online payment services, Internet banking, Internet loans, crowdfunding, Internet wealth management, Internet securities, and Internet insurance. Tech companies are required to obtain the corresponding financial licences to conduct financial services business.

1. What are the regulatory requirements to be fulfilled by foreign entities for providing online payment services in China, particularly those denominated and paid in renminbi?

Reply: According to the Announcement No.7 [2018] of the People's Bank of China (PBOC), where an overseas institution is to provide electronic payment services for domestic and cross-border transactions of an entity within the territory of the People's Republic of China, such overseas institution shall establish a foreign-funded enterprise within the territory of the People's Republic of China and obtain the payment business permit and become a non-bank payment institution according to the requirements and procedures as prescribed in the Administrative Measures for the Payment Services Provided by Non-financial Institutions (Order No. 2 [2010], hereinafter referred to as Order No.2). The regulatory requirements for non-bank payment institutions include but are not limited to Order No. 2, Detailed Rules for the Implementation of the Administrative Measures for the Payment Services Provided by Non-financial Institutions, Announcement No. 7 [2020] of the People's Bank of China (Related Matters for Foreign-Invested Payment Institutions) and other relevant regulatory documents. Regarding the business of denominated and paid in RMB, payment institutions that have obtained the "Internet Payment" business license can carry out cross-border RMB settlement related businesses in accordance with the current provisions on cross-border RMB settlement business. In 2014, PBOC issued Implementing the Several Opinions of the General Office of the State Council on Supporting the Steady Growth of Foreign Trade (Yin Fa 2014 No.168), thereby clarifying that banking financial institutions and payment institutions that have obtained a business permit for "Internet payment" in accordance with the law shall cooperate with each other. Banking financial institutions and payment institutions shall sign a cross-border e-commerce RMB settlement agreement, and shall report such agreement to the branches of the PBC for recordation. In 2020, PBOC issued the Notice of Further Optimizing the Cross-border RMB Policies to Support the Stability of Foreign Trade and Foreign Investment (Yin Fa [2020] No. 330, hereinafter "Notice No. 330") to support domestic banks in cooperating with legal transfer and clearing institutions and non-bank payment institutions in providing cross-border RMB receipt and payment services for market entities concerning new forms of trade such as cross-border e-commerce, market procurement trading methods, and comprehensive foreign trade services under the premise of compliance with laws and regulations.

2. Is the regulatory framework for domestic and foreign service providers at par or are there any additional obligations for non-Chinese entities?

Reply: The same regulatory framework is implemented for domestic and foreign entities to conduct payment services in China, and no additional obligations are imposed on non-Chinese entities.

3. China is requested to elaborate if there exist any preferential treatment accorded to electronic payment service suppliers, including assured license approval agreements, for any particular WTO member, vis-à-vis other Members.

Reply: All WTO members are treated equally in China, and no preferential treatment is given to electronic payment service providers of specific WTO members.

Paragraph 4.195 of the Secretariat Report:

On 21 March 2018, the PBOC circulated Announcement No. 7, 2018, which allows qualified foreign institutions to provide electronic payment services in respect of both domestic transactions and cross-border transactions. To provide third-party electronic payment services in China, qualified foreign investors must establish a foreign-invested payment institution and obtain a payment business operating licence in accordance with the 2010 Administrative Measures on Payment Services of Non-financial Institutions. In addition, they must store, process, and analyse in Chinese territory all personal information and financial data collected and generated in China. Where international transfers of such information are necessary to process cross-border transactions, the transfer must comply with applicable laws and regulations.

1. Which are the qualification requirements for foreign institutions to provide electronic payment services for domestic transactions and cross-border transactions?
2. What are the requirements for a qualified foreign investor to obtain a payment business operating licence?

Reply to Q1-2: According to Announcement No. 7 [2018] (Relevant Issues concerning Foreign-funded Payment Institutions) of PBOC, (1) an overseas institution shall provide electronic payment services for domestic and cross-border transactions of an entity within the territory of the People's Republic of China, such overseas institution shall establish a foreign-invested enterprise within the territory of the People's Republic of China and obtain the payment business permit according to the requirements and procedures as prescribed in Order No. 2; (2) an overseas institution shall have a safe and standardized business system and a disaster recovery system that can independently complete payment business within the territory of the People's Republic of China; (3) the personal information and financial information collected and generated by foreign-funded payment institutions within the territory of the People's Republic of China shall be stored, processed, and analyzed within the territory of China. Where such information must be transmitted overseas for processing cross-border business, the transmission shall comply with the laws, administrative regulations, and provisions of the relevant regulatory departments, and the foreign-funded payment institutions shall require the overseas entities to perform the corresponding obligation of maintaining the information confidential and obtain the consent of the entities of such personal information; (4) the corporate governance, daily operations, risk management, disposition of funds, deposit of excess reserves, and emergency arrangements of foreign-invested payment institutions shall comply with the supervision requirements of the People's Bank of China for non-banking payment institutions.

