

**COMMUNICATION FROM THE EUROPEAN COMMUNITIES
AND THEIR MEMBER STATES**

TRM China - Financial Services

The attached communication has been received from the delegation of the European Communities and their Member States with the request that it be distributed to Members of the Committee on Trade in Financial Services.

1. The European Communities and their Members States are transmitting comments and questions in advance of the October meeting of the Committee on Trade in Financial Services in order to give time for the Chinese authorities to provide the relevant information, including information specified in Annex 1A of the Accession Protocol. We would like to underline that these comments and questions are based on information obtained indirectly.

A. **TRANSPARENCY AND TRANSPOSITION INTO DOMESTIC LEGISLATION**

2. In the insurance sector, transparency is a major concern. In particular, the new regulation on foreign-funded insurance companies (adopted on 22 December 2001 and entered into force on 1 February 2002) contains vague provisions, with unspecified criteria, referring to unspecified laws and regulations, and is silent on key issues, in particular on internal branching and application to several open cities at the same time.

- **Could China explain the regime of internal branching, in particular the geographic scope, and the legal source of this regime? Could China confirm that a foreign company can be granted several licenses at the same time to operate in different cities, be it primary or secondary establishment, without having first to establish a track record in one city of operation?**

B. **UNEXPECTED DIFFICULTIES**

3. In the banking sector, the issue of minimum capital requirements for direct branches of foreign banks is cause for concern. According to the new regulation governing foreign financial institutions (adopted on 12 December 2001 and entered into force on 1 February 2002) and to its implementing rules (adopted on 29 January 2002), direct branches of foreign banks have to put capital from RMB 100 million up to RMB 600 million (the latter amount to carry out the full range of banking services, with corporations and individuals, in RMB and foreign currency). Those amounts are extremely high and do not take into account the possible guarantee of the mother company, even though the branch has no legal personality.

- **Could China explain how those requirements can be reconciled with the national treatment undertaken in its specific commitments, and if any change of those rules is contemplated?**

4. The new regulations also raise a tax issue. Chinese tax authorities charge a 7% business tax on the gross margin foreign banks earn when they use capital to fund loans to customers, but only 7% of the net margin when the beneficiary of the loan is a Chinese bank.

- **Could China explain the rationale for this difference of treatment and indicate if any change is contemplated to ensure a level-playing field?**

5. It also appears that foreign banks are limited to opening only one new branch per year.

- **Could China confirm this rule? How would it be reconciled with its specific commitments?**

2. Success stories

6. In the securities sector, the regulations on fund management and trading and underwriting of securities adopted in 2002, as well as the current process of licensing, seem to proceed smoothly. It is worth noting that trading of A shares is not committed, but that a license to perform such an activity has been granted to a joint-venture with a foreign partner.

- **Could China indicate whether it intends to open trading of A shares to foreign companies, and, if not, how can the MFN principle be respected given that a license has already been granted to a joint-venture with a foreign partner?**
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