

REPORT OF THE WORKING PARTY ON THE
ACCESSION OF MONGOLIA*

1. At its meeting on 8 October 1991, the Council of Representatives appointed a Working Party to examine the application of the Government of Mongolia to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which might include a draft Protocol of Accession. In 1995 the Government of Mongolia advised that it had decided to negotiate the terms of accession of Mongolia to the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO") under Article XII of the Agreement. In pursuance of the decision adopted by the General Council on 31 January 1995, the Working Party on the Accession of Mongolia to the GATT 1947 was transformed into a WTO Accession Working Party.

2. The Working Party met on 3-4 June 1993, 1-2 February, 24-25 May, 3-4 November 1994 and 26 June 1996 under the Chairmanship of H.E. Mr. W. Lang (Austria). The terms of reference and the membership of the Working Party are set out in document WT/ACC/MNG/1.

3. The Working Party had before it, to serve as a basis for its discussions a Memorandum on the Foreign Trade Regime of Mongolia (L/6943 and Add.1 - 2), and the questions submitted by Members on the Mongolian foreign trade regime together with the replies of the Mongolian authorities thereto (L/7043/Rev.1 and Spec(93)28). In addition the representative of Mongolia made available to the Working Party the following material:

- Law on Foreign Investment;
- Partnership and Company Law;
- Banking Law;
- Law on Privatization;
- General Law of Taxation;
- Personal Income Tax Law;
- Economic Entity and Organization Income Tax Law;
- Transport Facilities and Vehicle Tax Law;
- Sales Tax Law;
- Bankruptcy Law;
- Law on the Protection of Consumers' Rights;
- Customs Law;

* This Report has been adopted by the Working Party on an ad referendum basis.

- Law on Prohibiting Unfair Competition;
- Copyright Law of Mongolia;
- Basic statistical data on Mongolia's economy;
- Basic statistics on Mongolia's foreign trade;
- International intergovernmental and specialized organizations where Mongolia is a member;
- Main international treaties, conventions and agreements related to trade and economic co-operation where Mongolia is a signatory;
- List of countries with which Mongolia has bilateral trade agreements;
- List of countries with which Mongolia has concluded agreements on avoidance of double taxation and mutual promotion and protection of investments;
- Information on main service sectors (Spec 94(43));
- Notification on Import Licensing Procedures (WT/ACC/MNG/1);
- Notification on Technical Barriers to Trade (WT/ACC/MNG/2);
- Notification on Customs Valuation (WT/ACC/MNG/2);
- Information on State Owned Enterprises (WT/ACC/MNG/2);
- Information on State Trading Enterprises in Mongolia (WT/ACC/MNG/6);
- Information on Company Law in Mongolia (WT/ACC/MNG/4);
- Information on Intellectual Property Rights (WT/ACC/MNG/4);
- List of Items subject to Licensing (WT/SPEC/30);
- List of Items subject to quality certificates (WT/SPEC/31);
- Draft Notification on Sanitary and Phytosanitary Measures (WT/SPEC/34&36);
- Draft Notification on Customs Valuation (WT/SPEC/37); and
- Draft Notification on Technical Barriers to Trade (WT/SPEC/38).

4. In an introductory statement, the representative of Mongolia said that the last five years had marked rapid and challenging changes in the political and economic life of Mongolia. Formerly a country closed to international relations and heavily dependent on the CMEA member countries, in 1990 Mongolia had initiated an in-depth reform process aimed at restructuring the country's economy. The programme had been relatively successful as the inflation rate had declined from 321 per cent in 1992 to 183 per cent in 1993 and the average monthly inflation rate had fallen further to 3.6 per cent in 1995. Moreover, the consumer rationing system had been abolished. The floating exchange rate was relatively stable at around 450 tugriks per US dollar in 1995. Since 1990 Mongolia had entered into trade agreements with many countries. Mongolia had signed agreements on mutual protection and the promotion of investments as well as arrangements on the avoidance of double taxation with a large number of countries. Mongolia also had joined international economic and financial institutions, such as the World Bank, IMF, ADB, CCC and signed the Conventions on MIGA, Harmonized System, Settlement of Investment Disputes. Mongolia had overhauled the existing legislation to make it responsive to the market economy system. The Privatization Law, the Partnership and Company Law, the Banking Law, the Bankruptcy Law, the Law on Protection of Consumers' Rights, the Law on Securities, the Foreign Exchange Law, the Law on Quality and Standardization, the Law on Environmental Protection, the Law on Minerals, the Patent Law, the Copyright Law, the Law on Fair Competition, Laws on Taxation and the Foreign Investment Law had been enacted among others. The policy of encouragement of the private sector had led to the privatization of more than 88 per cent

of the former State owned enterprises through investment coupons. Almost 90 per cent of the livestock and the network of small retail shops, outlets and enterprises in catering and service business had been transferred to private ownership. Prices of heating, coal, and electricity for household consumption and public transport fares were subject to government control. The trade regime was being liberalised gradually. Any business entity was entitled to conduct foreign trade transactions without special authorization. Quantitative restrictions were not imposed on either exports or imports. Export licensing was required for certain specific articles like palaeontological and archaeological finds, guns, weapons, blood and blood products and radio-active elements. Import licences were required only for items such as weapons, ammunition, explosives, etc. As a part of the foreign exchange reforms, a floating exchange rate had been applied from the end of May 1993. The Harmonized Commodity Description and Coding System was being used as a model to collect statistical data on the exportation and importation of goods and Mongolia expected to apply it fully in 1996. The customs valuation rules were based on the GATT Customs Valuation Code. He stressed that his Government expected that the accession of Mongolia to the WTO would contribute to the further economic development and integration of Mongolia in the international trading system and would be mutually beneficial to all countries. He added that Mongolia was ready to enter into market access negotiations on goods and services with all interested Members. Having regard to the Ministerial Decision of 14 April 1994 on Acceptance of and Accession to the Agreement Establishing the World Trade Organization (WTO) and to the Decision of the Preparatory Committee dated 31 May 1994, the Mongolian Government had intended to accept the Agreement Establishing the World Trade Organization and become an original member thereof. For this purpose Mongolia had tabled draft market access schedules for agriculture and industrial goods and for services. Due to the complexity of the negotiating process, for reasons independent of Mongolia, this objective had not been attained. Therefore, in 1995, the Government of Mongolia had applied for accession to the WTO Agreement in pursuance of Article XII thereof and the Working Party on Accessions to GATT 1947 had been transformed into a WTO Accession Working Party. He also stated that as a developing country Mongolia reserved the right to invoke the special provisions concerning developing countries contained in the Multilateral Trade Agreements.

5. The Working Party warmly welcomed Mongolia's initial application for accession to the General Agreement and later on to the WTO. In expressing appreciation and understanding for Mongolia's ongoing political and economic reforms, the members of the Working Party noted that notwithstanding the small size of the internal market, a landlocked situation, a low level of infrastructure, the shortage of financial resources and the collapse of traditional financial and economic links, Mongolia had the courage to maintain a steady course to bring about socially acceptable reforms. Members commended Mongolia's measures aimed at consolidating a democratic society and implementing a full market

economy. Members noted that Mongolia had established a new legal and institutional framework for the economy and for foreign trade, had liberalized the foreign exchange regime, had freed most prices, had made substantial progress in the privatization of the productive sectors and had made a firm commitment to continue to pursue political, economic and social reforms. In their view, Mongolia's accession to the WTO would contribute to alleviating the current difficulties, would promote the country's economic development, and help to attract foreign investment and would also contribute to strengthening of the multilateral trading system.

