International Trade Centre

Ministry of Finance and Economy of Turkmenistan

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What does Membership of the WTO mean for the public sector?

A GUIDE FOR PUBLIC SECTOR









Glossary – some key terms

Term	Meaning
Binding	A commitment by a trade partner not to worsen trade access (i.e. tariff rates, a tariff quota or services market access from a set or "bound" level.
Commitment	Firm promises made in trade agreements.
Customs valuation	The valuation of a good for the purposes of applying customs duties (i.e. what is the price to which a tariff is applied? Is it actual price paid on export or established by some other method?)
GATT 1994	Revised version of original GATT 1947 Agreement, updated and incorporated into full WTO Agreement
GATS	The General Agreement on Trade in Services – the WTO's first ever agreement covering trade in services. Part of WTO Treaty.
Market Access	The conditions under which a foreign exporter or service provider may supply their goods or services in a partner country
MFN	"Most Favoured Nation" treatment which is the best trade treatment available from a trade partner (i.e. the most preferential access). Under WTO rules this treatment should be offered to all other WTO Members with very few and specific exceptions.
National Treatment	A commitment to treat foreign goods and service providers no less favorably than domestic goods and service providers.
Rules of origin	Rules used to determine the "economic nationality" of a good in order to determine what tariffs or other trade conditions apply to it.
SPS	Sanitary and Phytosanitary measures are domestic measures taken to protect human, animal and plant health against pests and diseases.
TBT	Technical Barriers to Trade – barriers that can arise due to technical product requirements, product standards and conformity testing before a good can be marketed.
TRIMS	Trade related Investment Measures are restrictions or conditions which are applied to foreign investment and have the effect of favouring domestic producers and exporters.
TRIPS	Trade-related Intellectual Property Agreement – this WTO Agreement applies trade considerations (MFN treatment and national treatment) to intellectual property (patents, trademarks etc).
WTO	World Trade Organisation – the Geneva based multilateral organisation responsible for managing global trade negotiations

What is the WTO and what does Membership mean for the public sector?

The goal of the WTO is to maintain an open and growing global trading system, which is fair, inclusive and able to resolve disputes between Members to avoid damaging trade wars.

What is the WTO?

The World Trade Organisation (WTO) is a global club of nations whose Members have adopted rules to govern how they trade with each other.

These rules include general principles as well as conditions that apply to specific goods and services. The rules are negotiated and set collectively and consensually by the Members in accordance with the institutional arrangements set out in the WTO Agreement.

Key Facts

- The WTO was founded in 1995 with 125 original members
- By September 2024 there were 166 Members representing 98% of world trade
- 22 countries are engaged in accession negotiations
- The WTO Secretariat is based in Geneva, Switzerland

Key Principles of the WTO

Non-discrimination: A WTO Member should not discriminate between trading partners (Most Favoured Nation treatment), nor between its own and foreign products, services or nationals (National Treatment).

Opening trade: WTO Members should aim to keep lowering their trade barriers. Where possible remaining trade barriers should be non-distortionary – using price measures (i.e. tariffs) rather than quantitative restrictions (i.e. quotas).

Predictability and transparency: WTO Members should maintain a trade regime and supporting domestic policies that create predictability and transparency for foreign companies and investors, in order to promote investment and create jobs.

More fair competition: WTO rules discourage "unfair" practices, such as export subsidies and dumping of products at below cost, in order to gain market share.

Support for less developed countries: The WTO supports the inclusion of developing countries into the global trading system. It provides for "Special and Differentiated Treatment" of less-developed countries and offers mechanisms to channel technical assistance to poorer Members.

What does WTO Membership mean for the public sector?

National Development goals: The choice of specific WTO commitments a Member makes on tariff reductions and services sector liberalisation can support broader national economic and social development objectives and the achievement of the UN SDGs.

Policy reform: There may be existing government policies that need to be reformed in order to bring them into line with WTO commitments (for example, if public subsidies create trade distorting activity).

New laws: There may be legislative gaps that need to be filled, or committed to, prior to WTO accession (for example, in the regulation of services or intellectual property protections).

New opportunities: There may be new opportunities created by WTO Membership (for example, to launch a new national investment strategy).

Related policy: Domestic policies not directly impacted by WTO accession might need to be considered for the role they could play in supporting the positive impact of WTO Membership, such as the adoption of a digitalization strategy.

Key Benefits of WTO Membership:

- Security and predictability of trade with secured access to other WTO Members' markets
- Protection for exporters against harmful trade actions by other WTO Members
- Creation of a more investment friendly environment
- Participation in decisionmaking on future trade policy

What is in the WTO Agreement?

The WTO Agreement (known as the "Marrakesh Agreement" and "Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations") is the set of commitments that new Members sign up to when they join. It consists of:

1. An overarching agreement which sets the WTO up as an institution and sets out rules about how the organisation works and the various decisionmaking bodies within it
2. A series of thematic agreements which cover different aspects of trade and sets out different rules for each area
3. Schedules of national commitments which are annexed to the Agreement
4. A set of annexes which set out other decisions and interpretations of the agreement

An overview of the main contents of the Agreement is set out below and on the facing page.

Contents of WTO Agreement	What does it mean for the public sector?
The Marrakesh Agreement	These are institutional provisions that set out how the WTO works, how Members join and how decisions are made.
Annex 1A: Multilateral Agreements on Trade in Goods	This incorporates and updates the original General Agreement on Tariffs and Trade (GATT 1947) which existed before the WTO was formed. It covers trade in goods and contains various sub-agreements on specific aspects of goods trade (see opposite page for detail on what these mean for the public sector) as well as Understandings on the interpretation of the original Agreement.
Annex 1B: General Agreement on Trade in Services	This part of the Agreement sets out the rules governing services trade and the conditions that apply when a Member has made specific commitments on named sectors. Public sector departments and agencies will need to be aware of the disciplines that exist in relation to services and domestic regulatory arrangements may need to be updated.
Annex 1C: Agreement on Trade-Related Intellectual Property Rights	This part of the Agreement sets out how rules relating to intellectual property rights apply. Domestic IP rules will need to be scrutinised in advance for conformity with WTO obligations and gaps in IP protection may need to be filled by new legislation.
Annex 2: Dispute Settlement Understanding	This section sets out how disputes between WTO Members will be handled. WTO disputes are only inter-governmental, unlike the investor-state dispute settlement in bilateral trade treaties. Most are settled by arbitration.
Annex 3: Trade Policy Review Mechanism	These provisions set out the ongoing transparency requirements that apply to WTO Members. This mechanism gives all Members the right to scrutinise each others' trade policies.
Annex 4: Plurilateral Trade Agreements	This annex sets out the texts of various additional agreements which WTO Members can sign up to on a voluntary basis, such as the Agreement on Government Procurement. Such agreements provide a useful framework for adopting best practice.
Other Ministerial Decisions and Declarations	These collective decisions and declarations reflect the policy positions that WTO Members have collectively stated at various WTO Ministerial meetings and are part of understanding how WTO rules are to be implemented.

