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Committee on Trade in Financial Services

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COMMUNICATION FROM THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

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 7 September 2005, from the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu is being circulated to the Members of the Committee on Trade in Financial Services.

Questions and Comments of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on the Implementation by China of its Commitments on Trade in Financial Services

1. It is our understanding that, in accordance with the provisions of the WTO Agreement, China’s Accession Protocol, the Report of the Working Party on China’s Accession, and China’s Schedule of Specific Commitments, upon its accession, China was committed to ensuring that licensing procedures and conditions would not act as barriers to market access and would not be more trade restrictive than necessary. We recognize China’s efforts to improve its business environment and its implementation of WTO commitments over the past few years, with the aim of further integrating with the global economy. In the interests of achieving this goal, it would be appreciated if China could provide further clarification, in its responses to our questions below, of certain aspects of its implementation of market access commitments in the banking and insurance services sector as contained in its Schedule of Specific Commitments.

I. BANKING SECTOR

2. China requires that foreign bank branches, depending on which service items they offer, must have between RMB100 million and 500 million in operating capital. Our view is that factors such as the asset quality of the home bank, the home bank’s commitment to, and financial support for, branch operations, and close cooperation between the financial regulatory authorities of the two economies in question (the branch’s economy and the home bank’s economy) are more important in terms of international financial supervision than a sole requirement for inward-remitted capital.

3. We would appreciate further clarification of how such minimum capitalization requirements are consistent with the regulatory disciplines as stipulated in GATS Article VI.4, as well as with China’s own commitments. We wonder whether China has any plans to reduce the minimum capitalization requirements, and, if so, what the time schedule relating to such plans is?

4. China requires that the total assets of applicants seeking to establish foreign bank branches be no less than US$ 20 billion. Our view is that the quality of a bank's condition is not directly related to the quantity of its assets.

5. We would be grateful, therefore, if China could further explain its rationale for focusing solely on such an asset requirement, and could clarify how this does not constitute an unnecessary barrier to trade. Furthermore, would China consider lowering this standard or adopting a more flexible requirement, such as using the total assets of the financial holding company or financial group as an indicator?

6. According to China's "Management Measures on External Debts of Foreign Capital Banks in China", there is a limitation on the total amount of external debt of foreign capital banks, including their mid-term and short-term external debts.

7. However, in view of the fact that it is not easy for foreign banks to absorb savings locally, because most have to rely on loans from abroad for the operating capital they need, we would be interested in China's views on how this measure is not more restrictive than necessary.

II. INSURANCE SECTOR

8. China requires that foreign insurance companies setting up subsidiaries or branches in China must first have a representative organization set up in China for two or more years.

9. According to our experience, on average it takes only a matter of several months for foreign insurance companies to complete the licensing procedures required to set up subsidiaries or branches in China. We would therefore like to ask China if it will reduce the period applying to this requirement to one or more years, so as to comply more with the spirit of GATS Article VI.5.