6. The Working Party carried out an examination of the various aspects of the Mongolian foreign trade regime and the possible terms and conditions of a protocol of accession. During this examination the delegation of Mongolia provided additional information on, and clarification of, Mongolia's economic and commercial policy. The main points brought out in the discussions are set out below in paragraphs 7 to 60.

Economic reforms

7. In response to questions concerning reforms in the pricing system, the foreign exchange regime and the existence of monopolies, the representative of Mongolia reiterated that the Government had been moving decidedly towards a full market economy; therefore, most price controls had been eliminated and price controls remained only for the following items: coal, electricity, heating when these were for household use and public transport fares. All other prices were determined by market conditions exclusively. In addition, the representative of Mongolia recalled that the exchange rate had fluctuated widely in the period 1991-1994 going from 3 to 7 to 42 to 150 to 450 Tugrigs (Tug) per United States dollar. The current exchange rate was 450 Tugrigs per US dollar. Even though it had not yet been possible to establish the full convertibility of the Tugrig, in May 1993 the Government had established a floating exchange rate system. The Mongolbank (Central Bank) announced the exchange rate of the Tugrig to the United States dollar and other foreign currencies every two weeks on the basis of international market rates. The Mongolbank and the existing fourteen commercial banks were permitted to buy and sell foreign exchange at the market rate. The commercial banks were public limited companies similar to privatized enterprises. As a result of these measures, the parallel exchange rate had decreased and since June 1993, a single exchange rate had been in effect. Access to the foreign exchange market was on the basis of national treatment without any discrimination concerning ownership or national origin. Finally, the representative of Mongolia confirmed that monopolies were not permitted in Mongolia.

Tariff Regime

8. In response to questions concerning the tariff regime, the representative of Mongolia said that the multiple customs tariffs which had operated prior to June 1991 did not provide for m.f.n. rates. Within the framework of economic reforms and the liberalization of trade policy and in the process of integrating to the multilateral trading system, Mongolia had decided to overhaul the existing tariff system whose rates were 15 per cent for most items. As a temporary measure, lower rates were applied to a few items. The original uniform tariff rate of 15 per cent which had been approved by the Parliament was in force. The Parliament had delegated to the Government the right to reduce the tariff rates on certain basic consumer goods by up to 100 per cent and on industrial and technical goods by up to 50 per cent. After accession to the WTO, any changes in bound tariff rates would comply with the relevant obligations. The tariff schedule under consideration would have different rates on different goods, would convert Mongolia's tariff system to the Harmonized System and would introduce general and m.f.n. tariff rates. Noting that revenue from customs duties accounted for approximately 14 per cent of Government revenue, the representative of Mongolia added that Mongolia was ready to enter into tariff negotiations with all interested members. Some members expressed the view that bindings should be established at commercially significant levels to give some level of security of market access to fellow WTO Members. The representative of Mongolia said that taking into account its own needs and the needs of the members concerned, his Government had offered comprehensive bindings in its tariff schedule at an across the board rate not higher than 30 per cent with certain exceptions. Following bilateral negotiations with members of the Working Party, the schedule of concessions and commitments on market access for goods of Mongolia is reproduced in Part I of Annex I to the Protocol of Accession of Mongolia.

Other Import Duties and Charges

9. In response to questions from members of the Working Party, the representative of Mongolia confirmed that there were no other duties and charges except customs clearance fees and charges in Mongolia. In clarification of that statement the representative of Mongolia said that Article 16 of the existing Customs Law provided for customs fees in connection with customs formalities, services rendered and customs warehouse, the amounts of which were determined by the Customs General Administration. The Customs General Administration had established the following customs fees relating to:

- (a) customs formalities/customs clearance, including filing of the customs declaration for goods for import, export and transit - 2000 tugrigs; and

- (b) customs clearance of merchandise at the site of and at the request of an applicant - 1000 tugrigs per hour.

The representative of Mongolia considered that the fees in sub-paragraphs 9(a) and (b) were fees covered by Article VIII of the GATT 1994. In answer to questions, the representative of Mongolia said that goods in the custody of Customs warehouses were charged fees of 0.3 per cent ad valorem per day as a penalty for non-payment of customs fees and charges. The fees were not applied to all imports, only to those goods in the custody of Customs warehouses.

10. The representative of Mongolia stated that Mongolia would bind import duties and charges other than the tariffs listed in the Schedules of Concessions at zero in accordance with the requirements of the WTO. Any other fees and charges for services rendered would be limited to the cost of those services and would conform to the provisions of Article VIII of the GATT 1994. The Working Party took note of these commitments.

Taxation Regime

11. The representative of Mongolia stated that excise taxes were applied to the following goods by HS Code: beers, wine and spirits (2203, 2204, 2205, 2207, 2208); tobacco products (2402); gasoline and diesel oil (2710.00). In the course of their examination of Mongolia's trade regime some members of the Working Party raised concerns that the excise taxes applied to imported liquors, wines, gasoline, and diesel oil exceeded those applied to domestic production. Specifically, taxes on domestically produced alcoholic beverages were 80-85 per cent and on imports were 100-150 per cent. The representative of Mongolia said that the excise tax applied to imported rectified spirits, and alcoholic beverages, wines were greater than those applied to like domestic goods. The Government of Mongolia had reviewed this situation and agreed that it was not consistent with Article III of the GATT 1994 and with a view to equalizing taxes on imported and like domestic product had made appropriate amendments to the excise tax law in 1994. The higher ad valorem rates for imported alcoholic beverages were replaced by specific rates, and the rates applied to imported goods were in some instances lower than those applied to like domestic products. The specific rates were introduced with a view to easing the customs valuation of those products. The current rates of the excise tax were as follows:

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|----|----------------------|----------|--------------------------|
| 1) | rectified spirit: | domestic | - 85% ad valorem |
| | | imported | - 3000 Tugrigs per litre |
| 2) | alcoholic beverages: | domestic | - 80% ad valorem |
| | | imported | - 1500 Tugrigs per litre |

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|----|-------------------|------------------------|-------------------------|
| 3) | wines: | domestic | - 30% ad valorem |
| | | imported | - 200 Tugrigs per litre |
| 4) | tobacco products: | no domestic production | |
| | | imported | - 100% ad valorem |
| 5) | gasoline: | no domestic production | |
| | | imported | - 15200 Tugrigs per ton |
| 6) | diesel oil: | no domestic production | |
| | | imported | - 17180 Tugrigs per ton |

The excise tax on imports was applied from the date of completion of the customs clearance. The like domestic products were subject to the excise tax from the date of invoice of the product. Some members of the Working Party were of the view that despite Mongolia's steps towards elimination of the differential taxation of domestic and imported goods, the use of different bases for calculation of the tax made it difficult or impossible to ascertain whether the tax treatment of imported goods was consistent with Article III. Some members stated that from the date of accession, the same base (either specific or ad valorem) should be used for both imported and domestically produced goods. The representative of Mongolia stated that because the State Budget for 1996 had already been enacted by the Parliament, it was not possible before the end of 1996 to alter the bases upon which the excise and sales taxes were calculated.

