

# World Trade Organization: The Role of Developing Countries in the WTO. Challenges Faced by Developing Countries Joining the WTO and Their Solutions

---

**Ramazanov, Amrah**

**Master's thesis / Diplomski rad**

**2021**

*Degree Grantor / Ustanova koja je dodijelila akademski / stručni stupanj:* **University of Zagreb, The Faculty of Political Science / Sveučilište u Zagrebu, Fakultet političkih znanosti**

*Permanent link / Trajna poveznica:* <https://urn.nsk.hr/urn:nbn:hr:114:330071>

*Rights / Prava:* [Attribution-NonCommercial-NoDerivatives 4.0 International/Imenovanje-Nekomercijalno-Bez prerada 4.0 međunarodna](#)

*Download date / Datum preuzimanja:* **2024-07-24**



*Repository / Repozitorij:*

[FPSZG repository - master's thesis of students of political science and journalism / postgraduate specialist studies / dissertations](#)



University of Zagreb Faculty of Political Science  
Graduate Study of Political Science

Amrah Ramazanov

World Trade Organization. The role of developing countries in  
the WTO. Challenges faced by developing countries joining the  
WTO and their solutions.

GRADUATE THESIS

Zagreb, 2021

University of Zagreb Faculty of Political Science  
Graduate Study of Political Science

World Trade Organization. The role of developing countries in  
the WTO. Challenges faced by developing countries joining the  
WTO and their solutions.

GRADUATE THESIS

Mentor: Professor dr. sc. Ana-Maria Boromisa  
Student: Amrah Ramazanov

Zagreb  
September, 2021

## **Authorship statement**

I declare that I have written my graduate thesis *World Trade Organization. The role of developing countries in the WTO. Challenges faced by developing countries joining the WTO and their solutions* that I submitted to my mentor professor dr. sc. Ana-Maria Boromisa for evaluation, independently and that it is entirely in my authorship. I also declare that the paper in question has not been published or used to fulfil teaching obligations at this or any other institution of higher learning, and that I did not obtain ECTS credits based on it.

Furthermore, I declare that I have respected the ethical rules of scientific and academic work, particularly Articles 16-19 of the Code of Ethics of the University of Zagreb.

\_\_\_\_\_ Amrah Ramazanov

# **World Trade Organization. The role of developing countries in the WTO. Challenges faced by developing countries joining the WTO and their solutions.**

## **Table of Contents**

<b>1. ABSTRACT.....</b>	<b>1</b>
<b>2. INTRODUCTION.....</b>	<b>1</b>
<b>3. THE WTO</b>	
3.1. HISTORICAL PROCESS, LEGAL SOURCE OF THE WTO.....	3
3.2. WTO MEMBERSHIP AND TRADE ACTIVITIES. ORGANASING CONDITIONS FOR INVESTMENT PROMOTION.....	6
<b>4. THE DIFFICULTIES FACED BY DEVELOPING COUNTRIES IN JOINING THE WTO, THE PROBLEMS THAT ARISE DURING ADAPTATION AND THE SOLUTIONS TO OVERCOME THESE PROBLEMS</b>	
4.1. PROBLEMS ARISING FROM D FFERENCES BETWEEN LOCAL AND INTERNATIONAL LEGISLATION AND THE ECONOMIC SYSTEM.....	8
4.2. HARMONIZATION OF LOCAL (DOMESTIC) LEGISLATION WITH WTO STANDARTS.....	9
4.3. LIBERALIZATION OF SERVICE SECTORS AND INTERNATIONAL TRADE ADAPTATION TO THE WTO REQUIREMENTS.....	10
4.4. CONCERN OF DEVELOPING COUNTRIES REGARDING THE HARMONIZATION OF INTELLECTUAL PROPERTY NORMS WITH WTO.....	13
4.5. CHALLENGES FACED BY DEVELOPING COUNTRIES DURING THE ADAPTATION OF THEIR RULES IN THE SPHERE OF ANTI-DUMPING TO THE WTO ANTI-DUMPING REGIME.....	16
<b>5. DIFFICULTIES ARISING FROM NON-COMLIANCE OF ECONOMIC AND POLITICAL ASPECTS WITH WTO RULES</b>	
5.1. PROBLEMS FACED BY ECONOMIES THAT DO NOT COMPLY WITH WTO RULES.....	18
5.2. THE COMPETITVENESS OF LOCAL INDUSTRY AND GOVERNMENT IS NECESSARY TO THE PRESERVATION OF IMPORTED GOODS.....	20

5.3. THE MAIN PROBLEMS FACING DEVELOPING COUNTRIES IN TERMS OF SUPPORT FOR AGRICULTURAL PRODUCTION.....	23
5.4. ECONOMIC AND POLITICAL WEAKNESSES OF DEVELOPING COUNTRIES IN WTO DECISIONS AND DISPUTE RESOLUTIONS.....	25
<b>6. CONCLUSION.....</b>	<b>28</b>
<b>7. SUMMARY AND KEYWORDS.....</b>	<b>29</b>
<b>8. LIST OF REFERENCES.....</b>	<b>33</b>
<b>9. ANNEX5</b>	

## **1. ABSTRACT**

The main purpose of choosing this topic is to conduct in-depth research on the role of developing countries in the WTO, including my own country (Azerbaijan). According to the report, by 2021, the WTO has 164 members.<sup>1</sup> Most of the world's countries and WTO members are countries with weak and competitive economies and developing countries. In my research, I will examine the general reasons for membership in such a global organization, which regulates much of international trade, the reasons why the WTO covers developing countries, the conditions, as well as the difficulties they face during membership and ways to solve these problems. I will try to give detailed information in the introduction to create a clear idea about the organization.

## **2. INTRODUCTION**

The World Trade Organization (WTO) was established as an international organization in 1995 and is headquartered in Geneva, Switzerland. The main purpose of establishing such an institution is to expand and liberalize international trade relations and regulate trade and political relations between member states in accordance with the rules. The relations mainly cover agriculture, public procurement, banking sector, energy resources, textiles and many other legal areas. The organization is also responsible for organizing and monitoring the new trading environment. The organization follows and complies with the rules and laws of the countries of the world. One of the main directions of the WTO is to provide many benefits for developing countries. Developing countries pay more attention to trade customs and tariff protection than developed member countries. However, in developed countries, the total amount of customs, tariff rates and other non-tariff trade products is higher than products imported from developing countries. It can be concluded that access to high-end products from developing countries is difficult or impossible. For this reason, these countries are content with small markets with low purchasing power for the products they need to import. The WTO seeks to create a market that can be used and traded by all member states.

The WTO plays an important role in revealing the legal and institutional basis of the international trade system. The main purpose of the WTO is to ensure the proper functioning of the global

---

<sup>1</sup> [https://en.wikipedia.org/wiki/Member\\_states\\_of\\_the\\_World\\_Trade\\_Organization](https://en.wikipedia.org/wiki/Member_states_of_the_World_Trade_Organization)

trading system, to keep markets open and to eliminate unexpected and artificial barriers to imports. The establishment of a multilateral trade system and the effective regulation of the organizers are based on the basic principles of non-discriminatory liberalization of international trade, forecasting of trade policy and creation of competition, non-imposition of restrictions on imports and exports. The implementation of these principles is based on the rules, decisions and recommendations governing the participation and activities of the WTO in international trade in goods, services and intellectual property.

Since its inception, the WTO has been the subject of discussion for people working in a trade, economics, politics, law and other fields to join the economic and industrial potential of a developing country. Some argue that WTO membership can have a negative impact on a country's economic and political structure, while others argue that it is the only way to develop a developing country's economy and make it more competitive.

Since the main topic of my research is developing countries, there is a need for research on the role of these countries in the WTO. In the continuation of my the thesis, I will examine the most important issues related to the settlement of disputes in the WTO of developing countries, especially the factors that affect any international dispute. Since the economies of most developing countries depend on agricultural exports, they try to enter foreign markets with agricultural products. Issues related to agricultural policy and government support need to be explored to understand the extent to which they can take advantage of the conditions for agricultural production and what measures developed countries can take to protect local industry.

