

# WORLD TRADE ORGANIZATION

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## Committee on Trade in Financial Services

### REPORT OF THE MEETING HELD ON 27 NOVEMBER 2006

#### Note by the Secretariat<sup>1</sup>

1. The Committee on Trade in Financial Services held a meeting on 27 November 2006, under the Chairmanship of Mr. Ragui El-Etreby (Egypt). The agenda is contained in airgram WTO/AIR/2933.

#### A. ADOPTION OF THE ANNUAL REPORT TO THE COUNCIL FOR TRADE IN SERVICES

2. The Committee adopted the annual report to the Council for Trade in Services, as contained in document S/FIN/W/54.

#### B. ACCEPTANCE OF THE FIFTH PROTOCOL TO THE GENERAL AGREEMENT ON TRADE IN SERVICES EMBODYING THE RESULTS OF THE FINANCIAL SERVICES NEGOTIATIONS

3. The Chairman recalled that three WTO Members had yet to accept the Fifth Protocol: Brazil, Jamaica, and the Philippines. He invited these Members to provide information on the status of their domestic processes.

4. The representative of Brazil said that the situation had not changed since the last report made to the Committee. He added that the Brazilian Congress was still examining new legislation on the reinsurance sector and before that process was completed, Brazil was unable to accept the Fifth Protocol. Parliamentary elections had been held recently in his country, and a new Congress might take office in February.

5. The representative of the Philippines said that there was no news to report on this matter. He indicated his delegation's willingness to have bilateral discussions with those Members that had expressed concerns about the delay in accepting the protocol.

6. The representative of the United States expressed her concern that no status report had been heard from Jamaica, and urged the three Members to accept the Protocol as soon as possible.

7. The Committee took note of the statements made and decided to revert to this agenda item at the next meeting.

#### C. TECHNICAL ISSUES

8. The Chairman explained that, pursuant to the mandate given by the Committee, he was still exploring the proposal made by some Members to invite the international standard-setting organizations to give a seminar or briefing session on matters relevant for the Committee's discussion

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and without prejudice to the positions of Members and to their rights and obligations under the WTO.

on the distinction between modes 1 and 2 in financial services. He had not yet found a basis on which a consensus could be reached on this matter.

9. The Committee took note of that statement and decided to revert to this agenda item at the next meeting.

D. RECENT DEVELOPMENTS IN FINANCIAL SERVICES TRADE

10. The Chairman highlighted the importance of this agenda item, in order for the Committee to stay updated on recent developments affecting financial services trade, at national, regional or global level. In his view, presentations on national experiences had turned out to be very interesting and informative. He encouraged all Members to come up with more presentations or statements of that kind. Additionally, these presentations could be complemented with discussions on bilateral or regional integration initiatives, or on global trends affecting trade in financial services.

11. The Committee took note of that statement and decided to revert to this item at the next meeting.

E. TRANSITIONAL REVIEW UNDER SECTION 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

12. The Chairperson recalled that the Committee was mandated to conduct this review pursuant to section 18 of the Protocol on the Accession of the People's Republic of China. For this year's review, written communications had been received in advance from the following Members: Japan (S/FIN/W/51); the European Communities (S/FIN/W/52); the United States (S/FIN/W/53); Australia (S/FIN/W/55); and Canada (S/FIN/W/56).

13. The representative of China said that his country had made extensive and far-reaching commitments in the financial services sector. Since its entry into the WTO in 2001, China had made tremendous efforts in implementing those commitments. And as a result, its financial sector was more open than that of many advanced Members. Before this meeting, China had submitted to the Secretariat information as per Annex 1A of China's Protocol of Accession. That submission contained detailed information regarding new laws and regulations, as well as new licenses granted to foreign financial service providers in China since the last transitional review. He added that the document should be circulated to the Council on Trade in Services.

14. He noted that some Members had provided questions only five days before this meeting, which left little time to prepare the answers. The questions had to be translated into Chinese, circulated to competent authorities who provided replies in Chinese, and then translated back into English again. He urged Members to submit their questions within a reasonable period in advance of the meeting. Also, some Members had repeatedly raised questions which were irrelevant to the transitional review process; some of them even going as far as asking China to liberalize further, beyond its existing commitments. He urged Members not to do so in the future. Nevertheless, China had consistently adopted a positive attitude towards the transitional review process, and had always attached great importance to the opportunity to exchange views with Members regarding their questions. China was represented by a strong delegation composed of representatives from the Legislative Office of the State Council, the People's Bank of China (PBC), China Banking Regulatory Commission (CBRC), China Securities Regulatory Commission (CSRC), Xinhua News Agency, and the Ministry of Commerce.

