

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

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WORKING PARTY ON THE ACCESSION OF MONGOLIA

Questions and Replies

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Privatization Programme

Question: What is the time-frame proposed for completing the "Small Privatization" as well as that of agricultural cooperatives, State and fodder farms?

Reply: As provided for by the Privatization Law all small enterprises engaged in trading and services as well as independent units of large enterprises are subject to privatization under the "Small Privatization" programme. "Small Privatization" as well as privatization of agricultural cooperatives, State and fodder farms through the "Large Privatization" programme are supposed to be completed by the end of 1993. Currently almost all small enterprises and units qualified for the "Small Privatization" scheme have been privatized by investment coupons.

More than 90 per cent of livestock has been transferred to private ownership, the agricultural cooperatives, State and fodder farms are operating now as stock companies in which the former members of such cooperatives and farms hold shares acquired by investment coupons.

Question: Are there plans to privatize commercial banks? If so, within what time period?

Reply: Until the end of 1990 the State Bank of Mongolia was the single banking institution of the country, which exercised all the banking functions. With the adoption of the Banking Law in 1991 a two-tier banking system has been introduced, which provides the establishment of commercial banks apart from the Central Bank.

Currently there are sixteen commercial banks which are operating as public (PLC) companies. Shareholders of those banks are both State enterprises and business entities of the private sector. In some banks the share of the private sector in the capital of the bank is predominant. There is no fixed time period for the privatization of commercial banks.

The further privatization of State enterprises will simultaneously lead to the gradual privatization of commercial banks.

Question: The response to question number fourteen indicates that as of September 1992, 72 per cent of State-owned property slated for privatization through distribution of investment coupons had been privatized.

Please describe how the senior management of such firms is selected and the legal structure that provides for the independent administration of privatized firms. Please indicate how the holders of these coupons can translate their ownership of former State enterprises into operational control? Do these coupons pay interest? Do they entitle the holders to membership on the board of directors or any operational management control? When, if ever, can these coupons be purchased or sold, can operational

control of a firm privatized in this fashion be obtained by individuals or private entities?

Do these firms make any payment to the State authorities, not including payment for energy or transportation services? If so, please describe these payments. Mongolia's plans for privatization call for the establishment of a secondary market for securities, pending the approval of relevant legislation. Would such a market deal in coupons as well? What is the status of the program to establish such a market?

Reply: Enterprises privatized through distribution of investment coupons have been converted mainly into companies, the operations of which are governed by the Law on Business Entities. The management and control of such companies are exercised through the General Meeting, the Board of Directors, the Supervisory Board and the Executive (General) Director. The powers of these bodies are stipulated in the Law on Business Entities and more details are supposed to be reflected in the Articles of Incorporation. According to the aforementioned Law, the General Meeting elects and removes the directors and members of the Supervisory Board. The shareholders are entitled to dividends and have one vote per share at the general meetings. The managerial structure of the companies varies depending on the type and size of a company. In small and private (close) companies, the directors and shareholders are usually the same persons.

A person holding coupons may become a member either of a small private company (under the "Small Privatization" scheme) or of a public company (under the "Large Privatization" scheme) by purchasing shares of the company using those coupons. Thus such person acquires all the rights of a shareholder conferred by law, including managerial powers. Investment coupons do not pay any interest.

As provided for in the Privatization Law, the first stage of privatization programme is to be implemented through the distribution to citizens of Mongolia investment coupons, which would enable them to

purchase shares. Each person is entitled to one pink coupon for "Small Privatization" and one blue coupon for "Large Privatization".

The pink coupons may be transferred, sold or purchased through brokers' agencies or traded directly between the holders and buyers. The blue coupons are coupons to the bearer and are not transferable. The coupons may be used as an instrument of investment only once. Thereafter they are not on the market any longer. The coupons are valid for two years (i.e. till the end of 1993).