Annexed to the Agreement are the specific trade commitments of individual WTO Members to each other. These commitments include tariff rates on all goods and commitments on the opening up of domestic services sectors to foreign competition.

What is in the Trade in Goods Agreement?

The Trade in Goods Agreement contains a number of more specific agreements that relate to trade in goods

Annex 1A: Multilateral Agreements on Trade in Goods

Agreement	What the agreement does	What it means for the public sector?
Agreement on Agriculture	Sets out binding commitments from WTO Members on agricultural market access, domestic support (e.g. price support) and export subsidies to prevent unfair competition.	Requires a review and possibly a revision of domestic food and farming policies to ensure WTO principles are respected.
Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures	Establishes a framework for the adoption and implementation of national domestic measures designed to protect animal, plant and human health.	The adoption of international SPS standards will ensure export markets are kept open for local producers seeking to export.
Agreement on Technical Barriers to Trade (TBT)	Establishes rules around the adoption and implementation of national conformity assessment, industrial standards and safety requirements in products that may become unnecessary and disguised trade barriers	Encourages the convergence of national standards on international norms - increasing access to international markets.
Agreement on Trade Related Investment Measures (TRIMs)	Prevents WTO Members imposing requirements on investors that affect fair competition	Requires a review of domestic investment policies to ensure WTO compliance and the elimination of any conditions on investment such as requiring a percentage of production to be exported or a percentage of local content.
Anti-Dumping Agreement	Sets out disciplines for the implementation of anti-dumping policy	Might prompt the adoption of a national trade defence policy covering anti-dumping, anti-subsidy (countervailing) measures and safeguards
Agreement on Customs Valuation	Sets out the basis on which goods are valued for customs purposes	Requires a review and possible updating of customs procedures.
Agreement on Pre-Shipment inspection	Sets out the conditions under which WTO Members can undertake inspection of goods in their country of origin. Procedures must be transparent, non-discriminatory and subject to appeal.	One of a series of measures that could help to speed up and reduce the cost of imported goods and foreign inputs.
Agreement on Rules of Origin	Sets out the aspiration for future harmonisation of rules of origin. Sets out disciplines for Members to observe meantime. Creates committee to develop future policy harmonisation.	Adoption of these rules will give an acceding Member's exporters the basis for integrating into global supply chains and encourage more investment.
Agreement on Import Licensing Procedures	Creates rules on import administration to prevent this type of measure becoming a trade barrier.	Will require scrutiny of existing procedures for conformity but compliance increases trader and investor confidence.
Agreement on Subsidies and Countervailing Measures	Clarifies unfair use of subsidies and conditions under which trade partners may adopt retaliatory measures.	May require review and reform of domestic subsidy regime and, if necessary, the consideration of alternative means to support domestic producers or traders.
Agreement on Safeguards	Sets out disciplines around the use of safeguards.	Creates confidence in ability to protect consumers and strategic national interests should the need arise.
Agreement on Trade facilitation	Covers measures to improve clearance of goods across borders, including advance rulings on customs handling, documentation and e-facilitation and border cooperation	Adoption of these measures will cut costs through improved logistics, better customs administration and digitization thus supporting export diversification.

WTO accession process

WTO accession is a process of negotiating market access conditions for other WTO Members and understanding how domestic economic and trade policies align with the obligations of WTO Membership. New Members may be required to undertake domestic reforms in advance of joining in order to metet these obligations.

How do countries join the WTO?

Stage 1: Opening of Negotiations

A country wanting to join the WTO must make a formal request.

The negotiations commence once the applicant country has submitted details of its trade policy regime and supporting domestic policies (Memorandum on the Foreign Trade Regime (MFTR))

What does public sector need to do?

At this stage an applicant Member needs to gather all the relevant information about its trade policy regime, and how related policy areas currently operate. It will need to ensure that all national approvals and consultations required have been undertaken prior to the launch of negotiations.

Stage 2: Formal Negotiations

The accession negotiations consist of three parts:

1. **The Multilateral Negotiations:** During this phase, the applicant country's legislative and regulatory setup is scrutinised for compatibility with the rules set out in the WTO Agreement Any gaps or incompatibilities may need to be remedied by changes in domestic law.
2. **Bilateral Negotiations:** The starting point for these negotiations is the Goods and Services market access initial "Offers" submitted by the applicant country. Any WTO Member can then request bilateral negotiations in order to seek better access. If one Member secures better access for their goods or services, then those terms apply to all WTO Members in accordance with the MFN principle.
3. **Agriculture Negotiations:** These cover negotiations on agricultural policies affecting trade and address issues such as domestic support for farmers and export subsidies on farm produce. These are technical negotiations undertaken with the WTO secretariat

What does public sector need to do?

During accession negotiations, trade negotiators will need the support of many different government departments and public sector stakeholders. They will need to understand what compliance with WTO rules will mean for domestic policy and prepare their sectors and stakeholders for any changes. This may mean drafting new legislation.

Trade negotiators will need the cooperation of responsible departments and regulatory bodies to gain rapid responses to queries from trade partners during accession negotiations. In turn trade negotiators will need to develop good mechanisms for updating and consulting other internal government stakeholders as well as periodic communication with the legislature, business and other stakeholders.

