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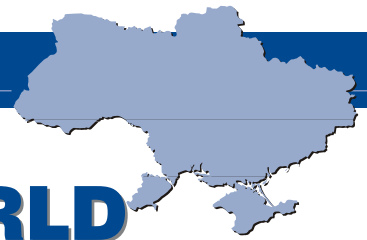
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UKRAINE AND THE WORLD TRADE ORGANIZATION

For Ukraine, the problems of accession to the World Trade Organization (WTO) are coming to the forefront. The accession of China to that organisation at the end of 2001 and the emergence of clear signs of the Russian membership as soon as the next year witness the completion of the process of the WTO establishment as a truly global economic system, and further abstention of Ukraine from participation in it has no reasonable substantiation. This conclusion is further proven by the beginning of a new round of multilateral trade negotiations within the framework of the WTO — “The Development Round”, intended to lead the system of international trade to a qualitatively new level of regulation and encourage closer integration of less developed countries into the WTO.

Accession to the WTO will be extremely important for Ukraine. In fact, it will mean a radical departure from the practice of the state arbitrarily employing the rules of economic behaviour towards the involvement of the country into the system of multilaterally accepted rules. This step may become decisive in the process of establishment of civilised market economy in this country, implementation of radical administrative and structural reforms, and accelerated integration of the country into the global and European economic and political structures.

The problems arising on that path should not be seen as the reason for abstaining from accession or delay of that process. On the contrary, they require stepping up of internal socio-economic transformations on the basis of a clearly formulated goal and tasks closely related with international commitments of the country.

This analytical report is intended to analyse the entire set of the problems related with the process of Ukraine’s accession to the WTO, identification of the main gains and unresolved problems, assessment of probable positive and negative consequences of joining and substantiation of proposals aimed at greater effectiveness of that process.

In this respect, the key points include harmonisation of Ukrainian legislation with the norms of WTO agreements, and completion of negotiations on the procedures of foreign company access to the Ukrainian markets of goods and services. Adequate steps aimed at raising the competitiveness of Ukrainian manufacturers to enable them to effectively compete in an economy based on clear and stable rules, not on exemptions therefrom, should become the priority.

The analytical report consists of four sections.

- The first section* reviews the issues of establishment of the World Trade Organization, its principles, goals, structure and functions, the modern system of its regulatory mechanisms and prospects of activity.
- The second section* analyses mechanisms of acquisition of WTO membership and the experience of separate countries in formation of conditions for accession to that Organization, presents the history of relations between Ukraine and the WTO, reviews the issues of organisation and state of negotiations, existing problems of Ukraine’s accession to the WTO, and assesses the prospects of that process.
- The third section* analyses possible positive and negative consequences and risks of Ukraine’s accession to the WTO and possible ways of strengthening the potential for reaping the fruits of WTO membership.
- The fourth section* presents general conclusions and proposals aimed at raising the effectiveness of the process and formation of favourable conditions for Ukraine joining the WTO.

1. THE WORLD TRADE ORGANIZATION: STAGES OF DEVELOPMENT

The World Trade Organization has taken on a global character and, on the background of globalisation, acts as a strong driving force of the world economic development. The history of establishment of the WTO, and the process of its consolidation and expansion are not simple and unambiguous.

Accession to the WTO and participation in its activity require, from any state, pursuance of a conscious course of liberalisation of the national economy and internal market in exchange for trade preferences and guaranteed protection of economic rights within the framework of universally accepted rules and regulatory mechanisms.

The attractiveness of such “exchange” is proved by the gradual expansion of the WTO membership (from 112 initial members to the present 144). After the accession of China and future membership by Russia and other countries presently conducting negotiations on accession, the WTO will in fact control the entire world market of goods and services.

Gradually, recognition of the need to join the WTO became universal in Ukraine. Achieving that goal requires well-organised and systemic state activity based on thorough study of the historic roots and essence of the WTO, its organisational and functional fundamentals, and the directions of and prospects for activity.

This section reviews general issues relating to the establishment and development of the international trade system presently regulated by the World Trade Organization, its principles, goals, structure and functions, as well as the prospects for WTO activity in the light of the new round of multilateral trade negotiations.

1.1 THE HISTORY OF MULTILATERAL TRADE NEGOTIATIONS WITHIN THE FRAMEWORK OF GATT AND THE CONSOLIDATION OF THE WTO

The WTO is a result of a lengthy process of establishment and development, on the basis of multilateral agreements, of a system of global rules for international trade aimed at formation of the freest, most predictable and friendliest environment for international economic ties. It was preceded by the UN Conference on Trade and Employment, which in 1947 approved the **General Agreement on Tariffs and Trade (GATT)**.

Establishment of a multilateral trade system within the GATT framework in 1947 was a direct response to the challenges raised before the world economy by the Great Depression — a systemic economic crisis during the 1930s. First, states tried to protect themselves from external influences by strengthening protectionism and a curtailment of international trade relations. However, those measures only aggravated the ruinous consequences of the Great Depression and in that way revealed the extremely urgent need to reduce trade barriers and create an international system of trade regulation. The end of World War II and changes in the world political and economic systems caused an acceleration of those processes.

Starting from 1946 the Preparatory Committee of the UN Conference on Trade and Employment attempted to establish the International Trade Organization — the third in the system of organisations of the so-called Bretton Woods agreements (alongside the International Monetary Fund and the World Bank). The above-mentioned 1947 UN Conference approved the Charter of that organisation but it was not ratified by some countries (first of all, the USA)¹. However, the package of trade rules contained in the draft Charter formed the basis for conclusion of the General Agreement on Tariffs and Trade by 23 countries.

Over more than 50 years of existence, the multilateral regulation system has travelled a difficult but generally positive road whose milestones were regular rounds of multilateral trade negotiations. In course of GATT's history were eight rounds of multilateral trade negotiations.

The main stages of development of the GATT/WTO system

On **October 30, 1947**, within the framework of the second session of the Preparatory Committee of the UN Conference on Trade and Employment representatives of **23 countries** signed the Protocol of Temporary Application of the General Agreement on Tariffs and Trade. The Agreement dealt with tariffs. It was to enter

¹ Draft Charter of the International Trade Organization envisaged too vast powers, as for that time, going beyond the limits of trade as such and encompassing rules of employment, commodity agreements, issues of restrictive business practice, international investment and services.



into force on January 1, 1948, and remain effective till the validation of the Charter of the International Trade Organisation. The Agreement encompassed 45 thousand tariff concessions covering trade worth \$10 billion, or approximately 1/5 of world trade.

In March, 1948, the UN Conference on Trade and Employment in **Havana (Cuba)**, gathered, for the first time ever, official delegations from **23 founding members of GATT**. This was the first and unsuccessful attempt at establishing the International Trade Organization. After the non-ratification of its Charter, the General Agreement on Tariffs and Trade remained effective.

In 1949-1961, four rounds of negotiations on reduction of customs tariffs were held. They agreed certain mutual concessions of the participants and considered steps aimed at reduction and regulation of non-tariff barriers to trade.

In 1964-1971, the sixth round of negotiations was held (the so-called Kennedy Round). Then, **62 countries** concluded an agreement on anti-dumping measures (the GATT Anti-Dumping Agreement). Besides, agreements were reached on reduction of tariffs on industrial products (by 35% on average before 1971).

In 1973-1979, at the seventh (Tokyo) round, 12 agreements (codes) and arrangements were signed. They regimented:

- ❖ subsidies and countervailing measures (interpretation of Articles VI, XVI and XXIII of GATT);
- ❖ technical barriers to trade (sometimes referred to as the Standards Code);
- ❖ import licensing procedures;
- ❖ government procurement;
- ❖ customs valuation of imports (interpretation of Article VII of GATT);
- ❖ anti-dumping measures (interpretation of Article VI of GATT that substituted the Anti-Dumping Agreement made at the Kennedy Round).

102 countries discussed tariffs and non-tariff barriers to trade (subsidies and licensing). Thanks to the conclusion of so-called "framework agreements", in the next eight years (starting from 1980) the level of import tariffs at nine major markets of industrial goods was reduced by a third, on the average; the average tariff rate for industrial goods reached 4.7%.

