



**ACCESSION TO THE WORLD TRADE ORGANIZATION**

**PROCEDURES FOR NEGOTIATIONS UNDER ARTICLE XII**

*Note by the Secretariat<sup>1</sup>*

*This document has been prepared in consultation with WTO Members but is without prejudice to the positions of WTO Members and to their rights to request additional data and documentation, which they may deem necessary, in the course of the WTO accession process.*

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<sup>1</sup> This document revises, updates and replaces document WT/ACC/1 of 24 March 1995. Specifically, it supplements the original document with information, which takes into account the evolution of accession practices since 1995. It also incorporates a number of editorial changes and technical corrections. Addenda 1, 2 and 3 to this document revise, update and replace documents WT/ACC/4, WT/ACC/5, WT/ACC/8 and WT/ACC/9.

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- **General**

1. In accordance with Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement"), a State or a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the matters provided for in the WTO Agreement and the Multilateral Trade Agreements (hereinafter referred to as "MTAs")<sup>2</sup> annexed thereto may accede to the WTO on terms to be agreed between such State or separate customs territory and WTO Members. Such accession shall apply to the WTO Agreement and the MTAs. Accession to one of the Plurilateral Trade Agreements<sup>3</sup> annexed to the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.

2. This note sets out procedures to be followed in the organization and pursuit of accession negotiations. It has been prepared by the Secretariat as a practical guide for delegations of both WTO Members and acceding States or separate customs territories and is not a general policy statement on accession negotiations. In accordance with Article XVI of the WTO Agreement, it follows decisions, procedures and customary practices of the GATT 1947 to the extent that these are relevant.

3. The procedures for accession to the WTO under Article XII require: the examination of the foreign trade regime of the acceding State or separate customs territory; the negotiation and establishment of a schedule of concessions and commitments to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "GATT 1994") and a schedule of specific commitments to the General Agreement on Trade in Services (hereinafter referred to as "GATS") for such State or separate customs territory; agreement on the Report of the Working Party; and agreement on a Decision and a Protocol setting out the terms of accession.

- **Application; Establishment of an Accession Working Party**

4. The acceding State or separate customs territory (hereinafter referred to as "acceding government") submits a communication to the Director-General of the WTO indicating its desire to accede to the WTO under Article XII of the Marrakesh Agreement Establishing the WTO. The communication is circulated to all Members.

5. The General Council/Ministerial Conference considers the application and the establishment of an accession Working Party. The terms of reference of accession Working Parties are "to examine the application for accession to the WTO under Article XII and to submit to the General Council/Ministerial Conference recommendations which may include a draft Protocol of Accession". Working Party membership is open to all interested Members.

6. Consultations on the selection of a Working Party Chairperson normally begin as soon as all documents necessary for holding the first Working Party meeting are in circulation, specifically, the Memorandum on the Foreign Trade Regime (hereinafter referred to as "MFTR"), accompanying legislation, and the replies to Members' questions on the MFTR. The Working Party Chairperson is designated by the Chairperson of the General Council, in consultation with Members and the acceding government. The long-standing practice is for the Secretariat to assist the General Council Chairperson in his/her consultations. The Chairperson is normally an Ambassador/Permanent Representative, or a Deputy Permanent Representative, resident in Geneva. The Chairmanship is confirmed when an announcement is made at the General Council under "Other business". Although acceding governments are consulted during the process, the designation of a Working Party Chairperson is a decision by WTO Members.

7. Upon the establishment of a Working Party, the Secretariat informs the acceding government of the procedures followed by accession Working Parties and the requirement that the acceding government submits an MFTR that covers, but is not necessarily limited to, the topics listed in the outline format (see Annex I).

8. Technical assistance and capacity-building is provided by the Secretariat and may be provided by individual WTO Members. The Secretariat may be invited to examine the specific

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<sup>2</sup> Annexes 1, 2 and 3 of the WTO Agreement

<sup>3</sup> Annex 4 of the WTO Agreement

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assistance requirements of an acceding government, so as to elaborate its own plans for assistance and to coordinate them, to the extent possible, with similar assistance being provided by individual WTO Members and other agencies. It is understood that the Secretariat would assist any acceding government that may so request in the technical preparation of its MFTR and of subsequent documentation. Upon request, the Secretariat can organize national workshops/seminars to assist national experts in the preparation of the MFTR. A framework for a Technical Workshop to assist acceding governments in the preparation of an MFTR was designed in 2010. Secretariat experts can also provide targeted technical advice from Geneva. The focal point for technical assistance requests is the Accessions Division. The acceding government should also avail itself, to the extent possible, of the training activities of the WTO, including e-learning. As part of its preparation for accession negotiations, the acceding government should also fully use its observer status to follow meetings of other accession Working Parties and various WTO Councils and Committees.

9. Adequate lead-time should be allowed before meetings of the Working Party are convened to enable both the acceding government and Working Party members to better prepare themselves. As a rule, there should be a sufficient lapse of time (in principle and practice a period of four weeks) between the formal circulation of documentation and Working Party meetings. The dates of meetings are set after the agenda has been agreed in informal consultations and the relevant documentation has been circulated. The convening notice of meetings should specify the purpose of each meeting and the documentation before it.

- **Memorandum on the Foreign Trade Regime (MFTR)**<sup>4</sup>

10. The Memorandum on the Foreign Trade Regime (MFTR) provides a comprehensive summary of the acceding government's foreign trade regime, including relevant statistical data. It should be presented following the outline format (see Annex I). The submission of the MFTR is accompanied by supporting data, which includes copies of the acceding government's currently applicable tariff schedule in the Harmonized System (HS) nomenclature and laws and regulations relevant to trade. The Secretariat should ensure that the above documentation is available in accordance with the guidelines set out in paragraph 9.