3. Is there any distinction or categorisation between institutions that can supply electronic payments services in respect of domestic transactions and those that can supply such services in respect of cross-border transactions?

Reply: Institutions providing electronic payment serviced both for domestic transactions and cross-border transactions must obtain a payment business license issued by the People's Bank of China, and institutions that intend to provide electronic payment services for cross-border transactions shall, after obtaining a payment business license, carry out cross-border RMB filing and registration of the list of trade foreign exchange receipts and expenditures enterprises in conformity to the relevant provisions.

4. In US-China Phase One Agreement, China committed under Article 4.4 to provide a time-bound, expedited and assured license approval for US electronic payment service-suppliers, and has also committed to accept any applications from US electronic payment services suppliers. There is also an explicit commitment to make a determination (whether positive or adverse) within 90 working days of accepting the application. Is the assured licence approval procedure guaranteed under the US-China Phase One Agreement, different from the payment business operating licence under the 2010 Administrative Measures on Payment Services of Non-Financial Institutions?

Reply: In China-US Phase One Agreement, the Chinese commitment is based on the administrative review and approval provisions of the Decision of the State Council on Implementing Access Administration of Bank Card Clearing Institutions (Guo Fa [2015] No. 22), the details are as follows: an applicant applying to become a bank card clearing institution shall file a preparation application with the PBC in accordance with the provisions and the PBC shall,

after soliciting consent from the CBRC, make a decision approving or disapproving the preparation within 90 days of the date of acceptance. After the preparatory work is completed, an applicant meeting the conditions of permit may file an application with the PBC for starting business. The PBC shall, after soliciting consent from the CBRC, make a decision approving or disapproving the application within 90 days of the date of acceptance.

Paragraph 4.193 of the Secretariat Report:

On 10 November 2020, the State Administration for Market Regulation (SAMR) issued a consultation draft of the Anti-Monopoly Guidelines on the Sector of Platform Economies, aiming to prevent monopolistic behaviour by Internet platforms to ensure fair competition and strengthen anti-monopoly law enforcement. All companies engaged in Internet platform business must be subject to anti-monopoly supervision. The draft expressly refers to the Anti-Monopoly Law, and set rules to discipline the online market, in compliance with the provisions already stated under the Anti-Monopoly Law.

1. What are the activities that are considered anti-monopoly behaviour under the Guidelines?

Reply: In February 2021, the Anti-monopoly Commission of the State Council issued Guidelines for Anti-monopoly in the Field of Platform Economy. The guidelines, based on the Anti-Monopoly Law, emphasize that monopoly activities in the field of platform economy should be governed by the Anti-monopoly Law and related supporting regulations, rules and guidelines, sending a clear signal that Internet platforms are not outside the scope of the anti-monopoly law. Highly consistent with the structure of the Anti-Monopoly Law, the Guidelines consists of six chapters, a total of 24 Articles, including general provisions, monopoly agreements, abuse of market dominance, concentration of operators, abuse of administrative power to exclude and restrict competition, and supplementary provisions, making relatively detailed provisions on the application of the Anti-monopoly Law in the field of platform economy. According to the Anti-Monopoly Law and the Guidelines, monopoly agreements involving the platform economy, abuse of dominant market position, and concentration of operators that have or may have the effect of excluding or restricting competition are all monopolistic behaviors.

Paragraph 4.220 of the Secretariat Report:

China also implemented the provision of the Cybersecurity Law concerning national security review requirements for CIIOs purchasing certain network products and services. This was made through the Measures on Cybersecurity Review, and was jointly adopted on 27 April 2020 (effective 1 June 2020) by the CAC and 11 other government agencies. The Measures seek to implement Article 35 of the Cybersecurity Law, which established a cybersecurity review requirement on network products and services procured by CIIOs. Purchases of network products or services with a potential effect on national security are subject to the cybersecurity review system outlined under the Measures. Such network product and services include core network devices, high-performance computers and servers, mass storage devices, large databases and application software, network security devices, cloud computing services, and other network products and services that have a significant impact on the security of the critical information infrastructure.

1. What is the criteria to determine whether any network product or service would have a significant impact on the security of critical information infrastructure, or a potential effect on national security?