12. In response to questions concerning the scope and the level of the sales tax, and its application to imported and domestically produced goods, the representative of Mongolia said that according to Articles 4, 6 and 8 of the Sales Tax Law, a sales tax of 10 per cent was applied to both imported and domestically produced goods and services. Imports were subject to sales tax from the moment of their importation into the territory of Mongolia. Domestically produced goods were subject to the sales tax upon the purchase or lease of the goods or from the date of the invoice submitted for the payment of services rendered. The State taxation authorities give to domestic manufacturers of goods and providers of services a formal notification requesting them to be registered as sales tax payers. An anticipated taxpayer must complete a special form within 30 days of receipt of the notification, indicating total level of sales in the preceding year and projected sales for the following year. This process of registration is carried out annually. A list of companies registered as sales taxpayers was published each year. Companies having total sales of less than 5 million tugrigs were not required to be registered, and thus were exempted from the sales tax. He added that no taxes or charges of any kind were applied to exports and no charges were levied for the acquisition of export licenses. Some members of the Working Party stated that they considered that Mongolia's exemption of the domestic output of small firms from application of the sales tax while all imports were subject to that tax without exception, constituted a breach of national treatment with regard to the application of that tax.

13. The representative of Mongolia stated that from 1 January 1997, Mongolia would apply national treatment with regard to the rate of excise tax (either specific or ad valorem) to both imports and domestically produced products in each of the categories in paragraph eleven above and to all other products. The representative of Mongolia also said that Mongolia would eliminate the discrimination against imported products in the application of the sales tax from 1 January 1997. The Working Party took note of these commitments.

Non-Tariff Measures

14. In response to questions concerning import and export controls, the representative of Mongolia said that according to the Government Decree No. 86 of 24 May 1993, the following items were subject to prohibition with respect to their importation into and/or exportation from Mongolia: (i) narcotics and appliances for their manufacture and use (import and export prohibited); (ii) books, movies, video tapes, photos, films advocating pornography or violence (import and export prohibited); (iii) animals listed in International and Mongolian Red Books and prohibited by the laws of Mongolia for hunting, trophies and products thereof (export prohibited); (iv) goods received under loans and assistance from international organizations and donor countries (export prohibited); (v) livestock, animals, birds, and raw materials of such origin, foetus, embryos thereof and microorganisms without veterinary certification or permission from appropriate organizations (import and export prohibited); (vi) raw cashmere (export prohibited). The importation and/or exportation of the following items was subject to licensing: (i) historical and cultural property, palaeontological, archaeological discoveries, samples of soil, plants and animals (export and import); (ii) precious metals, precious and semi-precious stones (export); (iii) ferrous and non-ferrous metals (export); (iv) weapons, ammunition, their spare parts and explosives (export and import); (v) velvet horn, plants listed in International and Mongolian Red Books (export); (vi) radioactive elements, rare elements, chemical elements (export and import); (vii) breed stock; (viii) rectified spirits and alcoholic beverages (import).

15. The representative of Mongolia further stated that the import licences were non-automatic. The scheme of licensing covered a limited number of items and was justified to protect national treasures of artistic, historic or archaeological value, human, animal or plant life, and to control the imports of arms and ammunition and of other products related to environmental, nuclear and security considerations. The Ministry of Trade and Industry administered the licensing system. All businesses incorporated in Mongolia were eligible to import goods into Mongolia. A licence could be obtained within 7 days from the submission of an application and was valid for three months. An application for a licence could be made at any time during the year. In certain cases licences must be issued prior

to shipment of the goods. The representative of Mongolia confirmed that except for the items listed above, in Mongolia all other products and services could be freely exported and/or imported by all entities. The Ministry of Trade and Industry was responsible for all matters concerning the export and import policy of Mongolia. He also stated that in order to comply with international undertakings, the export of certain textiles to the European Communities market was subject to quantitative restrictions.

16. The representative of Mongolia confirmed that licences had been abolished for meat, grains and fodder. For imports of livestock, animals, birds, and raw materials thereof, Mongolia accepted foreign issued veterinary certificates. Products such as live animals, meat, raw materials of animal origin and goods thereof, minerals, wood, etc. were not subject to import licensing and there was no intention of introducing such measures in the future.

17. Some members questioned whether the licensing requirements on ferrous and non-ferrous metals; rare elements and chemical elements; breed stock; and rectified spirits and alcoholic beverages would be consistent with the provisions of GATT 1994. The representative of Mongolia replied that the import licensing regime in Mongolia was justified on the grounds of the protection of human, animal and plant life and the environment, and said that, in view of the large number of products involved, a review by Mongolia of its system of import licensing on chemicals would require extensive work and time.

18. In answer to questions, the representative of Mongolia said that the export licensing of breed stock was required to protect the genetic fund of pure Mongolian stock and was required to ensure the certification of the type of breed exported. Transformation from a centrally planned into a market economy, together with liberalisation of the foreign trade system in some instances resulted in negative effects. Some traders had imported cheap low quality, counterfeit goods, especially alcoholic beverages. Frequent cases of poisoning and death had been recorded. Import licensing of alcoholic beverages was not intended to restrict the quantity or value of imports. The number of alcohol importers were not restricted. Internal sale of imported products were accorded the same treatment with like domestic products and there was no discrimination with respect to the origin of the product. The representative of Mongolia stated that the system of prior authorization was required only for the import of alcoholic beverages. A licence for the importation of alcoholic beverages must be obtained prior to shipment of the goods to Mongolia. The licence was granted following the grant of a Quality Certificate in respect of the goods, pursuant to the process described below. Quality Certificates were also required for domestically produced foodstuffs and alcoholic beverages. The certification process was regulated by the Law on Standardization and Quality Certification (1995). That law provided that any business entity could submit an application for a Quality Certificate to Mongolia's Standardizing bodies.

Article 11 of the Law on Standardization and Quality Certification provided that the application for a Quality Certificate could be made on the basis of either the test results and record of an authorized Mongolian testing laboratory, or in the case of imported goods, on the basis of a Quality Certificate granted by the appropriate authority of the exporting country. Upon receipt of the application, the Standardizing bodies would conduct a review of the testing results and the record of the authorized testing laboratory, or of the certificate granted by the appropriate authority of the exporting country. Following that review, the Standardizing body issued a Quality Certificate or permitted the use of a Conformity Mark in respect of the goods.

19. The representative of Mongolia provided a list by tariff line number of all imported products subject to prior authorization, inspection and import licensing including rare and chemical elements, rectified spirits and alcoholic beverages, in documents WT/SPEC/30 and 31.