15. He then turned to the questions received, starting with those related to **insurance services**. With regard to the right of internal expansion for different forms of non-life insurance companies, he said that subsidiaries and joint ventures were legal persons while branches were not. Only legal

persons could set up branches and sub-branches. He added that there was no discrimination against foreign insurance companies in the granting of approvals for setting up insurance companies. The approvals followed the same regulations and rules.

16. With regard to the scope of the grandfather clause for China's insurance sector, he suggested Members refer to China's Schedule of Specific Commitments.

17. He noted that the issue of the conversion from branches to subsidiaries was not relevant for the transitional review process.

18. On the questions about registered capital requirements for the expansion of established insurance companies, he said that the requirement was based on prudential principles, and there was no discrimination against foreign insurance companies.

19. In the case of reinsurance, he explained that the 2005 Regulations on the Administration of Insurance Business did not impose a mandatory requirement on direct insurers to cede reinsurance business in China. They only needed to comply with the requirement for the right of first bid for domestic admitted reinsurers. He added that these regulations did not prohibit cross-border transactions of reinsurance businesses, but required the cross-border transactions to comply with relevant laws and regulations. Except for the requirement that the foreign direct insurers needed to get approval when they ceded insurance to a parent or affiliate company, other reinsurance transactions by foreign direct insurers were subject to the same rules as those by domestic direct insurers.

20. Regarding the planned injection of additional capital into China Reinsurance Company, he considered that the action was a commercial activity by the this Company, and was not relevant to China's commitments in the WTO.

21. He then commented on the requirements on general and chief representatives, including residency requirements, contained in the Measures on Administration of Chinese Representative Offices of Foreign Insurance Institutions. China was of the view that they were motivated by prudential reasons and were necessary for representatives of foreign insurance institutions to carry out their normal duties.

22. Regarding the qualifying threshold for insurers to invest their foreign exchange funds in overseas funds or equities, he reiterated that these requirements applied to both foreign and domestic insurance companies, and were necessary to protect against excessive risk for overseas investment.

23. He confirmed that the provisions relating to overseas investment in stocks listed in "mature" markets applied to both domestic and foreign insurance companies.

24. He also said - with respect to the qualification requirements on insurance companies for setting up asset management companies - that these applied to all insurance companies operating in China, both domestic and foreign, and were necessary to ensure the safety of assets under management.

25. In his view, the issue of outsourcing requirements for asset management business was not relevant to China's commitments. Finally, concerning the revision of China's Insurance Law, a draft revision had been submitted to the State Council for review.

26. He then turned to **banking and related services**. He said that the requirement that foreign-funded banks be allowed to conduct local currency business for all kinds of clients after incorporation in China were of a prudential nature, aiming to regulate and supervise in a more effective and

comprehensive manner. Encouraging foreign banks to establish local subsidiary entities or transform exiting branches into subsidiaries was mainly based upon the following considerations:

- (a) First, the laws and regulations of many Members prescribed that, in terms of the order of debt repayment, domestic depositors enjoyed priority over overseas depositors. Since foreign bank branches in the host country were operational extensions of their parent banks, once the parent bank encountered liquidity risk or payment crisis, the depositors of the branch in the host country would not be guaranteed priority in repayment. Moreover, in an increasingly globalised banking environment, the risks incurred by a multinational bank in one region or in a business field could easily spill over to its globe-wide branches, and the supervisory agencies in the host countries were not able to isolate local branches from these risks. However, as a locally incorporated subsidiary of a foreign bank was subject to supervisory requirements on capital adequacy, loan loss provisions, large exposures, cross-border capital flows and deposit repayment capacity, the local supervisory agency could isolate the subsidiary from the risks of its parent bank. And by doing so, the supervisory agency would be able to maintain the stability of the domestic financial system and best safeguard depositors' interests.
- (b) Second, the deposit insurance schemes of many Members covered only locally incorporated foreign banks, and not branches of foreign banks. He added that according to the General Agreement on Trade in Services, Members were allowed to protect depositors' interests and maintain the soundness and stability of domestic financial systems by introducing prudential measures. According to the Basel Committee on Banking Supervision, the banking sector regulators of all countries were entitled to stipulate and utilize prudential regulations to control risks, so as to prevent banks from reckless risk-taking. There was a consensus among supervisory agencies that the supervisory measures were considered prudential as long as they were intended to protect the depositors' interests, mitigate banking risks, and ensure the safe and sound operations of the banking system.