In 1986-1994, the eighth and final (within the framework of GATT) Uruguay Round of negotiations was held. 123 countries discussed 15 key issues covering tariffs, non-tariff barriers in trade, subsidies, anti-dumping measures, revision of several articles of GATT, Codes of the Tokyo Round, trade in textiles and clothing, agricultural produce, tropical products, natural resource products.

Substantial attention was paid to:

- ❖ formation of the multilateral legal basis in the sectors of trade in services, protection of trade-related intellectual property rights and investment measures;
- ❖ strengthening of multilateral agreements in trade in agricultural produce, textiles and clothing.

The negotiations laid down fundamentals and initiated establishment of a firmer and more elaborate legal base of international trade, including a more effective and reliable mechanism of dispute settlement. Attention was paid to broader involvement of the developing countries (especially the least developed) and transition economies to multilateral commitments, including granting them relevant **differentiated preferences** in the process of adaptation to multilateral rules.

In the result of the Uruguay Round of negotiations, the share of industrial goods items (excluding oil) subject to commitments increased²:

- ❖ **for developed countries** — from 78% to 99%;
- ❖ **for developing countries** — from 22% to 72%;
- ❖ **for transition economies** — from 73% to 98%.

Similar growth with respect to agricultural goods made up:

- ❖ **for developed countries** — from 58% to 100%;
- ❖ **for developing countries** — from 18% to 100%;
- ❖ **for transition economies** — from 51% to 100%.

The average weighted import tariffs for trade in goods were reduced³:

- ❖ **in developed countries** — by 40% (from 6.2% to 3.7%);
- ❖ **in developing countries** — by 28%.

The reduction of tariffs was especially great for timber, paper and furniture (69%), metals (59%), and non-electric appliances (58%)⁴.

The main result of the Uruguay Round was the adoption on April 15, 1994, of the Marrakesh Agreement (Marrakesh, Morocco) establishing the WTO that entered into force on January 1, 1995. The World Trade Organization created as the result of the Uruguay Round of negotiations not only incorporated the entire system of GATT agreements but substantially supplemented it, paving the way for further liberalisation of trade and formation of a truly global system of economic regulation.

Out of 128 GATT participants 76 ratified the Agreement establishing the WTO before January 1, 1995, 36 — in 1995. The remaining 16 GATT participants joined the WTO later, without additional

² Stewart T.P. Overview of the Uruguay Round of Trade Negotiations before State Conference on Ukraine's Accession to GATT and the World Trade Organization. — Washington, D.C., 1994, pp.19, 41.

³ The World Bank. Global Economic Prospects and the Developing Countries 1995. — Washington, D.C., 1995, pp.30-31.

⁴ Stewart T.P. (Note 2), p.20.



accession procedures. Another 16 countries became WTO members pursuant to a common procedure⁵. All in all, as of June, 2002, the WTO has 144 members (Map "Countries and customs territories — members of the World Trade Organization") accounting for over 95% of world trade, almost 85% of the world's gross domestic product and more than 85% of the world's population.

The WTO has its basic principles, clear goals, systemic functions and an extensive organisational structure (see relevant charts on pp.5, 8). For its operation, the WTO has substantial financial and human resources: in 2002, its budget totals 143 million Swiss francs, its Secretariat staff: 550 persons⁶. The results of the WTO activity at liberalisation of trade and regulation of international trade relations are felt not only by its members but also by actually all other countries offering their produce on international markets.

The present-day mechanisms of multilateral regulation that form the basis of the WTO activity rest on the system of agreements of the Uruguay Round of GATT negotiations furthered by and complemented with further arrangements made at Ministerial Conferences of the WTO members (Tables "Agreements of the WTO system", pp.9-13 and "WTO Ministerial Conferences", p.13).

It should be noted that the completion of the Uruguay Round of GATT and commencement of the WTO activity have led to substantial extension of the sphere of regulation of economic relations at the expense of implementation of multilateral norms, e.g., covering:

- ❖ overflowing the sphere of trade in goods as such and extension of regulation to the adjacent spheres — investment and intellectual property relations;

- ❖ extension of regulation to previously unregulated or insufficiently regulated spheres of trade turnover — trade in services, agricultural produce, textiles and clothing;

- ❖ priority liberalisation of trade relations and establishment of international regulatory norms in the spheres critical for the future of the world economy, including liberalisation of exchanges in the sphere of basic telecommunications, pharmaceuticals, commencement of formation of agreed conditions for the development of electronic commerce, etc.;

- ❖ deeper regulation of economic relations at the expense of further

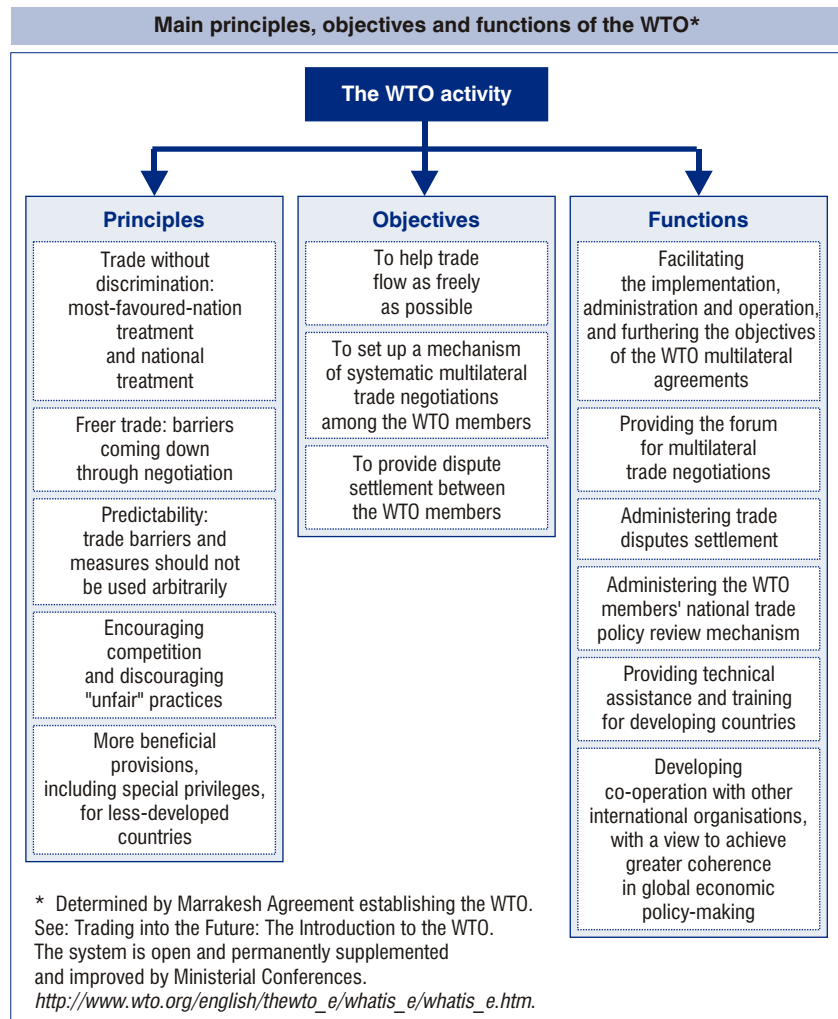
supplementing of tariff measures with arrangements in the sphere of non-tariff regulation;

- ❖ focus on the formation of a fair and non-discriminatory competitive international trade environment.

It should be noted that the agreements of the Uruguay Round of GATT negotiations and the achieved results of the WTO activity are incomplete. They leave many questions relating to the specificity of present-day global economic development unanswered.

