

ARTICLE

United States Identifies More Than 150 Chinese State Trading Enterprises after China's Failure to Notify

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The United States took another important step toward addressing Chinese state trading enterprises (STE) by identifying more than 150 STEs to the World Trade Organization (WTO) earlier this month.

In a WTO communication dated August 7, 2014, the United States identified 153 Chinese STEs and noted that China has not adequately fulfilled its obligation to report them to the WTO Council for Trade in Goods (the Council). WTO rules define STEs as enterprises "which have been granted exclusive or special rights or privileges ... in the exercise of which they influence ... the level or direction of imports or exports." While such enterprises are not prohibited under the rules, they are subject to certain disciplines, including obligations to operate in a non-discriminatory manner and solely according to commercial considerations. In addition, WTO Members are required to notify the Council of any such enterprises for review by the Working Party on State Trading Enterprises.

China's last notification to the Council regarding STEs was more than 10 years ago, in 2003. In June 2014, the United States raised the issue with China and requested that it submit an updated notification in accordance with the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade (the Understanding), which governs Members' obligation to notify the Council of STEs. The U.S. Counter-Notification follows China's failure to submit an updated notification or to otherwise resolve the issue with the United States.

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According to the Counter-Notification, the list of 153 STEs includes 44 enterprises that were not included in China's 2003 notification. The enterprises appear to be active in a broad array of industries, including agriculture, mining and minerals, oil and gas, chemicals, textiles, and machinery and equipment. In most cases, the information that the United States has been able to provide is limited to such details as the law or regulation pursuant to which the STE operates and the goods in which the STE trades. With regard to other information requested by the Council's questionnaire, the United States has called on China to provide the information in a timely manner.

In addition to the general obligations contained in the General Agreement on Tariffs and Trade and the Understanding, China made further commitments relevant to the operation of STEs in its Protocol of Accession to the WTO. Specifically, China agreed (1) to limit the goods subject to state trading to those listed in an annex to the Protocol; (2) to ensure full transparency of STEs; (3) to refrain from taking any measure to influence the quantity, value, or origin of goods purchased or sold by STEs; and (4) to provide full information regarding STE pricing mechanisms for exports. While STEs were not directly at issue, the WTO found in two recent disputes involving export restraints on raw materials and rare earth minerals that China violated related trading rights commitments in its protocol of accession.

The U.S. Counter-Notification can be found by searching document number "14-4723" on the WTO's Documents Online Website.

For more information on the China raw materials WTO dispute, [click here](#).

For more information on the China rare earths WTO dispute, [click here](#).