Stage 3: Final Steps

Once negotiations are complete, the Working Party makes a recommendation for accessionl, which spells out the agreed specific commitments that the acceding government would undertake as a WTO Member.

The WTO Ministerial Conference or General Council, is then invited to approve this draft accession package, which consists of the Protocol of Accession, the report and recommendation of the Working Party and the agreed schedules of commitment from the applicant.

After the applicant country has completed any domestic formalities to ratify the WTO Agreement (i.e. turn the promises it has made during the accession process into commitments in domestic law), it can formally become a Member of the WTO.

What does public sector need to do?

Public sector stakeholders will need to ensure that they have completed all of the necessary legislative changes agreed to during the negotiation process for accession.

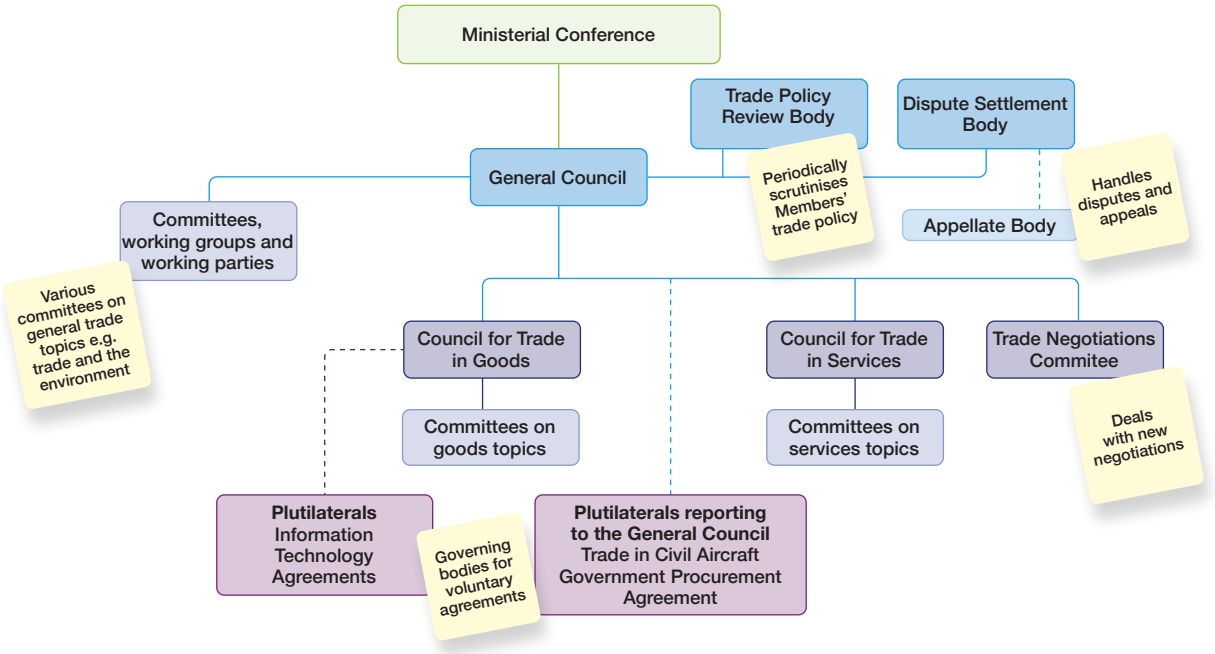
There will be a role for all parts of the public sector to support the ratification process by ensuring that their stakeholders are well informed about what WTO Membership means.

Decision-making in WTO

Once a new Member has acceded to the WTO it is then able to take part in all of the different decision-making bodies of the organization – shaping future global trade policy!

The highest decision-making body is the Ministerial Conference, which is a meeting of trade ministers that takes place every two years. This conference sets the priorities for the organization, finalises negotiations on new agreements and makes decisions on the accession of new Members.

The decision-making bodies of the WTO



In periods between Ministerial Conference meetings, the day-to-day work of the WTO is undertaken by the General Council, which is made up of the permanent representatives of WTO Members based in Geneva. The General Council is supported by various specialist Councils and Committees that are responsible for discussing the details of particular areas of trade law. WTO Members are all able to put forward their own ideas for new trade initiatives and may be invited to chair working groups, Councils, and possibly even the Ministerial Council.

In addition to these formal structures, WTO Members can also participate in informal groupings, which are particularly useful for smaller countries or those with fewer staff in their Geneva representations. These informal groupings often consist of like-minded countries with a similar attitude or set of trade and economic interests. They can influence the future direction of trade policy by suggesting new priorities for the WTO and taking a cooperative approach to discussions.

What does this mean for a new Member?

- There are a lot of specialist discussions going on at the WTO on an ongoing basis. No trade ministry can cover every topic, so support will be needed from domestic ministries and agencies.
- Domestic coordination and capacity-building mechanisms are needed beyond accession.
- Building alliances with like-minded Members of the WTO is essential.

How does WTO membership impact new members?

"It has been demonstrated that the accession process promotes domestic reforms that are necessary for countries to achieve competitiveness. It is also widely acknowledged today including in WTO reports, that members that have negotiated their terms have grown faster, been more successful at attracting investments and shown greater resilience during economic downturns."

(Speech by Ambassador Amina Mohammed, Deputy Secretary General UN, 2017)

Trade in Goods and Public Policymaking

What are the WTO's Rules on Trade in Goods?