Structural changes in the world economy are accompanied with greater subordination of trade flows to the global flows of capital and intellectual resources, their greater dependence on the increasing informatisation of international exchanges. This raises the issue of **deeper integration of measures at regulation of purely trade relations with regulatory mechanisms in the spheres of investment and protection of intellectual property rights.**

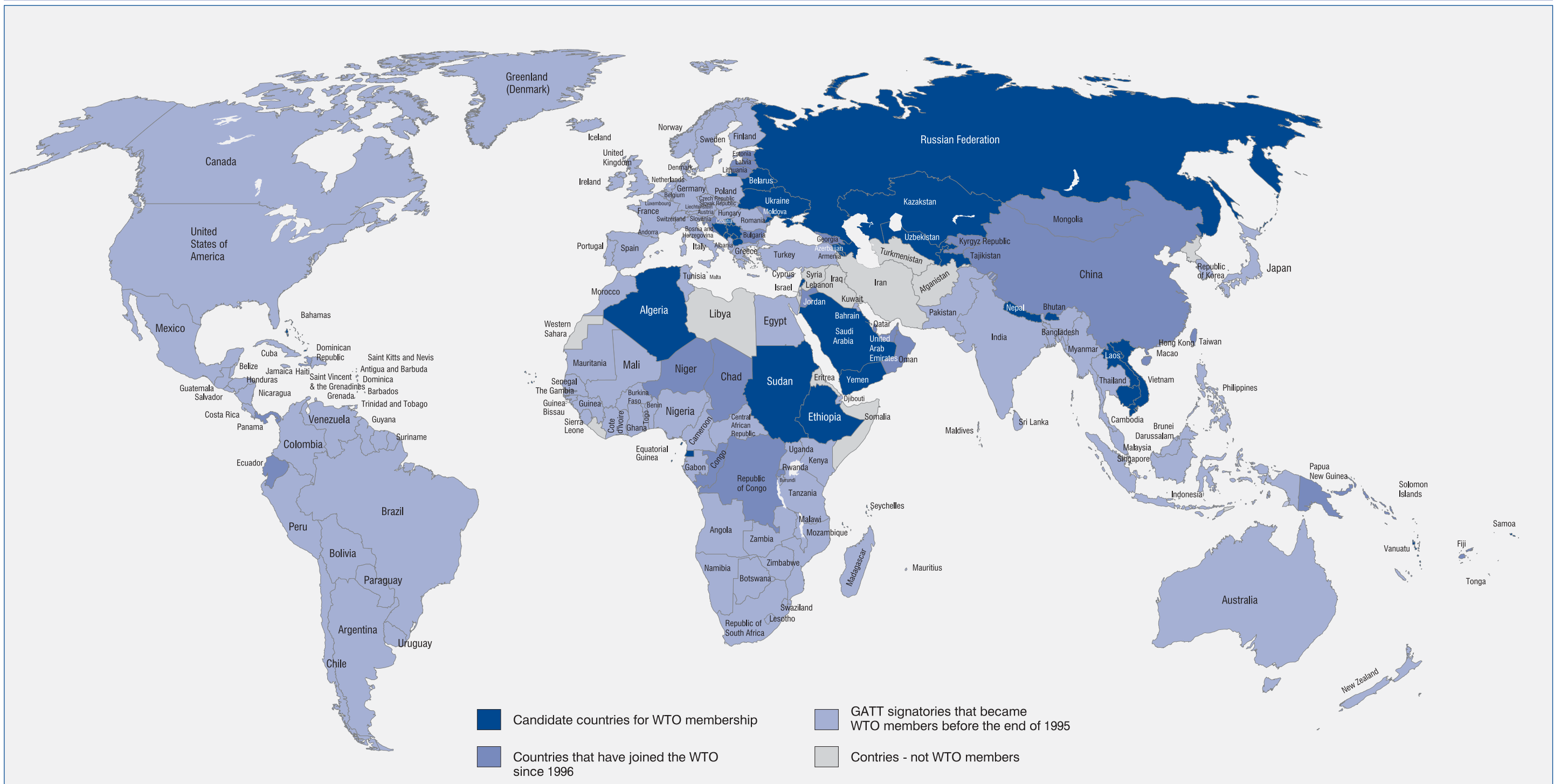
The increasing pace of globalisation conditions accelerated removal of formal tariff and non-tariff

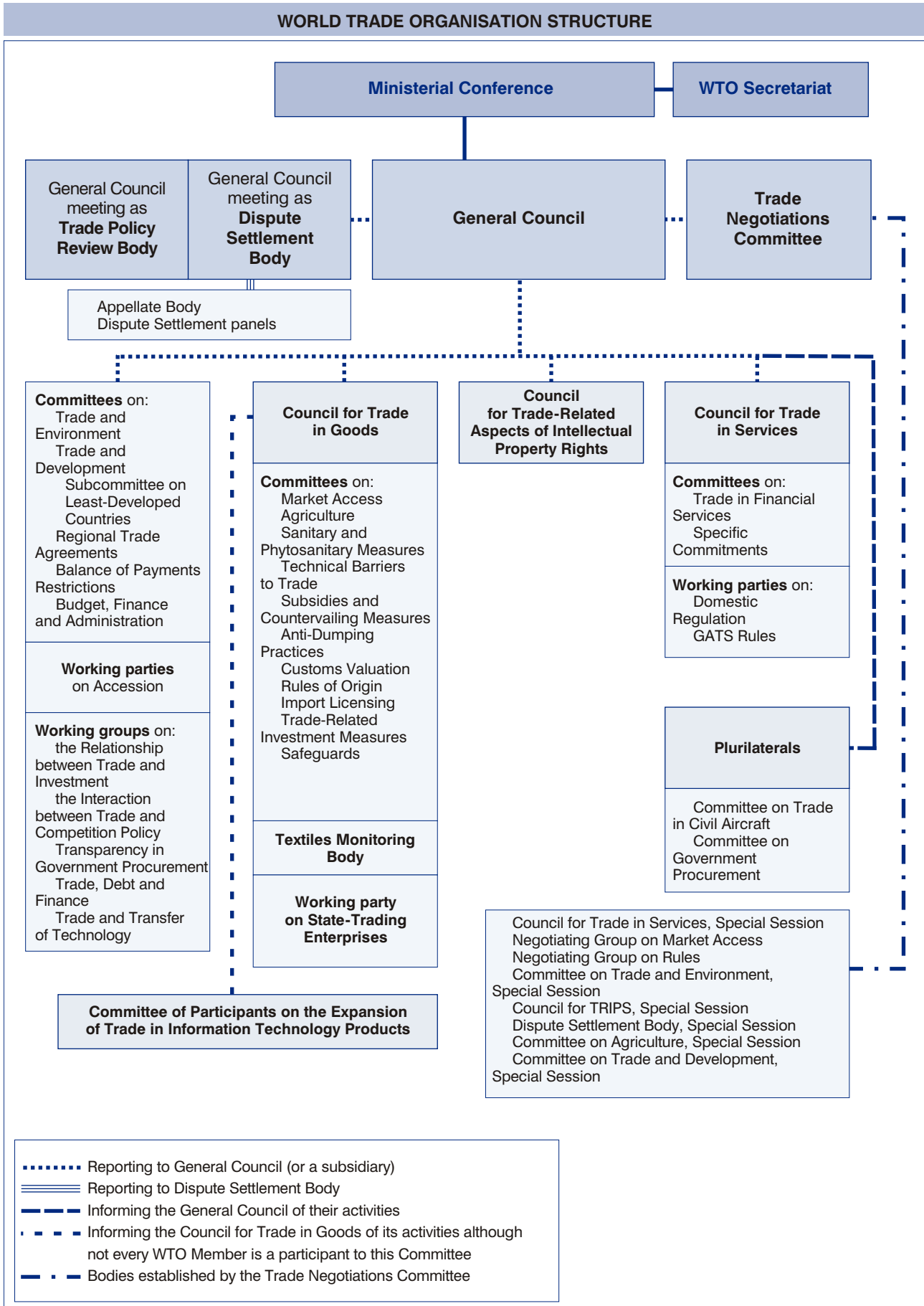


⁵ Articles XI, XII, XIV of the Marrakesh Agreement. See: The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts. WTO, 1995, 520p.

⁶ Source: WTO official Web-site. — http://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm.

