

**ACCESSION OF THE SEPARATE CUSTOMS TERRITORY OF  
TAIWAN, PENGHU, KINMEN AND MATSU**

Decision of 11 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 Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu 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 Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu to the Marrakesh Agreement Establishing the World Trade Organization and having prepared a Protocol on the Accession of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu,

*Decides* as follows:

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu 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.

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## **PROTOCOL OF ACCESSION OF THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU**

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 Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (hereinafter referred to as "Chinese Taipei"),

Taking note of the Report of the Working Party on the Accession of Chinese Taipei to the WTO Agreement reproduced in document WT/ACC/TPKM/18, dated 5 October 2001 (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of Chinese Taipei to the WTO Agreement,

Agree as follows:

### **PART I - GENERAL**

1. Upon entry into force of this Protocol pursuant to paragraph 10, Chinese Taipei 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 Chinese Taipei accedes shall be the WTO Agreement, including the Explanatory Notes to that 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 include the commitments referred to in paragraph 224 of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in paragraph 224 of the Working Party Report, 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 Chinese Taipei as if it had accepted that Agreement on the date of its entry into force.
4. The Special Exchange Agreement between the WTO and Chinese Taipei reproduced in Annex II to this Protocol forms an integral part of this Protocol.
5. Chinese Taipei shall at the time of its accession to the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) accept the Plurilateral Trade Agreement on Trade in Civil Aircraft listed in Annex 4 of the WTO Agreement.
6. Chinese Taipei may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure was 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.

### **PART II - SCHEDULES**

7. The Schedules reproduced in Annex I 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 Chinese Taipei. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

8. 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

9. This Protocol shall be open for acceptance, by signature or otherwise, by Chinese Taipei until 31 March 2002.

10. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Chinese Taipei.

11. 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 Chinese Taipei thereto pursuant to paragraph 9 to each Member of the WTO and to Chinese Taipei.

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

Done at Doha this eleventh day of November two thousand and one, in a single copy in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one of these languages.

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ANNEX I

***SCHEDULE CLIII - SEPARATE CUSTOMS TERRITORY  
OF TAIWAN, PENGHU, KINMEN AND MATSU***

*Authentic only in the English language.*

*(Circulated in documents WT/ACC/TPKM/18/Add.1 and WT/MIN(01)/4/Add.1.)*

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***SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES***

***LIST OF ARTICLE II EXEMPTIONS***

*Authentic only in the English language.*

*(Circulated in documents WT/ACC/TPKM/18/Add.2 and WT/MIN(01)/4/Add.2.)*

ANNEX II

SPECIAL EXCHANGE AGREEMENT  
BETWEEN  
THE SEPARATE CUSTOMS TERRITORY OF  
TAIWAN, PENGHU, KINMEN AND MATSU  
AND  
THE WORLD TRADE ORGANIZATION  
(HEREINAFTER REFERRED TO AS THE "WTO")

Whereas paragraph 6 of Article XV of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the General Agreement 1994), provides that any WTO Member which was not a member of the International Monetary Fund (hereinafter referred to as the "Fund") shall, within a time to be determined by the WTO after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the WTO;

Whereas paragraph 7 of the said Article provides that such special exchange agreement shall provide to the satisfaction of the WTO that the objective of the General Agreement 1994 will not be frustrated as a result of action in exchange matters by the Member in question, and taking into account that the terms of such an agreement shall not impose obligations inconsistent with those imposed by the Fund;

Whereas the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (hereinafter referred to as "Chinese Taipei") desires to accede to the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement") in pursuance of Article XII thereof;

The World Trade Organization

and

Chinese Taipei, acting through its representative duly authorized for this purpose,

Hereby agree as follows:

ARTICLE I

Orderly Exchange Arrangements

1. Chinese Taipei shall collaborate with the WTO to promote exchange rates which reflect underlying economic fundamentals, to maintain orderly exchange arrangements with other Members of the WTO, to avoid competitive exchange alterations, and to assist, in accordance with Articles II and III of this Special Exchange Agreement, in the elimination of restrictions on the making of international payments and transfers within the multilateral system, and to promote international trade and investment.