27. He informed Members that the establishment of a deposit insurance system was still under consideration.

28. The notion that the policy limiting the equity share of foreign investors in Chinese banks was inconsistent with China's commitments was simply not true. In fact, what China had committed in its service schedule was to allow qualified foreign financial institutions to establish Chinese-foreign joint venture banks without any limitation on the equity share. In practice, foreign financial institutions had set up wholly foreign-funded banks with 100 percent foreign shares and Chinese-foreign joint venture banks with various equity shares. However, the issue of foreign equity participation in China's domestic banks was, by nature, an issue of cross-border merger and acquisitions (M&A), which was beyond the scope of China's WTO accession commitments, and therefore irrelevant for the TRM.

29. Regarding the imposition of working capital requirements on a branch-by-branch basis, he explained that by virtue of its commitments at the WTO, China gradually opened up its banking sector. Therefore, when foreign banks entered China's market, they faced different choices in terms of business scope, RMB business and, hence, the corresponding amount of operating capital. At present, even for individual branches of the same bank, business scopes and clients might differ, thus the risks they faced were not necessarily the same. Therefore, China stipulated different operating capital requirement for each individual branch.

30. As to whether the working capital requirements were too high, he stressed that these requirements were determined based on the risks that were specific to branches of foreign banks and on the specific situation that China's supervisory authorities were facing. Since 2003, the amount of operating capital requirements for branches of foreign-funded banks had been lowered and the tiers had been streamlined several times.

31. Regarding the preparations for the removal of remaining non-prudential measures for foreign financial institutions, he replied that China had recently amended the Regulations on the Administration of Foreign-funded Banks and its implementing rules. The revised Regulations had been promulgated on 11 November 2006. The Regulations removed all non-prudential restrictions on foreign financial institutions. The main amendments included the following:

- (a) Geographical and client restrictions on foreign-funded banks conducting local currency business had been removed. Foreign-funded banks could provide local currency business to Chinese citizens within the territory of China. All non-prudential restrictions on foreign-funded banks had been removed.
- (b) Foreign banks were encouraged to establish locally incorporated subsidiaries or transform their existing branches into such subsidiaries, in line with prudential supervision principles and common international practice. They were thus able to engage in all local currency businesses and be subject to the same regulatory and supervisory criteria as domestic banks.
- (c) A more conducive operating environment for foreign bank branches had been created. These branches were allowed to continue conducting existing foreign exchange business with all kinds of clients, and local currency business with corporate clients. In addition, pursuant to the new Regulations, foreign bank branches in China were allowed to take time deposits of no less than RMB 1 million Yuan per deposit from Chinese citizens within the territory of China, in order to enlarge their local currency funding sources in view of their relatively small number of outlets. Meanwhile, their present operation costs and business scopes remained unchanged, and in fact they might also take advantage of the streamlined business scope categories and reduced working capital requirements. Foreign bank branches could apply to transform themselves into local subsidiaries at any time based on their own business development strategies.

32. Regarding payment transactions made by bankcards and e-payment cards, he explained that:

- (a) Inter-bank clearing service for payment transactions made by bankcards belonged to the category of clearing service of monetary assets, which should be ascribed to "settlement and clearing service of financial assets, including securities, derivatives and other negotiable instruments." China had made no commitments on settlement and clearing services in its schedule.
- (b) With regard to international service providers of e-payment that made payment transaction in China, the Regulations of the People's Republic of China on Foreign-funded Banks promulgated recently, clearly stated that banking institutions satisfying relevant requirements were allowed to provide payment and money transmission services including credit card, charge card and debit card under authorization or permission of CBRC. At present, bank cards issued by foreign banks outside China could be used in China; and bank cards in RMB and bank cards in foreign currencies issued in China could also be used outside China.