11. For the acceding government, assuming ownership of the MFTR is of critical importance for the subsequent stages of accession negotiations. It is therefore important that the preparation of the MFTR also provides a platform for capacity-building within the acceding government.

12. Following the circulation of the MFTR, Working Party members are invited to submit questions in writing with a view to clarifying the operation of the foreign trade regime of the acceding government. Answers should also be provided in writing and consolidated and arranged by topics in accordance with the structure of the MFTR. Depending on the adequacy of the information provided, more than one round of "questions and replies" may be organized before the first Working Party meeting. Subsequent rounds should be designed to clarify issues before Working Party meetings, as necessary. Upon the request of any Working Party member, the acceding government submits information concerning the accession with regard to topics not listed in the MFTR outline format (as contained in Annex I).

13. At the initial meeting of the Working Party, representatives from the acceding government and Working Party members examine the MFTR and the questions and replies provided with a view to seeking any further clarifications that may be required in light of the various provisions of the WTO Agreement and the MTAs. At the end of each Working Party meeting, the Working Party Chairperson generally outlines the state-of-play and the next steps required for the preparation of future Working Party meetings. This preparation should be carried out, *inter alia*, through informal consultations with Working Party members and the Secretariat, as necessary.

14. As the examination of the foreign trade regime advances, the Working Party invites the Secretariat to prepare a Factual Summary of Points Raised, which distils the written exchanges contained in the "questions and replies" and other relevant supporting documents. The Factual Summary eventually evolves into the Report of the Working Party which spells out the agreed specific commitments that the acceding government would undertake as a WTO Member.

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<sup>4</sup> WTO procedures relating to the use of the WTO official languages will apply to documentation submitted.

## - **Legislation**

15. Acceding governments need to begin assessing the WTO conformity of domestic trade-related legislation and practices as early as possible. Acceding governments are invited to present copies of relevant legislation at the same time as the MFTR. Laws and regulations should be provided in one of the three official WTO languages. This is a time-consuming process, which should begin at an early stage.

16. Having identified the gaps in domestic legislation, acceding governments can begin elaborating a comprehensive Legislative Action Plan (LAP). This document contains a full inventory of enacted WTO-related legislation and provides the roadmap for WTO-related domestic legislative work. The trend has been for LAPs to be submitted early on in the accession process. While the presentation of a LAP prior to the first meeting of the Working Party is not a prerequisite, its submission has high utility as it sets the direction for future work.

17. Interested Members may invite acceding governments to present legislation for review in draft form which ensures that acceding governments avoid asking their Parliaments to pass and later amend WTO-inconsistent legislation. It has now become common for draft legislation to be presented for comments by Members to ensure that it is compliant with WTO rules prior to its adoption.

## - **Initial market access offers and bilateral market access negotiations**

18. In parallel to the examination of the foreign trade regime, interested Working Party members may initiate bilateral market access negotiations on goods and services and on other terms to be agreed. It is understood that fact-finding work on the foreign trade regime and the negotiating phase can overlap and proceed in parallel.

19. Acceding governments may wish to share preliminary drafts of their initial market access offers on goods and services with the Secretariat for technical comments. Adherence to WTO formats and best practices in this area, from an early stage, ensures that bilateral market access negotiations are conducted on a solid basis and that potential problems are avoided at a later stage.

20. The procedures leading to the consolidation of the Schedules on Concessions and Commitments on Goods and Specific Commitments on Services may be summarized as follows:

21. Typically, the acceding government provides initial market access offers after the first meeting of the Working Party. Thereafter, market access negotiations proceed on a bilateral basis with interested Members. As the negotiations advance, the acceding government may be invited to revise its market access offers.

22. Following the conclusion of all bilateral market access negotiations between interested Members and the acceding government, the Secretariat consolidates the results in the draft Schedule of Concessions and Commitments on Goods (hereinafter referred to as "Goods Schedule") and the draft Schedule of Specific Commitments on Services (hereinafter referred to as "Services Schedule"). These Schedules are verified by all Signatory-Members and thereafter reviewed multilaterally and included as an addendum to the draft Accession Protocol (see next section).

## - **Accession Package; Protocol of Accession and Entry into Force**

23. An accession package consists of (i) the Report of the Working Party; (ii) a draft Decision and a draft Accession Protocol, appended to the Report; and (iii) the Goods and Services Schedules presented in Addenda 1 and 2. The Protocol of Accession contains the terms of accession negotiated and agreed by the acceding government and Working Party members. All specific accession commitments listed in the final chapter of the Accession Working Party Report, i.e. "Conclusions", are referenced in paragraphs 2 and 3 of the Accession Protocol. An accession Working Party concludes

its mandate by adopting the draft Accession Package, *ad referendum*, and forwards the Report of the Working Party to the Ministerial Conference/General Council for formal action.<sup>5</sup>

24. Before an accession package can be adopted by the Ministerial Conference/General Council, the acceding government needs to fully redeem its financial obligations to the WTO. To avoid accumulating financial arrears, acceding governments should make their annual contributions on a regular basis during the accession process.

25. The procedure for formal action by the Ministerial Conference/General Council can be summarized, as follows:

At the invitation of the Chairperson of the Ministerial Conference/General Council, the Membership:

- approves the draft Accession Protocol, as contained in the Report of the Working Party;
- adopts the draft Decision, as contained in the Report of the Working Party, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement;
- adopts the Report of the Working Party, including the Goods Schedule (Addendum 1) and the Services Schedule (Addendum 2).

26. Following the decision and approval on the terms of accession by the Ministerial Conference/General Council by a 2/3 majority<sup>6</sup> of the WTO membership, the Protocol of Accession enters into force thirty days after acceptance by the acceding government, either by signature or by deposit of the Instrument of Acceptance, following ratification, if Parliamentary approval is required.