20. The representative of Mongolia said that Mongolia commits that, from the date of accession, the authority of its Government to suspend imports and exports or to apply licensing requirements that can be used to suspend trade in the products under license would be applied in conformity with the requirements of the WTO, in particular GATT 1994 Articles VI, XI, XVIII, XIX, XX, and XXI, and the Multilateral Trade Agreements on Agriculture, Sanitary and Phytosanitary Measures, Import Licensing Procedures, and Technical Barriers to Trade and that his government would not maintain from the date of accession non-tariff import measures, including bans, quotas, permits and licences, that cannot be justified specifically under WTO provisions. In particular, Mongolia would apply the same controls and rules regarding technical regulations, standards certification, and labelling requirements to imported and domestic goods, and would not use such regulations to restrict imports. Mongolia would ensure that its technical regulations, standards, certification, and labelling requirements are not applied to imports in an arbitrary manner, in a way that discriminates between supplier countries where the same conditions apply or as a disguised restriction on international trade. Mongolia would also ensure that certification requirements are administered in a transparent and expeditious manner, and would be willing to consult with the WTO Members concerning the effect of these requirements on their trade with a view to resolving specific problems. The representative of Mongolia stated that his Government would ensure that licensing was applied only when necessary to protect human, animal and plant life and the environment. The representative of Mongolia agreed that the Committee on Import Licensing would review the compatibility of the product coverage of the licensing system by no later than two years after the date of Mongolia's accession to the WTO. The Working Party took note of these commitments.

21. The representative of Mongolia said that from the date of Mongolia's accession to the WTO, the period of validity of the import licences would be extended to one year. The Working Party took note of this commitment.

Export Incentives and Industrial Policy

22. In relation to export incentives the representative of Mongolia confirmed, furthermore, that since 1993 the only export incentive or subsidy in Mongolia were established in the new Foreign Investment Law, which entered into force on 1 July 1993. That law established a set of incentives for foreign investment in sectors such as mining, metal processing, machinery and infrastructure, which granted (i) partial and full tax relief during a 5 to 10 year period, and (ii) tax abatement in a 3 year period for foreign invested enterprises which exported more than 50 per cent of their output. The representative of Mongolia acknowledged that these measures established by the Foreign Investment Law were export subsidies within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures and as described in the "Illustrative List" contained in Annex I of the Agreement on Subsidies and Countervailing Measures, and confirmed the intention of his authorities that all such subsidies would be eliminated by no later than 31 December 2002. However, on behalf of his government, the Mongolian representative reserved the right to request the Committee on Subsidies and Countervailing Measures for an extension, if necessary, of the phase-out period, consistent with the provisions of paragraph 4 of Article 27 of the Agreement on Subsidies and Countervailing Measures. The Working Party noted that the Mongolian Schedule of Commitments on Agricultural Support and Export Subsidies contained in the Schedule of Concessions and Commitments on Goods which is to be found in Annex I of the Protocol did not provide for export subsidies.

23. The representative of Mongolia committed that his Government would eliminate by no later than 31 December 2002, preferably in a progressive manner, the measures which meet the definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, i.e. the subsidies provided under the new Foreign Investment Law, which came into force on 1 July 1993. These include the incentives for foreign investment in sectors such as mining, metal processing, machinery and infrastructure, which granted (i) partial and full tax relief during a 5 to 10 year period, and (ii) tax abatement in a 3 year period for foreign invested enterprises which exported more than 50 per cent of their output. Consistent with this objective, the representative of Mongolia committed that the subsidies granted under that program would not be extended or renewed beyond their current scope of application, and agreed to provide explanatory information in its annual notification of subsidies under Article 25 of the Agreement on Subsidies and Countervailing Measures and Article

XVI:1 of the GATT 1994 which was sufficiently precise to enable other Members to confirm that such programs are being eliminated in a manner consistent with this commitment. He further confirmed that the subsidy measures listed above would be notified as provided for in the Agreement on Subsidies and Countervailing Measures upon accession, and that Mongolia applied no other subsidies which fall within the meaning of prohibited subsidies as described in Article 3 of that Agreement, or that would require notification under the provisions of GATT Article XVI:1 or Article 25 of the Agreement. The Working Party took note of these commitments.

Export Measures

24. The representative of Mongolia also stated that his government would maintain the prohibition on the export of raw cashmere only until 1 October 1996, when an export duty at the rate of not more than 30 per cent ad valorem would be introduced. That export duty would be phased out and eliminated within 10 years of the date of Mongolia's accession to the WTO. The representative of Mongolia also stated that export licensing requirements for ferrous and non-ferrous metals would be removed by 1 January 1997. The Working Party took note of these commitments.

State Trading Enterprises

25. A member of the Working Party referred to the broader level of government involvement in State firms and noted that chapter 5 of Mongolia's Entity Law, i.e., the chapter applying to State enterprises, states that the enterprises established by financing from the State centralized funds are accountable to the Government of Mongolia and the central agencies authorized by it; the enterprises established by financing from the local budget resources are accountable to the appropriate local supreme body and its executive branches (Article 39); the enterprise is established by the decision of the Government of Mongolia and/or the authorized State agency. The Director manages the business of the enterprise and is accountable to the Government Department which nominated him or her (Article 42); and the Government of Mongolia and the authorized State agencies will decide the questions of the reorganization and liquidation of the enterprise. He added that these provisions clearly indicated that Mongolian State enterprises were granted exclusive and special rights or privileges in that they were subject to provisions of Mongolian law that place their management, funding and economic fate in the hands of the Government, a situation distinct and more favourable than that applying to privately held companies at the mercy of the market. In his view, Mongolia should notify such enterprises under Article XVII until such time as they are no longer subject to these provisions of the Entity Law.

26. The representative of Mongolia stated that as part of the reforms towards the market based economy the Business Entity Law had been adopted in 1991. Pursuant to that law, all business enterprises were subject to reorganization into a form of legal entity (i.e. partnerships, limited companies, joint stock companies). The Privatization Law, also introduced in 1991, provided for the phased privatization of state owned assets. The implementation of these laws led to the full or partial privatization of former state enterprises. Large enterprises were transformed into joint stock companies and the smaller ones mainly into limited liability companies. In 1995 the Parliament had enacted the Partnership and Company Law which reflected the developments in privatization and the transition process to a market economy since the Business Entity Law entered into force in 1991. The Partnership and Company Law was a company code, which stipulates the procedures for the formation, registration, and winding up of a company. It also established governing bodies, and specified rules in relation to finance and capital and the managerial structure of corporations. All businesses, whether firms or corporations were subject to that Law.

27. In response to a request for information on the State owned trading enterprises, the representative of Mongolia listed the following ten enterprises that were State owned: 1. "Petroleumimport" (import of petroleum products); 2. Consumer Goods Import-Export Corporation; 3. Wholesale Company (supply of consumer goods and others); 4. Wholesale Company of Food Products (supply of food products); 5. "Coal" Company (export of coal and import of equipment, spare-parts, raw materials for coal mining); 6. "Energyimpex" Company (import of energy equipment, parts for energy sector); 7. "Gobi" Company (export of cashmere and other products thereof and imports for its own factory). 8. "Mongolemimpex" Corporation (import and export of medicine); 9. "Erdenet" Corporation (export of copper and molybdenum concentrates and import of goods for "Erdenet" plant); and 10. "Mongolrosvetmet" (export of fluor-spar and import of goods for its own plant). Mongolia did not consider purchases by the first seven enterprises listed above for the manufacturing process or for resale to be government procurement within the meaning of the WTO Agreement, nor did it consider those first seven enterprises to be engaged in state trading activities because they did not enjoy any exclusive or special privileges in the sense of Article XVII of GATT 1994. They were not subject to any control by the Government, nor to Government directives in relation to their operations. Their operations were not funded by the State budget. Their Directors were employed by contract for a fixed period by the company concerned and were not government employees. The representative said that only the last three corporations listed above, i.e.: 1. "Mongolemimpex" Corporation; 2. "Erdenet" Corporation; and 3. "Mongolrosvetmet", were engaged in State Trading pursuant to Article XVII of GATT 1994. Those firms were also subject to the Partnership and Company Law. The

representative of Mongolia noted that Mongolia had submitted Information on State Trading in document WT/ACC/MNG/6.