- (c) With regard to e-payment cards necessary for international transactions, according to China's commitments, banking institutions could issue such cards, including RMB bankcards and those denominated in foreign currencies, on condition that they conformed to the requirements of relevant laws and regulations as well as related standards of the payment service industry.

33. He finally noted that China had never required all financial institutions that issue payment cards in China to adopt the BIN format by China Union Pay for their e-payment cards.

34. With regard to the Measures for Administering the Release of News and Information in China by Foreign News Agencies, he made the following clarifications. First, the purpose of the Measures was to administer the release of news and information by foreign news agencies. They were not especially aimed - as some Members thought - at regulating foreign financial information providers. Secondly, the promulgation of the Measures was a normal step to regulate the release of news and information by foreign news agencies in China. It was not intended to impose any restriction on the access of financial information provided by foreign news agencies to China's market, and the Measures were in no way violating China's market access commitments concerning provision of financial information services.

35. He then turned to **securities and related services**. With regard to the alleged 49% limitation on foreign equity participation in China's credit reference and analysis, investment and portfolio research and advice agencies, he said that in fact China made no commitments in these services.

36. Regarding the reported moratorium on new securities licenses, including for foreign joint ventures, he clarified that since the latter half of 2004, against the backdrop of the outburst of long cumulated risks in the securities sector, the government had begun an overall rectification and consolidation of securities firms. The measure was of a prudential nature, and was applied to all security firms, whether domestically or foreign-funded. The main task of rectification would be basically completed by the end of this year, and the overall objective was expected to be met next year. He believed that this measure would provide a better environment for the development of China's securities sector and firms.

37. He denied the existence of a moratorium on sales of existing state-owned securities companies to foreign entities.

38. He explained that the capital requirements for fund management companies were necessary to ensure the normal operation of these companies and to allow for the necessary level of risk taking. China had no plans to change this requirement.

39. With regard to CSRC's policy for circulating proposed measures and providing opportunities for public comment, he explained that when the Commission proposed a new measure, it would organize different seminars and publish the draft measure at the designated official website and newspapers with a view to soliciting public comments. If the proposed measures involved more than one regulator, the Commission would coordinate with other Chinese regulators beforehand.

40. In China's view, the following issues related to securities services were not relevant to the transitional review process: the question on economic security assessment for M & A of domestic companies by foreign companies; the question of how commercial banks and security firms helped China's domestic institutions and individuals in overseas portfolio investment; the request to increase foreign equity participation in China's asset management companies and in securities brokerage firms; and the request to allow security firms to engage in financial futures business.

41. Finally, he turned to **other issues**. With regard to the licensing of companies to offer enterprise annuities services, he said that in 2005 the Ministry of Labour and Social Security had processed 134 applications for licenses from 99 institutions, and granted 37 licenses to 29 institutions.

42. Regarding transparency of laws and regulations, he explained that in June 2002 the State Council of China designated "China Foreign Trade and Economic Cooperation Gazette" as China's official journal for the purpose of trade policy notification and enquiry to the WTO, and China's trade policy review by the WTO. The "Gazette", published by MOFCOM, was dedicated to the publication of all the laws, regulations and other measures pertaining to, or affecting, trade in goods, and services, TRIPS or the control of foreign exchange released by the NPC, the State Council, and central and local governments of China. The public could access China's economic and trade laws and regulations easily and quickly from the "Gazette", the contents of which were available on the website of MOFCOM. In March 2006, the State Council issued a circular which provided that "when authorities and local governments publish laws, regulations and other measures, or publish their drafts for public comment, they must send copies to MOFCOM for instantaneous publishing in the Gazette".

43. The representative of Japan encouraged China to make efforts to ensure regulatory transparency. He believed that implementing WTO commitments and ensuring transparency were equally important for China to reap the benefits of liberalization. He then referred to China's explanation concerning the reinsurance regulations, of which he was not yet fully convinced. The regulations restricted marketing of reinsurance, which consequently affected cross-border reinsurance transactions. In his view, marketing was one of the important elements of the 'supply of a service' as defined in Article XXVIII of the GATS. He expressed the wish to continue discussing the matter with China, and requested that China explained the purpose of the said regulations.

44. The representative of the European Communities wanted to raise some follow-up questions in light of recent developments, including the promulgation of a new law on foreign-funded financial institutions and new administrative measures on the release of news and financial information in China. He considered, nevertheless, that there had been some progress in China with regard to the implementation of GATS commitments in the financial services sector, and this was very positive. At the same time, foreign presence in China's financial sector remained limited, below 2 per cent.