Reply: The Cybersecurity Review Measures specifies that the network products and services procured by operators of critical information infrastructure that affect or may affect national security, shall be subject to cybersecurity review. The review focuses on assessing the possible national security risks associated with the procured network products and services by critical information infrastructure operators, such as the risk of critical information infrastructure being illegally controlled, interfered with or damaged, and important data being stolen, leaked, or destroyed after the use of products and services; compliance of product and service providers with Chinese laws, administrative regulations, departmental rules, as well as early detection and the avoidance of risks and hazards associated with the operation of critical information infrastructure from the procured products and services. The Measures makes it clear that network products and services mainly refer to core network equipment, high-performance computers and servers, mass storage devices, large databases and application softwares, network security

equipment, cloud computing services, and other network products and services that have a significant impact on the security of critical information infrastructure. The Measures (Revised Draft for Public Comments) was made available for public comment in July 2021, and further revisions and improvements are being made to the Measures.

Paragraph 3.93 of WT/TPR/S/415

Besides the item based control lists, the Law provides for the establishment of control lists of foreign business entities that fall under one of the following cases: (i) violate end-user or end-use restrictions; (ii) "possibly endanger national security and interests"; or (iii) use controlled items for terrorist purposes. Chinese exporters will be barred from dealing with foreign business entities on the controlled list. However, they will be able to request exemptions under certain conditions, according to the Law. 1. Could China please provide further clarification as regards establishment of control lists of foreign business entities? It is understood that China has sought to implement a "Unreliable Entities List" whereby, a foreign entity is included in the list if it engages in certain activities that endanger national sovereignty, security or development interests of China, and violate the principles of normal market transactions, interrupting normal transactions with Chinese entities, or adopting discriminatory measures against Chinese entities, seriously damaging the rights and interests of Chinese enterprises, organizations. Are these the same?

Reply: The control list under the Export Control Law and the list of unreliable entities are different legal regimes. Article 18 of the Export Control Law makes specific provisions on the control list system. Article 2 of the Regulations on the Unreliable Entities List makes specific provisions on the list of Unreliable Entities system.

2. China is requested to clarify whether and how such a measure of "unreliable entities list" is in conformity with its obligations under WTO Agreements.

Reply: The Chinese government firmly upholds multilateralism and the multilateral trading system. The introduction of the Regulations on the Unreliable Entities List is aimed at protecting the legitimate rights and interests of Chinese citizens, legal persons and other organizations, and safeguarding normal transnational economic and trade exchanges as well as a fair and free international economic and trade order, which is in conformity to the WTO rules.

TURKEY**THE GOVERNMENT REPORT****3. Pursuing High-Level Opening Up And Exploring New Prospects For Win-Win Cooperation, 3.1 Promoting the High-Quality Development of Trade, 3.1.3 Actively cultivating new forms and new models of foreign trade and promoting innovative development of trade in services, pg. 8, 3.9**

It is stated in the Government Report that *"China actively promotes well-regulated, healthy and sustainable development of cross-border e-commerce and other new forms and modes. China has established 105 cross-border e-commerce pilot zones in five batches, guided the local authorities to build test grounds, promoted business model innovation, and created a fair, open and transparent development environment. Meanwhile, in view of the characteristics of small transaction volume with high frequency of cross-border e-commerce, China explored and formed a number of experiences and practices by using new technologies and tools, which have been replicated and adopted nationwide. On 1 January 2019, the E-commerce Law came into effect. The standards of the e-commerce sector have been continuously improved and the integrity and trustworthiness of the sector have been further deepened."*

Question: Could China explain what are the new technologies and tools harnessed to manage the cross-border e-commerce that have distinctive features of being executed in small transaction volume with high frequency?

Reply: Up to now, China has 105 comprehensive pilot zones for cross-border e-commerce (hereinafter referred to as Comprehensive Pilot Zones). The local-level Comprehensive Pilot Zones have explored the construction of "six systems and two platforms". The six systems refer to information sharing, financial services, intelligent logistics, e-commerce integrity, statistics monitoring, and risk prevention and control. The two platforms include the online comprehensive service platform and the offline industrial parks. Generally speaking, the trade policies implemented in the Comprehensive Pilot Zones are no different from other regions. No pre-approval for new business models is required, such as cross-border e-commerce, which can be operated on a voluntary and market-oriented basis.