On the other hand, new WTO members face many challenges in the accession process and beyond. Artificial barriers or any difficulties may change the mindset of countries wishing to join the WTO. In the last part of my thesis, I will provide information on the most important challenges facing developing countries in terms of membership and the next stage. At the same time, I will analyze these problems and try to explain the solutions to the problems.



### 3. THE WTO

#### 3.1. HISTORICAL PROCESS, LEGAL SOURCE OF THE WTO

In 1946, an international conference on trade and employment was convened in Havana. In 1947, the General Agreement on Tariffs and Trade (GATT) was signed, initially adopted only as part of a comprehensive agreement within a new international trade organization. This agreement came into force in 1948. The architects of GATT 1947 created a legal mechanism that binds the states of the list of tariff preferences to an international obligation secured by the general provisions of trade agreements. In 1947-1948, an intergovernmental trade organization project was established. As a result of successful steps in the following years, UNCTAD was established. The first United Nations Conference on Trade and Development (UNCTAD) convened in Geneva in 1964. It was a temporary meeting of representatives of about 120 member states of the United Nations.<sup>2</sup>

Only in 1987 did the negotiations of the International Trade Organization begin. The Uruguayan round of talks between 1986 and 1994 was the most successful. As a result of long negotiations in 1994, an agreement was signed in Marrakesh on the establishment of the WTO, which came into force on January 1, 1995.<sup>3</sup>

The WTO is the youngest organization among major international intergovernmental organizations and is one of the most influential organizations in the era of economic globalization. As Marco Bronckers puts it, "it has the potential to be a key pillar of global governance".<sup>4</sup> The WTO is also one of the most controversial international organizations. The WTO has been seen as a key target for many protests. The prestige of the WTO has not always been positive among developing countries. Some sections of civil society remain highly skeptical of the WTO, and the participation of many developing countries in WTO negotiations and decision-making could still be improved. In recent years, developed and developing country members alike have some disappointed with the WTO for its clear helplessness to bring long-running negotiations on further trade liberalization to a successful close and to agree on new rules addressing the challenges international trade is facing in twenty first century.

---

<sup>2</sup> <http://www.yourarticlelibrary.com/trade-2/unctd-united-nations-conference-on-trade-and-development/26269>

<sup>3</sup> Marrakesh Agreement establishing the World Trade Organization (with final act, annexes and protocol), Marrakesh, 15 April 1994

<sup>4</sup> Peter Van den Bossche, "THE WORLD TRADE ORGANIZATION", Cambridge University Press, 2008

Today, developing countries make up more than 4/3 of the WTO members. Developing countries are less developed in large areas such as technology and defense, as well as countries with low quality of life, income and education. Currently, 23 states are in the process of membership. Only a few countries, including North Korea and Turkmenistan, have not applied for WTO membership and there is skepticism about the organization. I need to look to better understand the concerns of the WTO and to deepen my research.

One of these ideas is that the “WTO dictates the policy of member countries. It is not true that the WTO dictates the policy of member states. On the contrary, they influence the formation of the WTO strategy. There can be mutual cooperation, taking into account WTO rules when formulating policies. The rules of the WTO system are agreements reached as a result of negotiations between the governments of member states. These agreements are ratified by the parliaments of these states and decisions are made on the basis of consensus of all members in an accountable and democratic environment. The WTO can only assert its influence if the state violates its obligations, a trade dispute arises and is submitted to the Dispute Settlement Body consisting of representatives of all member states. This decision represents a certain decision on whether the government has violated one of the WTO agreements. If a WTO member who has violated its obligations does not intend to rectify the situation, it may face a response from the organization. It does not participate in decision-making in relation to the role of the Secretariat but only provides administrative and technical support to the WTO and its members” (WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO, 2). Thus, the WTO does not dictate policy to member countries but rather shapes the policy of its members.

Another misconception may be that “ensuring trade interests in the WTO has become a priority over development. The WTO does not prioritize trade over development. Supports free trade, economic growth and development. At the same time, the WTO is the foundation of the trading system. However, the issue of whether developing countries make sufficient use of the WTO system is a matter of ongoing debate. WTO agreements cover many important provisions that take into account the interests of developing countries” (WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO, 4).

“Another idea is raised by environmentalists. Some argue that trade interests in the WTO take precedence over environmental protection. This is also not true. Many provisions pay special

attention to environmental protection” (WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO, 5).

Another misconception is that “commercial interests take precedence over human health and safety. But no one has proved it. Many contracts relate to quality and safety standards for food, animal and other plant products. Their goal is to protect the rights of governments to ensure the security of their citizens” (WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO, 6). As we know, the European Union has a mechanism for controlling agricultural products and special rules. These control measures are aimed at eliminating or reducing the risks to human life.<sup>5</sup>

Opponents of the WTO often claim that “the WTO has made people lose their jobs and widened the gap between rich and poor. This union is wrong. Economic growth is actually about creating new jobs and reducing poverty. With the decline in trade maneuvers, previously protected manufacturers are facing increasing competition, and the effectiveness of adapting to new information is becoming more important. In countries with more flexible adaptation mechanisms, better services for trade and economic development must be provided, and opportunities must be missed within the country” (WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO, 7).

Another argument put forward by “developing countries is related to the influence of developing countries on the organization. According to them, small countries are weak in the WTO. This is not true. In recent years, developing countries have become much more active in the WTO negotiations, making a number of unprecedented proposals in the negotiations on agriculture. For example, the Uruguay Round was made possible only because the industrialized countries agreed to reform the textile and agricultural trade, and both were vital for developing countries. In the WTO trading system, everyone follows the same rules, which significantly expands the negotiation opportunities of small countries” (WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO, 8). Thus, in the framework of the WTO dispute settlement procedure, developing countries have successfully challenged the measures taken by industrialized countries. Outside of this system, these countries would be weak in their actions against stronger trading partners.<sup>6</sup>

<sup>5</sup> <https://logistics.public.lu/en/formalities-procedures/type-goods/food-feed/food-safety-controls.html#>

<sup>6</sup> [https://www.wto.org/english/thewto\\_e/whatis\\_e/10thi\\_e/10thi07\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi07_e.htm)

### **3.2. WTO MEMBERSHIP AND TRADE ACTIVITIES. ORGANISING CONDITIONS FOR INVESTMENT PROMOTION.**

States, which are wishing to be a member of the WTO have to sacrifice some parts of their income, especially custom duties on imported products. These kinds of measures, inspire some people to think about the WTO wrongly that, the WTO insists on free trade at any cost. In fact, it is a question of what concessions countries are willing to ask for and offer during trade negotiations. Yes, one of the principles of the WTO system is to reduce trade barriers and liberalize trade. As a result, countries benefit from increased trade by reducing trade barriers. However, these obstacles (tariffs, non-tariffs, import quotas and voluntary export restrictions) are solved by the negotiating countries. Discussions depend on how willing they are to reduce obstacles and what they want in return. The WTO is a forum for negotiations on liberalization. The organization also provides a set of rules for liberalization. The rules set out in the contracts allow for a gradual reduction of barriers, which gives local producers the time they need to develop habits. Special provisions are also provided for developing countries. No less, and sometimes more important than the principle of free trade, are the other principles of the WTO system. For example: the principle of non-discrimination, as well as the certainty that the conditions for trade are stable, predictable and transparent.

One of the major concerns of developing countries is related to the amount of investments. Some opponents of the WTO claim that lower tariffs will increase imports, which could mean that foreign investors may lose interest in doing business in a particular country. For countries with a relatively unfavorable investment climate, especially for countries with small economies, the choice of goods or investment is a difficult one. If the domestic market is protected by tariffs, it is cheaper to build a factory in the country than to import goods. If the market is open, everything will be produced abroad and imported in finished form.

In general, accession to the WTO itself is accompanied by an increase in foreign investment. Accession to the WTO will help local producers to protect existing markets and open new export markets with favorable export duties. In addition, accession to the WTO requires the adoption of a number of laws that can protect the rights of investors. The requirements of the WTO also harmonize technical norms and standards with international standards, which will guarantee

foreign investors against discrimination by the government. This trend will attract foreign investors. As a result, it will dramatically increase the country's investment attractiveness.