45. He noted, however, that there had been some steps in the wrong direction. One of them concerned the release of news and financial information in China, and the measures that had been promulgated by Xinhua News Agency on 10 September 2006. He had heard the Chinese representative say that these measures would not impose any restriction on access and supply of financial information services into the Chinese market. However, he still had a number of concerns. According to the measures, it was no longer possible to directly supply these services to the Chinese market. Rather, a supplier had to go through a distributor designated by Xinhua News Agency, and only one distributor had been designated to date, and it was a part of Xinhua – the CEIS. Another concern related not only to this distributor, but to a regulatory arm of Xinhua – the Foreign Information Administration Centre or FIAC – which was also part of Xinhua. Therefore, the European Communities had some concerns regarding the independence of the regulator, which was a commitment that China had undertaken. He had not heard any clarifications from the Chinese representative on those issues. He had a few follow-up questions on this sector. Starting with Xinhua News Agency, he asked how many non-representative offices had been established in China for the supply and release of financial information services. It was his understanding that there were a number of representative offices already established, but it was not clear whether it had been possible to establish other forms of commercial presence for the supply of these services in China. A second question was related to the possibility of designating a distributor for the supply of financial information services, as foreseen in Article 7 of the Administrative Measures on the Release of News and Financial Information. He asked whether a foreign entity could become a designated distributor by Xinhua, and what conditions were attached to that.

46. He then moved on to banking and the new regulation on foreign funded financial institutions promulgated on 11 November 2006, and asked when the implementing rules would be adopted. Another question related to requirements that were imposed on branches. At present, a branch needed to prove three years of experience, and two consecutive years must be profitable. His understanding was that this requirement would be relaxed for certain regions in China under the new regulations for foreign-funded financial institutions, and that the three-year requirement would be changed into a two-year requirement. Since according to the Chinese representative, this was a prudential measure, he wondered how it was possible to relax a prudential measure for economic development purposes and to allow foreign entities to establish in certain parts of China.

47. Regarding insurance services, he had heard the Chinese representative say that there was equal treatment for licence applications from foreign and Chinese insurance companies. He asked, however, whether it was possible for a foreign insurance company that wished to apply for a licence to branch or sub-branch, to apply concurrently for those licences or only consecutively.

48. The representative of the United States said that his country placed great importance on the transitional review mechanism for China, which gave Members the opportunity to assess the progress made by China in adopting and complying with WTO disciplines. He asked some questions which, in his view, had not been addressed in the statement made the Chinese representative. He saw a need to add clarity to the regulations on reinsurance, which were extremely confusing to the private sector. There was great uncertainty, however, as to what was meant by providing priority offers that did not require actual provision of contracts to domestic reinsurers. This was creating problems in marketing as well. It was not clear how these measures could be implemented in a manner consistent with China's market access commitments in this area.

49. He also expressed concern about the regulations promulgated on 11 September 2006 with respect to financial information services. He requested further clarification, including on how these measures could be implemented in a way consistent with China's market access and national treatment obligations, since they did not appear to apply to domestic financial information providers. It was also important to clarify how measures might be implemented in a manner consistent with the horizontal acquired-rights commitment made by China in its schedule, as foreign financial information providers enjoyed full market access in the sector under the 1996 regulations.

50. He also raised some questions regarding the new banking regulations. First, he sought further clarification regarding the requirement to incorporate locally since this reservation had not been included in China's services schedule. Secondly, he asked when the implementing rules would be available for review.

51. Other issues did not seem to have been addressed by the Chinese representative's statement. The issue of concurrent versus consecutive branch approvals for foreign insurers operating as branches, in comparison with domestic Chinese insurers, continued to be a cause for concern. No examples were available of foreign insurers being provided approvals for concurrent applications, while, it was possible on a regular basis for domestic insurers to receive concurrent branch approvals. He noted the assurances by the Chinese authorities that there was no difference in treatment with respect to these applications, but the decisions of the CIRC did not seem to be consistent with that statement. He further asked how CIRC actions in this area could be made more consistent with the national treatment obligation.