6. The Way Forward, pg. 27, 6.3

It is stated in the Government Report that *"China will uphold and practice multilateralism, and join efforts with other members to tackle global challenges and build a community with a shared future for mankind. China will continue sharing its useful experience in pandemic prevention and control with other countries, and try its best to assist countries and regions with difficulties to fight against the pandemic. China will actively participate in the WTO reform, improve global governance, and promote high-quality Belt and Road cooperation. China will further implement the United Nations Framework Convention on Climate Change and the Paris Agreement to address climate change. Moreover, China will strive to peak carbon dioxide emissions by 2030 and achieve carbon neutrality by 2060 to promote sustainable development. As a developing member, China will continue deepening South-South cooperation and contributing to poverty eradication, debt relief, and economic growth of developing members."*

Question: What are the major actions planned in order to reach the 2030 and 2060 goals related to climate change? Could China kindly provide further information about these actions?

Reply: China is fully committed to development path that prioritizes ecology and green and low-carbon, and actively undertakes international responsibilities in line with its own national conditions. In addition to promoting the release of opinions on carbon peaking and carbon neutrality and the action plan for carbon peaking by 2030, China will release the implementation plan for carbon peaking in key areas and industries and provide a series of support measures, building up a "1+N" policy system targeting carbon peaking and carbon neutrality. China continues to promote industrial and energy restructuring and vigorously develop renewable energy. China will strictly control the growth of coal consumption in the 14th Five-Year Plan period and gradually reduce it in the 15th Five-Year Plan period. China will strongly support the green and low-carbon development of energy in developing countries, and will not build any new coal-fired power projects outside China, so as to contribute to the global response to climate change.

THE SECRETARIAT REPORT

3. Trade Policies And Practices By Measure, 3.1 Measures Directly Affecting Imports, 3.1.5 Import prohibitions, restrictions, and licensing, pg. 58, 3.43

It is stated in the Government Report that *"China continues to classify imports into three categories: not restricted, restricted, and prohibited. The import of restricted goods is administered through licences or import quotas, although the latter were not applied during the review period. The licensing system does not differentiate between the origins of products unless otherwise provided for in RTAs entered into by China."*⁵³

Question: Could China provide additional information on restricted and prohibited commodities, as well as provide an explanation of how these classifications are formed?

Reply: According to the provisions of the *Foreign Trade Law of the People's Republic of China* and other laws and administrative regulations and China's WTO accession commitment, based on the maintenance of national security, public interest or public morality, protection of human, animal and plant life or health, protection of the environment and security of specific industries, protection of international financial status and balance of payments, maintenance of normal trade order, as well as the implementation of international treaties and agreements concluded or participated in, China restricts and regulates the flow of some goods, which is how the current import and export management measures of prohibited and restricted goods have been developed.

4. Trade Policies by Sector, 4.1. Agriculture, Fisheries and Forestry, 4.1.2 Agriculture, 4.1.2.4 Policy instruments, 4.1.2.4.2 Measures affecting exports, pg. 126-127, 4.18

It is stated in the Secretariat Report that *"China notified the WTO that export subsidies were not granted to agricultural products during the calendar years 2018 and 2019. The authorities did not provide an update as to whether export subsidies were provided in 2020. As indicated in its previous Review, China replied to the questionnaire on export competition, circulated on 31 October 2016, that it provides export financing programmes (i.e. export credit, export credit guarantees, and insurance programmes) covering, inter alia, agricultural goods. With respect to the questionnaire on export competition circulated on 17 January 2020, the authorities indicate that the related information would be disclosed in its coming notification. No data were available on food aid provided by China during the review period."*

Question: Could China give any approximate date for the information to be disclosed?

Reply: China will soon submit a notification of its domestic support programmes.

4. Trade Policies by Sector, 4.4 Services, 4.4.2 Telecommunications, 4.4.2.2 Regulatory framework, 4.4.2.2.7 E-commerce, pg. 173, 4.230

It is stated in the Secretariat Report that *"Regarding foreign business, the E-commerce Law provides that China shall encourage cross-border e-commerce (CBEC) development. In practice, the authorities have been promoting CBEC (activities of purchasing or selling products via online shopping across national borders). On 27 April 2020, the State Council issued the Approval of the Establishment of Integrated Pilot Areas for Cross-border E-commerce in 46 Cities and Areas (Guo Han No. 47, 2020). This brought the total number of CBEC pilot zones to 105. In December 2019, the authorities extended the List of Goods under Cross-border E-commerce Retail Importation to allow more foreign goods to be delivered to Chinese consumers through the CBEC retail importation programme."*¹²⁶

Question: Could China provide detailed information about:

- What kind of rights and privileges that cross-border e-commerce pilot zones have and how an e-commerce activity conducted with a pilot zone differs from the one that is conducted with outer regions?
- How China sets the infrastructure and necessary mechanisms for the efficient operation of consolidation centres of dispatches? What kind of mechanisms and frameworks are constituted to support those centres for effective and efficient operations?
- What kind of incentives have been allocated to the companies engaged in e-commerce business? Which criteria are set for provision of incentives for those companies? .