The positive effect of the reduction in import tariffs can be appreciated when considering the vertical investment, for imported components that cover the re-export of manufactured products. This is the preferred type of investment for developing countries. Reducing tariff barriers can only have a negative impact on horizontal investment, and this is not the case. First, horizontal investors import components and materials to developing countries. Second, all costs involved in getting goods to the local market, not just import tariffs, are important for foreign investment inflow, and tariffs in developing countries are only a small part of it. Third, some developing countries have great potential for horizontal investment. They have a large market and most of these countries do not have a developed service sector. To realize this potential, it is necessary to continue tackling interregional barriers to the movement of products and factors of production and to develop transport infrastructure in these countries. Joining the WTO is an unprecedented opportunity for developing countries to attract foreign capital. Businesses and regions that can address the challenges of corporate governance and investor protection will be able to attract significant investment. Also, progressive measures are needed to improve the investment climate to attract investment. At the same time, improving the investment climate is a prerequisite for long-term economic growth, regardless of WTO membership.

In the end, these measures will result in the creation of a single more competitive and stronger economic space in a single country.

#### **4. THE DIFFICULTIES FACED BY DEVELOPING COUNTRIES IN JOINING THE WTO, THE PROBLEMS THAT ARISE DURING ADAPTATION AND THE SOLUTIONS TO OVERCOME THESE PROBLEMS.**

##### **4.1. PROBLEMS ARISING FROM DIFFERENCES BETWEEN LOCAL AND INTERNATIONAL LEGISLATION AND THE ECONOMIC SYSTEM**

One of the key issues of the WTO is to create a more favorable and attractive environment for developing countries and better serve the needs of these countries. Despite the specific and different treatment of developing countries in the WTO multilateral trade agreements, developing countries are not fully integrated into the world trade system<sup>7</sup>. Developing countries account for more than 75 percent of WTO membership. About 30 countries apply for membership, and most of them are developing countries. Although several developing countries have taken serious steps in recent years, much remains to be done.

Developing countries often face some difficulties in joining the WTO. One of these problems is related to the harmonization of domestic legislation with the WTO regime. On the one hand, developing countries need to address certain challenges by improving their legislation. To do this, they must first analyze the local market and economic system. Further, when bringing the legislation in line with WTO standards, they should take into account the concerns of local businesses in terms of trade, production, competition and financial opportunities. To do this, some countries may set up committees to join the WTO. These committees may include members of the board or executive body of some important private firms. They can make recommendations and advice to the government when drafting new regulations on foreign trade, customs duties, taxes, state support and competition policy. It will help developing countries adopt new rules for the WTO regime in line with minimal damage to the economy and domestic production.

On the other hand, the WTO should make efforts to create more favorable conditions for developing countries and to involve the organization with mutually beneficial proposals. It is important to develop a number of policies to bring developing countries more fully into the system. First, technical and financial assistance must be provided for developing countries to be able to fully participate in WTO work. Second, specific market access problems for developing countries need to be identified and discussed. Lack of policy coherence often prevents developing countries from entering the market. However, this entry is officially granted. For example, large agricultural subsidies from developed WTO members effectively prevent poor countries from gaining a comparative advantage in commodity exports from agricultural markets.<sup>8</sup> In addition, high tariff quotas for certain products, such as textiles and sugar, effectively exclude developing countries from markets. Third, the specific concerns of developing countries in the field of

---

<sup>7</sup> Constantine Michalopoulos, *Developing Countries in the WTO* 17, Palgrave Macmillan UK, 2001

<sup>8</sup> Gonzalez, Carmen G., *Institutionalizing Inequality: The WTO Agreement on Agriculture, Food Security, and Developing Countries*. *Columbia Journal of Environmental Law*, Vol. 27, p. 433, 2002.

intellectual property must be respected. Specifically, developing countries must be able to respond to health emergencies, traditional knowledge must be protected by IP, and developing countries must participate in the economic benefits of patents derived from their natural resources. Fifth, there is a need for normative and practical assistance in the field of anti-dumping legislation. As anti-dumping rules are relatively new and not widely used in most developing countries, it will be a significant obstacle for them to adopt anti-dumping rules in line with WTO anti-dumping policies. To manage these issues, the WTO needs to pay more attention to development programs, implement projects in favor of developing countries, create more transparent rules, and make the decision-making process more appropriate for developing countries. It should work more closely with other intergovernmental organizations, such as the IMF and the World Bank, on aid plans for poor countries.

#### **4.2. HARMONIZATION OF LOCAL (DOMESTIC) LEGISLATION WITH WTO STANDARDS**

In view of the above, in this section, I will examine some of the key challenges facing developing countries in bringing their domestic standards into line with WTO standards. I will try to observe the challenges facing developing countries in the service sector, foreign trade, agriculture, protection of domestic production, intellectual property and anti-dumping during its membership in the WTO.

Before joining the WTO, there is a period of negotiations, which can be the most time-consuming phase of accession (step 2). Discussions should determine whether member countries' policies and institutions comply with various aspects of WTO agreements and, in part, with specific tariff agreements and commitments on foreign trade and services. Delays can occur on both sides. The acceding government may not want to make the necessary liberalization commitments. For example, it may not offer liberalization of non-tariff barriers or may offer higher mandatory tariffs than existing ones. Members, in turn, may not be satisfied with the proposed level of liberalization or may be reluctant to accept delays in bringing the applicant's laws and institutions into line with WTO provisions. Sometimes, as in the cases of Albania, Croatia, Estonia, and Latvia, delays have stemmed not from the WTO accession process as such but from disagreements between the European Union and the US over the commitments of acceding

countries in the WTO ( for example, in audio-visual services) and the possible future association of these states with the EU.<sup>9</sup>

There are five main areas in which developing countries need to change their legislation during the negotiation process: a) Foreign trade in goods b) Trade in services c) Intellectual property d) Anti-dumping legislation e) State support for domestic industry

#### **4.3. LIBERALIZATION OF SERVICE SECTORS AND INTERNATIONAL TRADE ADAPTATION TO THE WTO REQUIREMENTS**

Establishing an open and liberal trading system requires foreign trade transactions in a fair competition that each WTO member country provides in its own national market. It should be noted that one of the main conditions for the accession of new countries to the WTO is to align national legislation and practices governing foreign economic activity with the provisions of the Uruguay Round agreements. The problem of bringing the legislation of a developing country in line with the norms and rules of the WTO is one of the important issues. The main questions and claims of the WTO developing countries are customs administration, standardization, labor and environmental legislation and standards, enforcement of sanitary and phytosanitary norms, norms on government subsidies for production, financial statements, practice, intellectual property rights, as well as currency control and measures. At the final stage of Accession, the national legislative body of the agreed candidate country ratifies the entire package of documents within the framework of the Working Group and approved by the General Council.

When joining the WTO, it is necessary, above all, to take into account political and social purchases, rather than concrete economic forecast figures that will ultimately create favorable conditions for healthy economic growth and the development of a competitive environment. One of the main benefits of a WTO's accession to the WTO would be a market-based legal system that regulates trade and other sectors in both the domestic and world trade, which is subject to the regulation of agreements included in the structure of the WTO. Prior to the country's accession, existing legislation governing the implementation of WTO agreements should be reviewed and adopted.

---

<sup>9</sup> Constantine Michalopoulos, *Developing Countries in the WTO* 65, Palgrave Macmillan UK ,2001



Developing countries applying for WTO membership often face difficulties in aligning their local services legislation with WTO legislation. The main document regulating trade in services within the WTO is the GATS. In accordance with the requirements of this document, each country participating in the WTO compiles a list of specific obligations for services in terms of services. Service negotiations are made on a list basis. If certain obligations arise as a result of negotiations with relevant WTO members to enter the service market, a set of general obligations set by the GATS must be fulfilled by all WTO members. The main of these obligations is the obligation to grant the most-favored-nation treatment (GATS Article II).<sup>10</sup>

Regulating trade in services within the WTO, all services are classified into 12 sectors as follows:

1. Business services
2. Communication services
3. Construction and related engineering services
4. Distribution services
5. Educational services
6. Environmental protection services
7. Financial services
8. Health and social services
9. Tourism and travel services
10. Services for organizing recreational, cultural and sports activities
11. Transport services
12. Other services not listed

Each sector is divided into sub-sectors. In total, the classifier of services covers 155 subsectors.