27. Upon ratification of the Protocol of Accession, the specific commitments referenced in paragraphs 2 and 3 of the Protocol become an integral part of the WTO Agreement, and the Schedules reproduced in the Annex become the Schedule of Concessions and Commitments annexed to the GATT 1994 and the Schedule of Specific Commitments annexed to the GATS.

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<sup>5</sup> In principle, there is a lapse of time of at least four weeks following the adoption, *ad referendum*, of the draft Accession Package by the Working Party and final action by the Ministerial Conference/General Council.

<sup>6</sup> In accordance with WTO practice, the Ministerial Conference/General Council adopts reports of accession Working Parties, including the entire accession packages, by consensus.

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**ANNEX I****OUTLINE FORMAT FOR A MEMORANDUM ON THE FOREIGN TRADE REGIME<sup>1</sup>****I. INTRODUCTION**

Statement on the general objectives of the acceding government's trade policy regime and their relation with the objectives of the WTO.

**II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE****1. Economy**

- General description, including territory, population, economic specialization, main economic indicators;
- Current economic situation.

**2. Economic Policies**

- Main directions of the ongoing economic policies (tactical and strategic goals of economic policies, economic development plans, sectoral priorities, regional development plans, etc.);
- Monetary and fiscal policy;
- Foreign exchange and payments (relations with International Monetary Fund (IMF), application of foreign exchange controls if any);
- Investment regime (foreign and domestic investment policies);
- State ownership and privatization;
- Pricing policies;
- Competition policy.

**3. Foreign trade in goods and services** (volume and value of trade, exports and imports, foreign trade balance, structure of trade, trade by geographic areas and dynamics of trade, accompanying statistical data and information on publications (Annex II refers).**4. Domestic trade in services** (value and composition of foreign direct investment).**5. Information on financial movements related to nationals working abroad, remittances, etc.****6. Information on growth in trade in goods and services over recent years and forecasts for years to come.****III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES**

- Laws and legal acts (Annex III refers).
- Description of judicial, arbitral or administrative tribunals or procedures.
- Any legislative programmes or plans to change the regulatory regime.
- Powers of executive, legislative and judicial branches of government.
- Government entities responsible for making and implementing policies affecting foreign trade.
- Authority of sub-central governments (division of authority between central and sub-central governments).

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<sup>1</sup> In line with Footnote 2 of document WT/ACC/1, this outline has been revised and amended, taking account of the evolution of accession practices since 1995. It may be further revised and amended in the future, as necessary, in light of experience.

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**IV. POLICIES AFFECTING TRADE IN GOODS**

- Trading rights (including registration requirements for engaging in import and export).

**A. IMPORT REGULATIONS**

- Characteristics of national tariff (the most recent edition of which should be supplied), (customs tariff nomenclature (HS), types of duties, general description of the customs tariff structure, weighted average level of duties on main customs tariff groupings; application of MFN tariff rates, tariff preferences);
- Tariff rate quotas, tariff exemptions;
- Other duties and charges;
- Fees and charges for services rendered;
- Application of internal taxes to imports;
- Quantitative import restrictions, including prohibitions, quotas and licensing systems;
- Import licensing procedures (Annex IV refers);
- Customs valuation (WTO Customs Valuation Agreement (Annex V refers), the Brussels Definition of Value, or any other system) whether used only for purposes of levying *ad valorem* rates of duty or for other purposes;
- Rules of origin;
- Other border measures, other customs formalities;
- Pre-shipment inspection;
- Anti-dumping regime;
- Countervailing duty regime;
- Safeguard regime.

**B. EXPORT REGULATIONS**

- Customs tariff nomenclature, types of duties, duty rates, weighted averages of rates;
- Fees and charges for services rendered, application of internal taxes to exports;
- Quantitative export restrictions, including prohibitions, quotas and licensing systems;
- Export licensing procedures;
- Other measures, e.g. minimum export prices, voluntary export restrictions, orderly marketing arrangements;
- Export financing, subsidy and promotion policies;
- Export performance requirements;
- Import duty drawback schemes.

**C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS**

- Industrial policy, including subsidies;
- Technical barriers to trade, standards and certification (including measures taken at the border with respect to imports (Annex VI refers));
- Sanitary and phytosanitary measures (including measures taken with respect to imports);
- Trade-related investment measures;
- State-trading entities and practices (Annex VII refers);
- Free zones, special economic areas;
- Trade-related environmental policies;
- Mixing regulations;
- Government-mandated counter-trade and barter;
- Trade agreements leading to country-specific quota allocation;
- Government procurement (including general legal regime and procedures for tendering, dealing with tenders and award of contracts);
- Regulation of trade in transit;
- Agricultural policies:
  - (a) Imports (comprehensive description of the types of border protection maintained: customs duties and/or any other border measures);



- (b) Exports (description of, and the budgetary expenditure and any revenue foregone involved in each of the export subsidy measures in place);
  - (c) Export prohibitions and restrictions;
  - (d) Export credits, export credit guarantees or insurance programmes;
  - (e) Internal policies (description of, and the budgetary expenditure and any revenue foregone involved in each of the domestic support measures in place).
- Trade in civil aircraft;
  - Policies affecting foreign trade in other major sectors, if any.

## **V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

### **1. GENERAL**

- Industrial property protection (intellectual property rights policy);
- Responsible agencies for policy formulation and implementation;
- Participation in international intellectual property agreements (Membership of international intellectual property conventions and of regional or bilateral agreements);
- Application of national and MFN treatment to foreign nationals;
- Fees and taxes.

### **2. SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS**

- Copyright and related rights (including rights of performers, producers of phonograms and broadcasting organizations);
- Trademarks, including service marks;
- Geographical indications, including appellations of origin;
- Industrial designs;
- Patents;
- Plant variety protection;
- Layout designs of integrated circuits;
- Requirements on undisclosed information, including trade secrets and test data;
- Any other categories of intellectual property.