Reply to the above questions: Since 2015, China has approved 105 cross-border e-commerce (CBEC) pilot zones in five batches successively. To encourage and support CBEC, the Ministry of

Commerce has guided the pilot zones in establishing a policy framework centered on "six systems and two platforms." This has produced 36 mature practices of experience in 12 aspects that have been replicated and promoted nationwide. On July 5, 2021, the General Office of the State Council released the Opinions of the State Council's General Office on Speeding Up the Development of New Business Forms and New Models of Foreign Trade, making it clear that China will improve support policies for CBEC, expand the integrated pilot zones, enhance refined service platforms such as independent CBEC sites and CBEC software, streamline the management of payment and settlement, strengthen the organization and building of the industry and talent training, and promote the development of new forms and new models of foreign trade on a healthy, sustainable, and innovative basis.

ECUADOR**Informe de la Secretaría de la OMC, documento WT/TPR/S/415, 15 de septiembre de 2021.****1. Página 38, párrafo 2.16**

Podría por favor, China, explicar ¿A qué se refiere el calificativo "experimental"? ¿Se establecen de forma permanente ese tipo de Zonas Francas? ¿Qué mecanismos de verificación se utiliza para que esos incentivos concedidos se ajusten a la normativa multilateral? ¿Los incentivos fiscales se otorgan a todas las empresas por igual o existe algún tipo de criterio específico para su concesión (sector, consumo externo o interno, requisitos de desempeño, por citar algunos ejemplos)? Sobre la agilización de los reglamentos ¿existen procedimientos simplificados de Reglamento y normas técnicas para las zonas francas experimentales?

Reply: The Pilot Free Trade Zone is a testing ground for China's independent reform and opening up. The core task is institutional innovation, which means promoting deeper reform and higher level of opening-up on an early and pilot basis, and experience gained in the process will be promoted to a larger scale, so as to explore ways to deepen reform, further opening up and accumulate experience. In the past eight years since the establishment of the Pilot Free Trade Zone, a series of reform initiatives have been launched, which have significantly improved the level of trade facilitation and reduced the operating costs of enterprises. In principle, these measures are applicable to all market players in the FTZ. The higher-level independent reform and opening up initiatives implemented in the FTZ are in line with WTO rules and China's WTO accession commitments.

2. Página 66, párrafo 3.43

En relación con las tres categorías o clasificaciones de las importaciones. ¿Existe una dirección electrónica de consultas en línea sobre los productos restringidos o prohibidos, y que permita identificarlos por medio de subpartida arancelaria bajo codificación del Sistema Armonizado?

Reply: Issues related to prohibited imports and restricted imports can be consulted through the public message platform of the Ministry of Commerce (<http://gzly.mofcom.gov.cn>).

3. Página 91, párrafo 3.133

"El 1 de enero de 2018 entró en vigor la Ley de Normalización revisada, que incluía nuevas disposiciones, relativas por ejemplo a las normas de asociaciones. Según las autoridades, esta Ley supone una mejora de los procedimientos de establecimiento de normas obligatorias (o reglamentos técnicos), define claramente las normas locales y sectoriales y establece un sistema de divulgación para la autodeclaración de las normas empresariales (...)"

¿Las normas empresariales son de carácter obligatorias o voluntarias? ¿cuál es la relación entre las normas locales y sectoriales? ¿se podría entender que éstas abarcarían a las empresariales? Bajo lo expuesto, podría China explicar si ¿contempla dentro de su normativa una disposición sobre las normas conocidas como privadas y cómo establece en su normativa si una norma es obligatoria o voluntaria?

Reply: The newly implemented *Standardization Law of the People's Republic of China* in January 2018 stipulates that standards include national standards, industry standards, local standards, group standards, and enterprise standards. National standards are classified into compulsory standards and voluntary standards. Industry standards and local standards are voluntary standards. Compulsory national standards are coded GB, and the voluntary national standards are coded GB/T. Compulsory national standards shall be developed for technical requirements that protect human health and life and property safety, that maintain national security and environmental safety. Compulsory standards must be implemented. Products and services not meeting compulsory standards shall not be produced, sold, imported, or provided.

4. Página 93, párrafo 3.143

"Las autoridades han indicado que, antes de su aprobación, las normas obligatorias que puedan tener un efecto significativo en el comercio y cuyo contenido técnico no esté en conformidad con el previsto en las normas internacionales pertinentes deben notificarse a la OMC".

