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Committee on Trade in Financial Services

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COMMUNICATION FROM AUSTRALIA

Transitional Review Mechanism in connection with Paragraph 18 of the Protocol on the Accession of the People's Republic of China

The following communication, dated 16 November 2004, from the delegation of Australia is being circulated to the Members of the Committee on Trade in Financial Services.

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1. Australia acknowledges the difficult work undertaken by China to implement its WTO commitments for financial services. Australia recognises that China's accession to the WTO and its own economic reform program has instigated a welcome process of liberalisation with a view to greater access for foreign firms across the financial services sector. The competitive stimulus and enhanced efficiency that is being engendered in the financial services sector will be an important driving force in the growth of that sector and of the broader Chinese economy.

2. Australia recognises the importance of the transitional review, as mandated under paragraph 18 of China's accession protocol, as a useful mechanism in clarifying and assisting in the effective implementation of China's financial services commitments. In this context, Australia wishes to clarify China's implementation of banking commitments as it relates to foreign banks off-shore borrowing.

BANKING

3. Australia wishes to clarify some recently promulgated procedures dealing with limitations on foreign banks borrowing off-shore to loan to businesses operating in China. Australia understands that the *Procedures on the Administration of Foreign Debts of Foreign Capital Banks in the Territory* issued on 27 May 2004, in addition to the implementing rules released in June by the State Administration of Foreign Exchange (SAFE), set limitations on the amount of foreign exchange funding foreign banks may acquire from overseas, through the imposition of a quota system.

4. These new procedures, combined with the provisions contained in Article 30 of the *Administrative Regulations on Foreign Invested Financial Institutions*, which sets a 70 per cent limit on foreign bank holdings of foreign currency deposits, will increase costs and restrict the market access of foreign banks, particularly those with smaller operations in China. Furthermore, it will adversely impact on competition in the market and reduce the access of Chinese businesses to the most competitively priced funding.

5. Could China please advise on whether the quota system outlined in the *Procedures on the Administration of Foreign Debts of Foreign Capital Banks in the Territory* is a short-term measure? Could China explain how the quotas for foreign exchange funding will be determined, and how the new regulations will be implemented nationally? Could China please explain how these new regulations align with China's GATS national treatment and market access obligations?

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