### **3. MEASURES TO CONTROL ABUSE OF INTELLECTUAL PROPERTY RIGHTS**

### **4. ENFORCEMENT**

- Civil judicial procedures and remedies;
- Provisional measures;
- Administrative procedures and remedies;
- Special border measures;
- Criminal procedures.

### **5. LAWS, DECREES, REGULATIONS AND OTHER LEGAL ACTS RELATING TO THE ABOVE**

### **6. STATISTICAL DATA ON APPLICATIONS FOR AND GRANTS OF INTELLECTUAL PROPERTY RIGHTS (IPRS), AS WELL AS ANY STATISTICAL DATA ON IPR ENFORCEMENT**

## **VI. TRADE-RELATED SERVICES REGIME**

### **1. GENERAL**

General description of the overall market and regulatory structures of the most prominent services sectors (e.g., financial services, telecommunications, professional services, construction, tourism, transportation). A complete list of services sectors is found in document MTN.GNS/W/120, the "Services Sectoral Classification List" (Annex VIII refers).

### **2. POLICIES AFFECTING TRADE IN SERVICES**

General reference to main laws, regulations, rules, procedures, decisions, administrative action and other legal instruments and a description of specific measures affecting trade in services. Distinctions based on modes of supply and/or sectors could be made whenever relevant.

- Government departments, agencies, professional associations or other bodies with authority or a role relevant to the conduct of service activities;
- Judicial, arbitral or administrative tribunals or procedures providing for the review of, or remedies in relation to, administrative decisions affecting trade in services;
- Provisions, including those in international agreements, concerning qualification requirements and procedures, technical standards and licensing and/or registration requirements for the supply of services;
- Provisions governing the existence and operation of monopolies or exclusive service suppliers;
- Provisions relating to safeguard measures as they apply to trade in services;
- Provisions relating to international transfers and payments for current transactions of services;
- Provisions relating to capital transactions affecting the supply of services;
- Provisions governing the procurement by governmental agencies/bodies of services;
- Provisions concerning any form of aid, grant, domestic subsidy, tax incentive or promotion scheme affecting trade in services.

### **3. MARKET ACCESS AND NATIONAL TREATMENT**

Limitations or conditions applied to market access and national treatment. Please specify, whether applied on a horizontal (e.g., measures relating to foreign investment regime, movement of persons supplying a services, real estate ownership and conditions of establishment) or a sectoral basis:

- Limitations on the number of service suppliers;
- Limitations on the total value of service transactions or assets;
- Limitations on the total number of service operations or on the total quantity of service output;
- Limitations on the total number of natural persons that may be employed in a particular service sector;
- Restrictions on or requirements of specific types of legal entity through which a service may be supplied;
- Limitations on the participation of foreign capital;
- Measures providing for less than the treatment accorded to national services or service suppliers.

### **4. MOST-FAVOURLED-NATION (MFN) TREATMENT**

(Indicate any existing measures inconsistent with MFN treatment)

**VII. TRANSPARENCY**

- Publication of information on trade

(Provide information on arrangements made for the publication of laws, regulations, etc.)

**VIII. TRADE AGREEMENTS**

(Description of institutional base for trade and economic relations with third countries)

1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services (Annex IX.A refers).
2. Economic integration, Customs Union and Free Trade Agreements (Annex IX.B refers).
3. Labour markets integration agreements.
4. Multilateral economic cooperation, membership in the multilateral economic organizations, trade-related programmes of other multilateral organizations.

**ANNEXES<sup>2</sup>**

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<sup>2</sup> The documentation and data enumerated in the templates contained in Annexes II to IX is without prejudice to the right of Members to request additional data and documentation, which they may deem necessary in the course of the accession process.

## ANNEX II

### STATISTICS AND PUBLICATIONS

1. Foreign Trade Statistics for Good and Services: responsible agencies.
  2. Publications Related to Statistics.
  3. Statistical Data:
    - (a) Main economic indicators:
      - (i) GNP;
      - (ii) GNP per capita;
      - (iii) Budget;
      - (iv) Production and consumption of the basic goods;
      - (v) Annual changes in prices;
      - (vi) Employment in different sectors;
      - (vii) Levels of employment;
      - (viii) Balance of payments;
      - (ix) Foreign exchange.
    - (b) Foreign trade statistics:
      - (i) Foreign trade (aggregates at the two-digit HS level);
      - (ii) Export statistics;
      - (iii) Import statistics;
      - (iv) Imports from main suppliers, preferably at a tariff line level;
      - (v) Trade by geographic areas (main trade partners).
    - (c) Government procurement statistics:

Volume of government procurement broken down by:

      - Central government, sub-central government and other entities, and within each of these headings;
      - supplies, construction and services.
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**ANNEX III**

**LIST OF LAWS AND REGULATIONS**

1. Laws and regulations regulating the activity of the Customs authorities: responsible agencies.
  2. Laws and regulations relating to non-tariff regulation of imports, exports and trade in transit, rules of origin: responsible agencies.
  3. Laws and regulations relating to foreign investment: responsible agencies.
  4. Other laws and regulations dealing with economic issues that affect trade: responsible agencies.
  5.
    - (a) Existing laws, regulations or administrative guidelines which significantly affect trade in services.
    - (b) Publications or sources of information, concerning measures of general application, of relevance to the GATS.
    - (c) Enquiry points, if any, as foreseen in Article III of the GATS.
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**ANNEX IV****QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES**

The following<sup>1</sup> is designed to elicit information on import licensing and similar administrative procedures<sup>2</sup> maintained or applied by the acceding government. If different procedures or methods of licensing or similar administrative procedures are applied to different categories of products, to different countries of supply or to different modes of importation, they should be separately described in respect of each question as relevant.

**OUTLINE OF SYSTEMS**

1. Give a brief description of each licensing system as a whole and, with respect to each, reply to the following questions as relevant, placing all of the material with respect to a given system in sequence together, and using cross references as appropriate when elements which have already been described are also present in another system.