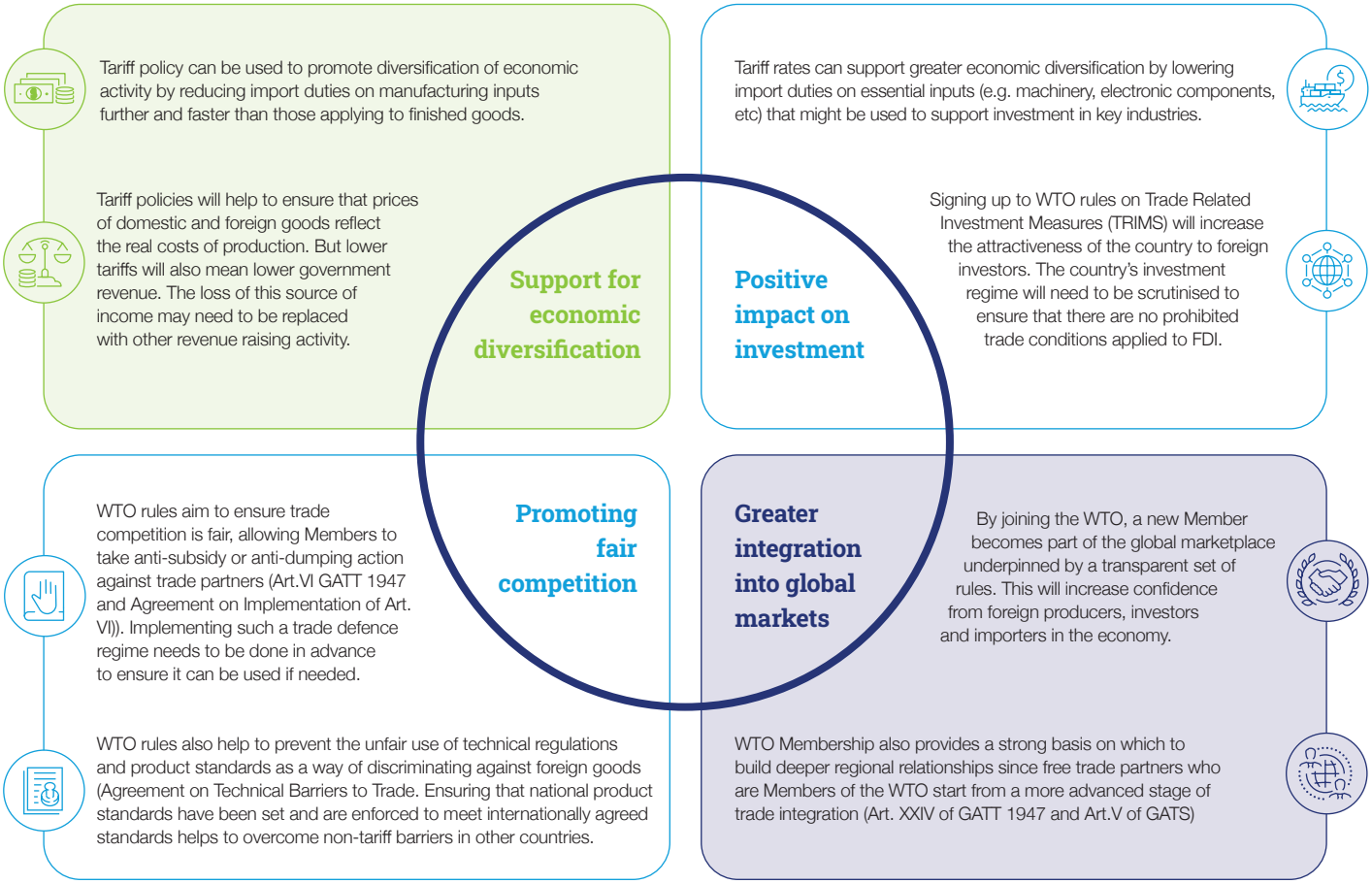
When a country joins the WTO its goods trade policies will need to conform to WTO rules. This means:

- Tariffs imposed on foreign imports must be fixed ("bound") and will almost certainly need to be reduced. Post-accession applied tariffs can be lower than these bound rates but should not be higher.(Art. II, GATT 1947)
- If any taxes are imposed on exports, they will be discouraged in future (Art.VIII, GATT 1947)
- Quantitative restrictions on imports (e.g. quotas, import or export licenses) are prohibited (Art.XI, GATT 1947)
- The imposition of safeguards (i.e. restrictions on imports to protect a country's financial position) is allowed but can only be done under strictly controlled circumstances (Art. XII, GATT 1947)
- Any investment measures which impose restrictions or limitations on trade in goods are prohibited, for example through requirements that a certain percentage of production by foreign investors should be exported, or that a certain proportion of local inputs should be used. (Agreement on Trade-Related Investment Measures (TRIMS))

This should help to reduce the cost of goods in general, support economic diversification and increase investment. Some sectors of domestic manufacturing might be more exposed to foreign competition by WTO accession but will at the same time be presented with opportunities to improve their competitiveness through access to better inputs and expertise in areas like marketing and distribution. WTO rules do allow exceptions to these rules for public policy or security reasons (Art. XX and Art. XXI, GATT 1947)

What do WTO rules on goods trade mean for public policy?

WTO Membership can help to support national strategic development priorities. For the greatest positive impact, supportive domestic policies will need to be considered in many areas.



How does WTO Membership affect Food and Farming Policy?

What are the WTO rules on Agricultural Trade?

The WTO Agreement introduced new rules on agricultural trade going beyond tariff cuts, which were intended to restore balance and fairness to the operation of global agricultural trade. The WTO Agreement on Agriculture (AoA) :

- Classified agricultural policy measures according to whether they were production distorting ("Amber box measures", such as price support), linked to production but not to the quantity of production ("Blue box measures", such as direct payments to farmers), or neutral in their effect ("Green box measures", such as agricultural research). Amber and Blue box measures are subject to control and reduction. Art. VI and Art VII, AoA).
- Improved market access to WTO Members with high levels of farm protection by converting high agricultural tariff rates into lower fixed tariff access for specific volumes of imports. (Art IV, AoA)
- Limited export subsidies and prohibited export restrictions, except in emergencies. (Art 9, AoA)
- Introduced rules to protect against unfair use of human and animal health measures (Agreement on the Application of Sanitary and Phytosanitary measures (SPS)).

There are many potential opportunities for farmers and consumers that can be unlocked by accession to the WTO but these are more likely to be realised if supported by good domestic policymaking.

How WTO accession might influence farming and food policy?

Agricultural tariffs



WTO accession will require a negotiation of agricultural tariffs with other WTO Members. How any negotiated reductions are to be implemented and over what timetable will then be translated into the schedule of commitments.