COUNTRIES AND CUSTOMS AREAS - MEMBERS OF THE WORLD TRADE ORGANIZATION







Agreements of the WTO system	
Constituent documents	
<p>1. Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations. Signed by ministers representing 124 countries and the European Communities on April 15, 1994</p>	<p>The Final Act incorporates the following inalienable parts:</p> <ul style="list-style-type: none"> ❖ Marrakesh Agreement Establishing the World Trade Organization; ❖ Marrakesh Declaration of April 15, 1994; ❖ Ministerial Decisions and Declarations; ❖ Understanding on Commitments in Financial Services.
Agreements of the WTO system joined by new WTO members pursuant to Article XII of the WTO Agreement	
<p>2. Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) of April 15, 1994</p>	<ul style="list-style-type: none"> ❖ establishes the World Trade Organization; ❖ defines the sphere of the WTO activity as provision of the general institutional basis for trade relations between the WTO members on issues governed by agreements and relevant legal documents; ❖ defines the functions and structure of the WTO; ❖ outlines the goal and mechanisms of relations with other organisations whose sphere of activity is related with that of the WTO. <p>Includes as an integral part a system of multilateral agreements apportioned to Annexes 1-3 to the Agreement.</p>
Multilateral agreements on trade in goods (Annex 1A to the WTO Agreement)	
<p>3. General Agreement on Tariffs and Trade 1994 (GATT 1994)</p>	<p>Consists of:</p> <p>(1) provisions of the General Agreement on Tariffs and Trade of October 30, 1947 (with the following amendments) establishing:</p> <ul style="list-style-type: none"> ❖ general most-favoured nation treatment (Article I); ❖ schedules of concessions (Article II); ❖ national treatment on internal taxation and regulation (Article III); ❖ special provisions relating to cinematograph films (Article IV); ❖ freedom of transit (Article V); ❖ provisions of anti-dumping and countervailing duties (Article VI); ❖ procedure of valuation of goods for customs purposes (Article VII); ❖ procedure of collection of fees and execution of formalities connected with importation and exportation (Article VIII); ❖ norms dealing with marks of origin (Article IX); ❖ norms dealing with publication and administration of trade regulations (Article X); ❖ norms dealing with general elimination of quantitative restrictions (Article XI); ❖ application of restrictions to safeguard the balance of payments (Article XII); ❖ norms dealing with non-discriminatory administration of quantitative restrictions (Article XIII); ❖ exceptions to the rule of non-discrimination (Article XIV); ❖ procedure of exchange arrangements (Article XV); ❖ norms of application of subsidies (Article XVI); ❖ norms dealing with state trading enterprises (Article XVII) and governmental assistance to economic development (Article XVIII); ❖ procedure of emergency action on imports of particular products in the event of infliction or threat of infliction of serious injury to domestic producers of like or directly competitive products (Article XIX). <p>It also establishes exceptions from the Agreement, including:</p> <ul style="list-style-type: none"> ❖ for security reasons (Article XXI); ❖ relating to frontier traffic, trade with customs unions and free-trade areas (Article XXIV), ❖ withholding or withdrawal of concessions (Article XXVII); ❖ modification of schedules and tariff negotiations (of Article XXVIII and XXVIII-bis). <p>Specifies:</p> <ul style="list-style-type: none"> ❖ procedure of accession to the Agreement (Article XXXIII); ❖ procedures of non-application of the Agreement between particular contracting parties (Article XXV). <p>Special provisions (of Article XXXVI-XXXVIII) specify commitments dealing with correlation between trade and socio-economic development of parties to the Agreement;</p> <p>(2) provisions of legal documents that entered into force within the framework of GATT 1947 prior to the WTO Agreement coming into effect, including: protocols and acts dealing with tariff concessions, protocols of accession (with the exception of temporary provisions), decisions on waivers of obligations under Article XXV of GATT 1947, etc.;</p> <p>(3) understandings of interpretation of the GATT Articles, including Articles: II:1(b) — on interpretation of “other duties and charges” in schedules of tariff concessions; XVII — on the transparency of activity of state trading enterprises; XXIV — on customs unions and free-trade areas, as well as territorial application of the GATT 1994 provisions; XXVIII — on modification or withdrawal of tariff concessions; application of trade measures in connection with the balance of payments; waivers of obligations under GATT 1994;</p> <p>(4) Marrakesh Protocol to GATT 1994, provided with the Schedule of tariff and non-tariff concessions (Schedule to GATT 1994), including measures in favour of least-developed countries.</p>

<p>4. Agreement on Agriculture (applied to Chapters 1 to 24 of the Harmonised Commodity Description and Coding System (HS), less fish and fish products, plus hides and skins, raw furskins, raw silk, wool and animal hair, cotton and flax and some other agricultural products)</p>	<p>Applies jointly with Part IV of the Schedule of Concessions.</p> <p>Establishes obligations presenting an integral part of GATT 1994 in the spheres of:</p> <ul style="list-style-type: none"> ❖ market access — through replacement of quantitative restrictions of import, variable import levies, minimum import prices, selective licensing of imports, non-tariff measures introduced through state trading enterprises, voluntary export restraints and similar border measures, with the possibility of applying to some of such products a mechanism of “special safeguard” in case of excess of the critical (trigger) level of import or reduction of import prices below the critical level (setting of a trigger price). ❖ domestic support for the national producer, export competition (export subsidies) on the basis of regulation of the aggregate measurement of support (AMS) and prohibition or limitation of export subsidies with respect to separate goods. <p>Takes into account specific needs of the developing countries (special and differential treatment): 10-year preferential period for the implementation of developing countries commitments to reduce support and release of the least-developed countries from their obligations.</p> <p>The Agreement does not establish restrictions on supportive measures aimed at implementation of programmes of income support not related with terms of production and trade; expenditures on research and development, veterinary measures; infrastructure development; domestic food aid; measures at structural adaptation and assistance in regional development; implementation of environmental protection programmes; producer retirement programmes; with respect to the developing countries — also for assistance with the purpose of encouragement of agriculture and rural development pursuant to development programmes; investment subsidies in agriculture; agricultural input subsidies granted to producers with low incomes and poor resources usually included into the AMS calculation; diversification of production with the purpose of substitution of unauthorised growth of narcotic crops.</p> <p>De minimis share (in the amount of 10% for the developing countries and 5% for other countries) of the total output of certain goods or agricultural produce is established (unless a subsidy is related with a specific product) that may be not included into the AMS indicator subject to reduction. By and large, domestic support exempted from reduction obligations is to be granted through governmental programmes funded by the state; it should not result in support for producer prices.</p>
<p>5. Agreement on the Application of Sanitary and Phytosanitary Measures</p>	<p>Establishes multilateral framework for the rules and procedures regulating:</p> <ul style="list-style-type: none"> ❖ development, introduction and application of sanitary and phytosanitary measures with the purpose of diminishing their negative effects on trade; ❖ encouragement of application of harmonised sanitary and phytosanitary measures based on international standards, instructions and recommendations of international organisations, without requesting the WTO members to alter their appropriate levels of protection of life or health of humans, animals and plants. <p>Establishes:</p> <ul style="list-style-type: none"> ❖ obligations of recognition of the equivalence of the national sanitary and phytosanitary measures; ❖ special and differential treatment for the developing countries. <p>The basic principles of the Agreement are the following:</p> <ul style="list-style-type: none"> ❖ the WTO members are obliged to ensure application of any sanitary and phytosanitary measure only in the extent necessary for protection of life or health of humans, animals and plants, its basing on scientific principles and non-extension of its action without sufficient scientific substantiation (with the exception of application of relevant provisional measures); ❖ sanitary and phytosanitary measures should not cause arbitrary or unjustified discrimination of the WTO members with identical or similar conditions. They should not be applied in a manner presenting disguised restriction of international trade.
<p>6. Agreement on Textiles and Clothing (applies to goods of commodity groups 50-64 of the HS specified in the Annex to the Agreement)</p>	<p>Specifies provisions effective over the transition period of integration of the textiles and clothing sector into the GATT 1994 system (120 months from the WTO Agreement effective date).</p> <p>Sets the goal of improving the conditions of access to the textiles and clothing markets through:</p> <ul style="list-style-type: none"> ❖ reduction and binding of tariffs; ❖ reduction or elimination of non-tariff barriers; ❖ streamlining formal customs, administrative and licensing procedures; ❖ guarantee of application of the policy of fair and equal conditions in such spheres as dumping, antidumping rules and procedures, subsidies and countervailing measures, protection of intellectual property rights; ❖ prevention of discrimination of import at application of the general trade policy. <p>Intended to expand market access for small suppliers, grant substantial trading opportunities to new suppliers, enhance export potential of the least developed WTO members.</p> <p>Envisages application of specific transitional safeguard mechanisms in cases where a certain product is imported in such increased quantities that this causes serious damage or substantial threat to the national industry manufacturing like and/or directly competitive goods (Article 6). This mechanism does not apply to technological changes or changes in consumer preferences.</p>
<p>7. Agreement on Technical Barriers to Trade (TBT)</p>	<p>Pursuant to technical regulations, sets for imported goods procedures not less favourable than for like products of the domestic origin and like products from other countries. Technical regulations should not be prepared, adopted and applied in a manner that targets at or results in creation of unnecessary obstacles to international trade. For that purpose they should not have greater limiting effect on trade than necessary for the attainment of legitimate objectives, e.g., requirements of the national security, prevention of deceptive practices, protection human life or safety, animal and plant life or health, or the environment (Article 2).</p> <p>Establishes:</p> <ul style="list-style-type: none"> ❖ priority of use of international standards as the basis of national technical regulations (not applicable to the developing countries); at the same time, it does not rule out the possibility of use of different national standards with account of fundamental climatic or geographical factors or fundamental technological problems; ❖ regimentation of recognition of other countries' conformity assessment procedures (Article 6); ❖ procedure of granting information on effective technical regulations, standards and procedures of conformity assessment to other WTO members and technical assistance in those issues; ❖ special and differential treatment for the developing countries (Article 12). <p>Commits to accept and adhere to the Code of Good Practice for the Preparation, Adoption and Application of Standards (Article 4).</p> <p>Provides that the conformity assessment procedures make technical regulations and standards for suppliers of goods originating from the territory of other WTO members not less favourable than for suppliers of goods of the domestic origin or goods originating from other countries in a comparable situation. Conformity assessment procedures shall not be applied for creation of unnecessary obstacles to international trade (Article 5).</p>