28. The representative of Mongolia said that the seven State owned but not State trading enterprises including those covered by the Partnership and Company Law had no exclusive or special privileges, acted in a manner consistent with the principle of non-discrimination and were treated on the same basis as private entities without interference from the Government of Mongolia. The State enterprises were free to purchase and sell goods on the international markets and to acquire imports from any origin. He reiterated that these enterprises operated solely on the basis of commercial considerations, were subject to competition with private enterprises, and would continue to operate on these bases in the future. He added that the State enterprises assessed commissions on the firms that sold or bought goods through them. Business entities were free to carry out any foreign trade transactions without any authorization from the Government or its agencies. Nevertheless, some firms, and especially nascent firms were unable to operate effectively on the international market, because they lacked the sufficient experience to conduct business in an international commercial setting. As a result, those firms approached experienced State or private enterprises in order to take the benefit of their superior experience and knowledge of international trade, or to ask them to conduct sales or make purchases on their behalf. Those firms paid an ad valorem commission fee for that service. The amount of the fee varied depending upon the service rendered. In 1994, the foreign trade turnover had been as follows: State owned enterprises 60 per cent and private enterprises 40 per cent. As of now these enterprises receive neither financial support nor directions from the Mongolian authorities.

29. The representative of Mongolia said that in the view of his Government, at this time only "Mongolemimpex" Corporation, "Erdenet" Corporation and "Mongolrostsvetmet" Corporation, described in paragraph 27 above, were engaged in State Trading pursuant to Article XVII of GATT 1994. Those firms were also subject to the Partnership and Company Law. The representative of Mongolia confirmed that his Government would apply its laws and regulations governing the trading activities of these enterprises in conformity with the relevant provisions of the WTO Agreement, in particular Article XVII of the GATT 1994 and Article VIII of the GATS. He also said that Mongolia would abide by the provisions for notification, non-discrimination and the application of commercial considerations for trade transactions, and that it would submit its notification under Article XVII at the time of its accession. The representative of Mongolia also said that his government would apply its laws and regulations governing the trading activities of State owned enterprises, and would otherwise act in full conformity with the provisions of the WTO Agreement. The Working Party took note of these commitments.

Privatization Programme

30. Noting that Mongolia had been pursuing a far reaching privatization programme and that more than 88 per cent of State owned property had been privatized through investment coupons, some members of the Working Party requested information on the procedures being followed to carry out this programme in the industrial and agricultural sector, the banking sector, etc. as well as on the legal structure and administration of the enterprises privatized. In response the representative of Mongolia said that as provided for by the Privatization Law, all small enterprises engaged in trading and services as well as independent units of large enterprises were subject to privatization under the "Small Privatization" programme. The "Small Privatization" as well as the privatization of agricultural cooperatives, State and fodder farms through the "Large Privatization" programme had been completed to a large extent by July 1995. Under the "Large Privatization" 95 per cent of State assets had already been privatized. The secondary market of securities had been opened in August 1995 and the shares of enterprises were traded in this market. Privatization of the small enterprises and units which qualified for the "Small Privatization" programme had been completed with the exception of housing privatization. The sensitive and time-consuming issue of privatization of housing units was currently under consideration. Almost all small enterprises and units qualified for the "Small Privatization" scheme had been privatized by means of investment coupons.

31. As provided for in the Privatization Law, the first stage of the privatization programme had been the distribution to the citizens of Mongolia of investment coupons which had enabled them to purchase shares. Each person had been entitled to one pink coupon for the "Small Privatization" and to one blue coupon for the "Large Privatization". The pink coupons could be transferred, sold or purchased through brokers' agencies or traded directly between the holders and buyers. The blue coupons were not transferable. The pink coupons could be used as an investment instrument only once. Thereafter they were no longer marketable. These coupons were valid for two years. The coupons did not earn interest. The secondary market did not deal in coupons. If the coupons had not been used within this period they could be returned to the Government and the charges levied for their acquisition would be refunded.

32. The enterprises privatized through the distribution of investment coupons had been converted mainly to shareholder companies, whose operations were governed by the Partnership and Company Law. The management and control of such companies were carried out through the General Meeting, the Board of Directors, the Auditing Board and the Executive Director. The powers and the functions of these bodies were stipulated in the Partnership and Company Law and more detailed authority and

objectives could be included in the Articles of Incorporation of the company. According to the Law, the General Meeting elected and removed the directors and the members of the Auditing Board. The shareholders were entitled to dividends and had one vote per share in the General Meeting. The managerial structure of the companies varied depending on the type and size of the company. In small and private companies, the directors and the shareholders were usually the same. The companies did not make any special payment to State authorities, except those related to their operations as a business entity such as taxes, duties and charges for services received, as provided in the respective laws and regulations. A person holding coupons could become a shareholder either of a small private company under the "Small Privatization" scheme, or of a public company under the "Large Privatization scheme by purchasing shares of the company using those coupons. Such person acquired all the rights conferred by law on a shareholder, including managerial powers. The shares of these companies were traded in the stock markets run by the Stock Exchange and could be purchased by using national or foreign currencies or other assets.

33. The representative of Mongolia added that more than 90 per cent of the livestock had been transferred to private ownership. The agricultural cooperatives, State and fodder farms were operating now as stock companies in which the former members of such cooperatives and farms held shares acquired with their investment coupons. State owned enterprises accounted for 60 per cent of foreign trade, whilst the private sector accounted for 88 per cent of agriculture, 46 per cent of industry, 30 per cent of services and 40 per cent of foreign trade.

34. Until the end of 1990, the State Bank of Mongolia had been the single banking institution and had exercised all the banking functions. With the adoption of the Banking Law in 1991, a two-tier banking system which permitted the establishment of commercial banks operating as public companies had been introduced. Shareholders of those banks were both State enterprises and business entities of the private sector. The share of the private sector in the capital of some banks was predominant. There was no fixed time period for the privatization of commercial banks. However, the further privatization of State enterprises would simultaneously lead to the gradual privatization of commercial banks. Currently there were fourteen commercial banks out of which one was a joint bank, one was

State owned and the shareholders of others were both State enterprises and business entities from the private sector. The structure of the privatized entities by the end of July 1995 was as follows:

Table: Mongolia: Number of privatized enterprises by sectors.