If they have not been used within this period they may be returned to the Government and charges levied for their acquisition should be redeemed. The companies do not make any special payments to State authorities, except those related to their operations in the capacity of a business entity (i.e. taxes, duties and charges for services received, which are provided for by the respective laws and regulations).

The secondary market shall not deal in coupons. Shares will be traded on stock markets run by the Stock Exchange by way of an offer for subscription or of an offer for sale. Shares may be acquired through investing national or foreign currencies or other assets.

Tariff Régime

Question: When will contracting parties receive advise on the new multiple tariff rates which Mongolia intends to implement? How will the system of multiple tariffs operate? How will it differ from the system of multiple tariffs which operated prior to June 1991? Apart from the normal process of entering into bilateral market access negotiations on specific products, does Mongolia intend to offer a ceiling tariff binding commitment as has been expected of all applicants in recent times? Is the conversion of Mongolia's tariff system to the Harmonised System on track?

Reply: Within the framework of economic reforms and the liberalization of trade policy and in the process of integrating to the multilateral trading

system, Mongolia is overhauling the existing tariff system. The Government is working out proposals on the new tariff system which provides for the replacement of the existing uniform tariff rate of 15 per cent by multiple tariffs and they are likely to be tabled to the State Great Hural (Parliament) on its next session (September 1993). The multiple tariff schedule is supposed to contain differential rates on goods and is targeted to convert Mongolia's tariff system to the Harmonized System. It is envisaged that apart from the differentiation on goods, general and MFN rates will be introduced. The multiple customs tariffs which operated prior to June 1991 did not provide for the MFN rates.

Mongolia is ready to enter into tariff negotiations with all contracting parties with whom it conducts external trade. Binding commitments are subject to negotiations with a particular contracting party and Mongolia will give due consideration to all forms of binding taking into account its own needs and the needs of the contracting parties concerned.

As far as the Harmonized System is concerned the commodity description and coding are being effected under the System. With the adoption of multiple tariffs, the tariff system will be converted to the Harmonized System.

Taxes and Fees

Question: At what point of sale is the excise tax applied: i) to domestic goods; ii) to similar imported products? Is it applied equally to imports and to like domestic goods? In particular, do Mongolian tobacco products and alcoholic beverages bear this tax on an equal basis with similar imported products? Please list the excise tax rates applied at the current time, by individual product.

Are the excise taxes on imported liquor and tobacco applied to like domestic product at an equivalent level? Are these excise taxes consistent with Article III of the GATT?

Reply: The excise tax is applied to all kinds of alcoholic beverages, tobacco products and jewellery. It covers both imported and like domestic goods. Imported goods are charged at higher rates than the like domestic products. The excise tax on imports is applied from the date of completion of the customs clearance. The like domestic products, are subject to the excise tax from the date of invoice of the producer.

Since the current rates of this tax applied to imports are higher than those which are applied to like domestic products it is not consistent with Article III of the GATT. Upon the accession to the GATT, Mongolia will adhere to its principles, including the commitment towards the other contracting parties not to apply internal taxes or charges in excess of those applied to like domestic products. The Customs Law and the Taxation Law provide that in case of any discrepancy between the national legislation and the international treaties to which Mongolia is a signatory the latter shall prevail. Thus, the international commitments of Mongolia will be automatically enforced.

The rates of the excise tax are as follows:

<u>Name of the Product</u>	<u>Domestic</u>	<u>Imported</u>
1. Rectified Spirit	85%	150%
2. Alcoholic beverages	80%	100%
3. Wines	30%	50%
4. Tobacco products	*	100%
5. Jewellery		
- golden	40%	-
- silver	10%	-

* Mongolia does not have domestic production of tobacco.

Question: Please describe the scope and level of the sales tax. Is it applied to all goods, both imported and domestically produced, in the

Mongolian domestic market? At what point of sale is it applied for:
i) domestic articles; and ii) imported goods? All non-tariff taxes and charges applied to imports by Mongolia should be levied in conformity with GATT provisions, in particular those concerning national treatment (Article III) and the customs charges (Article VIII).

Reply: According to the Articles 4, 6, 8 of the Sales Tax Law, a sales tax of 10% is applied to goods and services both imported and domestically produced.

Imports are subject to sales tax from the moment of their importation into the territory of Mongolia. Domestic articles are charged upon the purchase of lease of goods or from the date of invoice submitted for payment of services rendered. Upon the accession to the GATT, Mongolia as a contracting party to the Agreement will respect and follow out its provisions and will ensure its implementation.

Export duties

Question: Are there any taxes or charges of any type applied to exports, or any charges for requisition of export licenses?

Reply: No taxes or charges of any kind are applied to exports and no charges are levied for acquisition of export licenses.

Non-tariff measures

Question: What are the particular circumstances surrounding the sectors subject to quantitative restrictions (QRS) which justify QRS for balance of payments reasons under Article XVIII: B of the GATT?

Does Mongolia intend to broaden the scope of QRS to include products for which QRS are not currently applicable?

Reply: There are no quantitative restrictions on imports into Mongolia.

Licensing system

Question: Are we to assume that import licenses will not be issued for products that are available in abundance in Mongolia (e.g. live animals, meat, raw materials of animal origin and goods thereof minerals, wood, etc.)?

Reply: Currently the products indicated in the above-mentioned question are not subject to import licensing and there is no likelihood of introducing such licenses in the short run.

State trading

Question: Please indicate what portion of Mongolia's imports and exports are currently accounted for by: i) State trading enterprises; ii) State-owned, operated, or controlled production enterprises; and iii) privately owned or foreign-invested enterprises.

Reply: As of 1 April 1993, the break-up of exports and imports handled by State enterprises and private entities is as follows:

	<u>State enterprises</u>	<u>Private enterprises</u>
	(% value)	(% value)
Export	65	35
Import	70	30

Note: State enterprises include State-trading enterprises and State-owned, operated, controlled production enterprises. Data, segregating individual outputs are not available.

Question: Please list Mongolia's State-trading enterprises and the major products that they trade.

Reply: The list of the State-trading enterprises in Mongolia is as follows:

<u>Name of enterprise</u>	<u>Major products handled</u>
1. "Autoimport" Corporation	import of transportation equipment
2. "Mongolimpex" Corporation	import and export of food-stuffs, consumer-goods, raw materials, equipment
3. "Mongolexport" Corporation	export of livestock, meat, animal raw materials
4. "Petroleumimport"	import of petroleum products
5. Consumer Goods Import-Export Corporation	import-export of raw materials for food and light industry, consumer goods and foodstuffs
6. The Border and Barter Trade Company	barter and border trade with consumer goods, food products, raw materials, equipment etc.
7. Wholesale Company	supply of consumer goods
8. Wholesale Company of Food Products	supply of food products
9. "Materialimpex" Corporation	import and export of construction materials
10. "Mongoleimpex" Corporation	import and export of medicine
11. "Techniqueimport"	import of construction and road building machinery and equipment, electrical goods, tools
12. "Agriculturaltechnique-import"	import of agricultural machinery, equipments, raw materials, spare-parts and export of agricultural products
13. Raw Material Corporation	procurement and export of raw materials

14. "Energyimpex" Company import of energy equipments, spare-parts for energy sector
15. "Coal" Company export of coal and import of equipment, spare-parts, raw materials for coal mining
16. "Compleximport" complete supply of equipment for foreign assistance projects
17. "Erdenet" Corporation export of copper and molibdenum concentrate and import of goods for "Erdenet" plant
18. "Mongolsovtsvetmet" export of fluor-spare
19. "Gobi" Company export of cashmere and other products thereof

The above mentioned State-trading enterprises have no exclusive or special privileges and are treated on the same basis as private entities, without interference from the Government of Mongolia.