Article 16 of the GATS contains a list of market access restrictions, which includes six main restrictions on foreign service providers' market access:<sup>11</sup>

---

<sup>10</sup> Article 2, General Agreement on Trade in Services, Geneva, 1994

<sup>11</sup> Article 16, General Agreement on Trade in Services, Geneva, 1994

- a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service;
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

In 2001, a new round of WTO multilateral trade talks began in Doha. The main objective of the Doha tour, including negotiations on service liberalization, was to expand services open to international trade. Negotiations on services took place in two main areas:

1. Market access, a) Bilateral negotiations on specific obligations regarding the services of WTO members; b) Proposals for the regulation of trade in services, including MFN, and proposals for horizontal regulatory measures.
2. According to GATS rules (internal regulation, guarantees, subsidies, public procurement). The most active work is being done on the development of internal regulations covering requirements and qualification procedures, requirements and licensing procedures as well as technical standards.

To maximize the benefits of WTO participation, a country should take an active negotiating position after joining the WTO. The participating country should be able to protect the interests of service providers by actively participating in the development of international trade rules and encouraging WTO members to further liberalize their service markets.

Another important part of the WTO accession procedure is the preparation, harmonization and signing of the Accession Protocol. The Accession Protocol has the potential to include provisions

that allow a country to gradually align its legislation with WTO member commitments. However, in practice, it is very difficult and time-consuming to get the approval of the negotiating parties to include such provisions in the Protocol.

#### **4.4. CONCERN OF DEVELOPING COUNTRIES REGARDING THE HARMONIZATION OF INTELLECTUAL PROPERTY NORMS WITH WTO**

After joining the WTO, a new member state must open its domestic market for foreign companies engaged not only in natural resources, but also in scientific and technical achievements. This means that for the economy and industry of the acceding country, there will be serious problems in the production and export of any product produced in that country if the rights and rules of management are registered with the relevant patents. If you have a similar patent, you can legally veto the sale of such a product. An aggregate "patent portfolio" that has not been developed and protected by good governance can bring huge benefits to the country's economy. However, with the current state of intellectual property management in most developing countries, when innovative developments are not often required, foreign companies have control over any enterprise in the country unless there is sufficient expertise to assess, maintain and start these developments. It is very easy to set up. For this, it is enough for enterprises to formalize their intellectual property rights to technology, equipment, and products, and thus to control their assets and use them for their own benefit.

As a member of the WTO, it would be useful to analyze intellectual property rights in a short period of time before conducting a more in-depth study of the growing intellectual property problems in developing countries. Intellectual property rights can be defined as private or, in some cases, as the protection of public innovation. Intellectual property rights must protect "original ideas, forms of creative expression, new discoveries, inventions and trade secrets."<sup>12</sup> The main forms of intellectual property rights include patents, copyrights and trademarks.

In support of the protection of growing intellectual property, major technology manufacturers have begun to speculate that counterfeiting and piracy are distorting international trade by reducing national income and preventing it from expanding into foreign markets.<sup>13</sup> In contrast,

---

<sup>12</sup> Sherwood, R.M., Intellectual Property Rights and Economic Development, 1990, p. 11.

<sup>13</sup> Alford, W., How Theory Does-And Does Not-Matter: American Approaches to Intellectual

calls for greater protection of IP rights by technology importers in developing countries were no more than "the ploy of rich multinational firms to extract high royalties under the pretext of international law."<sup>14</sup> The policies of most developing countries reflected a development strategy based on providing local industry with technology at the lowest cost in the short or medium term. To this end, many developing countries have allowed IP-protected goods to be used relatively freely for local industries.

On the other hand, many developing countries, which consider themselves mainly consumers of intellectual property, believe that such measures limit the access of poor countries to new products and technologies, thereby slowing their further development. The lack of enforcement measures to protect patents, copyrights and other similar rights leads to the fact that the owners of these rights will have market power, which leads to higher prices than the marginal cost of production during the period of protection. For small developing countries with sufficient ingenuity and creative potential, a high level of protection of intellectual property rights leads to the transfer of rent to foreign patent holders. In addition, the implementation of TRIPS requirements poses institutional and financial challenges for developing countries. For many poor countries, such costs result in a significant increase in the burden on the budget and a reduction in funding for other priority development areas. The above factual information on the relationship between foreign direct investment and intellectual property rights shows that foreign capital inflows alone cannot be achieved by strengthening the protection of intellectual property rights. At the same time, the experience of other member states' reforms shows that strong protection of intellectual property rights, provided that the investment climate is improved, has a positive impact on the development of domestic production and attracts foreign investment.

Unlike commodity trading, intellectual property trading requires regulation by governments to protect IP rights. For example, the TRIPS Agreement mandates states to regulate and protect the monopoly rights of innovators and authors. These positive or positive obligations require the state to act, in contrast to the negative obligations or passive obligations of the GATT, which do not regulate trade in goods or try to abolish tariffs. For this reason, TRIPS is deepening national sovereignty at great expense to nations that have not previously defended IP rights. However,

---

Property Law in East Asia (1994) 13 U.C.L.A. Pacific Basin Law Journal 8, p. 9.

<sup>14</sup> Cornish, W.R., *Intellectual Property: Patents, Copyrights, Trademarks and Allied Rights* (1989) Sweet & Maxwell Publishers, pp. 14-15.

barriers to trade in goods are generally related to the active prevention or postponement of entry into a market, and trade barriers to copyrighted or patented goods, state inaction, free movement or less profit for foreign IP rights holders due to inadequate protection that allows access. Thus, unlike GATT, TRIPS requires more government action to prevent undesirable private actions.<sup>15</sup>

To minimize the harmful effects of the above problems and to make the WTO still attractive to developing countries, judges should allow developing countries to settle serious claims at the domestic level. Developing countries themselves should develop rules that limit the scope of the requirements imposed by patent applicants. The courts of developing countries, unlike the US and EU jurisdictions, should limit the concept of equality. As long as equivalence criteria are strict in developing countries, it will be more difficult for local entrepreneurs to invent something and patent it.

As we have seen, one of the main problems is that countries do not have an understanding of the technical and legal nature of the exemptions granted to them by various WTO agreements, such as TRIP and GATS. One last issue is that the TRIPs of such governing bodies in powerful developing countries such as Brazil, Russia, and India can be guaranteed freedom. The main reasons for the accusations were that not only the state bureaucracies, but also the private sector, agriculture and textile companies, in particular, did not complete the informed period. It can be a kind of development that has a relatively developed legal system, it can be even worse in small developing countries. The leaders of the developing countries, which can be used for membership, should be prepared to bring the status of intellectual property in the country in line with WTO standards.

A number of administrative measures must be taken during the accession to the WTO. Some of these measures may include:

a) A new Customs Code has to be adopted, within which customs functions are possible to protect IP rights and prevent illegal trade across the customs border of the country goods containing overnight index swap (OIS).

---

<sup>15</sup> Samahon, T., TRIPS Copyright Dispute Settlement After the Transition and Moratorium: Non-violation and Situation Complaints Against Developing Countries, 2000, 31 Law & Pol'y Int'l. Bus. 1051, pp. 1053-1066.

b) A special unit should be established in the system of the Ministry of Internal Affairs to combat violations of IP rights.

c) A special panel for dealing with IP may be established in the main arbitral tribunal.

d) Appropriate measures should be taken in the courts of first instance and appellate courts to be prepared for an increase in the number of IP infringement cases.

e) A special body shall be established under the tax, contract and finance authority for the registration and taxation of IP business transactions and for the registration of contracts for the abolition of exclusive rights relating to IP

#### **4.5. CHALLENGES FACED BY DEVELOPING COUNTRIES DURING THE ADAPTATION OF THEIR RULES IN THE SPHERE OF ANTI-DUMPING TO THE WTO ANTI-DUMPING REGIME**

The purpose of the WTO is to ensure the functioning of the world trading system on the basis of common rules so that markets remain open and access to these countries is not violated by the application of immediate and random restrictions on imports. At the same time, WTO member states have the right to apply protective antidumping and countervailing measures to restrict access to their markets. The application of such measures is associated with the onset of a crisis in an industry or a violation of WTO principles by trading partners. The principle of promoting fair competition is related to the solution of problems in the field of subsidies and dumping. The GATT anti-dumping code contains the rules used by governments to respond to dumping in domestic markets. The need for multilateral regulation in this area is primarily due to the fact that subsidizing the production and export of products, provides exporters with certain advantages in the competition in the world market. The application of such measures by one country causes a response from other countries, which, in their opinion, causes harm. This leads to accusations of unfair competition and the application of so-called compensatory measures.