52. With regard to the conversion from foreign branches into subsidiaries in the insurance sector, foreign insurers that had applied to become subsidiaries had been subject to very significant delays in the review of their applications. In some cases, the delay was more than one year, and no US firms had been authorized yet to convert from a branch to subsidiary. He was particularly concerned with the remark by the Chinese representative that the ability for insurers to sub-branch was available only



for those insurers that had incorporated in China as local corporations. In his view, that policy was inconsistent with China's commitments to allow freedom of means of entry.

53. Regarding capital requirements for insurance, he said that CIRC required registered capital for each sub-branch of those firms that were operating as branches, and for each new location of those firms operating as subsidiaries. The United States had requested an explanation of the prudential basis for these requirements, and asked whether it would be possible for the CIRC to rely on financial reserves of the parent company for those establishing as a branch in China, and of the initial subsidiary for those establishing as a subsidiary. He reiterated those questions, since they had not been addressed yet by the Chinese representative.

54. Regarding new product approvals in the insurance sector, he said that a foreign insurer had sought approval from the CIRC to supply political risk insurance, but had experienced a long delay in its application. Such insurance was currently being provided in the Chinese market by a state-owned company. He was at a loss to understand why this new product, which was in fact an existing product in the Chinese market, was not approved by CIRC, and wondered whether this was consistent with the national treatment obligation.

55. A few questions had been raised by the United States about investment of assets by insurers. The CIRC had set a very high threshold of total assets required for investment of foreign exchange assets overseas. This threshold effectively barred any foreign company operating in China from participating in these opportunities in overseas markets. He asked, again, how this was consistent with China's national treatment obligations.

56. Turning to asset management, he said that the 2004 regulations required that companies must have had licenses to operate in China for more than 8 years prior to being able to establish an asset management company. That requirement excluded all foreign companies that had entered the Chinese insurance market since China's WTO accession in 2001. How could this be consistent with the national treatment principle?

57. He then turned again to banking and related services. In addition to the questions on incorporation requirements, he said that the new regulations appeared to bar foreign banks operating as branches from providing RMB services, including lending to Chinese individuals. He appreciated the clarification given by the Chinese representative that these banks were able to take time deposits about the one-million yuan threshold, and continued to provide RMB lending to corporations. He asked, nevertheless, why these foreign banks were barred from providing these services, including lending services, to Chinese individuals; and whether this was consistent with the Chinese commitment to lift the various limitations on market access in the banking sector.

58. In the case of electronic payments, money transmission, and credit cards, it was the US' understanding that China had committed to allow unrestricted market access and national treatment for payments and money transmission services, including credit, debit and charge cards by 11 December 2006. He asked about China's plans to implement these commitments in time, and what steps would be taken to allow foreign providers of electronic payments, money transmission, and credit card services to enter the domestic market and process domestic RMB transactions. It was the US' expectation that as of 11 December 2006 foreign providers would be able to issue single brand cards, and provide domestic credit cards to the Chinese market and Chinese consumers.

59. Regarding the sale of state-owned securities firms to foreign investors, he appreciated the confirmation by the Chinese representative that there was no prohibition. The US looked forward to the opportunities for foreign firms to take advantage of an open market.

60. He also appreciated the clarification regarding the issuance of new securities licences. However, was this consistent with the national treatment obligations? Given the very limited presence of foreign firms in the market, the prohibition on issuing new licences would have a particularly severe impact on foreign providers. He also asked when new licences would be issued to securities firms.

61. He appreciated the information given with regard to progress made in both the applications and approvals for firms to provide enterprise annuities services. He would be interested in getting more information about the nature of the licensing requirements since there was some uncertainty among firms in the industry as to how they could take advantage of this new and important area of business. He recalled that the United States had also raised questions about the provision of group health insurance, and would be interested in obtaining more information about the progress made in that area.

62. Finally, he stressed the importance of making further efforts in the area of transparency. Although a challenge for all Members, transparency was very important for smooth regulatory oversight and for the development of the private sector. It was important to have a transparent process of legal and regulatory development, and to have a full and predictable process for prior public comment and review. He appreciated the action plan adopted by the State Council in March 2006 to require all central, provincial and local governments to provide all trade-related measures to the MOFCOM Gazette. That was very important, given the previous gap in China's legal and regulatory regime. He would be interested to hear more about the implementation of this.