Big privatization						Small privatization				
Sectors	1	2	3	4	Subtotal	5	6	7	Subtotal	Total
Industry	49	6	82	42	179	80	59	24	163	342
Construction	26	7	53	74	160	58	115	28	201	361
Transport	22	10	24	33	89	48	23	80	151	240
Telecom		1			1				0	1
Trade and Service	37	5	14	92	148	316	1359	531	2206	2354
Agriculture, State and fodder farms	42	27	30	220	319	7	44	44	95	414
Other	19	6	25	68	118	96	160	166	422	540
Total	195	62	228	529	1014	605	1760	873	3238	4252

*Footnotes

1. Majority State owned
2. Partly State owned
3. Share holding companies
4. Limited Liability Companies
5. Limited Liability Companies
6. Partnerships
7. Proprietorships

As a result of privatization through investment coupons the private sector of Mongolia produced 63.7 per cent of GDP in 1994.

35. At the request of a member of the Working Party, the representative of Mongolia agreed that it was important to ensure full transparency and to keep WTO members informed of its progress in the reform of its transforming economic and trade regime, and stated that his Government would report every two years to the WTO on developments in its programme of privatization and on other issues as relevant to its obligations under the WTO. The Working Party took note of this commitment.

Investment Regime

36. A member said that the United States and Mongolia had recently concluded a bilateral investment treaty that when ratified would enhance Mongolia's attractiveness to foreign investment. However, that member noted that in the banking sector and concerning the ownership of land, national treatment was not guaranteed. The ban on investment in the production of drugs and other controlled substances could not be applied selectively only to foreign investment. The member noted that this may be a case where private investment was completely prohibited for both foreign and domestic private interests, or a situation where all investment applicants require prior government approval which may or may not be given. The representative of Mongolia stated that the ban was applied to all enterprises operating in Mongolia, irrespective of the type of their ownership or nationality. All investment in the production of drugs and other controlled substances was prohibited, whether these were state, private, domestic or foreign investors.

37. In response to questions concerning the Foreign Investment Law, the representative of Mongolia said that the restrictions established by the Government Decree 207 had been eliminated. The new Foreign Investment Law which had entered into force on 1 July 1993 was very liberal: foreign investment was permitted in all sectors with the exclusion of activities related to the production of drugs and other similar controlled substances. There had been established a set of incentives for foreign investment in sectors such as mining, metal processing, machinery and infrastructure, which granted partial and full tax relief during a 5 to 10 year period, and tax abatement in a 3 year period for foreign invested enterprises which export more than 50 per cent of their output. Thus, Mongolia accorded to foreign investors both m.f.n. and national treatment.

38. In response to further questions, the representative of Mongolia added that the Foreign Investment Law provided for non-discriminatory national treatment of foreign invested enterprises and set no conditions under which it could be withdrawn. The Foreign Investment Law did not limit the shares of foreign investors, i.e. the enterprise could be wholly foreign owned and thus all the provisions of the Law applied to this type of foreign invested entities. Foreign firms were also able to invest in private enterprises on the same basis as domestic investors, there was no discriminatory regulation in this respect. To constitute an enterprise with foreign investment the foreign investor should contribute not less than 20 per cent of the registered capital. A smaller participation did not entitle the foreign investor to the benefits and privileges provided for by the Foreign Investment Law, but as investor the foreign person (whether natural or legal) was treated equally with domestic investors. Under the existing legislation, foreign investors could invest in any area of the economy, there was no prohibition

or restriction indicating specific industries or enterprises, except the production of narcotics which was prohibited within the territory of Mongolia for any person regardless of nationality.

39. Under the Law on Government and the Foreign Investment Law, the Ministry of Trade and Industry was the Government body responsible for the execution of foreign investment policy, and in particular established and handled the approval procedure for establishing foreign invested enterprises. In pursuance of the Foreign Investment Law, the Minister of Trade and Industry had enacted the rules governing the approval procedure. Applications for setting up foreign invested enterprises were considered by the Ministry of Trade and Industry which reviewed the applicant's file in terms of its compliance with legislation, impact of the enterprise on the natural environment, meeting of health and sanitary requirements and the level of technology. All these assessments were sought from the appropriate organizations. The Ministry of Trade and Industry gave its ruling within 60 days from the date of receipt of the application. If the application was approved, the Ministry of Trade and Industry granted a certificate allowing the establishment of the foreign invested enterprise. Upon such authorization, the General Department of State Taxation which acted as the Register of business entities performed the automatic registration of the foreign invested companies and made the registration public. Actually the approval procedures for foreign investments and domestic investments were the same and there was no discriminatory treatment of foreign investment. Both the approval procedures and the registration of national companies and enterprises were performed by the General Department of State Taxation, whereas the foreign invested enterprises were subject to approval by the Ministry of Trade and Industry.

40. Exemptions from customs duties and sales tax granted to foreign invested firms under the Foreign Investment Law were not conditional and in no way were dependant on export performance. The tax preferences described in article 30 of the Foreign Investment Law were income tax preferences and they did not apply to sales, excise or other kind of taxes. As indicated above, there was no restricted area for foreign investment. Foreign insurance firms could operate within the territory of Mongolia if set up to function in accordance with the Foreign Investment Law. The Foreign Investment Law did not completely cover all issues related to foreign investments. Some of them were embodied in other laws such as the Partnership and Company Law, the Tax Law, the Banking Law, the Customs Law and Labour Law. The Parliament had also enacted the Law on the Status of Foreign Nationals, the Law on International Treaties, the Land Law and the Foreign Exchange Law. Thus other specific matters related to foreign investment issues were reflected in follow-up statutes. In the context of economic and foreign trade policy reforms the existing legislation was being totally overhauled.

41. The Income Tax Law of Business Entities defined the foreign invested firms (both wholly and partially owned by foreign investors) as taxpayers and in this sense extended the exemptions listed in Article 7 to all taxpayers (whether foreign investors or domestically owned entities) who met the requirements for eligibility to such exemptions. The right of establishment of business entities in Mongolia was open to all national and foreign persons who wish to set up a business and have the necessary initial capital required by the law. Foreigners could establish companies in the services area, for example accounting firms and they could be hired as "independent auditors" if they were professionally qualified for this kind of service.

42. The representative of Mongolia stated that Mongolia did not maintain any measure inconsistent with the TRIMS Agreement and would abide by the TRIMS Agreement from the date of accession without requesting any transitional period. The Working Party took note of this commitment.

Customs Procedures and Transparency

43. A member said that Mongolia should make a commitment in the Protocol of Accession to the effect that all trade related laws, regulations or decrees of whatever character would be published for public review and be fully accessible prior to implementation, and that no laws, regulations or decrees related to international trade would become effective prior to such publication. All Mongolian laws and regulations were published in the official newspapers of the Parliament and the Government, namely:

1. "Ardin Erh", the official newspaper of the Parliament and the Government published all laws enacted by the Parliament;
2. "Zasgiin Gazriin Medee", the official newspaper of the Government published all the Decrees, regulations, orders, etc. adopted by the Government, Ministries and government agencies and bodies;
3. "Turiin Medeelel", a quarterly collection of the laws and regulations adopted by the Parliament and the President; and
4. "Zasgiin Gazriin Shiidveriin Emhtgel", a monthly collection of all Decrees and regulations of the Government.

Moreover, decisions and regulations issued by the General Customs Administration, and other State bodies were also made available to the public.

