



中国加入世界贸易组织 法律文件

Compilation of
the Legal Instruments on
China's Accession to
the World Trade Organization

〔中英文对照〕



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Compilation of the Legal Instruments on China's Accession to the World Trade Organization

对外贸易经济合作部世界贸易组织司 译

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WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

Reference: W/L/100

20 November 2001

**PROTOCOL ON ACCESSION
OF THE PEOPLE'S REPUBLIC OF CHINA
DONE AT DOHA ON 10 NOVEMBER 2001**

NOTIFICATION OF ACCEPTANCE

ENTRY INTO FORCE

I have the honour to inform you that on 11 November 2001, the Government of the People's Republic of China accepted the above-mentioned Protocol.

In terms of paragraph 2 of Part III of the Protocol, it shall enter into force on 11 December 2001.

Pursuant to paragraph 1, Part I, of the Protocol, the People's Republic of China shall become a Member of the World Trade Organization on 11 December 2001.

This notification is furnished in accordance with paragraph 3 of Part III of the Protocol.

Mike Moore
Director-General

01-5902

WT/Let/408

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关于《中华人民共和国加入议定书》接受和生效的通知

Notification of Acceptance and Entry into Force on
the Protocol on the Accession of the People's Republic of China

WORLD TRADE ORGANIZATION

WT/L/432
23 November 2001
(01-5996)

ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

Decision of 10 November 2001

The Ministerial Conference,

Having regard to paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization, and the Decision-Making Procedures under Articles IX and XII of the Marrakesh Agreement Establishing the World Trade Organization agreed by the General Council (WT/L/93),

Taking note of the application of the People's Republic of China for accession to the Marrakesh Agreement Establishing the World Trade Organization dated 7 December 1995,

Noting the results of the negotiations directed toward the establishment of the terms of accession of the People's Republic of China to the Marrakesh Agreement Establishing the World Trade Organization and having prepared a Protocol on the Accession of the People's Republic of China,

Decides as follows:

The People's Republic of China may accede to the Marrakesh Agreement Establishing the World Trade Organization on the terms and conditions set out in the Protocol annexed to this decision.

关于中华人民共和国加入的决定

2001 年 11 月 10 日

部长级会议，

考虑到《马拉喀什建立世界贸易组织协定》第 12 条第 2 款和第 9 条第 1 款，以及总理事会议定的在《马拉喀什建立世界贸易组织协定》第 12 条和第 9 条下的决策程序(WT/L/93)，

注意到 1995 年 12 月 7 日中华人民共和国关于加入《马拉喀什建立世界贸易组织协定》的申请，

注意到旨在确定中华人民共和国加入《马拉喀什建立世界贸易组织协定》条件的谈判结果，并已制定《中华人民共和国加入议定书》，

决定如下：

中华人民共和国可根据本决定所附议定书中所列条款和条件加入《马拉喀什建立世界贸易组织协定》。

**PROTOCOL ON THE ACCESSION
OF THE PEOPLE'S REPUBLIC OF CHINA**

WORLD TRADE ORGANIZATION

Doha

10 November 2001

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中华人民共和国加入议定书

世界贸易组织

多哈

2001 年 11 月 10 日

PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

Preamble

The World Trade Organization ("WTO"), pursuant to the approval of the Ministerial Conference of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement"), and the People's Republic of China ("China"),

Recalling that China was an original contracting party to the General Agreement on Tariffs and Trade 1947,

Taking note that China is a signatory to the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations,

Taking note of the Report of the Working Party on the Accession of China in document WT/ACC/CHN/49 ("Working Party Report"),

Having regard to the results of the negotiations concerning China's membership in the WTO,

Agree as follows:

Part I - General Provisions

1. General

1. Upon accession, China 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 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.

3. Except as otherwise provided for in this Protocol, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with entry into force of that Agreement shall be implemented by China as if it had accepted that Agreement on the date of its entry into force.