¿Qué sucede con esas normas cuyo contenido técnico no esté en conformidad con el previsto bajo las normas internacionales pertinentes, después de su notificación a la OMC? ¿Existe algún plazo de adopción y de recepción de comentarios, a fin, de ser el caso, de incluir elementos o ajustes según la normativa internacional?

Reply: China strictly follows the WTO/TBT agreement on technical regulations, and actively uses international standards as the basis for the development of compulsory national standards; if there are no international standards or international standards do not apply due to basic climatic factors or geographical factors or basic technical issues, compulsory national standards are developed according to the industry situation. Meanwhile, China completely fulfills the obligation of notification and carefully studies the comments and suggestions of members, which would be adopted if appropriate. For compulsory national standards, a transition period has been provided according to the actual situation.

5. Página 98, párrafo 3.163

"El MARA prevé introducir un sistema de certificados de conformidad para los productos agropecuarios comestibles, así como una Plataforma Nacional de Trazabilidad de la Calidad y la Inocuidad de los Productos Agropecuarios. Según las autoridades, estas medidas solo se aplican a las actividades de producción y transformación de productos agropecuarios comestibles llevadas a cabo en China".

¿Podría informarnos China si se piensa solicitar este sistema a los productos importados? De ser el caso, ¿cómo se aplicaría o verificaría los requisitos considerando que esos procesos productivos y de transformación se llevan fuera de China?

Reply: China would suggest Ecuador to make clarifications on this question and provide more background information.

6. Página 99, párrafo 3.168

"...la GACC ha adoptado medidas preventivas de emergencia destinadas a los fabricantes extranjeros de alimentos de la cadena de frío importados en los que se haya detectado ácido nucleico del nuevo coronavirus. Esta medida se notificó a la OMC como medida de urgencia en 2020, y todavía sigue en vigor. Se ha informado de que en 2020 la ciudad de Shenzhen introdujo prescripciones para la manipulación y la realización de pruebas de importaciones de carne y productos del mar congelados en relación con la COVID-19. En respuesta a la pandemia, China también ha adoptado medidas para facilitar las importaciones de alimentos y productos agropecuarios y simplificar la aprobación sanitaria de los suministros médicos especiales importados (recuadro 3.1)".

¿Podría informarnos China, en virtud de la actual coyuntura en donde se observa una evolución favorable de la situación internacional de la crisis sanitaria internacional, si la medida seguirá aún vigente, y por cuánto tiempo? ¿Se tiene previsto una fecha de desmonte de la medida? En el marco de las medidas de facilitación de las importaciones de alimentos se prevé algún procedimiento para facilitar la adopción de las medidas preventivas de emergencia referidas al control y verificación, ¿cómo se aplica esa medida en el caso de las medidas indicadas en el párrafo 3.168 ?

Reply: China has adopted necessary temporary preventive measures to strengthen supervision over imported cold chain food to protect people's live and health. Relevant practices have not had a negative impact on food trade exported to China. China has conducted sample nucleic acid test on the imported cold chain food and its packaging according to law, aiming at preventing COVID-19 from transmitting through cold chain food. In the early stage, General Administration of Customs detected positive nucleic acid on Novel Coronavirus in food products, inner and outer packaging and container inner wall samples imported from some countries. On 17 October 2020, Chinese Center for Disease Control and Prevention announced that live viruses of COVID-19 were separated from the outer packaging of imported aquatic products, further confirming that contact with the outer packaging contaminated by live viruses of COVID-19 can cause infection. China welcomes the export of high-quality and safe food to China, and our attitude of opening wider to the outside world and expanding imports is consistent and clear. However, with the development of the global epidemic, consumers' concerns the safety of the food supply chain have deepened. We believe that consumer confidence is the cornerstone of market, and there is no trade without market. Under the current epidemic situation, overseas countries (regions) hoping to export food to China are required to take various preventive management measures to ensure that food exported to China is not contaminated by COVID-19 according to the relevant guidelines issued by United Nations Food and Agriculture Organization (FAO). China is willing to work with relevant parties to ensure the safety of food supply chain, respond and dispel consumers' concern, ensure the safe supply of food and maintain market stability, so as to promote the healthy development of trade.

7. Página 54, párrafo 3.12

En relación con el número de operadores económicos autorizados en China. ¿Podría informarnos China los motivos por los cuáles sería muy bajo el nivel de operadores comerciales bajo su Programa

de OEAs? ¿Cuáles son los beneficios que reciben los operadores comerciales de los OEAs adicionales o distintos a los requisitos que debe cumplir un operador que no es parte de ese Programa?