44. The representative of Mongolia stated that from the date of accession, all laws, regulations, or decrees of whatever character related to trade will be published promptly prior to implementation in "Ardin Erh" the official newspaper of the Parliament and the Government or "Zasgiin Gazriin Medee" the official newspaper of the Government in such a manner as to enable governments and traders to become acquainted with them, and that no law, rule, etc., related to international trade will become effective prior to publication in one of those organs. The Working Party took note of these commitments.

Customs Valuation

45. The representative of Mongolia stated that his Government's laws on customs valuation were in full conformity with the WTO Agreement on the Implementation of Article VII of the GATT 1994, and that Mongolia would not require recourse to any transitional period for implementation of that Agreement. Should the services of a preshipment inspection firm be used to assist Mongolia in the implementation of its customs procedures, the Government of Mongolia would ensure that the operations of such firms were consistent with the relevant WTO Agreements, e.g. on Preshipment Inspection and Customs Valuation. The Working Party took note of this commitment.

46. With reference to customs practices and procedures, the representative of Mongolia said that his Government would apply customs practices and procedures in accordance with the provisions of Articles VII, VIII and X of the GATT 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994 from the date of its accession. By that date Mongolia would amend any provision of law or administrative regulation that provided for practices inconsistent with the above-mentioned provisions. The Working Party took note of these commitments.

Trade Agreements

47. Noting that since the collapse of the trade with the former CMEA countries Mongolia had received substantial loans and financial assistance from a number of countries and international organizations, the representative of Mongolia said that his country was ready to trade with all countries on the basis of equality and mutual benefit. Currently Mongolia had signed WTO consistent agreements on the basis of the m.f.n. principle with some twenty-one countries including Belarus, Canada, China, Kazakhstan, Republic of Korea, Russian Federation, Ukraine, United States etc. as well as with the European Communities. Mongolia supplied the Working Party with a list of all the countries with which it had entered into such agreements. The representative of Mongolia further stated that Mongolia had no agreements with any country that provided for any other form of preferential tariff or other treatment in trade, and that there are no agreements that provide for trade in lists of goods, whether indicative or mandatory.

48. The representative of Mongolia stated that when entering into trade agreements, his government would comply with the provisions of the WTO including Article XXIV of the GATT 1994, paragraph 3 of the Enabling Clause and Article V of the GATS. Mongolia also would notify the WTO of any trade

agreements that provided for preferential trade treatment. The Working Party took note of these commitments.

Multilateral Trade Agreements

49. The representative of Mongolia confirmed that his Government would apply the provisions of the Multilateral Trade Agreements in Annex 1A of the WTO Agreement, including the Agreements on Import Licensing, Standards, Anti-Dumping and Subsidies from the time of its accession to the WTO, and would minimize to the extent possible recourse to the derogations from those Agreements provided for developing country members. The representative of Mongolia noted that one member of the Working Party had agreed to provide technical assistance to Mongolia in relation to the application of the Customs Valuation Agreement.

Free Zones

50. The representative of Mongolia said that a special law concerning free zones was under consideration for the promotion of the development of certain backward areas of the country. The representative of Mongolia stated that, at the present time, Mongolia did not actually have any such laws in place, but after accession would in due course provide information to WTO Members on any measures adopted on free zones. The representative added that, upon accession to the WTO, Mongolia would comply with all the obligations applicable to the free zones. A member said that Mongolia should ensure that the goods produced in any such zones do not benefit from subsidies, e.g. income tax exemptions, are not subject to export performance or trade balancing requirements; and all sales of imported goods from the zones are subject to the normal tax and tariff regime when sold into other parts of Mongolia where the normal customs regime is in effect. In this connection Mongolia should make a commitment in the Protocol of Accession.

51. The representative of Mongolia confirmed that, should Mongolia establish free trade zones, if the output of these zones will be sold into the rest of Mongolia, Mongolia will apply all normal taxes, tariffs, customs charges and other regulations on imports to the products or to their imported components, and that Mongolia will observe the provisions of the WTO Agreement on Subsidies and Countervailing Measures in providing incentives for establishment of firms in the free zones. The Working Party took note of these commitments.

TRIPS

52. In response to questions concerning Mongolia's legislation on trade related aspects of intellectual property rights, the representative of Mongolia said that the Civil Code of Mongolia recognised both tangible and intangible property rights, including intellectual property rights. In 1993 the Parliament had enacted Copyright and Patent Laws. Under the Copyright Law works were subject to registration with a non-governmental agency called the "Copyright Office". The representative of Mongolia also noted that Mongolia had provided information on the intellectual property regime in Mongolia in document WT/ACC/MNG/4. The Copyright Law protected literary, scientific and artistic creations, computer programmes as well as sound recordings. This Law had institutional provisions and provided the legal status and functions of the Copyright Office. The Copyright Office registered the subject matter of a work and published copyright legislation and exercised other functions as set forth in the copyright legislation. The Law granted the author non-property personal rights and exclusive property rights in respect of the work. The Law also granted producers the exclusive right to reproduce, distribute, and to publicly perform the work in question. Works are protected upon creation. The term of copyright of a particular work began from the day of its making. The term of the exclusive rights in copyrighted works was the life of the author and fifty years after death. The term of copyright of the legal person lasted for a period of 75 years from the first of January of the year following the year of the making of a work. In cases of copyright infringements, civil remedies included injunctions, damages and fines under Article 224 of the Copyright Law.

53. Trade marks and patents were registered and licensed by the Patent Bureau. These entities were not directly authorized to enforce the legislation and any claims or infringement cases were subject to the judicial process. The Patent Law of 1993 gave to the author of invention and industrial design the right of ownership over his invention and industrial design. The Law also provided for a "compulsory license" by which the Patent Office could grant a compulsory license to third parties if the patentee had not used the patented invention in the territory of Mongolia within three years from the date of grant of the patent, or four years from the filing date of the application. However, the Mongolian Patent Law prohibited certain inventions from being patented, including discoveries, scientific theories and mathematical methods, programs for computers and algorithms, schedules and methods for doing business and playing games as well as "immoral" or illegal items. All patent applications were submitted to the Patent Office, which conducted a normal examination of the application. The process took approximately 18 months and decisions of the Patent Office could be appealed to the Court. He added that Mongolia had the intention of acceding in the near future to the relevant intellectual property conventions.

54. The representative of Mongolia stated that his country's laws in the field of intellectual property rights were already in conformity with the provisions of the Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPS), and that Mongolia would fully apply the provisions of the Agreement on TRIPS by the date of its accession to the WTO. The Working Party took note of this commitment.

Services

55. The representative of Mongolia noted that information on the Services regime in Mongolia had been provided to the Working Party in document Spec 94(43). The Banking Law of Mongolia had been enacted in 1991. That law established a two-tier banking system comprising the central bank ("Mongolbank") and commercial banks. Mongolbank was both the supreme bank and the Central bank, responsible for supervision of overall banking activity, management of foreign exchange reserves, the setting of reserve requirements, and control of the money supply and administrator of fiscal policy. The Banking Law provided that a commercial bank can engage in one or all of the following activities: acceptance of deposits; lending; guarantees; international payments; purchase and sale of foreign currency; issue and sale of securities; and the safe custody of valuables. Commercial banks were required to have a minimum capital of 400 million Tugrigs. Upon the recommendation of the Mongolbank, the Government could decide to open representative offices or bank branches. Foreign Banks operating within Mongolia were subject to the provisions of the Banking and other relevant laws. Commercial Banks could be either partly or fully foreign owned. Foreign and domestically owned banks were treated equally under the Banking Law. Foreign owned companies could engage in financial consultancy services.

