

**COMMUNICATION FROM JAPAN**

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 6 November 2008, from the delegation of Japan, is being circulated to the Members of the Committee on Trade in Financial Services.

Questions and Comments of Japan on the Implementation by China  
of its Commitments on Trade in Financial Services

1. Japan recognizes and welcomes China's continuous efforts to implement its WTO commitments for financial services. Japan believes that liberalization in the financial services sector will not only enhance the efficiency of the sector, but also contribute to China's overall economic growth. In this context, Japan continues to encourage China to make further efforts to ensure regulatory transparency, including on the establishment of a commercial presence, thus maximizing the benefits of liberalization. Japan is of the view that there is still room for further improvement in this area, in view of China's commitment to transparency as described in the Report of the Working Party on the Accession of China.

2. In accordance with paragraph 18 of the Protocol on the Accession of the People's Republic of China, which states that "China shall provide relevant information to each subsidiary body in advance of the review" and in the spirit of cooperation to render the TRM process most efficient and effective, Japan requests that China provide, in advance of the regular meeting of the Committee on Trade in Financial Services, responses and relevant information to the following questions and comments.

**I. INSURANCE**

**A. REGULATION ON REINSURANCE**

3. While Japan welcomes the movement by the Government of China with a view to revising insurance regulations of the Insurance Act, Article 11 of the Administration of Reinsurance Business Regulations requires direct insurance companies to solicit, from at least two reinsurance companies in China, reinsurance offers amounting to more than 50 percent of the reinsurance to be ceded. While China stated in the previous TRMs that this provision did not "force" direct insurance companies to solicit reinsurance offers from companies in China and did not have a negative impact on the conditions of competition, in practice, this is considered as compulsory and the activities of insurance companies are in fact affected. In light of Article 28 of GATS which stipulates that "supply of

service" includes the marketing of a service, please explain how this limitation can be justified, given that no limitations regarding cross-border trade in reinsurance have been scheduled.

4. Article 22 of the Administration of Reinsurance Business Regulations prohibits foreign insurers from engaging in the reinsurance business with their affiliates, which poses a serious problem on risk management of insurance companies. Please explain how this limitation can be justified when no limitation has been scheduled regarding cross-border trade in reinsurance.

**B. MINIMUM CAPITAL REQUIREMENTS**

5. When asked about the minimum capital requirement for foreign insurers in the previous TRMs, China responded that this was for prudential reasons and there was no international standard on this issue. However, this requirement is indeed high in light of international standards. Please indicate whether China plans to relax minimum capital requirements for foreign insurance companies and explain what condition and situation have made China set such high minimum capital requirements.

**C. MEASURE**

6. China made the "Administrative Methods on Equity Interest in Insurance Companies" available for public comment on 11 March. Paragraph 5 of Article 13 of the Methods says that "a foreign financial institution that has been permitted to invest in China's insurance market shall not invest and hold equity in an insurance company of the same kind." Please explain the current status of this regulation and also how this new restriction can be justified in light of the national treatment obligation and horizontal commitments in China's schedule ("The conditions... will not be made more restrictive than they exist as of the date of China's accession to the WTO.").

**II. BANKING**

**A. LOCAL CURRENCY RETAIL BUSINESS**

7. China requires foreign banks to be locally incorporated if they are to engage in the local currency retail business. Please explain how this can be justified in light of China's accession commitments, which do not have reservations specially on banking branches. In the last TRM, China explained that it has this requirement because the branches of foreign banks are not covered by the deposit insurance system. Does China not intend to leave consumers to decide whether to deposit RMB in a branch of foreign banks or not, under the situation that such risk is well notified and informed?

**III. FINANCIAL INFORMATION SERVICES**

8. Japan maintains its interest in China's implementation of commitments concerning the "measures affecting financial information services and foreign financial information supplies".

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