4. China may maintain a measure inconsistent with paragraph 1 of Article II of the General Agreement on Trade in Services ("GATS") provided that such a measure is recorded in the List of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

中华人民共和国加入议定书

序言

世界贸易组织(“WTO”),按照 WTO 部长级会议根据《马拉喀什建立世界贸易组织协定》(“《WTO 协定》”)第 12 条所作出的批准,与中华人民共和国(“中国”),

忆及中国是《1947 年关税与贸易总协定》的创始缔约方,

注意到中国是《乌拉圭回合多边贸易谈判结果最后文件》的签署方,

注意到载于 WT/ACC/CHN/49 号文件的《中国加入工作组报告书》(“工作组报告书”),

考虑到关于中国 WTO 成员资格的谈判结果,

协议如下:

第一部分 总则

第 1 条

总体情况

1. 自加入时起,中国根据《WTO 协定》第 12 条加入该协定,并由此成为 WTO 成员。
2. 中国所加入的《WTO 协定》应为经在加入之日前已生效的法律文件所更正、修正或修改的《WTO 协定》。本议定书,包括工作组报告书第 342 段所指的承诺,应成为《WTO 协定》的组成部分。
3. 除本议定书另有规定外,中国应履行《WTO 协定》所附各多边贸易协定中的、应在自该协定生效之日起开始的一段时间内履行的义务,如同中国在该协定生效之日已接受该协定。
4. 中国可维持与《服务贸易总协定》(“GATS”)第 2 条第 1 款规定不一致的措施,只要此措施已记录在本议定书所附《第 2 条豁免清单》中,并符合 GATS《关于第 2 条豁免的附件》中的条件。

2. Administration of the Trade Regime

(A) Uniform Administration

1. The provisions of the WTO Agreement and this Protocol shall apply to the entire customs territory of China, including border trade regions and minority autonomous areas, Special Economic Zones, open coastal cities, economic and technical development zones and other areas where special regimes for tariffs, taxes and regulations are established (collectively referred to as "special economic areas").
2. China shall apply and administer in a uniform, impartial and reasonable manner all its laws, regulations and other measures of the central government as well as local regulations, rules and other measures issued or applied at the sub-national level (collectively referred to as "laws, regulations and other measures") pertaining to or affecting trade in goods, services, trade-related aspects of intellectual property rights ("TRIPS") or the control of foreign exchange.
3. China's local regulations, rules and other measures of local governments at the sub-national level shall conform to the obligations undertaken in the WTO Agreement and this Protocol.
4. China shall establish a mechanism under which individuals and enterprises can bring to the attention of the national authorities cases of non-uniform application of the trade regime.

(B) Special Economic Areas

1. China shall notify to the WTO all the relevant laws, regulations and other measures relating to its special economic areas, listing these areas by name and indicating the geographic boundaries that define them. China shall notify the WTO promptly, but in any case within 60 days, of any additions or modifications to its special economic areas, including notification of the laws, regulations and other measures relating thereto.
2. China shall apply to imported products, including physically incorporated components, introduced into the other parts of China's customs territory from the special economic areas, all taxes, charges and measures affecting imports, including import restrictions and customs and tariff charges, that are normally applied to imports into the other parts of China's customs territory.
3. Except as otherwise provided for in this Protocol, in providing preferential arrangements for enterprises within such special economic areas, WTO provisions on non-discrimination and national treatment shall be fully observed.

第 2 条 贸易制度的实施

(A)统一实施

1. 《WTO 协定》和本议定书的规定应适用于中国的全部关税领土，包括边境贸易地区、民族自治地方、经济特区、沿海开放城市、经济技术开发区以及其他在关税、国内税和法规方面已建立特殊制度的地区(统称为“特殊经济区”)。
2. 中国应以统一、公正和合理的方式适用和实施中央政府有关或影响货物贸易、服务贸易、与贸易有关的知识产权(“TRIPS”)或外汇管制的所有法律、法规及其他措施以及地方各级政府发布或适用的地方性法规、规章及其他措施(统称为“法律、法规及其他措施”)。
3. 中国地方各级政府的地方性法规、规章及其他措施应符合在《WTO 协定》和本议定书中所承担的义务。
4. 中国应建立一种机制，使个人和企业可据以提请国家主管机关注意贸易制度未统一适用的情况。

(B)特殊经济区

1. 中国应将所有与其特殊经济区有关的法律、法规及其他措施通知 WTO，列明这些地区的名称，并指明界定这些地区的地理界线。中国应迅速，且无论如何应在 60 天内，将特殊经济区的任何增加或改变通知 WTO，包括与此有关的法律、法规及其他措施。
2. 对于自特殊经济区输入中国关税领土其他部分的产品，包括物理结合的部件，中国应适用通常适用于输入中国关税领土其他部分的进口产品的所有影响进口产品的税费和措施，包括进口限制及海关税费。
3. 除本议定书另有规定外，在对此类特殊经济区内的企业提供优惠安排时，WTO 关于非歧视和国民待遇的规定应得到全面遵守。

(C) Transparency

1. China undertakes that only those laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange that are published and readily available to other WTO Members, individuals and enterprises, shall be enforced. In addition, China shall make available to WTO Members, upon request, all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange before such measures are implemented or enforced. In emergency situations, laws, regulations and other measures shall be made available at the latest when they are implemented or enforced.