Sanitary and phytosanitary policies



WTO Membership encourages Members to adopt internationally recognised Sanitary and Phytosanitary standards (SPS). Doing so will facilitate continued access to overseas markets but will require the co-ordination of veterinary and healthcare skills, inspectorate agencies and effective coordination between government and responsible agencies.

Domestic subsidies



Joining the WTO may require a rethink of how farmers are supported domestically and of any state organised mechanisms for marketing farm production.

Export promotion



WTO accession offers new opportunities to market domestic agricultural products internationally through, for example, the designation of an exclusive "branding" or Geographical Indication (GI) (such as "Parma ham") which can help to boost the recognition and incomes of local producers of specialist products. This can link to a bigger national branding strategy.

Supporting policies



In order to take advantage of new export opportunities for farm production, new policies and infrastructure investment may be needed in post-harvest product handling, packaging and distribution to ensure that perishable goods reach target markets as quickly as possible and in the best conditions.

How can WTO accession facilitate trade?

Membership of the WTO encourages governments to look at trade policy more broadly and not just focus on tariff reductions. There are many accompanying rules that govern the exporting and importing of goods and these can all create obstacles and deterrents to doing business internationally. WTO rules create a baseline for greater clarity and predictability in the requirements and procedures imposed on importers and exporters. These rules do not prevent WTO Members from setting out their own domestic policy in this area but they do ensure that customs handling is not used for discriminatory or protectionist purposes. This creates an improved environment for trade.

Export



Pre-shipment inspection

The WTO has rules in place around the use of agents overseas to undertake pre-shipment inspection – to counter fraud for example. The rules are designed to prevent misuse of such rules and the prevent unwarranted delays to exports. (Agreement on Pre-Shipment Inspection)



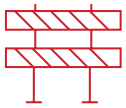
Export restrictions

The WTO eliminates quota restrictions on exports and discourages the imposition of export taxes – which are increasingly rarely used. (Article VIII and Article XI, GATT 1947).



Recognition of Standards and Testing

By requiring Members to make their product technical requirements transparent and facilitating mutual recognition of conformity testing, the WTO helps to reduce the potential for standards and testing to be used as a barrier to trade. (Agreement on Technical Barriers to Trade)



Import



Tariffs

The WTO ensures transparency around the maximum applied tariffs that can be applied to any goods. (Article II, GATT 1947).



Customs Valuation

WTO rules establish a common basis for valuing imported goods, ensuring that correct duties are paid and that tariffs are applied in a fair and consistent way. National rules may need to be adapted. (Art. VII, GATT 1947 and The Agreement on Customs Valuation)



Rules of Origin

The WTO Agreement on Rules of Origin sets out the rules for determining where a product comes from. This ensures preferential treatment can be applied to goods covered by bilateral or regional agreements and that there can be no circumvention of anti-dumping duties. (Agreement on Rules of Origin)



Import Licensing

The WTO does not prevent Member countries from requiring importers to obtain licences for certain types of goods, but it does require that any licensing systems are set up to be simple, transparent and predictable. A review of existing approaches may be needed. (Agreement on Import Licensing)

WTO Accession and Trade in Services

What services are covered by WTO rules?

The WTO General Agreement on Trade in Services (GATS) covers all services sectors apart from services related to the exercise of governmental authority (e.g. government administration, defence and security, judicial services), although services provided by the public sector more generally (e.g. health, education and infrastructure) are covered by WTO rules.



Modes of Services Trade

Services can be delivered in different ways, unlike goods. WTO Members can give different treatment to services depending on how they are being delivered. The four modes of delivery are:

Crossborder services (mode 1): The service is delivered remotely by email, phone or cloud services

Consumption abroad (mode 2): A customer travels to another country to buy services. For example, tourism services.

Establishment (mode 3): A foreign service supplier sets up a business in the WTO member, for example, an international reatil outlet.

Movement of Natural Persons (mode 4): Delivery of services by individuals in person, either temporarily or through established businesses.

WTO Rules on services

It is left to WTO Members to decide which of the 12 high-level sectors shown opposite, they want to open up to foreign providers (either entirely or at a sub-sectoral level, selecting from amongst the recognised 160 sub-sectors set out in WTO Secretariat note MTN. GNS/W/120 (e.g. banking but not insurance under financial services), but all sectors are covered by some general rules, or obligations.

By joining the WTO, Members commit to:

MFN - Treating all other WTO Members equally

Transparency - Publishing any laws, regulations or other measures that affect trade in services

Legal remedies - Providing a mechanism for managing complaints or disputes in relation to government measures on services.

What about Specific Sectors that WTO Members choose to open up?

On joining the WTO, Members are expected to participate in negotiations on opening up service sectors to allow, at least some level of access to foreign providers. This involves:

- Market access, which may be defined at a sector and/or sub-sectoral level and which may include some qualifications, such as number of foreign suppliers or licensing requirements (permitted qualifications are set out in GATS Article XVI(2))
- A commitment to extend national treatment to foreign by some differentiation in the treatment of foreign and domestic service providers

Members also commit to certain disciplines covering those sectors which they have committed to open up

- Ensuring licensing and authorisation requirements do not act as barriers to trade
- Maintaining or instituting a judicial, arbitral or administrative tribunal to provide access to review of decisions affecting trade in services
- Maintaining adequate qualification recognition arrangements where these are required for the provision of services.

What does more open services trade mean for the Public Sector?

The importance of services to economies worldwide has increased significantly over recent decades.The share of the services sector in global GDP has increased from 53 per cent to 67 per cent since 1995.

Today, the services sector generates half of employment worldwide and two-thirds of global GDP – more than agriculture and industry combined.

Against this backdrop, services trade has, not surprisingly, been the most dynamic component of world trade for the last 15 years, generating opportunities for export-led growth in countries at all stages of development, economic diversification, inflows of foreign direct investment (FDI) and integration into global value chains.

ICT (information and communications technology is providing the engine for further growth, with exports of digitally delivered services increasing almost four-fold in the period 2005-22.

WTO accession will inevitably mean more open trade in services and this can in turn help governments to meet their policy objectives but also raises issues for the public sector to consider.