One of the main problems facing developing countries in anti-dumping issues is the lack of experienced specialists in this field. Exporters in most developing countries are forced to hire foreign companies to protect their interests when faced with anti-dumping procedures. They admit that they will not be able to cope with their own efforts in foreign markets. Therefore, it is

clear that there is a need for qualified specialists, financiers, technical specialists. Moreover, developing countries have cheap but not very skilled labor. Therefore, "third world" countries can import mainly traditional goods, primarily agricultural products, textiles and clothing. Developed countries impose high import duties on imported goods by protecting the textile industry and agribusiness, restricting imports from developing countries. Protectionist measures are generally justified by the dumping policies of developing countries. In turn, developed countries are leaders in the market of high-tech products, and currently developing countries use protection measures against them.

The anti-dumping process authorized by the anti-dumping agreement (ADA) consists of three main stages: 1) appeal from the local industry 2) dumping investigation 3) investigation of material damage and cause. The anti-dumping process begins after the national authority receives an application in which the complainant claims that a particular type of goods imported from one or more countries is a) sold at exempt prices and b) those sales are materially injuring or are threatening to materially injure the specific domestic industry. The national authority may only initiate antidumping investigation if the petitioner has shown a prima facie case supporting its allegations and has notified the government of the targeted Member.<sup>16</sup> Once the investigation is initiated, the national authority must assess whether the local industry has suffered or is threatened with injury as a result of the targeted goods, whether the cause of the injury is actually discarded product or other economic and trade factors.<sup>17</sup>

The regulation of foreign trade in capitalist countries is based on the fact that the state does not interfere in the trade activities of participants in foreign economic relations. In particular, the exporter does not set or regulate the prices at which he sells his goods in foreign markets, and the importer buys them. State intervention is allowed only if conditions are created that impede free circulation and prices in the market. This is a basic principle of foreign trade regulation enshrined in the GATT and followed by the development of the legislation of GATT member states on foreign economic activity.

The provisions of the Anti-Dumping Code are binding when GATT countries prepare and apply the provisions of the national anti-dumping law. The main content of anti-dumping legislation is the following norms:

---

<sup>16</sup> Article 5, The Antidumping Agreement, 1994

<sup>17</sup> Article 3, The Antidumping Agreement, 1994

- on the task of enforcing the law, on a special body undertaken to take anti-dumping measures;
- on the procedure for taking these measures.

## **5. DIFFICULTIES ARISING FROM NON-COMPLIANCE OF ECONOMIC AND POLITICAL ASPECTS WITH WTO RULES**

### **5.1. PROBLEMS FACED BY ECONOMIES THAT DO NOT COMPLY WITH WTO RULES**

As discussed above, accession to the WTO can improve access to products for foreign markets, expand foreign investment opportunities and increase the competitiveness of products. In addition, according to the requirements of the WTO, the law-making process in the country will be more transparent, business circles will have the opportunity to participate in the formation of the business environment, local producers can open new markets. On the other hand, the country will no longer be able to actively protect domestic producers through tariffs and other import-related discriminatory measures. Some economists say light industry, machinery, textiles and agriculture could suffer from lower import duties.

During the forty years of GATT's history, there has been a lot of discussion and confusion about the position of developing countries in world trade. The economic literature is extensive and a number of issues can be raised or discussed. One of the key questions is whether world trade rules are fair to develop countries. At various times, it has been claimed that these rules work to the detriment of non-industrial countries. Indeed, the GATT itself has only two provisions that explicitly allow for differential treatment for developing countries. One of them is Article XVIII, State Support to Economic Development, and the other is Part IV of Trade and Development. In most cases, GATT rules do not differentiate between trade between developing and developed countries. In addition, there are some specific agreements between certain groups of countries designed to benefit developing countries.<sup>18</sup>

---

<sup>18</sup> Article 24, General Agreement on Trade in Services, Geneva, 1994



The first level of analysis asks which GATT rules clearly discriminate against trade between developing countries. No reply. GATT rules tend not to make a clear distinction between developing countries and trade, except to benefit developing countries. However, in a more in-depth analysis, it will be examined whether the non-discriminatory rules of the GATT and the trading system are in fact discriminatory, given the facts and conditions of the real world. Another important issue in the GATT-Bretton Woods world trading system is whether there are good reasons to give special privileges to developing countries. There are two questions that arise with this approach:

- A) What is the moral basis for favorable discrimination against developing countries?
- B) Is favorable discrimination really beneficial, or does it pursue undesirable policies in developing countries?

These questions lead to a third common policy issue that has been much debated in recent years, whether more developed developing countries now require a more complete adoption of GATT's non-discriminatory discipline and trade rules.

In this section, I will look at the national economies of developing countries that, for one reason or another, do not fit into the post-World War II Bretton Woods world trading system. With these types of economies, I will analyze the need to protect local industry and the agricultural sector. In this section, I will focus on WTO accession, local production, government subsidies to national producers, agricultural challenges to maintain competitiveness with imported products, and some of the benefits for developing countries in this area. Finally, I will outline what legislative and administrative measures will be taken in general to join developing countries to minimize the negative effects of membership in this international organization.

## **5.2. THE COMPETITVENESS OF LOCAL INDUSTRY AND GOVERNMENT IS NECESSARY TO THE PRESERVATION OF IMPORTED GOODS**

Accession to the WTO will inevitably lead to certain losses in the economies of developing countries. First, it will be difficult to protect many domestic industries if access to foreign markets for goods and services sought by the country's WTO partners is significantly simplified. As domestic producers have to compete in foreign and domestic markets under very harsh

conditions for all commodity groups, crises in the actual economic sphere can develop in two main directions:

A) On the one hand, local firms exporting goods will undoubtedly be legally presented with the alleged dumping allegations they use. The fact is that the cost structure of competitive goods in developing countries is very different from that of developed goods. Therefore, these developing countries will be required to raise domestic energy prices, for example, in line with world prices.

B) On the other hand, competition in the domestic market with cheaper and better quality goods from foreign firms will increase sharply. According to some experts, only 25-50% of local enterprises will be able to compete with foreign producers in the domestic market, depending on the diversification and competitiveness of the economy. For the rest, the reduction of customs barriers is detrimental, as it can lead to destruction. Therefore, as a condition for WTO membership, most developing countries insist on maintaining high customs duties to protect the domestic market from subsidized products from Europe, Asia and other countries.

In general, protectionism is one of the key elements of tariff policy in the preparation of tariff proposals for accession to the WTO. First of all, it is necessary to reconsider the need to protect some strategically important areas of industry in addition to potential areas of development. Customs tariffs are the only legal means of protecting domestic producers within the GATT / WTO for most developing countries. For example, many emerging economies have higher tariffs for the automotive industry, such as sensitive industries.

According to Article 1 of the SCM Agreement, there is a subsidy "financed" by a "state or any public authority" subject to multilateral disciplines, and "thereby" benefits "to" private "enterprises" Thus, the main issues involved in the allocation of subsidies include:

- 1) what is "financial contribution by the state or state body";
- 2) how to justify the "benefit provided";
- 3) Within the meaning of Article 2 of the SCM Agreement, which subsidy falls within the scope of "specificity" except for those that are common to all economic operators?