<p>8. Agreement on Trade-Related Investment Measures (TRIMs)</p>	<p>Applies to investment measures related with trade in goods. Normally establishes national treatment in domestic taxation and regulation; removes quantitative restrictions in that sphere (Article 2). Contains an illustrative list of prohibited investment measures, including so-called local content requirements in the domestic production, requirement of balancing imports and exports at enterprises with foreign investments, regulation of the directions and volumes of exports and imports of such enterprises. Establishes differentiated terms for elimination of all prohibited investment measures from the Agreement effective date in relevant countries: two years — for the developed countries, five years — for the developing countries, seven years — for the least-developed countries, with the possibility of extension of that term for the latter (Article 5). Establishes commitments of transparency at application of investment measures and granting relevant information. Contains a provision of the possibility of supplementing the Agreement with provisions on investment and competition policy.</p>
<p>9. Agreement on Implementation of Article VI of GATT 1994 (anti-dumping)</p>	<p>Establishes the procedure of definition of dumping, injury from dumping, initiation and conduct of investigation, adduction of evidence, application of provisional measures, price undertakings, imposition and collection of anti-dumping duty, legal procedures, etc. Establishes special norms for the developing countries (Article 15).</p>
<p>10. Agreement on Implementation of Article VII of GATT 1994 (customs valuation)</p>	<p>Establishes uniform rules of customs valuation of goods. Regiments administration of customs valuation. Establishes the procedure of consultations and settlement of disputes relating to customs valuation of goods. Establishes special differential treatment for the developing countries.</p>
<p>11. Agreement on Preshipment Inspection</p>	<p>Regiments the procedure of activity relating to the verification of the quality, the quantity, the price (including current exchange rate and financial terms and/or customs classification) of goods exported outside the territory of a WTO member performing inspection. Such activity should be performed in a non-discriminatory form; its procedures and criteria should be objective and apply on the grounds of equality of all exporters (Article 2). Establishes: <ul style="list-style-type: none"> ❖ the site of inspection; ❖ applicable standards. Specifies requirements to: <ul style="list-style-type: none"> ❖ transparency of inspection; ❖ protection of confidential business information; ❖ prevention of conflict of interests; ❖ removal of unjustified delays in course of inspection. Establishes the rules of: <ul style="list-style-type: none"> ❖ price verification with the purpose of prevention of over- or under-invoicing and fraud; ❖ procedures of appeal, settlement of disputes, etc. </p>
<p>12. Agreement on Rules of Origin</p>	<p>Establishes the rules to define the country of origin of goods used at application of non-preferential instruments of trade policy, e.g., at application of the most-favoured-nation treatment, anti-dumping and countervailing duties, safeguard measures, origin marking, any discriminatory quantitative restrictions or tariff quotas, at government procurement and in trade statistics. Contains understandings of the procedures of information, review, consultation and settlement of disputes. Sets tasks in the sphere of harmonisation of the rules of determination of origin on the basis of application of a special Work Programme. One component of the Agreement is presented by the Common Declaration with Regard to Preferential Rules of Origin.</p>
<p>13. Agreement on Import Licensing Procedures</p>	<p>Establishes that the rules of import licensing procedures should be neutral in application and applied in an equitable and fair manner (Article 1). Such rules should be public. The forms and procedures of filing applications for licences should be as simple as possible. Establishes: <ul style="list-style-type: none"> ❖ rules of automatic (Article 2) and non-automatic (Article 3) licensing of imports; ❖ deadlines for the issue of licences; ❖ rules of notification, consultation and settlement of disputes. </p>
<p>14. Agreement on Subsidies and Countervailing Measures</p>	<p>Gives the definition of subsidy and establishes criteria of specific subsidies. Contains lists (not applicable to cases provided for in the Agreement on Agriculture): <ul style="list-style-type: none"> ❖ prohibited subsidies — subsidies conditioned by export performance and use of domestic goods to the detriment of imported (Article 3 of Annex I); ❖ actionable subsidies giving a ground for response action — if subsidies injury to a domestic industry of another WTO member, serious prejudice to the interests of other WTO members, nullify or impair benefits acquired by the WTO members pursuant to GATT (Article 5); establishes the criteria of serious prejudice (including granting of subsidies in amounts exceeding 5% of the product value, coverage of production losses, direct forgiveness of debts); ❖ non-actionable subsidies that do not provide a ground for response action, including subsidies which are not specific; specific subsidies granted with observance of the established terms as to the scope and directions of use, in research activities, for assistance to disadvantaged regions within the general framework of regional development, assistance in accelerated adaptation to new requirements of environmental protection (Article 8). Establishes legal remedies in the event of application of prohibited subsidies and subsidies subject to restrictions, with the use of the Dispute Settlement Body. Establishes the procedure of application of countervailing duty (specific duty imposed to neutralise subsidies pursuant to Article VI of GATT), including the procedure of relevant investigation, collection of evidence, calculation of the amount of a subsidy, determination of injury, application of provisional measures, etc.</p>