**PURPOSES AND COVERAGE OF LICENSING**

2. Identify each licensing system maintained and state what products, appropriately grouped, are covered.

3. The system applies to goods originating in and coming from which countries?

4. Is the licensing intended to restrict the quantity or value of imports, and if not, what are its purposes? Have alternative methods of accomplishing the purposes been considered and if so which? Why have they not been adopted?

5. Cite the law, regulation and/or administrative order under which the licensing is maintained. Is the licensing statutorily required? Does the legislation leave designation of products to be subjected to licensing to administrative discretion? Is it possible for the government (or the executive branch) to abolish the system without legislative approval?

**PROCEDURES**

6. For products under restriction as to the quantity or value of imports (whether applicable globally or to a limited number of countries or whether established bilaterally or unilaterally):

I. Is information published, and where, concerning allocation of quotas and formalities of filing applications for licenses? If not, how is it brought to the attention of possible importers? Of governments and export promotion bodies of exporting countries and their trade representatives? Is the overall amount published? The amount allocated to goods from each country? The maximum amount allocated to each importer?

II. How is the size of the quotas determined: on a yearly, six-monthly or quarterly basis? Are there cases where the size of quota is determined on a yearly basis but licenses are issued for imports on a six-monthly or quarterly basis? In the latter case, is it necessary for importers to apply for fresh licence on a six-monthly or quarterly basis?

III. Are licenses allotted for certain goods partly or only to domestic producers of like goods? What steps are taken to ensure that licenses allocated are actually used for imports? Are unused allocations added to quotas for a succeeding period? Are the names of importers to whom licenses have been allocated made known to governments and export promotion

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<sup>1</sup> Circulated as G/LIC/3. Originally circulated as L/3515 of 23 March 1971 and reproduced in L/5640/Rev.10.

<sup>2</sup> Similar procedures are understood to include technical visas, surveillance systems, minimum price arrangements, and other administrative reviews effected as a prior condition for entry of imports.

bodies of exporting countries upon request? If not, for what reason? (Indicate products to which replies relate.)

IV. From the time of announcing the opening of quotas, as indicated in I above, what is the period of time allowed for the submission of applications for licenses?

V. What are the minimum and maximum lengths of time for processing applications?

VI. How much time remains, at a minimum, between the granting of licenses and the date of opening of the period of importation?

VII. Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?

VIII. If the demand for licenses cannot be fully satisfied, on what basis is the allocation to applicants made? First come, first served? Past performance? Is there a maximum amount to be allocated per applicant and, if so, on what basis is it determined? What provision is made for new importers? Are applications examined simultaneously or on receipt?

IX. In the case of bilateral quotas or export restraint arrangements where export permits are issued by exporting countries, are import licenses also required? If so, are licenses issued automatically?

X. In cases where imports are allowed on the basis of export permits only, how is the importing country informed of the effect given by the exporting countries to the understanding between the two countries?

XI. Are there products for which licenses are issued on condition that goods should be exported and not sold in the domestic market?

7. Where there is no quantitative limit on importation of a product or on imports from a particular country:

(a) How far in advance of importation must application for a licence be made? Can licenses be obtained within a shorter time-limit or for goods arriving at the port without a licence (for example, owing to inadvertency)?

(b) Can a licence be granted immediately on request?

(c) Are there any limitations as to the period of the year during which application for licence and/or importation may be made? If so, explain.

(d) Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?

8. Under what circumstances may an application for a licence be refused other than failure to meet the ordinary criteria? Are the reasons for any refusal given to the applicant? Have applicants a right of appeal in the event of refusal to issue a licence and, if so, to what bodies and under what procedures?

#### ELIGIBILITY OF IMPORTERS TO APPLY FOR LICENCE

9. Are all persons, firms and institutions eligible to apply for licenses:

(a) under restrictive licensing systems?

(b) under non-restrictive systems?

If not, is there a system of registration of persons or firms permitted to engage in importation? What persons or firms are eligible? Is there a registration fee? Is there a published list of authorized importers?

#### DOCUMENTATION AND OTHER REQUIREMENTS FOR APPLICATION FOR LICENCE

10. What information is required in applications? Submit a sample form. What documents is the importer required to supply with the application?

11. What documents are required upon actual importation?

12. Is there any licensing fee or administrative charge? If so, what is the amount of the fee or charge?

13. Is there any deposit or advance payment requirement associated with the issue of licenses? If so, state the amount or rate, whether it is refundable, the period of retention and the purpose of the requirement.

#### CONDITIONS OF LICENSING

14. What is the period of validity of a licence? Can the validity of a licence be extended? How?

15. Is there any penalty for the non-utilization of a licence or a portion of a licence?

16. Are licenses transferable between importers? If so, are any limitations or conditions attached to such transfer?

17. Are any other conditions attached to the issue of a licence:

(a) for products subject to quantitative restriction?

(b) for products not subject to quantitative restriction?

#### OTHER PROCEDURAL REQUIREMENTS

18. Are there any other administrative procedures, apart from import licensing and similar administrative procedures, required prior to importation?

19. Is foreign exchange automatically provided by the banking authorities for goods to be imported? Is a licence required as a condition to obtaining foreign exchange? Is foreign exchange always available to cover licenses issued? What formalities must be fulfilled for obtaining the foreign exchange?