Potential benefits of more services trade



New Export Markets

WTO Membership offers national service suppliers the opportunity to access new markets overseas.



Benefits from new service suppliers

More open markets for services may encourage inward investors to offer services that improve local infrastructure, provide better services (e.g. in telecoms) or more choice (e.g. in healthcare)



Support trade in goods

Services represent essential inputs into most goods (e.g. costs of marketing and distribution), so a more open and competitive services economy will help to support the export of goods.



Support national growth strategy

A more open services economy can also support national development by, for example, widening the financial services offered to female entrepreneurs, or by improving the access of rural businesses to essential transportation services.



New growth opportunities for domestic service suppliers

Increased trade and investment often brings new demands for the services provided by domestic distribution companies, suppliers of services to exporters and investors, such as customs agents, locally qualified accountants, lawyers and architects.

Tasks for Government



Build a coherent inward investment strategy

WTO accession makes a country a more attractive foreign investment destination. Choosing which sectors to open and how to open them up to foreign investment will be key to building a thriving domestic services market and supporting the overall competitiveness of the economy.



An opportunity to review and update how domestic services sectors are regulated

An important part of the WTO accession process is the domestic legislative review undertaken in the early stages of negotiations. This is an opportunity for applicant countries to consider how they regulate different services sectors that may be opened to foreign suppliers and an opportunity to modernise how domestic services industries operate.



Movement of natural persons

To gain the most from more open services markets, countries acceding to the WTO will need to review their approach to the rights of different categories of foreign service suppliers to enter the country and earn income from supplying services.

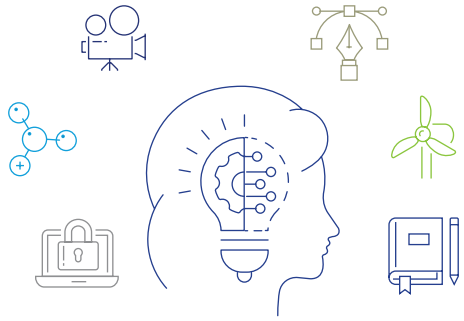
What do Intellectual Property rules mean?

What is IP?

Intellectual property (IP) is the result of human creativity and is embodied in all kinds of goods and services, from new types of plants and seed types, textiles and clothing design, industrial designs and architectural designs, new processes, company trademarks, digital software, music, writing, film, performance and much more.

Clear IP rules help business by rewarding creativity without preventing others benefitting from the fair exploitation of inventions. They also give consumers certainty and help to promote products that have specific geographical characteristics.

WTO rules on intellectual property (the TRIPS Agreement) reinforce existing international standards and ensure that such standards are consistently applied to cross border trade in goods and services.



What does the WTO Agreement on Trade Related Intellectual Property do?

- **It requires all Members to enshrine some key IP standards in their laws** covering copyright, trademarks, Geographical Indicators (see agricultural exporters), industrial designs and patents
- **It requires transparency:** WTO Members must provide information to fellow Members about how they protect and enforce intellectual property rights. New IP laws must be notified within 30 days of their entry into force and national contact points appointed and notified
- **It recognises the particular challenges of Developing Countries.** They are given some flexibility in implementing requirements and can get access to capacity building assistance .
- **It provides a dispute settlement mechanism** in case of differences of interpretation between WTO Members on IP matters.
- **It improves access of non-pharmaceutical producing LDCs** to essential medicines by permitting compulsory licensing and making it easier for developing countries to use this mechanism without having to notify the WTO.

What benefits might WTO IP rules bring after accession?

- **They will help to support the development of a knowledge economy.** Adoption of the WTO TRIPs regime will create a stronger base for the development of innovative products and new software.
- **They will help to attract and retain higher quality investment** by clarifying and making more transparent how Agreement protection applies to traded goods and services. Investors can have confidence that their ideas, creativity and technology will be protected from unauthorised use within the country

What are the ongoing obligations for a new WTO Member to be aware of?

- WTO Members must maintain minimum standards of protection for intellectual property and keep these updated.
- WTO Members must ensure to provide mechanisms to enforce intellectual property rights effectively, whether through civil, administrative and/or criminal procedures.
- Members are required to notify the WTO of any changes to IP laws, as well as provide information on enforcement measures and judicial decisions.

How might WTO Membership affect State Owned and State Trading Enterprises?

Governments are sometimes involved in owning or running businesses directly, or they may influence how markets operate by giving special privileges to particular organisations, such as marketing boards. In both cases state involvement in commercial activity has the potential to create trade distortions.

The WTO does not prohibit state involvement in business activities but does have rules (Art. XVII, GATT) to ensure that when SOEs or STEs trade, they do not engage in disguised protectionism.

Purpose of WTO rules on State trading

The WTO has rules on STEs to ensure that:

- They operate on the basis of commercial considerations and in a non-discriminatory manner;
- They do not erode or nullify the value of negotiated tariff concessions;
- They do not use WTO-inconsistent measures, such as quantitative restrictions or subsidies; and
- They are fully notified to the WTO on a regular basis.

(See: Article XVII, GATT 1994)

State Owned Enterprise (SOE) or a State Trading Enterprise (STE)?

A State-Owned Enterprise is "any state-owned corporate entity recognised by national law as an enterprise". This can include any kind of corporation and level of public ownership (part or wholly owned) which is commercial in nature. An SOE might undertake activity which categorises it as an STE.

A State Trading Enterprise is any kind of enterprise (not necessarily state owned) which has been granted exclusive or special rights or privileges through which they can level or direction of imports or exports.

What commitments do Members have to make?

In addition to agreeing that STEs will operate in accordance with WTO rules, Members must also notify the existence and activities of STEs to the WTO every two years (Art XVII, GATT 1994). This requires the Member to explain what the state trading enterprise does and why it was established, along with statistics covering the trade undertaken.

When might a STE be a concern to WTO Members?

Legal interpretations of Art XVII arising from various STE related disputes taken to the WTO, suggest the key issues are whether an STE is charging different prices at home and abroad, and if so, whether differential pricing is done on the basis of commercial considerations.

