

COMMUNICATION FROM JAPAN

Transitional Review Mechanism in connection with Paragraph 18
of the Protocol on the Accession of the People's Republic of China ("China")

Japan's Comments on Trade in Financial Services

The attached communication has been received from the delegation of Japan with the request that it be distributed to Members of the Committee on Trade in Financial Services.

1. Japan welcomes China's efforts to implement its commitments under the Protocol on the Accession into the WTO. While China has committed to provide relevant information to each subsidiary body in advance of the review under the Protocol on the Accession into the WTO, such information has not been received. Japan, therefore, submits its comments well in advance of the scheduled review in the Committee on Trade in Financial Services on 21 October, so that the Chinese authority will have sufficient time for responding and providing related information.

2. Japan is willing to work closely with China and other Members, so as to ensure the transparency committed under the Protocol, and it is appreciated if China responds to our comments in written form with related information, ten days before the CTFS meeting.

A. **INSURANCE AND INSURANCE RELATED SERVICES**

1. Limitation on the form of establishment

3. Foreign life insurers are permitted to enter into Chinese market only through joint ventures, while non-life insurers will be permitted to establish 100% foreign owned subsidiaries in accordance with the phased-in schedule. In this respect, Japan should like to ask (a) the reasons for such differentiated treatment between life and non-life insurers, and (b) if Chinese authorities intend to continue the current restrictions on foreign capital participation in life insurance business. If Chinese authorities have intention to relax the restriction in the future, Japan should like to ask them to make publicly available schedules to increase foreign capital participation or permit the establishment of branches (or 100% foreign owned companies).

2. Geographical restrictions

4. China's Schedule of Commitments provides that foreign insurers will be permitted to conduct insurance business in Beijing, Suzhou, Jiangmen, Dong Guan and Tianjin, only two or five years after the accession. On the other hand, certain foreign insurers are currently permitted to conduct insurance business in the above five cities. Japan should like to ask Chinese authorities to confirm if these five

cities (Beijing, Suzhou, Jiangmen, Dong Guan, Tianjin) are open to other foreign insurers of the WTO Members.

3. Limitation on the number of licenses

5. China inscribes in its Schedules of Commitments that licenses will be issued with no economic needs test or quantitative limits on licenses. However, it is the fact that no license has been issued to foreign life and non-life insurers since China's accession. Japan has grave concerns about the current situation and carefully watches how many licenses will be issued to foreign insurers in the near future.

4. Progress on the amendment of domestic insurance regulations

6. Japan should like to confirm the schedule and contents of amendment of domestic insurance regulations which are said to take place following this September. For example, Chinese Schedules of Commitments provides that compulsory cession of all lines of the primary risks for non-life, personal accident and health insurance business with an appointed Chinese Reinsurance Company shall be progressively eliminated in the period of four years after accession. Japan should like to ask Chinese authorities to clarify the status of the amendment of relevant regulations on domestic insurers.

5. Life insurance brokers

7. China's Schedule of Commitments provides that only foreign non-life insurance brokers will be permitted to conduct brokerage business in accordance with the phased-in schedule, while China makes no commitments on life insurance brokers. Japan should like to ask Chinese authorities whether they intend to allow life insurance brokerage to be conducted by foreign institutions.

6. Contact with Chinese insurance authorities

8. Japan requests that direct contacts of foreign insurers with the Chinese insurance authorities, which is at present difficult, should be enhanced.

B. BANKING

1. Licensing to foreign banks

9. Japanese banks have not been issued licenses since China's accession. Japan is of the view that Chinese authorities issue licenses to foreign banks by non-transparent rules and procedures not based on clear economic criteria. Japan should like to ask Chinese authorities to provide detailed information on relevant criteria and policies on licensing to foreign banks.

2. Motor vehicle financing by non-bank financial institutions

10. Although there is an explicit reference to liberalization of motor vehicle financing by non-bank financial institutions in China's Schedule of Commitments, it is not possible to apply for establishment of commercial presence since no concrete regulation has been published in this area. Japan should like to ask Chinese authorities to provide detailed explanation on this situation.

3. Restrictions on fund-raising and lending in Renminbi by foreign banks (restrictions on inter-bank fund raising of the local currency by foreign banks)

11. It is dubious whether it is an appropriate prudential rule to impose the proposed restrictions on inter-bank fund raising by foreign banks, in addition to the other proposed rules to require 8%

dotation capital for banks' assets and additional capital for each category of banking business. The proposed regulation would hamper foreign direct investment in China, as Chinese banks are currently unable to provide adequate financial support to all foreign companies investing in China. Japan should like to ask Chinese authorities to provide reasons to introduce the proposed regulations as well as to comment on the above view.

4. Transparency in application procedures

12. Article 13 of the Regulation on Administration of Foreign Financial Institutions, which entered into force on 1st Feb, 2002, stipulates that People's Bank of China shall conduct prior assessment of applications from foreign financial institutions and decide within six months after receiving complete applications whether to accept such applications. However, the same article also provides that People's Bank of China may extend prior assessment period not exceeding three months and inform the applicants of the extension, in special circumstances where it is unable to complete prior assessment and to decide whether to accept or deny such applications. Japan should like to request People's Bank of China to give a written notice to applicants (foreign financial institutions) of the date of its receipt of their applications for prior assessment, as well as of whether to extend the assessment period and (in the case of extension) the reasons for the extension.