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**ANNEX V**

**CHECKLIST ON IMPLEMENTATION AND ADMINISTRATION OF THE  
CUSTOMS VALUATION AGREEMENT<sup>1</sup>**

1. Questions concerning Article 1:
  - (a) Sales between related persons:
    - (i) Are sales between related persons subject to special provisions?
    - (ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?
    - (iii) What is the provision for giving the communication of the afore-mentioned grounds in writing if the importer so requests? (Article 1.2(a))
    - (iv) How has Article 1.2(b) been implemented?
  - (b) Price of lost or damaged goods:

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?
2. How has the provision of Article 4, to allow the importer an option to reverse the order of application of Articles 5 and 6, been implemented?
3. How has Article 5.2 been implemented?
4. How has Article 6.2 been implemented?
5. Questions concerning Article 7:
  - (a) What provisions have been made for making value determinations pursuant to Article 7?
  - (b) What is the provision for informing the importer of the customs value determined under Article 7?
  - (c) Are the prohibitions found in Article 7.2 delineated?
6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?
7. Where is the rate of exchange published, as required by Article 9.1?
8. What steps have been taken to ensure confidentiality, as required by Article 10?
9. Questions concerning Article 11:
  - (a) What rights of appeal are open to the importer or any other person?
  - (b) How is he to be informed of his right to further appeal?
10. Provide information on the publication, as required by Article 12, of:
  - (a) (i) the relevant national laws;
  - (ii) the regulations concerning the application of the Agreement;
  - (iii) the judicial decision and administrative rulings of general application relating to the Agreement;
  - (iv) general or specific laws being referred to in the rules of implementation or application.

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<sup>1</sup> Circulated as VAL/5.

- (b) Is the publication of further rules anticipated? Which topics would they cover?
11. Questions concerning Article 13:
- (a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?
- (b) Have additional explanations been laid down?
12. Questions concerning Article 16:
- (a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?
- (b) Are there any further regulations concerning an above-mentioned request?
13. How have the Interpretative Notes of the Agreement been included?
14. How have the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods been implemented?
15. For those countries applying paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, how have the provisions of this paragraph been implemented?
- For all questions listed above, an indication of the reference is requested.
-

**ANNEX VI**

**INFORMATION ON TECHNICAL BARRIERS TO TRADE**

1. Description of relevant laws, regulations, administrative orders, etc., relating to implementation and administration of technical barriers to trade. All necessary references should be provided.
  2. Information regarding:
    - (a) names of publications, if any, on work relating to draft technical regulations or standards and procedures;
    - (b) the name and address of the enquiry point(s) foreseen in Articles 10.1 and 10.3 of the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the "TBT Agreement") with an indication as to whether it is/they are fully operational;
    - (c) the name and address of the agency dealing with consultations as foreseen in Article 14 of the TBT Agreement;
    - (d) the name and address of agencies that are dealing with other specific functions foreseen in the TBT Agreement;
    - (e) the scope of responsibility of the central government authorities in the area of notification requirements foreseen in Article 10.11 of the TBT Agreement and of individual government authorities, if the responsibility is divided among two or more such authorities;
    - (f) measures and arrangements to ensure that national and sub-national authorities preparing new technical regulations or substantial amendments to existing ones, provide early information on their proposals.
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**ANNEX VII****QUESTIONNAIRE<sup>1</sup> ON STATE-TRADING<sup>2</sup>****Definition of State-Trading<sup>3</sup>**

Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports.

**I. ENUMERATION OF STATE-TRADING ENTERPRISES**

- A. *Identification of state trading enterprises.*
- B. *Description of products affected (including tariff item number(s) encompassed in product description).*

[Does your country maintain enterprises covered by the provisions of Article XVII?  
If so, list the products or groups of products for which State enterprise is maintained or for which an enterprise has exclusive or special privileges.]

**II. REASON AND PURPOSE**

- A. *Reason or purpose for establishing and/or maintaining state trading enterprise.*

[State for each product the reason and purpose for introducing and maintaining the enterprise (it should be indicated, for example, whether the purpose or the effect of the enterprise is to prevent prices to consumers from exceeding certain maximum limits, or to protect domestic producers by the control of imports and/or the purchase of domestic supplies at above world price levels, or to facilitate export sales, or to make it possible to establish or administer a stabilization arrangement).]

- B. *Summary of legal basis for granting the relevant exclusive or special rights or privileges, including legal provisions and summary of statutory or constitutional powers.*

[A description of the legal provisions should be included in so far as this has not been submitted in earlier notifications.]

**III. DESCRIPTION OF THE FUNCTIONING OF STATE-TRADING ENTERPRISES**

- A. *Summary statement providing overview of operations of the state trading enterprise.*
- B. *Specification of exclusive or special rights or privileges enjoyed by the state trading enterprise.*
- C. *Type of entities other than the state trading enterprise that are allowed to engage in importation/exportation and conditions for participation.*
- D. *How import/export levels are established by the state trading enterprise.*
- E. *How export prices are determined.*
- F. *How the resale prices of imported products are determined.*
- G. *Whether long-term contracts are negotiated by the state trading enterprise. Whether the state trading enterprise is used to fulfil contractual obligations entered into by the government.*
- H. *Brief description of market structure.*

<sup>1</sup> This questionnaire is to be filled out according to the guidelines listed on pages 5-7 of STR/3/Rev.1 and in the square brackets above.

<sup>2</sup> Circulated as STR/3/Rev.1. Originally circulated as Annex to L/1146.

<sup>3</sup> This is the working definition for the purposes of notification and does not alter substantive disciplines of Article XVII, see Understanding on the Interpretation of Article XVII of the GATT 1994.

[Describe, item by item, the functioning of such enterprises and state in particular:

- Whether the enterprise deals with exports or with imports, or both;
- Whether private traders are allowed to import or export and, if so, on what conditions;  
Whether there is free competition between private traders and the State-trading enterprise;
- The criteria used for determining the quantities to be exported and imported;
- How export prices are determined;  
How the mark-up on imported products is determined;  
How export prices and the re-sale prices of imports compare with domestic prices;
- Whether long-term contracts are negotiated by the State-trading enterprise;  
Whether State-trading methods are used to fulfil contractual obligations entered into by the government.]

