Article XII (WTO Agreement)

Accession

1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.

3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.
Article IX (WTO Agreement)

*Decision-Making*

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.¹ Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. [ … ]

¹ The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.
• **General Council Decision** of 15 November 1995 (WT/L/193). On occasions when the General Council deals with matters related to requests for waivers or accessions to the WTO under Articles IX or XII of the WTO Agreement respectively, the General Council will seek a decision in accordance with Article IX:1. Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting under the relevant provisions of Articles IX or XII.

• The above procedure does not preclude a Member from requesting a vote at the time the decision is taken.
1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.

2. Paragraph 1 may be invoked between original Members of the WTO which were contracting parties to GATT 1947 only where Article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.

3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.
Commitments in Draft Protocol

“The WTO Agreement to which China 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 accession. This Protocol, which shall include the commitments referred to in paragraph 342 of the Working Party Report, shall be an integral part of the WTO Agreement.”
• **Non-discriminatory treatment**: China will provide non-discriminatory treatment to all WTO Members. With respect to the right to trade, all foreign enterprises, including those not invested or registered in China, will be accorded treatment no less favourable than that accorded to enterprises in China.
• *Dual pricing practices*: China will eliminate dual pricing practices as well as differences in treatment accorded to goods produced for sale in China in comparison to those produced for export.

• *Price controls*: Price controls will no longer be used for purposes of affording protection to domestic industries or services providers.
• **State trading**: Within three years of accession, all enterprises will have the right to import and export all goods and trade them throughout the customs territory, with limited exceptions reserved for state trading.
• **Restrictions experienced by foreign companies:** While China reserves the right of exclusive state trading for products such as cereals, tobacco, fuels and minerals, and maintain some restrictions on transportation and distribution of goods inside the country, many of the restrictions that foreign companies experience at present in China will be eliminated or considerably eased after a three-year phase-out period.
• *Export subsidies and domestic support:* China will not maintain or introduce any export subsidies on agricultural products. The government will also limit its domestic support and other "green" subsidies to 8.5% of the overall value of its agricultural production.
• **Transitional Safeguard Mechanism:** During the initial 12 years of China's membership, there will be a special Transitional Safeguard Mechanism in cases where imports of products of Chinese origin cause or threaten market disruption to the domestic producers of other WTO Members.
• **Textiles**: China will become a party to the Agreement on Textiles and Clothing and will be subject to its rights and obligations. As for all WTO Members, quotas on textiles of Chinese origin will end at 31 December 2004, but there will be a safeguard mechanism available until the end of 2008, permitting WTO Members to take action to curb imports in case of market disruption caused by Chinese textile exports.
• **Import tariffs**: China has bound all import tariffs. China has also committed to the phased reduction and removal of tariff barriers, some tariffs being eliminated and others reduced, mostly by 2004, but in no case later than 2010. China's average bound tariff level will decrease to 15% for agricultural products; the range will be from 0 to 65%, with the higher rates applied to cereals. For industrial goods, the average bound tariff level will go down to 8.9% with a range from 0 to 47%, with the highest rates applied to photographic film and automobiles and related products.
• **Telecoms**: Upon accession, foreign service suppliers will be permitted to establish joint venture enterprises, with quantitative restrictions, and provide services in several cities. Foreign investment in the joint venture shall be limited to 25%. Within one year of accession, the areas will be expanded to include services in other cities and foreign investment may rise to 35%. Within three years of accession, foreign investment can be as high as 49%. And within five years, there will be no geographic restrictions.
• **Banking**: Upon accession, foreign financial institutions will be permitted to provide services in China without client restrictions for foreign currency business. For local currency business, within two years of accession, these institutions will be permitted to provide services to Chinese enterprises. Within five years, foreign financial institutions will be permitted to provide services to all Chinese clients.
• **Insurance**: Foreign non-life insurers will be permitted to establish as a branch or joint venture with 51% foreign ownership. Within two years of accession, foreign non-life insurers will be permitted to establish as wholly-owned subsidiaries. Upon accession, foreign life insurers will be permitted 50% foreign ownership in a joint venture with the partner of their choice. For large-scale commercial risks, reinsurance and international marine, aviation and transport insurance and reinsurance, joint ventures with foreign equity of no more than 50% will be permitted upon accession; within three years, foreign equity share shall be increased to 51%; and within five years of accession, wholly foreign-owned subsidiaries will be permitted.