2. Recognizing that the essential purpose of the international monetary system is to provide a framework that facilitates the exchange of goods, services, and capital among countries, and that helps sustain non-inflationary economic growth, Chinese Taipei undertakes to assure orderly exchange arrangements and to promote a stable system of exchange rates. In particular, Chinese Taipei shall:

- (i) Endeavour to direct its economic and financial policies toward the objective of fostering sustained, non-inflationary economic growth with macroeconomic stability;
- (ii) Permit exchange rates to reflect underlying economic and financial conditions;

- (iii) Avoid manipulating exchange rates or the international monetary system in order to prevent effective balance-of-payments adjustment or to gain an unfair competitive advantage over other members; and
- (iv) Follow exchange policies compatible with the undertakings under this Article.

## ARTICLE II

### Avoidance of Restrictions on Current Payments and Multiple Currency Practices

1. Chinese Taipei shall not, without the approval of the WTO, impose restrictions on the making of payments and transfers related to current account transactions.
2. Chinese Taipei shall not engage in, nor permit its Ministry of Finance, Central Bank, Stabilization Fund, or other agency, to engage in any discriminatory currency arrangements or multiple currency practices except as approved by the WTO.
3. Exchange contracts which involve the currency of any Member or Chinese Taipei and which are contrary to the exchange control regulations of that Member or Chinese Taipei maintained or imposed consistently with the Articles of Agreement of the Fund or with the provisions of a special exchange agreement entered into pursuant to paragraph 6 of Article XV of the General Agreement 1994 or this Special Exchange Agreement, shall be unenforceable in the territories of Chinese Taipei or in the territories of any Member.

## ARTICLE III

### Controls of Capital Transfers

1. Chinese Taipei undertakes that it shall seek to avoid the imposition of capital controls to address balance-of-payments and macroeconomic objectives. However, Chinese Taipei may exercise such controls as are necessary to regulate international capital movements, if these movements are destabilizing to the balance of payments or jeopardize macroeconomic stability, so long as Chinese Taipei does not exercise these controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments.
2. Chinese Taipei undertakes that measures affecting capital flows will be in accordance with this Special Exchange Agreement, the General Agreement 1994, and the WTO Agreement.
3. If Chinese Taipei institutes new capital controls or tightens existing capital controls, it shall immediately after instituting or tightening such controls consult with the WTO.

## ARTICLE IV

### Restrictions on Payments - General

1. In the event that Chinese Taipei, with the approval of the WTO, as provided in Article II, or consistent with consultations with the WTO, as provided in Article III, as the case may be, imposes a measure to restrict payments and transfers for balance-of-payments and macroeconomic stability purposes, it shall:
  - (a) initiate good faith consultations with the WTO on economic adjustment measures to address the fundamental underlying economic problems giving rise to the measures; and

- (b) adopt or maintain economic policies consistent with such consultations.
- 2. A measure adopted or maintained under Article II of this Special Exchange Agreement shall:
  - (a) avoid unnecessary damage to the commercial, economic or financial interests of another Member;
  - (b) be temporary and be phased out within a clearly-specified time-frame;
  - (c) be the least burdensome type of action available;
  - (d) be consistent with this Special Exchange Agreement and the economic policies adopted pursuant to paragraph 1(b) of this Article; and
  - (e) be applied on a most-favoured-nation treatment basis.
- 3. A measure adopted or maintained under Article III of this Special Exchange Agreement shall to the extent practicable conform to the provisions set forth in sub-paragraphs (a) through (e) of paragraph 2 of this Article.

## ARTICLE V

### Furnishing of Information

- 1. Chinese Taipei shall furnish the WTO with such information within the general scope of section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund as the WTO may require in order to carry out its functions under the WTO Agreement.
- 2. Chinese Taipei shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Chinese Taipei undertakes, however, to furnish the desired information in as detailed and accurate a manner as is practicable.

## ARTICLE VI

### Miscellaneous Provisions

- 1. For purposes of this Special Exchange Agreement, the term "Payments for current transactions" means payments which are not for the purpose of transferring capital, as defined by the International Monetary Fund.
  - 2. The WTO shall at all times have the right to communicate its views informally to Chinese Taipei on any matter arising under this Agreement.
  - 3. Whenever the WTO consults with the Fund on exchange matters or in other appropriate cases particularly affecting Chinese Taipei, the WTO shall take measures, as are satisfactory to the Fund, to ensure effective presentation of Chinese Taipei's case to the Fund, including, without limitation, the transmission to the Fund of any views communicated by Chinese Taipei to the WTO.
  - 4. The Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO shall apply to disputes arising under this Agreement.
  - 5. This Agreement shall enter into force on the date of entry into force of the Protocol of Accession of Chinese Taipei to the WTO.
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