If different demand and supply conditions in different markets justify differential pricing, this is fine. But there should be an 'adequate' opportunity for foreign enterprises to participate in the sales or purchases undertaken by state trading enterprises.

Types of State Trading Enterprises with potential trade impacts (identified by the WTO Secretariat)

Statutory or Export Marketing boards: Marketing boards with responsibility for management of domestic production and distribution, including export, of particular products. Alternatively, they may exist purely as export marketing boards, or regulatory marketing boards, which regulate the trading operations of private sector organisations in relation to particular, mostly agricultural, products.

Fiscal monopolies: Fiscal monopolies may be used to protect public health. Products often affected include Ethyl alcohol, alcoholic beverages, tobacco etc.

Canalizing agencies: Canalizing agencies exist where imports and/or exports must be channeled through a designated agency, in order to provide some degree of price stabilization and ensure availability of supplies for domestic consumers.

Foreign Trade Enterprises: An enterprise engaged in trade that is controlled by the state.

When do STEs need to be notified to the WTO?

If an STE is involved in any of the following activities this should be notified to the WTO:

- Controlling or undertaking imports or exports;
- Issuing licences or permits for imports or exports; Determining the domestic sales prices of imports; Administering the multilaterally or bilaterally agreed quotas, tariff quotas or other restraint arrangements or other import or export regulations; and
- Enforcing the statutory requirements of an agricultural marketing scheme and/or stabilization scheme

Plurilateral Agreements and Joint Initiatives

The WTO Agreement was never expected to remain unchanged forever. But it has proven difficult to find consensus among all Members on how to progress negotiations across all WTO topics. Instead, it has proven easier for Members to engage in more flexible, voluntary agreements such as Plurilateral Agreements and Joint Statement Initiatives (JSIs).

Acceding members of the WTO are often asked to join Plurilateral Agreements and JSIs as part of their accession negotiations.

What are Plurilateral Agreements?

WTO plurilateral agreements are additional commitments supplementary to the main WTO Agreement.

They are negotiated and signed by a subset of WTO Members who may wish to advance a particular trade topic to which the entire Membership is not yet ready to agree. These agreements are voluntary but recognised as part of the WTO Agreement. They are supported by the WTO secretariat and open to any other WTO Members to join.

These agreements do not create either obligations or rights for Members that have not accepted them. But all Members are entitled to be kept informed about their activities.

New Plurilateral Agreements must be agreed by consensus in the Ministerial Conference (or General Council) and added to the list of trade agreements covered by the Dispute Settlement Understanding of the WTO.

What plurilateral agreements have been reached?

Agreement on Trade in Civil Aircraft (1980): Eliminates import duties on all aircraft, other than military aircraft, civil aircraft engines and their parts. It has 33 signatories.

Agreement on Government Procurement (GPA) (2012): Aims to open up government procurement markets to international competition, ensuring transparency and non-discrimination in procurement processes. It has 49 signatories.

Information Technology Agreement (ITA) (1996): The ITA seeks to eliminate tariffs on a wide range of information technology products and promote access to technology. It has 82 signatories.

What is a Joint Statement Initiative?

Joint Statement Initiatives (JSIs) are a more recent type of voluntary agreement between WTO Members.

- **Voluntary Participation:** They are voluntary agreements between a group of WTO Members who voluntarily decide to work together on specific issues.
- **Non-binding:** These initiatives are not binding on non-participating WTO Members and do not require consensus from the entire WTO Membership.
- **Flexibility:** They allow Members to advance discussions and even to develop rules in areas where it is difficult to get consensus among all Members.

What JSIs have been agreed or are being discussed?

E-commerce: 91 WTO Members are involved in this initiative focused on creating rules for digital trades, covering e.g. data flows, privacy, and cybersecurity. A draft final text has been agreed in 2024.

Investment Facilitation for Development (2024): Designed to improve transparency and efficiency of investment procedures. Signed by 125 WTO Members.

Services Domestic Regulation (2021): Intended to improve the regulatory environment for services, making it easier for service providers to operate across borders. Signed by 72 Members.

MSMEs (2020): 103 Members are involved in a voluntary working group, looking to develop and implement measures to help smaller businesses get involved in trade.

Developing Country Status

A key objective of the WTO, reflected in the preamble to the Agreement is support for development and the integration of developing countries into the global trade system.

Although applicants for WTO Membership that are not Least Developed Countries designated by the UN, can self-declare that they are a developing country, many of the benefits of this status will need to be granted by other Members. In practice, developing country status is therefore a matter dealt with during accession negotiations. There are two options open to countries wishing to seek this status: Firstly, to seek formal recognition in its Working Party Report on Accession as a "developing country"; Or secondly, to identify certain provisions and transitional periods applying to developing countries in the Agreement, for which might be achievable to gain eligibility for, through negotiating efforts over the course of the accession process.

Special and Differential Treatment (S&DT)	Developing countries receive special rights and privileges, such as longer timeframes for implementing agreements and commitments, measures to increase trading opportunities, and provisions to safeguard their trade interests.
Flexibility in Commitments	These countries can make fewer and less ambitious commitments compared to developed countries. Implementation periods are often longer than for developed countries.
Safeguard Mechanisms	All WTO Members are permitted to implement safeguard measures to protect their domestic industries from sudden surges in import, but imports from developing countries are only subject to such measures if they account for a higher share of all imports in the affected country. Developing countries can also maintain their own safeguard measures for longer than the maximum period permitted to a developed country Member.
Technical Assistance and Capacity Building	Developing countries are eligible for technical assistance and capacity-building programs.
Exemptions from Most Favoured Nation (MFN) Principle	The WTO's "Enabling Clause", set out in a Ministerial decision attached to the Agreement, allows Members to extend non-reciprocal, differential and more favourable treatment to goods imported from developing countries compared to developed WTO Members. This allows developing countries to benefit from preferential tariff treatment, such as those provided for by the UN Generalised System of Preferences (GSP).
Dispute Settlement	Developing countries can benefit from special provisions in the WTO's dispute settlement process, which can include longer timeframes for preparing submissions and additional legal assistance.