**IV. STATISTICAL INFORMATION (SEE ATTACHED TABLES I-III)**

[Furnish statistics (where possible by quantity and value) of imports, exports and national production on the products notified, on the following lines:

- (a) the figures should cover the last three available years;
- (b) the figures for the three groups (imports, exports and national production) should be given, whether possible, in a comparable form;
- (c) the figures should be broken down so as to show:
  - (i) trade by the enterprise;
  - (ii) other trade.]

**V. REASONS WHY NO FOREIGN TRADE HAS TAKEN PLACE (AS APPROPRIATE)**

[In cases where no foreign trade has taken place in the products affected, state the reasons.]

**VI. ADDITIONAL INFORMATION (AS APPROPRIATE)**

[Provide any additional information that may be appropriate.]

**TABLE I**  
**STATE TRADING: NAME OF STATE TRADING ENTERPRISE**  
*STATISTICAL INFORMATION, IMPORTS*

Description of product(s) (including HS number(s))	Total quantity imported <sup>1</sup>	Quantity imported by state trading enterprise <sup>1</sup>	Average import price	Average representative domestic sales price	Mark-up <sup>2</sup>	National production
1	2	3	4	5	6	7

<sup>1</sup> In cases where no imports have taken place under columns 2 or 3, provide an explanation under Section V of this questionnaire.

<sup>2</sup> Relevant data may be reported either under columns 4 and 5 or under column 6.

**TABLE II**

**STATE TRADING: NAME OF STATE TRADING ENTERPRISE**

*STATISTICAL INFORMATION, EXPORTS*

Description of product(s) (including HS number(s))	Total quantity exported <sup>1</sup>	Quantity exported by state trading enterprise <sup>1</sup>	Average procurement price <sup>2</sup>	Average representative domestic sales price	Average export price	National production
1	2	3	4	5	6	7

<sup>1</sup> In cases where no exports have taken place under columns 2 or 3, provide an explanation under Section V of this questionnaire.

<sup>2</sup> In cases where the initial procurement price is augmented by other payments, additional payments should also be reported.

**TABLE III**

**STATE TRADING: NAME OF STATE TRADING ENTERPRISE**

*STATISTICAL INFORMATION, DOMESTIC ACTIVITIES*

Description of product(s) (including HS number(s))	Domestic purchases by state trading enterprise	National production	Domestic sales by state trading enterprise	National consumption
1	2	3	4	5



## ANNEX VIII

SERVICES SECTORAL CLASSIFICATION LIST<sup>1</sup>

<u>SECTORS AND SUB-SECTORS</u>	<u>CORRESPONDING CPC</u>
1. <u>BUSINESS SERVICES</u>	<u>Section B</u>
A. <u>Professional Services</u>	
a. Legal services	861
b. Accounting, auditing and bookkeeping services	862
c. Taxation Services	863
d. Architectural services	8671
e. Engineering services	8672
f. Integrated engineering services	8673
g. Urban planning and landscape architectural services	8674
h. Medical and dental services	9312
i. Veterinary services	932
j. Services provided by midwives, nurses, physiotherapists and para-medical personnel	93191
k. Other	
B. <u>Computer and Related Services</u>	
a. Consultancy services related to the installation of computer hardware	841
b. Software implementation services	842
c. Data processing services	843
d. Data base services	844
e. Other	845+849
C. <u>Research and Development Services</u>	
a. R&D services on natural sciences	851
b. R&D services on social sciences and humanities	852
c. Interdisciplinary R&D services	853
D. <u>Real Estate Services</u>	
a. Involving own or leased property	821
b. On a fee or contract basis	822
E. <u>Rental/Leasing Services without Operators</u>	
a. Relating to ships	83103
b. Relating to aircraft	83104
c. Relating to other transport equipment	83101+83102+83105
d. Relating to other machinery and equipment	83106-83109
e. Other	832
F. <u>Other Business Services</u>	
a. Advertising services	871
b. Market research and public opinion polling services	864
c. Management consulting service	865
d. Services related to man. consulting	866
e. Technical testing and analysis serv.	8676
f. Services incidental to agriculture, hunting and forestry	881
g. Services incidental to fishing	882
h. Services incidental to mining	883+5115

<sup>1</sup> See MTN.GNS/W/120 or attachment 8 of S/L/92. As indicated in the cover note of MTN.GNS/W/120, this list could be subject to further modification in the light of developments in the services negotiations and ongoing work elsewhere.

i.	Services incidental to manufacturing	884+885 (except for 88442)
j.	Services incidental to energy distribution	887
k.	Placement and supply services of Personnel	872
l.	Investigation and security	873
m.	Related scientific and technical consulting services	8675
n.	Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	633+ 8861-8866
o.	Building-cleaning services	874
p.	Photographic services	875
q.	Packaging services	876
r.	Printing, publishing	88442
s.	Convention services	87909*
t.	Other	8790
2.	<u>COMMUNICATION SERVICES</u>	
A.	<u>Postal services</u>	7511
B.	<u>Courier services</u>	7512
C.	<u>Telecommunication services</u>	
a.	Voice telephone services	7521
b.	Packet-switched data transmission services	7523**
c.	Circuit-switched data transmission services	7523**
d.	Telex services	7523**
e.	Telegraph services	7522
f.	Facsimile services	7521** + 7529**
g.	Private leased circuit services	7522** + 7523**
h.	Electronic mail	7523**
i.	Voice mail	7523**
j.	On-line information and data base retrieval	7523**
k.	electronic data interchange (EDI)	7523**
l.	enhanced/value-added facsimile services, incl. store and forward, store and retrieve	7523**
m.	code and protocol conversion	n.a.
n.	on-line information and/or data processing (incl. transaction processing)	843**
o.	other	
D.	<u>Audiovisual services</u>	
a.	Motion picture and video tape production and distribution services	9611
b.	Motion picture projection service	9612
c.	Radio and television services	9613
d.	Radio and television transmission services	7524
e.	Sound recording	n.a.
f.	Other	
E.	<u>Other</u>	
3.	<u>CONSTRUCTION AND RELATED ENGINEERING SERVICES</u>	
A.	<u>General construction work for buildings</u>	512
B.	<u>General construction work for civil engineering</u>	513

\* The (\*) indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

\*\* The (\*\*) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance (e.g. voice mail is only a component of CPC item 7523).