Reply: According to the current international rules and the actual situation in China, China Customs has formulated the AEO certification standards of China Customs and made it public. Except for the released standards, there are no additional requirements and restrictions on AEO certification standards. Enterprises willing to become AEO can conduct self-assessment against AEO certification standards and apply to the Customs. Through on-the-spot investigation and certification, the Customs issues AEO certificates to certified enterprises and recognizes them as AEO enterprises.

8. Página 54, párrafo 3.13

Respecto del despacho de aduana para apoyar proyectos piloto de comercio electrónico. ¿Podría informarnos China si existe algún régimen aduanero especial para ese despacho? ¿Cómo administra China las importaciones bajo el concepto de comercio electrónico en virtud de los ACRs suscritos que contienen disposiciones de envíos de entrega rápida?

Reply: China continues to summarize the good experience and practices in the pilot free trade zone and promote it to a larger scale. In 2020, 37 pieces of pilot free trade zone reform experience was promoted, including the "mode of central warehouses for purchase return of cross-border e-commerce retail imports". In 2018, 30 pieces of pilot free trade zone reform experience was promoted, including "paperless whole process of enterprise registration and e-port network access in customs". The above two pieces of experience have been promoted nationwide, further enhancing trade facilitation and optimizing the business environment.

9. Página 55, párrafo 3.15

Sobre el Acuerdo sobre Inspección Previa a la Expedición. ¿Podría informarnos China si esas regulaciones, la obligación de la inspección previa a la expedición se vinculan a medidas para verificar la clasificación arancelaria y la valoración en aduana?, de no ser así ¿Qué ámbitos se revisa con esa disposición y cómo se relaciona esa disposición con las obligaciones de los Acuerdos internacionales en materia de facilitación del comercio?

Reply: China Customs, in accordance with the requirements of the *Import and Export Commodity Inspection Law of the People's Republic of China* and its implementing regulations, conducts pre-shipment inspections of important imported commodities and large sets of equipment under the framework of the *Agreement on Pre-Shipment Inspection*. In accordance with the principles of protecting human health and safety, protecting the environment, and preventing fraud, China Customs determines whether the quality and safety of such equipment meets China's security access requirements. The aim is to shorten the length of customs clearance and regulatory cycle through preliminary assessment. Currently, the objects involved are important imported goods and large sets of equipment that are important for national security and people's livelihood, and contain high value and complex technologies.

10. Página 56, Recuadro 3.1

Medidas de facilitación del comercio de la GACC. ¿Podría informarnos China cómo funciona la inspección en los carriles verdes para garantizar el despacho de aduana de los productos agroalimentarios extranjeros? ¿Qué requisitos deben cumplir los productos que se benefician de esta medida de facilitación del comercio, cómo se determina qué producto iría por el canal verde, dónde se puede verificar la lista de esos productos? En relación al punto 9-Intensificación de la coordinación internacional y adopción de medidas para hacer frente a las restricciones al comercio exterior. ¿Podría informarnos China si estos servicios son de aplicación para las importaciones y cuáles serían los puntos de contacto para ese caso, pensando en un cliente que exporte a China?

Reply: The "green lanes for agri-food products" are opened by China in consultation with relevant countries. The goods imported or exported through the "green lanes for agri-food products" mainly include the agricultural and by-products that are fresh and live, perishable and therefore have relatively higher requirement for the timing of customs clearance. The customs of China and their foreign counterparts (including inspection and quarantine authorities) jointly confirm and exchange the catalogue (HS codes) of goods to be imported or exported in such manner that comply with their respective requirements. With regard to the "green lanes for agri-products", the port inspection authorities, including customs, on the two sides will take supervisory measures for such facilitated clearance within their terms of reference approved by state laws, regulations and policies.

11. Página 58, párrafo 3.23, nota al pie 36

En relación con los tipos arancelarios provisionales, considerando que esos derechos se fijan anualmente por parte de la Comisión Arancelaria del Consejo de Estado ¿Podría indicarnos China cómo se definen los productos que se incluyen en esa categoría y qué variables se analizan? ¿Los define la Comisión de forma unilateral o se basa en alguna solicitud específica del importador o del sector comercial interesado en China? En virtud de que se aplican bajo régimen NMF ¿Cómo se asegura China que esos niveles arancelarios no erosionen las preferencias arancelarias otorgadas a los productos originarios de países con los cuales China mantiene ACRS?

Reply: China adjusts the provisional tax rate every year according to the actual situation. Detailed information, please refer to [http : //gss.mof.gov.cn/gzdt/zhengcefabu](http://gss.mof.gov.cn/gzdt/zhengcefabu).