	<p>Establishes special and differential treatment for developing countries, proceeding from the assumption that subsidies may play an important role in programmes of economic development for those countries (Article 27).</p> <p>Establishes a procedure for countries in the process of transformation into a market economy whereby they may effectuate programmes necessary for such transition (Article 29) — for seven years for the effective date of the WTO Agreement. Furthermore, it provides preferential terms (close to those of the developing countries) of application of actionable subsidies which are subject to limitation.</p>
<p>15. Agreement on Safeguards</p>	<p>Establishes mechanisms of application of safeguard measures pursuant to Article XIX of GATT 1994 in cases where a particular product is imported in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or directly competitive products (Article 2).</p> <p>Sets the procedure of:</p> <ul style="list-style-type: none"> ❖ relevant investigations; ❖ determination of serious injury or threat thereof; ❖ notifications and consultations in that domain; ❖ duration term (as a rule, no more than four years) and revision of safeguard measures; ❖ application of provisional safeguard measures, etc. <p>Establishes special procedures of application of safeguard measures to goods originating from the developing countries: safeguard measures are not applicable if the share of imports of particular goods in the importer country does not exceed 3%; those countries are entitled to an extended (by two years) duration of safeguard measures (Article 9).</p>
<p>Other generally binding multilateral agreements and understandings</p>	
<p>16. General Agreement on Trade in Services (GATS) (Annex 1B to the WTO Agreement)</p>	<p>Establishes:</p> <p>(1) General obligations and disciplines of:</p> <ul style="list-style-type: none"> ❖ application of the most-favoured-nation treatment (Article II); ❖ transparency and non-disclosure of confidential information; ❖ increasing participation of developing countries; ❖ economic integration and labour markets integration agreements; ❖ domestic regulation; ❖ recognition (of education, experience obtained, requirements met, licences and certificates granted in a particular country); ❖ monopolies and exclusive service suppliers; ❖ business practices; ❖ emergency safeguard measures (Article X); ❖ payments and transfers; ❖ restrictions to safeguard the balance of payments (Article XII); ❖ government procurement; ❖ subsidies; ❖ general exceptions and exceptions for security considerations (from Articles XIV and XIV-bis). <p>(2) Specific obligations dealing with market access (Article XVI), application of national treatment (Article XVII) and some additional commitments.</p> <p>Article XVI specifies prohibited measures in the sectors falling under the Schedule of commitments, including:</p> <ul style="list-style-type: none"> ❖ limitations on the number of service suppliers in the form of numerical quotas, monopolies, exclusive service suppliers or requirements of an economic needs test; ❖ limitations of the total value of service transactions or assets in the form of numerical quotas or requirements of an economic needs test; ❖ limitations on the total number of service operations or the total quantity of service in terms of designated numerical units in the form of quotas or requirements of an economic needs test; ❖ limitations of the total number of natural persons that may be employed in a particular service sector; ❖ measures which restrict or require specific types of legal entities or joint ventures through which a service supplier may grant that service; ❖ 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. <p>The national treatment is applied in the same sectors.</p> <p>(3) Measures of progressive liberalisation, including negotiations on specific commitments and schedules of such commitments (Article XX), as well as the procedure of modification of schedules.</p> <p>(4) Institutional provisions, including the procedure of consultations, dispute settlement and enforcement, operation of the Council for Trade in Services, technical co-operation, relations with other international organisations.</p> <p>The Agreement also contains the procedure of denial of benefits and annexes with special provisions dealing with specific services (air transport, financial, maritime transport and telecommunications).</p>
<p>17. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Annex 1C to the WTO Agreement)</p>	<p>Specifies obligations of observance of the provisions of effective international conventions on the issues of intellectual property protection, elaborating and supplementing relevant trade-related provisions.</p> <p>Enables WTO members to establish in their national legislation of more extensive protection of intellectual property rights (Article 1).</p> <p>Establishes (with a few exceptions) the national treatment (Article 3) and the most-favoured-nation treatment (Article 4) at protection of intellectual property rights of foreign persons.</p> <p>Establishes the standards of acquisition, scope and exercise of intellectual property rights in various spheres, including copy-right and related rights, trademarks, geographical indications, industrial designs, patents, topographies of integrated circuits, protection of undisclosed information, control of anti-competitive practices in contractual licences (of Articles 9-40).</p> <p>Regiments the mechanisms of intellectual property rights protection, which are to be applied in a manner as to avoid creation of barriers to legitimate trade and provide for safeguards against their abuse; the protection procedures themselves should be fair and equitable, should not be unreasonably complicated, and their cost should not be high or involve substantial material expenditures, involve ungrounded time limits or unwarranted delays (Article 41).</p> <p>Envisages civil law and administrative procedures and remedies, application of provisional safeguard measures, special requirements related to border measures and criminal procedures (Articles 42-60), procedures of dispute settlement.</p> <p>Describes the specificity of application of the Agreement over the transition period for the least-developed countries (Article 66), institutional arrangements, exceptions for security reasons (Article 73), etc.</p>



<p>18. Understanding on Rules and Procedures Governing the Settlement of Disputes (Annex 2 to the WTO Agreement)</p>	<p>Establishes the rules and procedures of settlement of disputes submitted for review pursuant to agreements specified by the WTO, consultations and settlement of disputes about rights and obligations under the provisions of the WTO Agreement. The rules and procedures shall be applied together with special provisions contained in the covered agreements (the agreements listed in Annex to this Understanding).</p> <p>Established the Dispute Settlement Body entitled to authorise suspension of concessions and other obligations (Article 2) and authorised to clarify the provisions of the WTO Agreements in accordance with customary interpretation rules of the public international law (Article 3).</p> <p>Regiments the procedure of granting good offices, conciliation and mediation, establishment of panels by the Dispute Settlement Body and the procedure of their activity; procedure of hearing of appeals by the Appellate Body, surveillance of implementation of recommendations and rulings of the Dispute Settlement Body, procedure of granting compensations and suspension of concessions.</p> <p>Establishes special procedures involving least-developed countries (Article 24).</p>
<p>19. Trade Policy Review Mechanism (Annex 3 to the WTO Agreement)</p>	<p>Establishes that the review of the trade policy is aimed at improved adherence of the WTO members to the rules, disciplines and commitments, smoother functioning of the multilateral trading system through imparting it greater transparency and understanding of the policies and practices of the WTO members.</p> <p>Allows assessing all aspects of trade policies and practices of the WTO members and their influence on the operation of the multilateral trade system. However, does not present a basis for enforcement of specific obligations under the agreements or procedures of dispute settlement, does not impose new policy commitments on members (Article A).</p> <p>Establishes:</p> <ul style="list-style-type: none"> ❖ the principle of domestic transparency in governmental decision-making on trade policy issues (Article B); ❖ the procedures of regular monitoring by the Trade Policy Review Body, determines the frequency of such reviews dependent on a country's share in the world trade (Article C); the procedure of reporting (Article D), etc.

Plurilateral trade agreements (with a limited number of participants):

- ❖ Agreement on Trade in Civil Aircraft;
- ❖ Agreement on Government Procurement;
- ❖ International Dairy Agreement (terminated in 1997);
- ❖ International Bovine Meat Agreement (terminated in 1997).

Other ministerial decisions and understandings of the Uruguay Round of GATT: on Measures in Favour of Least-Developed Countries; on Notification Procedures; on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries; on Proposed Understanding on WTO-ISO Standards Information System; on Review of the ISO/IEC Information Centre Publication; on Anti-Circumvention; Regarding Cases where Customs Administrations have Reasons to Doubt the Truth or Accuracy of the Declared Value; on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires; on Institutional Arrangements for the General Agreement on Trade in Services; on Certain Dispute Settlement Procedures for the General Agreement on Trade in Services; on Trade in Services and the Environment; on Negotiations on Movement of Natural Persons; on Financial Services; on Negotiations on Maritime Transport Services; on Negotiations on Basic Telecommunications; on Professional Services; on Accession to the Agreement on Government Procurement; on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes; on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization; on Trade and Environment; on Organizational and Financial Consequences flowing from Implementation of the Agreement Establishing the World Trade Organization; on Commitments in Financial Services and some others.