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C.	<u>Installation and assembly work</u>	514+516
D.	<u>Building completion and finishing work</u>	517
E.	<u>Other</u>	511+515+518
4.	<u>DISTRIBUTION SERVICES</u>	
A.	<u>Commission agents' services</u>	621
B.	<u>Wholesale trade services</u>	622
C.	<u>Retailing services</u>	631+632 6111+6113+6121
D.	<u>Franchising</u>	8929
E.	<u>Other</u>	
5.	<u>EDUCATIONAL SERVICES</u>	
A.	<u>Primary education services</u>	921
B.	<u>Secondary education services</u>	922
C.	<u>Higher education services</u>	923
D.	<u>Adult education</u>	924
E.	<u>Other education services</u>	929
6.	<u>ENVIRONMENTAL SERVICES</u>	
A.	<u>Sewage services</u>	9401
B.	<u>Refuse disposal services</u>	9402
C.	<u>Sanitation and similar services</u>	9403
D.	<u>Other</u>	
7.	<u>FINANCIAL SERVICES</u>	
A.	<u>All insurance and insurance-related services</u>	812**
a.	Life, accident and health insurance services	8121
b.	Non-life insurance services	8129
c.	Reinsurance and retrocession	81299*
d.	Services auxiliary to insurance (including broking and agency services)	8140
B.	<u>Banking and other financial services (excl. insurance)</u>	
a.	Acceptance of deposits and other repayable funds from the public	81115-81119
b.	Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction	8113
c.	Financial leasing	8112
d.	All payment and money transmission services	81339**
e.	Guarantees and commitments	81199**
f.	Trading for own account or for account of customers,	

	whether on an exchange, in an over-the-counter market or otherwise, the following:	
	- money market instruments (cheques, bills, certificate of deposits, etc.)	81339**
	- foreign exchange	81333
	- derivative products incl., but not limited to, futures and options	81339**
	- exchange rate and interest rate instruments, incl. products such as swaps, forward rate agreements, etc.	81339**
	- transferable securities	81321*
	- other negotiable instruments and financial assets, incl. bullion	81339**
g.	Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues	8132
h.	Money broking	81339**
i.	Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services	8119+** 81323*
j.	Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments	81339** or 81319**
k.	Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	8131 or 8133
l.	Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	8131
C.	<u>Other</u>	
8.	<u>HEALTH RELATED AND SOCIAL SERVICES</u> (other than those listed under 1.A.h.-j.)	
A.	<u>Hospital services</u>	9311
B.	<u>Other Human Health Services</u>	9319 (other than 93191)
C.	<u>Social Services</u>	933
D.	<u>Other</u>	
9.	<u>TOURISM AND TRAVEL RELATED SERVICES</u>	
A.	<u>Hotels and restaurants (incl. catering)</u>	641-643
B.	<u>Travel agencies and tour operators services</u>	7471
C.	<u>Tourist guides services</u>	7472
D.	<u>Other</u>	
10.	<u>RECREATIONAL, CULTURAL AND SPORTING SERVICES</u> (other than audiovisual services)	

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A.	<u>Entertainment services</u> (including theatre, live bands and circus services)	9619
B.	<u>News agency services</u>	962
C.	<u>Libraries, archives, museums and other cultural services</u>	963
D.	<u>Sporting and other recreational services</u>	964
E.	<u>Other</u>	
11.	<u>TRANSPORT SERVICES</u>	
A.	<u>Maritime Transport Services</u>	
a.	Passenger transportation	7211
b.	Freight transportation	7212
c.	Rental of vessels with crew	7213
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7214
f.	Supporting services for maritime transport	745**
B.	<u>Internal Waterways Transport</u>	
a.	Passenger transportation	7221
b.	Freight transportation	7222
c.	Rental of vessels with crew	7223
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7224
f.	Supporting services for internal waterway transport	745**
C.	<u>Air Transport Services</u>	
a.	Passenger transportation	731
b.	Freight transportation	732
c.	Rental of aircraft with crew	734
d.	Maintenance and repair of aircraft	8868**
e.	Supporting services for air transport	746
D.	<u>Space Transport</u>	733
E.	<u>Rail Transport Services</u>	
a.	Passenger transportation	7111
b.	Freight transportation	7112
c.	Pushing and towing services	7113
d.	Maintenance and repair of rail transport equipment	8868**
e.	Supporting services for rail transport services	743
F.	<u>Road Transport Services</u>	
a.	Passenger transportation	7121+7122
b.	Freight transportation	7123
c.	Rental of commercial vehicles with operator	7124
d.	Maintenance and repair of road transport equipment	6112+8867
e.	Supporting services for road transport services	744
G.	<u>Pipeline Transport</u>	
a.	Transportation of fuels	7131
b.	Transportation of other goods	7139
H.	<u>Services auxiliary to all modes of transport</u>	
a.	Cargo-handling services	741
b.	Storage and warehouse services	742

c.	Freight transport agency services	748
d.	Other	749
I.	<u>Other Transport Services</u>	
12.	<u>OTHER SERVICES NOT INCLUDED ELSEWHERE</u>	95+97+98+99

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**ANNEX IX**

**TRADE AGREEMENTS**

- A. List of Foreign Trade Agreements.
- B. List of Trade Agreements or parts of them which contain preferential trade provisions, indicating by HS (2 digit) the tariff lines involved, the margin of preference granted, reciprocity provisions and details of any other preferential treatment.

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