

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

Transitional Review Mechanism Pursuant to Paragraph 18 of  
the Protocol of Accession of the People's Republic of China ("China")

The following communication, dated 16 October 2006, from the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu is being circulated to the Members of the Council for Trade in Services.

**I. TELECOMMUNICATIONS SERVICES**

1. In line with its WTO accession commitments, China has issued a draft Telecommunications Act, which is already on the 2006 legislative agenda of the Standing Committee of the National People's Congress.

*Will China be providing the appropriate authorities with a reasonable period for comments before enacting the Act? In addition, it would be appreciated if China could provide us with a copy of the draft of the Act.*

2. We note that China promised upon accession to the WTO to follow the WTO Reference Paper as far as basic and value-added telecommunications services sectors are concerned.

*Could China please confirm whether or not its domestic regulations on value-added telecom services are in compliance with the obligations listed in the Reference Paper?*

*We would also appreciate knowing which of China's government Acts and regulations would ensure consistency with the following points set forth in the Reference paper, and how such consistency would be achieved:*

- (i) Article 1: Competitive safeguards;*
- (ii) Article 2: Interconnection;*
- (iii) Article 4: Public availability of licensing criteria;*
- (iv) Article 5: Independent regulators.*

3. According to the provision on universal services in Article 3 of the WTO Basic Telecommunications Reference Paper, any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided that they are administered in a transparent, non-discriminatory and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. According to Article 44 of China's Telecommunications Regulations, telecommunications operators shall fulfil the related telecommunications universal service obligation pursuant to the "related regulations of the State". The Administrative Regulations on Telecommunications Universal Service Cost Compensation shall be jointly enacted by the Ministry of Information Industry and the Ministry of Finance under the State Council as well as the competent authority in charge of prices control, and then be forwarded to the State Council for approval before its promulgation.

*Could China please explain and provide details of the contents of the "related regulations of the State"? Furthermore, have the Administrative Regulations on Telecommunications Universal Service Cost Compensation been enacted and promulgated? If yes, please provide the relevant document for our reference and, in the absence of any relevant regulations, please advise what is the schedule for their legislation?*

5. In the Telecom Policy Review held in April 2006, we noted that MII was studying cost-oriented inter-network rates and unbundling network elements.

*Please indicate the schedule of relevant studies and policy-making procedures. If a regulatory framework has been developed, please clarify whether fulfilment of the obligation to unbundle network elements is limited to dominant telecommunications operators or whether all telecommunications operators shall fulfil the obligation to unbundle network elements?*

## **II. TOURISM AND TRAVEL-RELATED SERVICES**

6. According to Part 9.B of China's Schedule of Specific Commitments on Services, within six years after accession, there are to be no restrictions on the establishment of branches by a joint-venture travel agency/tour operator and the requirement on registered capital of foreign-invested travel agency/tour operators is to be the same as that of Chinese travel agency/tour operators.

*In view of the fact that it has been almost five years since China joined the WTO, could we please be advised of when the Regulations on Administration of Travel Agencies will be revised to contain the above commitments?*

*Could China please elaborate on the expected length of the trial period for the Provisional Regulations on the Establishment of Foreign-controlled and Wholly Foreign-owned Travel Agencies, and advise whether the relevant regulations will ultimately be included in the Regulations on Administration of Travel Agencies?*

7. Article 30 of China's Administrative Regulations on Travel Agencies regulates the qualification requirements for foreign tour operators. In addition to requirements consistent with its WTO commitments, there is a requirement that a foreign tour operator be a member of the Chinese Tourism Services Association.

*Could China please explain why this requirement is necessary, and provide details of qualifications and application procedures for becoming a member of this Association? An explanation of how this requirement conforms to Article VI of the GATS would also be appreciated.*

8. China restricts joint ventures or wholly foreign-owned travel agencies and tour operators from providing services for Chinese people travelling abroad.

*Could China please indicate why it has not lifted this restriction, and when it plans to do so?*

**III. MARITIME TRANSPORT SERVICES**

9. We recognize that, according to China's WTO commitments, when a foreign company establishes a maritime transport company in China, foreign investment shall not exceed 49% of the total registered capital of a joint venture, and that the Chairman of the Board of Directors and the General Manager of the joint venture shall be Chinese appointees.

*Does China have any plans to remove these restrictions?*

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