To demonstrate "financial contribution", Article 1.1 provides a complete list of practices, including:

- a) government practice includes direct transfers (grants, loans), potential direct transfers or liabilities (credit guarantees);
- b) government revenue payable in another way has not been made in advance or has not been collected (tax benefits);
- c) if a government provides or purchases goods or services outside the general infrastructure;
- d) the government makes payments to the financing mechanism or delegates or directs to the private entity the performance of one or more of the functions specified in i) - iii), which will normally relate to government and practice above.<sup>19</sup>

According to the above list, a financial contribution is considered to exist when the government provides financial support outside the general infrastructure. Accordingly, the definition of this requirement depends mainly on the survey:

- a) whether the support in question is financially supported;
- b) whether such financial support is a common scheme;
- c) whether it is really affected.

Another element in determining subsidies is "specificity". The WTO's rules on subsidies do not apply to "government-sponsored financial assistance" unless access to such subsidies is limited to private enterprises. Articles 2.1 to 2.3 of the SCM Agreement provide for four types of subsidies that fall into the category of specificity and are therefore subject to WTO rules:

- a) The specificity of the enterprise, a situation in which the government targets a particular company or companies for subsidies;
- b) The specificity of the industry, a situation in which the government targets a particular sector or sectors for subsidies;
- c) Regional specificity, a situation in which the government targets producers in certain parts of its territory for subsidies;

---

<sup>19</sup> Article 1.1, SCM Agreement, 1986

d) Prohibited subsidies, situation in which the government targets export goods or goods using local goods for subsidies.<sup>20</sup>

The requirement of "specificity" in the SCM Agreement is based on the fact that a large-scale subsidy within an economy does not distort the distribution of resources within that economy and therefore no work is needed or justified. Therefore, the main task here is to determine whether a subsidy scheme is available for all economic operators or for the target enterprises, as mentioned above.

### **5.3. THE MAIN PROBLEMS FACING DEVELOPING COUNTRIES IN TERMS OF SUPPORT FOR AGRICULTURAL PRODUCTION**

Agricultural issues were the focus of discussion at all stages of the talks. In the Uruguay Round, important agreements were reached to bring the agricultural sector in line with international law and control mechanisms. Unresolved agricultural issues were included in the agenda of the next round at a conference in Seattle in 1999. In 2001, the Doha Tour set new standards for the WTO. Discussions were also held in this round to reduce support for agriculture in developed countries. In 2004, a framework agreement was signed in Geneva between the WTO members on the continuation of negotiations on the Doha Round and the partial abolition of subsidies in agriculture. The main issue is the relative quota of agricultural subsidies. The subsidy quota is 10 percent of gross agricultural output in developing countries and 5 percent in developed countries. Subsidies from agricultural countries have a negative impact on overall trade due to differences. For this reason, the main requirement in the Uruguay Round was to regulate and reduce domestic support.

Domestic support for agricultural production is more of a subsidy. For this reason, it is important to analyze the types and conditions of subsidies used by developing countries to understand the challenges they face in terms of internal support for the agricultural sector. Our main sources for this analysis will be the Agricultural Agreement and the Support and Compensation Agreement. According to WTO terminology, agricultural subsidies are divided into three groups: green, yellow and red. There are no restrictions in the green group. Subsidies in this group are mainly

---

<sup>20</sup> P Bossche, *The Law and Policy of the World Trade Organization: Text, Cases and Materials* (2nd ed.) (Cambridge University Press 2008), p 568

for infrastructure improvement and research. As these advantages do not affect the price of the product, WTO members generally do not have a problem with this basket. The "red basket" is an export subsidy banned by the WTO.

Under the SCM Agreement, two types of subsidies are prohibited: 1) export subsidies and 2) import substitution subsidies. Pursuant to Article 3 of the SCM Agreement, export subsidies are subsidies that, by law or in practice, depending on the performance of exports only or as one of several conditions. Annex I to the SCM Agreement provided an explanatory list of prohibited export subsidies.

Unlike prohibited subsidies, a viable subsidy is controversial only if it causes "injury to the domestic industry or the loss of its benefits or impairment or serious damage to its interests."<sup>21</sup>

Finally, the "severe bias" threshold in the case of subsidies allows WTO members to claim their rights not only in the domestic market but also in the subsidizing country and third countries, which negatively affects producers from subsidized imports.<sup>22</sup> According to Article 6.3 of the SCM Agreement, a "serious prejudice" may arise if the subsidy has one or more of the following effects:

- 1) cancels or impedes the import of a similar product of another Member into the market of the subsidizing Member;
- 2) prevent the removal of a similar product of another Member from the market of a third country;
- 3) results in a significant price reduction by the subsidizing product in the same market compared to a similar product of another Member or a significant price pressure, price depression or lost sales in the same market;
- 4) leads to an increase in the world market share of the Member who subsidizes a certain primary product or commodity compared to the average share obtained in the previous three years, and this growth follows a continuous trend over time.<sup>23</sup>

There are exceptions for developing countries. Subsidies under the Amber Box are regulated by Article 6 of the WTO Agriculture Treaty. According to this article, subsidies are allowed to the

---

<sup>21</sup> Article 5, SCM Agreement, 1986

<sup>22</sup> Article 15, SCM Agreement, 1986

<sup>23</sup> Article 6, SCM Agreement, 1986

agricultural sector, but there are restrictions. This includes local production subsidies. Countries that have agreed to WTO agreements have the right to regulate prices in the agricultural sector to a certain extent and to subsidize production volumes.<sup>24</sup>

There is also a special type of subsidy called "green box subsidies". The terms of these subsidies are set out in Article 1 and Annex 2 of the WTO Agriculture Treaty. Subsidies provided under this box should not affect trade. In addition, any subsidized funding should be government-funded and should not be directed to price regulation. At the same time, support for the production of individual products should not be provided, and at the same time, funds should not be used to increase farmers' incomes.

Although these conditions may seem difficult for developing countries, least developed countries are trying to reduce export subsidies. In the case of agriculture, for example, Cambodia has agreed to close agricultural export subsidies to zero and not to use future export subsidies when it becomes a member.<sup>25</sup> Cambodia's agricultural industry now represents a significant part of the economy, accounting for 34.5% of gross domestic product (GDP) in 2003. In addition, more than 80% of the population lives in rural areas and is mainly dependent on agriculture as a means of livelihood.<sup>26</sup>

Efforts by developing countries to support agricultural production can also lead to additional costs in a country's economy. A country can protect its agricultural sector from import competition in a way that it sees as a departure from the commitments made by its trading partners. For example, diplomacy may demand a change in non-compliant import protection by raising questions in the Agriculture Committee, criticizing the WTO's trade policy review, and finally threatening a WTO dispute over alleged violations of the actual origin of the dispute. Resisting such pressure in order to change or avoid it is costly for the government, and the cost increases with increasing resistance.

#### **5.4. ECONOMIC AND POLITICAL WEAKNESSES OF DEVELOPING COUNTRIES IN WTO DECISIONS AND DISPUTE RESOLUTIONS**

---

<sup>24</sup> Article 6, Agreement on Agriculture, 1995

<sup>25</sup> Cambodia Working Party Report, *supra* note 151, at 35-36, par.164.

<sup>26</sup> UNCTAD, Statistical Profiles of the Least Developed Countries, Cambodia (2005), [http://www.unctad.org/sections/ldc\\_dir/docs/ldcmisc20053\\_cmb\\_en.pdf](http://www.unctad.org/sections/ldc_dir/docs/ldcmisc20053_cmb_en.pdf).

The first of the difficulties to be noted in this matter is the difference in the available sources for investing in the court. Developed countries can attract more qualified specialists and attract significant financial resources. In this regard, it makes sense that most appeals to the WTO dispute resolution body should be made by such developed countries, while the number of developing countries on both sides is minimal.<sup>27</sup> This model can be explained in part by the fact that this procedure can be very expensive for small countries.