WTO Ministerial Conference	
Date, location	Subject of discussion and achieved agreements
<p>December 9-13, 1996, Singapore (Singapore)</p>	<ul style="list-style-type: none"> ❖ Results of WTO activity over two years; progress in implementation of commitments and understandings of the Uruguay Round. ❖ Directions of further liberalisation of trade in goods and services, in particular, increasing transparency in governmental procurement. Attention was paid to the inadmissibility of use of labour standards for protectionist purposes. ❖ Problems of trade capacity building of the developing countries. <p>Understanding achieved on the developing countries. The understanding presumes a special Plan of Action covering better market access, improvement of investment conditions, effectiveness of the Global System of Trade Preferences, etc.</p> <p>The Declaration on Trade in Information Technology Products was passed envisaging liquidation of tariffs in that sphere (the Declaration was passed by a number of the WTO members)*.</p> <p>Decision on duty-free trade in over 400 pharmaceuticals was taken (by a number of the WTO members).</p>
<p>May 18-20, 1998, Geneva (Switzerland)</p>	<ul style="list-style-type: none"> ❖ Progress in implementation of commitments and understandings of the Uruguay Round and the programme of subsequent actions. ❖ Measures at overcoming financial crises in a number of countries. Emphasises the need of: an open market-based approach; implementation of a more co-ordinated approach to global regulation on the part of the leading international organisations, including IMF and the World Bank. ❖ Progress of implementation of the Information Technology Agreement. States successful completion of negotiations on liberalisation of the market of basic telecommunications and financial services. ❖ Special procedures for the developing countries. <p>The Declaration on Global Electronic Commerce approved envisaging the development of a work programme for the review of all issues related with global electronic commerce and obligation to continue the current practice of customs duties on electronic transmissions.</p>
<p>November 30 - December 3, 1999, Seattle (USA)</p>	<p>A decision on commencement of a new round of multilateral negotiations on further liberalisation of trade in goods and services was expected, but due to aggravation of contradictions between the WTO members the decision was not passed. An agreement was reached about negotiations on further liberalisation of trade in services, agricultural produce, etc.</p>
<p>November 9-14, 2001, Doha (Qatar)</p>	<ul style="list-style-type: none"> ❖ Performance of the concluded agreements and obligations. ❖ Problems of the developing and least-developed countries, in particular, increasing their possibilities of use of the opportunities offered by the international trading system. <p>Ministerial Declaration on the TRIPS Agreement and Public Health was passed. The Declaration reflects the ministers' recognition of the possibility of flexible application by the governments of provisions of the TRIPS Agreement in healthcare. It was stressed that the TRIPS Agreement should not prevent WTO members from taking measures aimed at provision of public health. Defined some rules of mandatory licensing, parallel imports, dispute settlement, etc.</p> <p>Agreement was reached to grant EU the right to release from the obligations of non-discrimination in trade with the purpose of legitimising preferential trade concessions granted by it to the African, Caribbean and Pacific countries — former colonies of EU member states.</p> <p>A decision was taken to commence a new round of multilateral trade negotiations.</p>

* The importance of this step can hardly be overestimated, since the value of the world market of office and telecommunication equipment in 2000 totalled \$940 billion, or 15.2% of the world exports. See: WTO. International Trade Statistics 2001. — Geneva, 2001, p.95.

barriers on the traffic of goods. In such a situation, the employment of unofficial (in many cases — concealed) mechanisms limiting business activity may prevent from taking the advantages of international division of labour and movement of production. Hence, the issue of **perfection of the mechanisms applied to counter restrictive business practice** comes to the front.

Substantial intensification of regional integration processes is accompanied with conclusion of great many regional trade agreements, which may lead to the erosion of the basic global regimes of trade regulation. Hence, there arises a question of **working out and implementation of agreed requirements to the character, structure and mechanisms of regulation of international trade relations within the framework of regional agreements**. In the first place, they include the requirements of openness for third countries and abidance by the principle of non-discrimination in trade and economic relations.

The pace of emergence and the scale of activity of trans-national corporations increase. Big trans-national corporations can significantly hamper the development of free competition on a global scale — at the expense of their relatively closed internal corporate turnover, mechanisms of actually uncontrolled redistribution of resources through transfer prices, control of trademarks and protection of intellectual property rights. Hence, it is necessary to **work out consolidated rules of competition in the global economic environment**.

The unevenness of economic development of separate countries increasingly affects the balance of mechanisms of multilateral trade and economic regulation. The prospects of more balanced development of the global trade and economic system largely depend on closing the gap in the levels of national development (and, therefore, trade and economic norms and rules to be abided by separate countries), in particular, on the creation of mechanisms facilitating access of less developed countries to the world informational and R&S (research and development) resources. This requires **formation of an effective system of assistance to less developed countries** with the purpose of: strengthening their capacity of employment of the advantages of more liberal international economic exchanges; encouragement of modernisation and raising their competitiveness on the international scene⁷.

Hence, the issue of introducing a systematic approach to the formation of a global mechanism of regulation of international trade and related spheres of economic activity is on the agenda.

Therefore, the WTO is an influential international organisation acquiring a global character. Its activity and influence encompass spheres lying beyond the limits of purely trade relations. The issues of creation of and participation in the activity of an international economic regulation system set to be reviewed in course of the

new round of multilateral trade negotiations, in particular in Mexico in 2003, are becoming increasingly topical for it. For any country, WTO membership is not only beneficial — today, this is actually a necessary precondition for integration into the world economy.

1.2 PROSPECTS FOR WTO ACTIVITY IN LIGHT OF THE NEW ROUND OF MULTILATERAL TRADE NEGOTIATIONS (“THE DEVELOPMENT ROUND”)

The new prospects for WTO development are outlined in the Declaration of the 4th WTO Ministerial Conference in Qatar⁸ that contains the WTO Work Programme envisaging negotiations in a broad range of issues. The negotiations are to be completed before January 1, 2005⁹.

The Work Programme actually lists WTO priorities, defining the goals and schedules of negotiations on agriculture and services, as well as of possible negotiations on a broad range of issues. In particular, they include the issues of tariffs on industrial goods, trade and investment, trade and competitive policy, certain aspects of relationship between trade and environment, etc.¹⁰

The Conference concentrated on the developing countries in general and the least-developed countries in particular. The Declaration calls to render assistance to the developing countries and commits the ministers to pay attention to the particular vulnerability of the least developed countries and specific structural problems they are facing in the global economic environment. Many items of the Work Programme are devoted exactly to those issues.

Pursuant to the Declaration, WTO members will also hold negotiations or consultations on the following issues:

- ❖ transparency in government procurement;
- ❖ trade facilitation;
- ❖ WTO rules regarding regional trade agreements;
- ❖ dispute settlement;
- ❖ trade and environment;
- ❖ electronic commerce;
- ❖ trade, debt and finance;
- ❖ trade and transfer of technology;
- ❖ technical co-operation and capacity building;
- ❖ problems of the least-developed countries;
- ❖ special and differential treatment for the developing countries;
- ❖ issues and problems related with implementation of agreements.

⁷ See. Sidenko V. The WTO International Regulation System and its Role in the Global Economy Development // Globalisation and Security of Development: Monograph/Bilorus O., Lukyanenko D. et al.; O.Bilorus, head of the collective of authors and scientific editor. — Kyiv, 2001, pp.536-538.

⁸ World Trade Organization. Ministerial Conference. Fourth Session. Doha, November 9-14, 2001. Ministerial Declaration. — Document WT/MIN(01)/DEC/W/1.

⁹ The only exception is presented by negotiations on enhancement and perfection of the provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes set to be finished before the end of May, 2003. Some sections of the Working Programme are to be implemented by the end of 2002, i.e., before the next WTO Ministerial Conference.

¹⁰ See Table “The main directions of multilateral negotiations of the Development Round”.



The main directions of multilateral negotiations of the Development Round
(as specified in the Declaration of the 4th WTO Ministerial Conference in Qatar)

