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Committee on Trade in Financial Services

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COMMUNICATION FROM CANADA

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 19 September 2005, from the delegation of Canada is being circulated to the Members of the Committee on Trade in Financial Services.

Canada recognizes China's efforts of the past year to continue implementing its WTO commitments for financial services, and reiterates its support for the Transitional Review Mechanism and the useful information exchange it promotes. In accordance with paragraph 18 of China's accession protocol, and in order to contribute to an informed discussion, Canada requests that China provide responses and relevant information concerning the following questions and comments during the next meeting of the Committee on Trade in Financial Services.

Questions and Comments

A. INSURANCE

1. *Multiple Branch Applications and Approvals:* While China committed to provide National Treatment with respect to the licensing of branch operations, Canada notes that Chinese insurance firms (including new companies with little or no operational experience) continue to receive preferential treatment with respect to the ability to open multiple branches in different regions at one time. In contrast, the general rule observed for foreign-invested joint ventures is that the China Insurance Regulatory Commission (CIRC) will only process a new application for a branch office after a previously approved branch has commenced operations. Can China please comment on how it intends to ensure National Treatment for foreign-invested insurance joint ventures with respect to licensing, given that the current treatment does not appear to be consistent with China's GATS commitments?

2. *Sales Offices Applications and Approvals:* On 2nd September 2003, the CIRC issued a "Notice in relation to Issues Concerning the Operational Regions of Insurance Companies (No, 120 of 2003)". Canada understands that according to this notice, if an insurance company has a branch or subsidiary in a province, a self-autonomous area or a municipality directly under the Central Government, the insurance company has a right to extend its business in said area via sales servicing offices or insurance intermediary companies.

As well, according to the "Administrative Measures for Sales Servicing Offices of Insurance Companies" ('Administrative Measures') issued by the CIRC on 1st February 2002, from the date it decides to process an application for a new sales servicing office, CIRC has 20 working days to

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determine whether or not to grant the approval. However, the Administrative Measures do not specify a maximum timeframe between when the CIRC receives a complete application and when it decides to process it, which can lead to significant delays.

In practice, the applications to establish sales servicing offices within a given jurisdiction are processed by the local CIRC offices, and Canada understands that the degree of implementation and compliance to the 'Administrative Measures' varies between those local offices. The outcome of this has been that in certain provinces, foreign-invested insurance joint ventures have experienced significant delays in the processing of sales servicing office applications, and some local CIRC bureaus do not allow concurrent approval of multiple sales servicing offices.

Can China please provide an overview of the efforts it is making to ensure local office compliance with China's WTO commitments for National Treatment and Market Access?

B. BANKING

3. Canada highlighted in our 2004 submission (S/FIN/W/37) its concerns with the *Procedures on the Administration of Foreign Debts of Foreign Capital Banks in the Territory* issued on 27 May 2004 by the National Development and Reform Commission (NDRC), the People's Bank of China (PBOC) and the China Banking Regulatory Commission (CBRC), as well as further implementing rules released on June 21st by the State Administration of Foreign Exchange (SAFE), which outline limitations on the amount of foreign exchange funding foreign banks may acquire from abroad through the imposition of a quota system. Canada's experience is that these regulations artificially cap the extent to which foreign banks' foreign currency lending can be financed offshore, and in practice limit the size of the loan portfolios of many foreign bank branches. This appears counter to GATS Article XVI, paragraphs 2 (b) and (c). Can China please indicate how this quota system is consistent with its GATS commitments, or how it intends to provide greater flexibility in the setting of individual quotas?

4. China stated during its 2004 Transitional Review in the CTFS that it intends to review its minimum capital requirements for foreign banks with a view to relaxing them in the future. Can China please provide an update regarding its thinking in this area? Does China expect to reduce the capital burden on foreign bank branches in the near future, given the financial support they already enjoy from their parent and their now more well-established track records?

C. GENERAL

5. The unexpected revision of regulations and reporting requirements can impose undue costs and burdens on financial institutions. While Canada recognizes the improvements made in regulatory transparency, Canada encourages Chinese regulators to maintain an open dialogue with financial service providers to enable a better understanding and expectations of the service providers' reporting obligations and operating environment, including regarding possible changes in the future.

6. While China has made great progress in opening its financial sector in line with (and sometimes ahead of) its GATS commitments, foreign financial services providers continue to face delays and lengthy approval procedures for such things as new branch locations and product licenses. When viewed along with recent CBRC comments that it will seek to manage foreign bank expansion in China beyond 2006, this raises the fear that foreign operators will continue to face undue barriers even though markets are technically open to foreign competition. Can China please provide information regarding its efforts to ensure the efficiency and predictability of application procedures and foreign financial service provider regulation, in particular with respect to the application of published laws and regulations by regulatory officials?

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