The weak position of developing countries with small economies in the WTO dispute resolution and decision-making process is understandable and logical. At first glance, the scarcity of resources in developing countries compared to industrialized countries is obvious. The rich developed world has the money and technological resources to play a higher-level trading game against developing countries. In addition, these indicators show that developing countries lack the infrastructure and institutional development to make significant progress in their development. All indicators that point to the structural foundations of an economy, such as consumption, demand, and production structures, indicate the need for infrastructure and institutions for economic development, including trade.

The weak economic position of developing countries makes it difficult for them to participate in multilateral trade negotiations and advance their national interests. The WTO and Uruguay talks have created a forum for such participation with other trading partners. There are different views on multilateral trade negotiations and their benefits and drawbacks for developing countries.<sup>28</sup> Reasons for the ineffective participation of developing countries in multilateral trade negotiations include:

- 1) developing countries are not yet real players in global trade flows;
- 2) the need for state intervention in economic activities is higher for their development, which is less than the optimal level;
- 3) implementation of intellectual property rights for developing countries, sanitary standards, anti-dumping regime, etc.

---

<sup>27</sup> Delich V. Developing countries and the WTO dispute settlement system. In Hoekman B., Mattoo A., English P. (eds.) *Development, trade and the WTO: a handbook*. Washington: World Bank, p. 71, (2002).

<sup>28</sup> Page, S., *Developing Country Participation in Multilateral Trade Negotiations: Developing Country Perspectives and Negotiating Framework*, 2002 in Qureshi, A., *Perspectives on International Economic Law*, pp. 111, (KluwerLaw)

- 4) developing countries have less market power than industrialized countries in accepting agreements due to the small range of products they can offer;
- 5) Developing countries have a different balance of costs and benefits for certain areas of society than developed countries. For example, intellectual property protection is more developed in developed countries than in developed countries due to the lack of economic development.<sup>29</sup>

Given all of the above problems and challenges, we see that there are not many measures that developing countries can take to maximize their influence and power in dispute resolution and negotiation. The most important measures for them may be:

- a) to create favorable conditions for foreign investment;
- b) minimizing dependence on foreign goods in several sectors, such as agriculture, chemicals, textiles, and energy consumption;
- c) diversify the domestic economy as much as possible.

The difficult political decision-making process in the WTO needs to be improved. A kind of executive committee may be established to purchase and sell certain decisions. Such an executive committee may consist of permanent members and non-permanent members, such as the EU, the United States, China, Japan, Russia, Brazil, Turkey, India, and Nigeria. Another "constitutional" change that could be useful would be to facilitate amendments to multilateral trade agreements by amending Article X of the WTO Agreement. Under the current law, contracts are written like stones because changes are very difficult. All of the above measures will at least protect small countries from aggressive behaviors that are only in the interests of developed countries and increase the role of local patients in the decision-making process.

As the Doha roundtable collapses, criticism of the behavior of rich and powerful countries has grown in the course of numerous negotiations. Several influential countries have been accused of trying to manipulate other weak contract parties to go along with the proposals. The United States and the European Union have been accused of failing to reduce agricultural subsidies. Some have seen India move the G-20 into a disruptive position. Concerns are growing among some developing countries that the world trade system, coordinated by the WTO, is fundamentally

---

<sup>29</sup> Anderson, S., Views from the South: The Effects of Globalization and the WTO on Third World Countries, 2000



unfair due to asymmetric economic, political and diplomatic forces between strong parties and relatively weak members.<sup>30</sup>

Some forms of energy management can be problematic not only for the acceding country but also for the WTO mechanism. Another source of inequality is that only representatives of countries have the right to complain to the WTO.<sup>31</sup> The successful use of WTO mechanisms for resolving disputes requires an established and effective link between work and the state.

Researchers say there is no clear solution to this problem. Thus, the realization of the idea of "democratization" of the WTO may have the opposite effect for developing countries, because the strongest and most active non-profit organizations that can complain to the WTO, mainly work in developed countries.<sup>32</sup>

## **6. CONCLUSION**

The establishment of the WTO on a legal basis, the regulation and integration of the international trade system has been going on for more than half a century. Since 1948, the GATT has established international trade rules. The longest and largest negotiation within the GATT is the Uruguay Round, which resulted in the establishment of the WTO. Decisions in the WTO are made by consensus. This procedure is more democratic than decision-making by a majority vote. The concluded agreements are approved by the parliaments of the member states. Although not every country has the same negotiating capacity, a consensus rule means that each member of the organization has a say and that decisions are made only in the absence of the opposition. Thus, the WTO mechanism creates equal opportunities for the governments of all member states. Membership in the WTO means free competition. Therefore, not all participants will be successful, and no one can say for sure that these losers will feel guilty for their failure. Some will blame the WTO for not doing so. Today, WTO membership is inevitable and helps counter

---

<sup>30</sup> Developing countries and the World Trade... (PDF Download Available). Available from: [https://www.researchgate.net/publication/46527061\\_Developing\\_countries\\_and\\_the\\_World\\_Trade\\_Organization\\_A\\_foreign\\_influence\\_approach#pf2](https://www.researchgate.net/publication/46527061_Developing_countries_and_the_World_Trade_Organization_A_foreign_influence_approach#pf2) [accessed Jun 04 2018].

<sup>31</sup> Rai Sh. WTO dispute settlement system and democracy. Some issues to ponder. *Journal of International Trade Law and Policy*, Vol. 16, No. 2, p. 109, 2014

<sup>32</sup> Trofimenko O. Yu. Dispute Resolution Mechanisms in the GATT / WTO. *Vestnik SPbGU*, No. 2, p. 80, 2008

the harmful and meaningless consequences of globalization. Studies show that the sooner a country applies for WTO membership, the less painful it will be to join and the next. It will take time to bring local legislation in line with WTO rules and find solutions to other problems. It is important to understand that WTO membership is associated not only with lowering tariffs, but also with more important consequences for the economy and the country as a whole. There is always a need for government support, and this means a large share of investment. On the other hand, promoting the integration of member countries into the world trade system and sharing experiences will lead to an increase in production capacity. WTO rules and regulations in the field of agriculture, especially in the field of import and export potential, will lead to more successful results. Preventing negative situations will be resolved through security measures. Entrepreneurs who use new methods, advanced technology and appropriate strategies to create a healthy environment will benefit during their activities.

## **7. SUMMARY AND KEYWORDS**

In order to know the main points, results, explanations of the thesis, ideas that may be useful for future use, we must take into account the following information.

This information will make the adoption period of a developing country more favorable for the reduction of losses for domestic production and the economic interests of the acceding country.

A) It is important to identify priority areas for various goods as well as the weakest sectors with high export potential. Customs duties, subsidies and tax incentives should be used effectively to protect them during the transition period. With the average import duty remaining the same, the participating country may impose the lowest import duty on non-productive goods and the highest import duty on other products with high production capacity. High tariffs that ensure the protection of domestic industrial areas requiring customs tariffs should be developed. The rates of low import customs duties obtained during negotiations should not be lower than the tariffs of the main trading partners and competing countries producing the same product.

B) Industry cannot be developed by customs duties alone. In this regard, an in-depth macroeconomic analysis of the relevant areas should be conducted. It is necessary to reduce the cost of the product, improve its quality and create opportunities for foreign markets. As an interested party, not only government researchers, foreign experts, government officials and donor organizations, but also young researchers from universities, their research, new ideas can be used in these studies.

C) The potential resources and experience of other countries should be used in preparing a table reflecting the level and types of state support for agriculture (AGST).

It is extremely important to take special measures to stabilize economic growth and improve the investment climate in the country. Only the fulfillment of the above conditions will ensure a balance of interests between a new member developing country and other members of the WTO and will ensure that the country benefits from WTO membership.

For a developing country seeking membership in the WTO, long-term and administrative reforms are needed to bring anti-dumping legislation in line with WTO standards. As long as the anti-dumping legislation in this country does not comply with the membership process, this procedure can be particularly severe and can have a negative impact on the local economy in the early stages. The following reforms can be made to minimize the challenges faced by a country's anti-dumping legislation and administrative system in complying with WTO standards:

A) Establish the State Anti-Dumping Control Agency and authorize it to make independent decisions on the application of anti-dumping measures and sanctions, and create the necessary conditions for the rapid and effective initiation of anti-dumping, special safeguards and countervailing measures.