Subject of negotiations	Matter of discussion and achieved agreements	Terms
Agriculture	<p>Negotiations on agriculture take place pursuant to Article 20 of the Agreement on Agriculture. Declaration of the 4th WTO Ministerial Conference in Qatar reiterated the long-term goal already stated in the Agreement — implementation of a fair and market-oriented trade system through the implementation of a reform programme. The Programme contains tougher rules and clear obligations dealing with state support for and protection of agriculture. Its goal lies in the removal of barriers and distortions from the world agricultural markets and prevention of their appearance in the future.</p> <p>Governments of the WTO members assumed an obligation to conduct comprehensive negotiations on:</p> <ul style="list-style-type: none"> ❖ access to the market: on substantial reduction of tariffs; ❖ export subsidies: on gradual reduction of all forms of export subsidies; ❖ domestic support: on substantial reduction of those kinds of support that distort trade. <p>Particular attention will be paid to non-trade aspects, such as environmental protection, food safety, rural development, etc.</p>	<p>Commencement of negotiations — 2000. Drawing modalities for further national commitments — before March 31, 2003. Elaborate drafts of the national commitments — before the 5th Ministerial Conference in 2003 (Mexico). Completion of negotiations — January 1, 2005.</p>
Market access for non-agricultural products	<p>Agreements were achieved to commence negotiations on reduction of tariffs on all non-agricultural goods. They aim to reduce or remove tariffs, including reduction of removal of tariff peaks, high tariffs and tariff escalations, as well as non-tariff barriers, e.g., with respect to goods in whose export the developing countries are interested.</p> <p>At the beginning of negotiations the participants should agree the rules of reduction of tariffs (at the Tokyo Round, the participants used an agreed mathematical formula of tariff reduction; at the Uruguay Round they agreed to reduce tariffs on a commodity group basis).</p>	<p>Commencement of negotiations — January 2002. Extensive review of proposals and obligations — the 5th Ministerial Conference in 2003 (Mexico). Completion of negotiations — January 1, 2005.</p>
WTO rules dealing with antidumping and subsidies	<p>The ministers agreed to conduct negotiations on the agreements on antidumping (Article VI of GATT) and subsidies. The negotiations aim to elaborate and improve the rules with simultaneous preservation of the basic fundamentals, concepts and principles of the agreements, as well as account of the needs of the developing and least-developed countries.</p>	
Services	<p>Negotiations on trade in services take place within the framework of the Council for Trade in Services.</p> <p>Pursuant to the General Agreement on Trade in Services (GATS), the WTO members are to hold negotiations on the specified issues and commence new rounds of negotiations aimed at further liberalisation of trade in services. In March, 2001, the Council for Trade in Services introduced methods and procedures of such negotiations.</p> <p>The results of the performed activities were approved, the methods and procedures of negotiations were reconfirmed, some key aspects of the schedule of negotiations specified.</p>	<p>Commencement of negotiations — 2000. Methods and procedures of negotiations — March 2001. Requests for access to markets — before June 30, 2002. Initial offers regarding access to the markets — before March 31, 2003. Extensive review of offers and commitments — the 5th Ministerial Conference in 2003 (Mexico). Completion of negotiations — January 1, 2005.</p>
Trade-related aspects of intellectual property rights (TRIPS)	<p>TRIPS and public health. The focus was on the importance of introduction of the TRIPS Agreement so as to promote public health by promoting access to the existing medicines and creation of new ones.</p> <p>It was decided that, first of all, the TRIPS Council should find the solution of problems that may arise at mandatory licensing for countries possessing little or no capacity to produce pharmaceuticals. Second, for the least-developed countries, the term of application of the rules of patenting pharmaceuticals was extended till January 1, 2016.</p> <p>Review of the TRIPS provisions. The TRIPS Council has begun reviewing the issue of patentability or non-patentability of inventions in the sphere of crop growing and cattle breeding, as well as the issue of protection of varieties of plants.</p> <p>Pursuant to the Declaration of the 4th WTO Ministerial Conference in Qatar, the TRIPS Council should also review the issue of relationship between the TRIPS Agreement and the UN Convention on biological diversity, protection of traditional knowledge and folklore, etc.</p> <p>The system of registration of geographical indications. Geographical indications contain the names of locations that identify goods with specific properties conditioned by the place of their origin. The WTO TRIPS Council has commenced development of a multilateral system of registration of geographical indications for wines and spirits.</p>	<p>Negotiations on that issue are to be completed before the 5th Ministerial Conference in 2003 (Mexico).</p>
Relationship between trade and investments	<p>Prior to the beginning of negotiations the Working Group should concentrate on:</p> <ul style="list-style-type: none"> ❖ definition of the agenda of negotiations; ❖ the problems of transparency and non-discrimination; ❖ drawing of pre-establishment commitments; ❖ identification of exceptions related with the balance of payments; ❖ dispute settlement, etc. 	<p>Commencement of negotiations on that issue — after the 5th Ministerial Conference in 2003 (Mexico).</p>
Interaction between trade and competition policy	<p>Prior to the beginning of negotiations the Working Group should concentrate on the definition of:</p> <ul style="list-style-type: none"> ❖ basic principles, including transparency, non-discrimination and procedural fairness; ❖ modalities for voluntary co-operation between WTO members in the sphere of competition policy; ❖ directions of support for progressive reinforcement of competition in the developing countries. 	<p>Commencement of negotiations on that issue — after the 5th Ministerial Conference in 2003 (Mexico).</p>

The WTO objectively views its future and the prospects of establishment of new mechanisms of global economic regulation. The new round of multilateral trade negotiations within the WTO framework may lead to substantial development of the mechanisms of international economic regulation, further expansion of the sphere of their application and strengthening of influence on national economies.

CONCLUSIONS

The WTO acquires a global character and after the admission of a number of new members (first of all, the Russian Federation) will turn into a universal organisation. Since the moment of the GATT establishment, the sphere of regulatory activity has been substantially extended; today, it goes far beyond the limits of trade relations as such, turning the WTO into a leading international economic organisation, whose membership is in fact indispensable for any country willing to get integrated into the world economy.

In the structural, financial and human aspects, the WTO presents a strong and influential international structure capable of effectively performing the functions of international economic regulation. Hence, accession to the WTO should offer long-term benefits to any country.

The WTO membership simultaneously means participation in the system of multilateral agreements encompassing an ever greater sphere and forming a global mechanism of economic regulation. However, the incompleteness of establishment of the multilateral international system of economic regulation leaves many unresolved issues for future negotiations. To resolve some of them, a new round of multilateral trade negotiations is scheduled for the period of up to 2005.

The results of the new round of multilateral trade negotiations within the WTO framework may lead to substantial development of the mechanisms of international economic regulation, further expansion of the sphere of their application and strengthening of



influence on national economies. It is important to have an opportunity of direct participation in such negotiations with the purpose of protection of the national interests at formulation of international regulation rules. At the same time, commencement of the new round of negotiations complicates the task of adaptation to the parameters of the multilateral trade system for future WTO members. In such a situation, Ukraine may hardly hope for significant indulgence and creation of special preferential terms of joining the Organisation. ■

2. THE PROCESS OF UKRAINE'S ACCESSION TO THE WTO: ADVANCES AND PROBLEMS

Ukraine turned to GATT with an official application for accession in 1993. On that ground, on December 17, 1993, the Working Party on the Accession of Ukraine to GATT was established, since 1995 — **the Working Party on the Accession of Ukraine to the WTO** (hereinafter — the Working Party)¹¹. Over the eight years of the negotiation process the Working Party held nine meetings¹²; bilateral negotiations with its members on access to the markets of goods and services are underway.

This section reviews the practice of accession of new members to the WTO, sums up the experience of shaping conditions for accession to that organisation and the history of Ukraine's relations with the WTO.

For the assessment of the possible duration for Ukraine's accession to the WTO, the issue of accession is reviewed in the aspects of: organisation and support of the negotiation process; activity in the sphere of harmonisation of legislation; results attained in course of negotiations; outstanding problems.

2.1 THE PROCESS OF ACCESSION TO THE WTO: COMMON RULES AND INTERNATIONAL EXPERIENCE

At present, new members are admitted to the WTO under a uniform procedure worked out in 1996-2001 on the basis of the admission experience of, at this time, 16 new WTO members¹³.

Every new member of the WTO undertakes to observe the established principles of reformation of the national trade regime, to make it more predictable, transparent and open. At the same time, the WTO members formulating demands to the applicants dealing with access to their markets, protect the interests of their national companies, thus defending domestic production and securing working places. Hence, the negotiation process lasts for years and normally ends in favour of the stronger and more experienced actors.

The prospects of every applicant country depend, **first of all**, on its ability to interpret the basic provisions of the WTO agreements proceeding from their national interests; **second**, the ability to present the national trade

regime in a good light; **third**, on the skill to "concede" less important positions while defending more critical ones. That is why the results of agreements of the conditions of accession to the WTO made with different countries differ so greatly. At that, some countries whose macroeconomic situation is much better and the level of development is higher may be allowed to apply, for instance, higher import tariffs and assume other less strict obligations dealing with liberalisation of access to markets (Tables "Average import tariff bindings of some new members of the WTO"¹⁴, "Concessions and commitments with respect to goods on the part of particular countries with transition economies that acceded the WTO in 1996-2001"¹⁵).

Accession to the WTO envisages some stages of the negotiation process with strict rules and mechanisms (Insert "Accession to the World Trade Organization: the rules and mechanisms").

Pursuant to the established procedure, negotiations on an applicant country's accession to the WTO are held within the framework of a special **Working Party** made up by representatives of governments of the WTO

¹¹ The Working Party unites 42 WTO members.

¹² The last, ninth meeting was held on June 25, 2002 in Geneva (Switzerland).

¹³ Ecuador (21.01.1996), Bulgaria (1.12.1996), Mongolia (29.01.1997), Panama (6.09.1997), