

ANNEX: HOW TO ACCEPT THE PROTOCOL OF AMENDMENT TO INSERT THE AGREEMENT ON FISHERIES SUBSIDIES INTO ANNEX 1A OF THE WTO AGREEMENT

At its twelfth session, held in Geneva, Switzerland from 12 to 17 June 2022, the WTO Ministerial Conference reached a [Decision](#) to adopt an amendment Protocol to insert the Agreement on Fisheries Subsidies into Annex 1A of the WTO Agreement, and opened the Protocol for acceptance by Members.

According to the WTO Agreement, a Member formally accepts the Protocol by depositing what is referred to as an “instrument of acceptance” for the Protocol with the WTO. As stipulated in the Protocol, it shall enter into force upon acceptance by two thirds of the Members, in accordance with Article X:3 of the WTO Agreement. Once the Protocol enters into force, the Protocol shall remain open for acceptance, and will take effect for Members that deposit an instrument of acceptance after that date on such Member’s respective date of deposit.

Frequently asked questions

What is the WTO practice regarding the deposit of acceptances?

The WTO closely follows established United Nations depositary practice, which is based in international treaty law, including the formalities and requirements concerning valid acceptance set out below.

What must be stated in an instrument of acceptance?

There is no single, uniform approach for drawing up an instrument of acceptance for the Protocol; each individual member may have its own practice for accepting international treaties and treaty amendments. However, in line with established depositary practice, the instrument of acceptance must give clear and unambiguous expression to the relevant Member’s intention and consent to be bound by the agreement in question (in this case, the Protocol).

In particular, the instrument of acceptance must:

- clearly identify the Protocol by its full title and by the place and date of its adoption, i.e. “the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization, Agreement on Fisheries Subsidies, done at Geneva on 17 June 2022” or, alternatively, reproduce the Protocol as an attachment to the instrument of acceptance;
- state that the Member concerned formally accepts the Protocol and expresses its consent to be bound by it;
- state the date and the place of issuance of the instrument of acceptance;
- be signed; and
- state the name and title of the person signing the instrument.

Who may sign the instrument of acceptance?

Established practice is for the instrument of acceptance to be issued and signed by the head of state, the head of government, or the minister for foreign affairs (the “Big Three”).¹ The instrument may be signed by another official provided that he or she produces official documentation (“full powers”) to the effect that one of the “Big Three” has authorized him or her to issue and sign the instrument.

Unsigned instruments in the form of notes verbales, even bearing the seal of the ministry or of the presidency, are not sufficient for accepting the Protocol.

What are the arrangements for depositing a valid instrument of acceptance?

In practical terms, the instrument of acceptance should be deposited with the Depositary Assistant in the WTO Legal Affairs Division. Only original instruments are valid, and the date of deposit corresponds to the date when the valid original instrument fulfilling the above requirements is received by the Depositary Assistant. Copies in electronic or paper form are not acceptable.