B) Monitoring of subsidy programs for sensitive goods by the country's main trading partners, exploring the possibility of active use of initial measures in the marketing policy of foreign producers in the delivery of such goods to the domestic market, in the detection of dumping.

C) Work on the need to amend the legislation of the customs system aimed at simplifying the procedure and reducing the duration of anti-dumping, special safeguard and countervailing investigations. Apply the practice of applying the initial measures of non-tariff regulation applied at the initial stage of the investigation.

Taking into account above-mentioned problems it could be argued that the accession to the WTO could make significant harm in agricultural sector of LDCs and may cause huge expenses in their budgets. If there are systematic and planned measures taken by the governments of these countries in terms of agricultural policy, even developing countries could cope with those challenges with minimum casualties. According to different policies in agricultural industry of many developing countries, the following measures have to be taken primarily in order to get benefits from the membership in the WTO also from agricultural sphere:

A) It is important to identify agro-industrial sectors that are not able to respond adequately and quickly to changes in world market conditions and the development of a specific policy against them. Thus, the government must protect poorly competitive agricultural production areas against imported goods;

B) "Special and Different Support Measures" should be taken to avoid serious reduction of subsidy commitments. Thus, the country should be able to maximize the number of subsidies included in the "Yellow Basket" and reach the level of subsidies in the amount of 10% of gross agricultural output;

C) Establishment of an effective state support system for exporters to support the export of WTO-supported agricultural and industrial products, including through concessional lending;

D) It is also important to approve a specific state program for agricultural development and regulation of agricultural markets at the level of direct state support for agriculture in accordance with the terms of WTO membership. Criteria for identifying areas with unfavorable conditions for agriculture in order to provide differential state support to agricultural producers in a country;

E) Finally, the government should pay attention to the development of a subsidy mechanism for local agricultural machinery manufacturers, the transportation of specialized equipment and special equipment sold to agricultural producers on concessional credit terms.

In my latest proposal, I would like to conclude that more efforts should be made to ensure that the political and diplomatic power of developed countries does not become decisive in multilateral negotiations, the decision-making process and the dispute resolution mechanism. This will make the WTO a credible international organization for small developing countries and increase efforts to engage more deeply in WTO trade policy through appropriate reforms.

**KEYWORDS** - World Trade Organization, Developing Countries, Agriculture Negotiations, Trade Policy, Antidumping, Special and Differential Treatment, Economies, Politics.

## 8. LIST OF REFERENCES

Peter Van den Bossche (2008) *“THE WORLD TRADE ORGANIZATION”*, Cambridge University Press.

Constantine Michalopoulos, (2001) *Developing Countries in the WTO 17*, Palgrave Macmillan UK.

Constantine Michalopoulos, (2001) *Developing Countries in the WTO 65*, Palgrave Macmillan UK.

Gonzalez, Carmen G., (2002) *Institutionalizing Inequality: The WTO Agreement on Agriculture, Food Security, and Developing Countries. Columbia Journal of Environmental Law*, Vol. 27, p. 433.

Sherwood, R.M., (1990) *Intellectual Property Rights and Economic Development*, p. 11.

Alford, W., (1994) *How Theory Does-And Does Not-Matter: American Approaches to Intellectual Property Law in East Asia* 13 U.C.L.A. Pacific Basin Law Journal 8, p. 9.

Cornish, W.R., (1989) *Intellectual Property: Patents, Copyrights, Trademarks and Allied Rights*, Sweet & Maxwell Publishers, pp. 14-15.

Samahon, T., (2000) *TRIPS Copyright Dispute Settlement After the Transition and Moratorium: Non-violation and Situation Complaints Against Developing Countries*, 31 Law & Pol’y Int’l. Bus. 1051, pp. 1053-1066.

Cambodia Working Party Report, supra note 151, at 35-36, par.164.

P Bossche, (2008) *The Law and Policy of the World Trade Organization: Text, Cases and Materials (2nd ed.)* (Cambridge University Press 2008), p 568

Delich V. (2002) *Developing countries and the WTO dispute settlement system. In Hoekman B., Mattoo A., English P. (eds.) Development, trade and the WTO: a handbook*. Washington: World Bank, p. 71

Page, S., (2002) *Developing Country Participation in Multilateral Trade Negotiations: Developing Country Perspectives and Negotiating Framework*, in Qureshi, A., *Perspectives on International Economic Law*, pp. 111, (KluwerLaw)

Anderson, S., (2000) *Views from the South: The Effects of Globalization and the WTO on Third World Countries*.

Developing countries and the World Trade... (PDF Download Available). (2018) Available from: [https://www.researchgate.net/publication/46527061\\_Developing\\_countries\\_and\\_the\\_World\\_Trade\\_Organization\\_A\\_foreign\\_influence\\_approach#pf2](https://www.researchgate.net/publication/46527061_Developing_countries_and_the_World_Trade_Organization_A_foreign_influence_approach#pf2).

Rai Sh. (2014) *WTO dispute settlement system and democracy. Some issues to ponder*. Journal of International Trade Law and Policy, Vol. 16, No. 2, p. 109,

Trofimenko O. Yu. (2008) Dispute Resolution Mechanisms in the GATT / WTO. Vestnik SPbGU, No. 2, p. 80.

Unctad.org, (2005), *Statistical Profiles of the Least Developed Countries, Cambodia* [http://www.unctad.org/sections/lcd\\_dir/docs/lcdmisc20053\\_cmb\\_en.pdf](http://www.unctad.org/sections/lcd_dir/docs/lcdmisc20053_cmb_en.pdf).

### **Internet sources**

yourarticlelibrary.com (2008) [UNCTD: United Nations Conference on Trade and Development]

<http://www.yourarticlelibrary.com/trade-2/unctd-united-nations-conference-on-trade-and-development/26269> Accessed in 11 July 2021

logistics.public.lu (2020) [FOOD SAFETY CONTROLS] <https://logistics.public.lu/en/formalities-procedures/type-goods/food-feed/food-safety-controls.html#> Accessed 11 July 2021

wto.org [7 The WTO can ... give the weak a stronger voice] [https://www.wto.org/english/thewto\\_e/whatis\\_e/10thi\\_e/10thi07\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi07_e.htm)

treaties.un.org (1994) [Marrakesh Agreement establishing the World Trade Organization (with final act, annexes and protocol). Concluded at Marrakesh on 15 April 1994] Accessed in 2021 <https://treaties.un.org/doc/publication/unts/volume%201867/volume-1867-i-31874-english.pdf>,

Marrakesh Agreement establishing the World Trade Organization (with final act, annexes and protocol), Marrakesh, 15 April 1994 wto.org (1994) [General Agreement on Trade in Services, Article 2, General Agreement on Trade in Services, Geneva, 1994] [https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1994) [General Agreement on Trade in Services, Article 16, General Agreement on Trade in Services, Geneva, 1994] Accessed 11 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1994) [General Agreement on Trade in Services, Article 5, The Antidumping Agreement, 1994] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1994) [General Agreement on Trade in Services, Article 3, The Antidumping Agreement, 1994] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1994) [General Agreement on Trade in Services, Article 24, General Agreement on Trade in Services, Geneva, 1994] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1986) [General Agreement on Trade in Services, Article 1.1, SCM Agreement, 1986] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1986) [General Agreement on Trade in Services, Article 5, SCM Agreement, 1986] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1986) [General Agreement on Trade in Services, Article 15, SCM Agreement, 1986] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1986) [General Agreement on Trade in Services, Article 6, SCM Agreement, 1986] Accessed 21 July 2021

[https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm)

wto.org (1995) [General Agreement on Trade in Services, Article 6, Agreement on Agriculture, 1995] Accessed 21 July 2021

## **9. ANNEX**

### **OTHER DOCUMENTS DOWNLOADED FROM INTERNET PAGES**

#### **corporate author(s):**

WTO (World Trade Organization) (2008) 10 common misunderstanding about the WTO. <https://europa.eu/capacity4dev/file/50803/download?token=5iZZXOUo> Accessed on 09 August 2021 → (WTO, 2021)