2. China shall establish or designate an official journal dedicated to the publication of all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange and, after publication of its laws, regulations or other measures in such journal, shall provide a reasonable period for comment to the appropriate authorities before such measures are implemented, except for those laws, regulations and other measures involving national security, specific measures setting foreign exchange rates or monetary policy and other measures the publication of which would impede law enforcement. China shall publish this journal on a regular basis and make copies of all issues of this journal readily available to individuals and enterprises.

3. China shall establish or designate an enquiry point where, upon request of any individual, enterprise or WTO Member all information relating to the measures required to be published under paragraph 2(C)1 of this Protocol may be obtained. Replies to requests for information shall generally be provided within 30 days after receipt of a request. In exceptional cases, replies may be provided within 45 days after receipt of a request. Notice of the delay and the reasons therefor shall be provided in writing to the interested party. Replies to WTO Members shall be complete and shall represent the authoritative view of the Chinese government. Accurate and reliable information shall be provided to individuals and enterprises.

(D) Judicial Review

1. China shall establish, or designate, and maintain tribunals, contact points and procedures for the prompt review of all administrative actions relating to the implementation of laws, regulations, judicial decisions and administrative rulings of general application referred to in Article X:1 of the GATT 1994, Article VI of the GATS and the relevant provisions of the TRIPS Agreement. Such tribunals shall be impartial and independent of the agency entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Review procedures shall include the opportunity for appeal, without penalty, by individuals or enterprises affected by any administrative action subject to review. If the initial right of appeal is to an administrative body, there shall in all cases be the opportunity to choose to appeal the decision to a judicial body. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of any right to further appeal.

(C)透明度

1. 中国承诺只执行已公布的、且其他 WTO 成员、个人和企业可容易获得的有关或影响货物贸易、服务贸易、TRIPS 或外汇管制的法律、法规及其他措施。此外，在所有有关或影响货物贸易、服务贸易、TRIPS 或外汇管制的法律、法规及其他措施实施或执行前，应请求，中国应使 WTO 成员可获得此类措施。在紧急情况下，应使法律、法规及其他措施最迟在实施或执行之时可获得。
2. 中国应设立或指定一官方刊物，用于公布所有有关或影响货物贸易、服务贸易、TRIPS 或外汇管制的法律、法规及其他措施，并且在其法律、法规或其他措施在该刊物上公布之后，应在此类措施实施之前提供一段可向有关主管机关提出意见的合理时间，但涉及国家安全的法律、法规及其他措施、确定外汇汇率或货币政策的特定措施以及一旦公布则会妨碍法律实施的其他措施除外。中国应定期出版该刊物，并使个人和企业可容易获得该刊物各期。
3. 中国应设立或指定一咨询点，应任何个人、企业或 WTO 成员的请求，在咨询点可获得根据本议定书第 2 条(C)节第 1 款要求予以公布的措施有关的所有信息。对此类提供信息请求的答复一般应在收到请求后 30 天内作出。在例外情况下，可在收到请求后 45 天内作出答复。延迟的通知及其原因应以书面形式向有关当事人提供。向 WTO 成员作出的答复应全面，并应代表中国政府的权威观点。应向个人和企业提供准确和可靠的信息。

(D)司法审查

1. 中国应设立或指定并维持审查庭、联络点和程序，以便迅速审查所有与《1994 年关税与贸易总协定》(“GATT 1994”)第 10 条第 1 款、GATS 第 6 条和《TRIPS 协定》相关规定所指的法律、法规、普遍适用的司法决定和行政决定的实施有关的所有行政行为。此类审查庭应是公正的，并独立于被授权进行行政执行的机关，且不应就审查事项的结果有任何实质利害关系。
2. 审查程序应包括给予受须经审查的任何行政行为影响的个人或企业进行上诉的机会，且不因上诉而受到处罚。如初始上诉权需向行政机关提出，则在所有情况下应有选择向司法机关对决定提出上诉的机会。关于上诉的决定应通知上诉人，作出该决定的理由应以书面形式提供。上诉人还应被告知可进一步上诉的任何权利。