56. In relation to the Communications Sector, the State owned telecommunications company (MTC) was presently the sole provider of telecommunications services, although extensive planning was underway to upgrade the current system. The Government had decided to: adopt a telecommunications law which would open up the sector to foreign competition; to separate the postal and telecommunications functions of MTC; to restructure and privatise MTC; to establish business partnerships between foreign companies and MTC; to attract greater private-sector participation in the sector; and to introduce competition in the provision of basic and value-added services in the longer term. The Foreign Investment Law would ensure favourable tax treatment for such investors. In relation to the Transport Sector, Mongolia Railways carried around 70 per cent of the country's freight, as well as transshipments between Russia and China. It also connected the three largest cities and transported coal to the power plants in the capital city. Mongolia Railways was a joint venture between Mongolia

and the Russian Federation. It was a quasi-independent department of the Ministry of Infrastructure Development. The public trucking industry consisted of 43 large carriers. They handled a significant share of intercity freight, as well as provided passenger services in rural areas. All such carriers had been privatized. International flights were carried out by Mongolian Air. The strategy for the transport sector was to improve the efficiency and commercial orientation of the sector. Consistent with those goals, fuel prices had been freed, and urban transport tariffs had been increased. Foreign investment in the sector was welcomed, and was subject to the provisions of the Foreign Investment Law.

57. In relation to the Tourism Sector, around 10,000 tourists per year visited Mongolia. Several large Hotels catered for those tourists. The Foreign Tourist Corporation of Mongolia no longer had a monopoly on travel arrangements for tourists. Several other private companies now also provided similar services. Currently, the establishment of travel agencies, and businesses to deal with foreign tourism are subject to authorization by the Ministry of Trade and Industry. The representative of Mongolia stated that for the purpose of accession to the WTO Mongolia had negotiated with the members of the Working Party on the basis of a draft schedule of specific commitments in the area of services.

58. Mongolia's schedule of specific commitments in the area of services was annexed to Part II of Annex I to the Protocol of Accession of Mongolia.

Government Procurement

59. The representative of Mongolia confirmed that his Government would seek observer status in the Committee for the Agreement on Government Procurement at the time of its accession with a view to initiating negotiations for membership thereafter. The Working Party took note of this commitment.

Notifications

60. The representative of Mongolia confirmed that draft notifications pursuant to provisions of the following Multilateral Trade Agreements had been prepared and circulated for the review of the Working Party (see paragraph 3 above) and that Mongolia would submit the following notifications upon entry into force of its Protocol of Accession: Agreement on Agriculture; Agreement on Sanitary and Phytosanitary Measures; Agreement on Import Licensing Procedures; Agreement on the Implementation of Article VII of the GATT 1994; and the Agreement on Technical Barriers to Trade. He added that pursuant to the commitments made in the course of the accession negotiations referred

to in paragraph 61 below, notifications pursuant to provisions of the following Multilateral Trade Agreements would be submitted by Mongolia upon entry into force of the Protocol of Accession; the Agreement on Subsidies and Countervailing Measures, the Agreement on TRIMS, the Agreement on Implementation of Article XVII of the GATT 1994, and the Agreement on TRIPS. He also confirmed that all other notifications would be made by Mongolia in accordance with the time limits arising from paragraph 4(b) of Mongolia's Protocol of Accession to the WTO. The Working Party took note of these commitments.

Conclusions

61. The Working Party took note of the explanations and statements of Mongolia concerning its foreign trade regime, as reflected in this report. The Working Party took note of the commitments given by Mongolia in relation to certain specific matters which are reproduced in paragraphs 10, 13, 20, 21, 23, 24, 29, 35, 42, 44, 45, 46, 48, 51, 54, 59 and 60 of this Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Mongolia to the WTO.

62. Having carried out the examination of the foreign trade regime of Mongolia and in the light of the explanations, commitments and concessions made by the representatives of Mongolia, the Working Party reached the conclusion that, Mongolia should be invited to accede to the Agreement Establishing the WTO pursuant to the provisions of Article XII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report, and takes note of Mongolia's Schedule of Specific Commitments on Services (document WT/ACC/MNG/9/Add.2) and its Schedules of Concessions and Commitments on Agriculture and Goods (document WT/ACC/MNG/9 Add.1) that are attached to the Protocol of Accession. It is proposed that these texts be approved by the General Council when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Mongolia which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Mongolia to the Agreement Establishing the WTO.

APPENDIX

ACCESSION OF MONGOLIA

Draft Decision

The General Council,

Having regard to the results of the negotiations directed towards the accession of Mongolia to the Agreement Establishing the World Trade Organization and having prepared a Protocol for the Accession of Mongolia.

Decide, in accordance with Article XII of the Agreement Establishing the World Trade Organization, that Mongolia may accede to the Agreement Establishing the World Trade Organization on the terms set out in the said Protocol.

**PROTOCOL FOR THE ACCESSION OF MONGOLIA
TO THE AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION**

DRAFT

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and the Government of Mongolia, (hereinafter referred to as "Mongolia"),

Taking note of the Report of the Working Party on the Accession of Mongolia to the WTO Agreement in document WT/ACC/MNG/9 and Add.1-2 (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the Accession of Mongolia to the WTO,

Agree as follows:

Part I - General

1. Upon entry into force of this Protocol, Mongolia accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Mongolia accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall comprise the commitments referred to in paragraph 61 of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Mongolia will notify the Secretariat annually of the implementation of the phased commitments with definitive dates referred to in paragraphs 10, 13, 20, 21, 23, 24, 29, 35, 42, 44, 45, 46, 48, 51, 54, 59 and 60 of the Working Party Report, and will identify any delays in implementation together with the reasons therefore.

4. Except as otherwise provided for in the preceding paragraph or in the paragraphs referred to in paragraph 61 of the Working Party Report:

(a) Those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Mongolia as if it had accepted that Agreement on the date of its entry into force.

(b) Those notifications that are to be made under the Multilateral Trade Agreements annexed to the WTO Agreement within a specified period of time starting with the date of entry into force of the WTO Agreement shall be made by Mongolia within that period of time starting with the date of entry into force of this Protocol.

Part II - Schedules

5. The Schedules annexed to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to Mongolia. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

Part III - Final Provisions

7. This Protocol shall be open for acceptance, by signature or otherwise, by Mongolia until 31 December 1996.

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Mongolia.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by Mongolia thereto pursuant to paragraph 7 to each Member of the WTO and to Mongolia.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this day of one thousand nine hundred and ninety six, in a single copy in the English, French and Spanish languages, each text being authentic.

ANNEX I

SCHEDULE CXXXIV - MONGOLIA

Part I - Goods

Circulated in document WT/ACC/MNG/9/Add.1.

Part II - Services

Circulated in document WT/ACC/MNG/9/Add.2