63. The representative of Canada recognized China's efforts to bring its trade policies into conformity with its accession commitments. Further reforms would help ensure that China fully meets the letter and spirit of its commitments. He then turned to some areas of particular interest to Canada. As highlighted in Canada's submission last year, there were still questions about China's commitments to permit branch expansion of insurance firms consistently with the phase-out of geographic restrictions, the last of which was to be removed in 2004. It appeared that new branch approvals for domestic insurance firms continued to proceed more expeditiously than those of foreign invested insurers.

64. He also expressed interest in obtaining further information on how China's recent regulations on reinsurance services worked. He asked how restrictions on the ability of foreign insurers to engage in reinsurance with their affiliates were consistent with China's commitments in this sector.

65. Finally, he turned to financial information services. He welcomed the statement that China sought to rationalize the relationship between the measures on news agency services adopted on 10 September 2006 and China's GATS commitments. However, Canada continued to share the concerns raised by the European Communities in this area.

66. The representative of Australia noted that since his country's submission for the this TRM, China had promulgated the administrative regulations on foreign-funded banks, which contained a range of new measures affecting foreign invested banks in China. He would continue to seek further clarification on how the new regulations would affect the issues raised in Australia's questions. He then turned to the issue of transparency, and said that in order to avoid unintended consequences, Australia strongly encouraged China to consult more widely and deeply with Members, and to allow more time to consider the views of Members prior to the implementation of significant new measures such as this one affecting foreign banks in China.

67. The representative of China said that trade in services was a very complex field. It took eight years to negotiate the GATS and, still, some very important areas had been left unfinished, such as government procurement, subsidies and safeguards. On the other hand, China had faced a tremendous

task in only five years. China was also confronted with restrictions in other markets, which were in sharp contrast with China's liberalization efforts. The comments made by Members could be classified, in his view, into two groups. On the one hand, those seeking further clarification on some important aspects; and, on the other hand, those expressing concerns, and maybe dissatisfaction, with delays in approvals or some lack of transparency. Regarding the latter, he considered that the delays in accepting the Fifth Protocol to the GATS, addressed under item B of the agenda for today's meeting, were actually more important than the delays that might have been faced in China. These alleged incidents were not intentional, and could not even be called delays. Every Member had the right to regulate services industries, and to adopt prudential measures regarding approval.

68. He indicated that the implementing rules regarding the regulation on foreign-funded banks had been promulgated on 28 November 2006 and confirmed that foreign banks could lend to Chinese individuals. Authorization for the establishment of a foreign information administrative centre was given by the State Council. This centre was independent and was not going to provide an advantage to Xinhua.

69. He finally said that interested Members could meet bilaterally with his delegation to discuss further some of the issues, although not all of them. Many questions would need to be taken back to capital. He noted that this offer was a sign of flexibility on China's part, and that the review should be considered completed after this meeting.

70. The representative of the United States made an additional comment on the regulations affecting mergers and acquisitions. He understood from the initial statement by the Chinese representative that this was not viewed as relevant for discussions under the TRM. He took issue with that because the broad criteria for reviewing cross-border mergers and acquisitions (such as national economic security, protection of national brands, and a variety of other criteria) could potentially create significant market access barriers in services, depending on how they would be implemented. He encouraged China to consider the questions posed by some Members on this issue.

71. The representative of the European Communities noted that many of the questions raised had not been addressed by China at this meeting. He encouraged China to respond and accepted the offer to have further contacts with interested Members.

72. By way of conclusion, the Chairperson invited the Committee to take note of all the statements made. Secondly, he requested the Secretariat to prepare a report, to be presented to the Council for Trade in Services. It would be a factual report, stating basically that:

- (a) pursuant to section 18 of the Protocol on the Accession of the People's Republic of China, the Committee had conducted a review of the implementation by China of the WTO Agreement and of related provisions of the said Protocol, in the meeting held on 27 November 2006;
- (b) written communications had been received from five Members, namely Japan, the European Communities, the United States, Australia, and Canada; and
- (c) the details of the discussion, including all the interventions made at the meeting, would be found in the meeting report, to be issued as document S/FIN/M/53.

73. The Committee so decided.

F. DATE OF THE NEXT MEETING

74. The Committee agreed to hold its next meeting during the first quarter of next year. The exact date would be announced in due course.

G. OTHER BUSINESS

75. There was no issue raised under this agenda item.

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