

WORLD TRADE ORGANIZATION

RESTRICTED

S/FIN/W/62

30 October 2007

(07-4729)

Committee on Trade in Financial Services

Original: English

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 30 October 2007, from the delegation of Canada, is being circulated to the Members of the Committee on Trade in Financial Services.

1. In accordance with paragraph 18 of China's accession protocol, and in the interest of promoting a constructive dialogue, Canada requests that China provide responses and relevant information concerning these questions and comments before or during the meeting of the Committee on Trade in Financial Services to be held on 12 November 2007.

QUESTIONS AND COMMENTS

A. INSURANCE

2. In Canada's 2006 TRM submission (S/FIN/W/56), Canada outlined its ongoing concern that domestic insurance firms continue to receive preferential treatment vis-à-vis foreign-invested firms with respect to internal branch approvals. In particular, domestic insurance companies appear able to obtain multiple branch approvals simultaneously, whereas foreign insurers are restricted to sequential applications for each new branch. How will China ensure that national treatment will be provided with regard to branch approvals going forward, particularly in light of China's GATS commitment to permit branch expansion of insurance firms consistent with the phase out of geographic restrictions?

3. At the 2006 Transitional Review in the CTFS, China noted that the qualification requirements for insurance companies seeking to set up asset management companies applied to both domestic and foreign-invested firms and were necessary to ensure the safety of assets under management. However, it appears that the minimum asset threshold requirements set out in Article 8 of the *"Provisional Measures Governing Insurance Assets Management Companies"* do not take into account the assets of the foreign parent when calculating a foreign-invested firm's asset level. As such, these requirements can, in effect, only be met by large predominantly domestic firms. Could China please clarify how domestic and foreign-invested firms receive equivalent treatment with respect to investment channels given that access to several investment channels is limited in practice to insurance asset management companies?

B. BANKING

4. Canada has highlighted in previous submissions its concerns with the “*Procedures on the Administration of Foreign Debts of Foreign Capital Banks in the Territory*” and related implementing rules, which have the effect of artificially limiting a foreign bank's ability to finance its foreign currency lending offshore, and in practice restrict a foreign bank branch's foreign currency loan business. The interaction of these rules with China's requirement that foreign financial institutions have three years of business operation in China prior to applying for a local currency license, appear to severely limit market access opportunities for newly established foreign bank branches. Could China please indicate whether it is considering revising its foreign borrowing restrictions or eliminating the 3 year waiting period for foreign financial institutions to be eligible to apply for a local currency license?

C. SECURITIES

5. Canada understands that China plans to lift its prohibition on the licensing of securities companies, including joint-ventures, prior to the end of 2007. Could China please indicate whether it still expects to meet this timeframe for resuming the issuance of new securities licenses?

D. FINANCIAL INFORMATION SERVICES

6. According to the “*Measures for the Administration of Release of News and Information in China by Foreign News Agencies*” promulgated by Xinhua News Agency on September 10, 2006, foreign news agencies are required to have entities designated by Xinhua News Agency act as their agents in China. Canada understands that this requirement applies exclusively to foreign news agencies and the only entity designated thus far to act as an agent is the China Economic Information Service (CEIS). Could China please explain how the requirement for foreign news agencies to act through an agent is consistent with China's national treatment commitments under banking sub-sector (k): *Provision and transfer of financial information, and financial data processing and related software by supplier of other financial services*?

7. Further to the abovementioned measures, it appears that Xinhua News Agency has regulatory oversight for the provision of financial information services by foreign service providers. Canada understands that Xinhua also provides financial information services on a commercial basis in China. Could China please clarify how this practice is consistent with paragraph 309 of China's accession protocol, which specifies that “...for the services included in China's Schedule of Specific Commitments, relevant regulatory authorities would be separate from, and not accountable to, any service suppliers they regulated...”?

8. As per China's GATS Schedule of Specific Commitments under banking sub-sector (k), providers of financial information services do not appear to face restrictions on their ability to establish in China. Please confirm that foreign providers of financial information services may incorporate in China.

E. PENSIONS

9. During the 2006 Transitional Review in the CTFS, China reported on the number of licenses granted to companies to offer enterprise annuities services. Could China please provide further information on the licensing requirements for providing enterprise annuities services, particularly those requirements maintained by the relevant sectoral regulatory bodies?

F. GENERAL

10. While Canada recognizes that regulatory transparency has improved significantly since China's accession to the WTO, concerns remain regarding lengthy approval procedures for, *inter alia*, new branch locations, and ambiguity in licensing application processes, which can be unclear and leave significant room for interpretation. In particular, improved transparency surrounding requirements and timelines for obtaining pre-licensing invitations would provide greater clarity and predictability for financial sector participants seeking to expand their operations in China.