12. Página 63, párrafo 3.37

En relación con "Para apoyar la prevención y el control de la COVID-19, las sociedades y las empresas individuales están exentas del IVA y del impuesto sobre el consumo con respecto a las mercancías de producción propia, elaboradas por encargo, compradas, o donadas con el fin de frenar la propagación de la COVID-19". ¿Podría indicarnos China qué medidas adopta para cumplir con el principio de trato nacional?

Reply: In February 2020, the Announcement of the Ministry of Finance and the State Taxation Administration on Relevant Donation Tax Policies Supporting the Prevention and Control of the COVID-19 Outbreak (Announcement No. 9 [2020] of the Ministry of Finance and the State Taxation Administration) was issued. Thereafter, the implementation period of the policy was extended to 31 March 2021. To further facilitate donating enterprises, the supporting document Announcement of the State Taxation Administration on Matters concerning Tax Collection Administration Supporting the Prevention and Control of the COVID-19 Outbreak (Announcement No. 4 [2020] of the State Taxation Administration) was issued. The above preferential policies and facilitation measures have not established separate thresholds for foreign enterprises, and both eligible domestic and foreign enterprises can enjoy the treatment in accordance with the regulations.

URUGUAY

Preguntas de Uruguay

- En el punto 3.1.3 del Informe de Gobierno, se indica que China ha establecido 105 zonas experimentales de comercio electrónico transfronterizo y ha ofrecido orientaciones a las autoridades locales para que construyan laboratorios de ensayo de nuevas ideas. ¿Podría China comentar cómo fue su experiencia en el establecimiento de dichas zonas, en qué consiste los laboratorios de nuevas ideas y cuáles han sido los beneficios de su implementación?

Reply: Up to now, China has 105 comprehensive pilot zones for cross-border e-commerce (hereinafter referred to as Comprehensive Pilot Zones). The local-level Comprehensive Pilot Zones have explored the construction of "six systems and two platforms". The six systems refer to information sharing, financial services, intelligent logistics, e-commerce integrity, statistics monitoring, and risk prevention and control. The two platforms include the online comprehensive service platform and the offline industrial parks. Generally speaking, the trade policies implemented in the Comprehensive Pilot Zones are no different from other regions. No pre-approval for new business models is required, such as cross-border e-commerce, which can be operated on a voluntary and market-oriented basis.

- En el punto 4.37 del Informe de Gobierno, se informa que gracias a una mayor cooperación en materia de energías verdes, infraestructuras verdes y finanzas verdes, se está construyendo una Ruta Verde de la Seda. ¿Podría China comentar cuáles son los objetivos de dicha estrategia?

Reply: Green is the color of the "Belt and Road". The main goal of China's Green Silk Road initiative is to help address climate change, maintain global ecological security, and thus promote the high-quality development of the "Belt and Road" and building a shared community of human beings and nature.

- En el Recuadro 3.1 del Informe de la Secretaría se mencionan las medidas de facilitación del comercio de la GACC- indicándose que se prestará una asistencia más oportuna a las empresas con problemas de importación/exportación, especialmente a las microempresas y pequeñas y medianas empresas (MIPYMES). ¿Podría China comentar en qué consistiría esa asistencia a las MIPYMES para mejorar su participación en el comercio internacional?

Reply: Since 5 March 2020, China Customs has set up a nationwide team of 160 enterprise coordinators to answer online questions on the "China Customs Credit Management" WeChat platform for all registered enterprises, including small, medium and micro ones. The service has been welcomed by enterprises. In 2020, a total of 1,946 enterprises have raised 1,946 questions through the WeChat platform, and the customs offices all over the country have made 3,181 replies. Among the 1,127 ratings given by the enterprises, 1,026 were very satisfied (five stars), 88 satisfied (four stars), and 6 were overall satisfied, with the satisfaction rate reaching 99.38%.

- En el punto 4.209 del Informe de la Secretaría, se informa sobre la publicación del Plan para Impulsar el Programa 512 sobre Internet Industrial 5 Plus; y se indica que su objetivo es promover la utilización de las tecnologías 5G para modernizar cinco plataformas de servicios públicos de aquí al 2022. ¿Podría China comentar en qué consistiría la modernización de plataformas de servicios públicos?

Reply: According to the Plan for Advancing the 512 Program on 5G Plus Industrial Internet, the five public service platforms refer to the five service platforms for transforming and promoting the internal 5G network of industrial Internet enterprises by relying on the industrial Internet innovation and development program to build a network test environment that meets the needs of industrial enterprises to carry out 5G network application R&D and verification, provide small and medium-sized enterprises with a "5G+Industrial Internet" intranet construction and transformation template, carry out application consulting and R&D training, and improve public service capabilities.