Question: Please describe in some detail how State-trading enterprises acquire imports and place exports on the international market. Are commissions assessed of firms that place or acquire their traded goods through such entities.

Reply: State-trading enterprises are free to choose the process to place their goods on the international markets and to acquire their imports from any country.

The State-trading enterprises assess commissions on the firms that place or acquire their traded goods through them.

Question: Specifically, what controls have been placed on import and export products? Which products are subject to such control? Which

organization/Government body is responsible for devising and administering controls?

Reply: According to the Government Decree of 24 May 1993, the following items are subject to control with respect to their importation into and exportation from Mongolia.

**List of items prohibited for importation into and
exportation from the territory of Mongolia**

<u>Items</u>	<u>Prohibited</u>
1. Narcotics and their appliances for use manufacture	exit and entry
2. Books, movies, video tapes, photo films propagating pornography and violence	exit and entry
3. Animals, trophies and products, listed in International and Mongolia Red Books and Mongolian legislation	exit
4. Goods received under loans and assistance from international organizations and donor countries	exit
5. Livestock, animals, birds, and raw materials, foetus, embryos thereof and microorganisms without veterinary certification or permission from appropriate organization	exit and entry

List of items importation or exportation of which are
subject to authorization

<u>Items</u>	<u>Permitted</u>
1. Historical and cultural property, paleontological, archeological discoveries, samples of soil, plants and animals	exit and entry
2. Precious metals, precious and semi-precious stones	exit
3. Ferrous and non-ferrous metals	exit
4. Weapons and explosives	exit and entry
5. Velvet horn, plants listed in international and Mongolian Red Book	exit
6. Radioactive elements, rare elements, chemical elements	exit and entry
7. Breed stock, meat, grains, fodder	exit

Except the above-mentioned items, all other goods, products and services are allowed to be freely exported or imported by all entities.

The Ministry of Trade and Industry of Mongolia is responsible for all matters concerning the export and import policy of Mongolia.

Question: The reply to question number 58 indicates that a high proportion of trade is conducted by State enterprises. Are these enterprises accorded any exclusive rights or privileges? Do they operate purely on the basis of commercial considerations? Do private enterprises have the right to fully compete in the market place with State enterprises?

Reply: The proportion of trade conducted by State and private enterprises which is given below shows that the role of the private entities is significant at present:

	<u>State enterprises</u>	<u>Private enterprises</u>
	(% value)	(% value)
Export	65	35
Import	70	30

The State enterprises are not accorded any special privileges or exclusive rights. They operate purely on the basis of commercial considerations. The private enterprises have the right and the opportunity to fully compete in the market place with any State enterprises.

Trade agreements

Question: Mongolia is seeking to join the GATT at a time when the Uruguay Round negotiations are expected to be completed and existing GATT members will be required to fully subscribe to the outcome of the Round. In such circumstances, has Mongolia examined whether it will be in a position to adhere to the Uruguay Round outcome?

Reply: Mongolia is looking forward to the results of the Uruguay Round. Mongolia will adhere to all commitments deriving from its accession to the GATT.

Transparency

Question: Please list the publications of laws and regulations.

Reply: All laws and regulations are published in official newspapers of

the Parliament and the Government and there are also special government publications, monthly and quarterly, of the collection of laws and regulations, namely;

1. "ARDIN ERH"
 - The official newspaper of the Parliament and the Government: publishes all laws enacted by the Parliament.
2. "ZASGIIN GAZRIIN MEDEE"
 - The official newspaper of the Government: publishes all the decrees, regulations, orders adopted by the Government, Ministries and government agencies and bodies.
3. "TURIIN MEDEELEL"
 - Quarterly collection of the laws and regulations passed by the Parliament and the President.
4. "ZASGIIN GAZRIIN SHIIDVERIIN EMHTGEL"
 - Monthly collection of all decrees and regulations of the Government.

Ministries and other government bodies, such as the Customs General Administration, run their own newspapers and publications through which the respective laws and regulations are made available to the public.