The WTO has a Committee on Trade and Development which keeps the participation of developing country Members in the multilateral trading system under continual review. It oversees the technical cooperation activities of the WTO and periodically reviews how special provisions for developing countries in WTO Agreements are working.

Stakeholder Engagement

A key task for government departments and public sector agencies to undertake in the run-up to WTO accession, and beyond, is stakeholder engagement, both internal and external. WTO Membership brings both obligations and privileges and today covers a wide array of topics that are usually beyond the capacity and competence of a trade ministry to handle alone.

In order to get the most from Membership, governments should create mechanisms for ongoing dialogue within the public sector and with business, civil society and the general public.

Aligning in the WTO with other Members

Smaller WTO Members may find it useful to forge relationships with other Members that have similar interests (e.g. agricultural exporting countries). This can be done through established informal groups that bring together particular types of countries (e.g. developing countries) or by joining others to forge a "Friends of" groups to advance discussion of a particular trade topic.

Co-ordinating national positions across international organisations

WTO Membership covers a wide range of topics, some of which overlap with the responsibilities of other international bodies. Any new WTO Member should therefore make sure that its representatives in different international organisations have co-ordinated and are aware of the implications of decisions taken in one organisation on their national positions in another.

Inter-departmental co-ordination

Most countries joining the WTO will need to involve different government departments and agencies in the process of negotiating accession. Although coordination meetings will not necessarily be needed as frequently as in the run up to accession, it is important for cross – government coordination on trade to continue given the extent to which the growing trade agenda can impact on all areas of public sector activity.

Public–Private Sector Fora

WTO accession also offers governments the opportunity to build new relationships with business. Many Members have established standing advisory committees of business representatives. Such advisory groups can be a useful tool for government to understand the potential implications trade policy reforms and WTO accession commitments.

Public information campaigns

WTO accession offers a great opportunity for government to promote greater public understanding and awareness of trade and how greater openness to foreign trade can benefit citizens.

Beyond accession

Once a country has joined the WTO, it is committed not only to maintaining the openness of its trade policy regime but also to working towards further improvements in the trade policy environment. WTO Members are therefore engaged both in ongoing discussions about both how to improve existing trade access and discussion of new topics that might impact on trade.

"The future of trade is services, digital, green – and it must be inclusive."

Dr. Ngozi Okonjo-Iweala, WTO Director General

Further trade negotiations

In addition to standing negotiations on agriculture, goods markets and services, WTO Members also regularly set up working parties to consider broader topics. Two themes that are currently on the WTO's radar are Gender and Trade and Trade and Environment.

Dispute Settlement Understanding

The Dispute Settlement Understanding (DSU) is an essential part of the WTO. By providing a framework for resolving trade disputes, the WTO is able to prevent the escalation of disagreements over trade rights into damaging trade wars. The DSU does the following:

- **Legal Framework:** It sets out the legal framework for resolving disputes arising from WTO agreements.
- **Negotiation and Panels:** It encourages disputes to be resolved through negotiations. But, if agreement cannot be reached through negotiations, it sets out the basis on which a panel of legal experts can be established to settle the dispute.
- **Appellate Review:** The DSU also allows WTO Members who are Parties to the dispute to appeal the panel's decision to the Appellate Body, which will review the legal aspects of the case.
- **Compliance:** Members who are found to be in violation of WTO agreements under the DSU, must comply with the ruling of a panel or the appellate body. If it does not, it may be subject to authorised trade sanctions from the other party.
- **Timely Resolution:** The DSU sets out timelines for each stage of the process.

Marrakesh Agreement Establishing the WTO, Annex 2: Understanding on Rules and Procedures Governing the Settlement of Disputes

Trade Policy Review

All WTO Members undergo periodic reviews of their trade policies.

The review is guided by two reports – one prepared by the WTO Secretariat and the other by the Member under review. These reports cover the Member's trade policies and practices, the economic environment, and the impact of these policies on the multilateral trading system.

The objective of the process is to promote transparency and encourage dialogue among Members.

Marrakesh Agreement Establishing the WTO, Annex 3: Trade Policy Review Mechanism

Free Trade Agreements

Many WTO Members have different strands to their trade policy, building on WTO Membership with deeper bilateral and regional agreements with certain countries. Membership of the WTO is not a barrier to forming such agreements but there are obligations that Members need to be aware of when they are forming new regional or bilateral trade agreements.

- FTAs must be liberalizing and not used to impose greater restrictions on non-participating parties.
- Customs duties should be eliminated on "substantially all" trade over a specified timetable and services sector coverage should be "substantial" and result in elimination of discrimination.
- New regional and bilateral free trade agreements should be notified to the WTO.
- Information on other agreements should be reported on and updated.

Understanding on the Interpretation of Article XXIV of GATT 1994 and Article V, GATS

Further resources

ITC Resources for the public sector

ITC offers a wealth of information and learning resources on trade which public sector officials can use to increase their knowledge and understanding of the WTO and other trade issues.

LegaCarta	LegaCarta is an online tool providing critical assessments and technical analyses regarding a country's position in relation to the main multilateral treaties that have an impact on international trade.
Investment Map	The Investment Map helps Investment Promotion Agencies identify priority sectors and competing countries for foreign investments.
SheTrades.com	SheTrades.com is an online platform designed to support women's participation in international trade. It can be used as a training resource for women businesses and business organisations.
EPing	This is an online alert mechanism which provides updates on changes in sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBT) in international markets. It will be useful for agencies likely to be affected by such changes.
Export Potential Map (intracen.org)	ITC's Trade Map is an online database to support export diversification efforts. It provides a range of useful indicators on export performance, international demand, alternative markets and competitors. It could be used by government departments for planning and strategic analysis.
SME Trade Academy | ITC (intracen.org)	An e-learning platform that offers over 100 free courses on export development, sustainability, trade support, entrepreneurship, e-commerce, and market analysis.

Other Resources

WTO Website	Information and more technical background about WTO Accession and many other trade topics
WTO e-Learning Platform	This platform provides a wide range of on demand courses designed both for government officials who need a broad knowledge of the WTO and general trade topics; and those that need more in-depth knowledge on a specific trade topic.

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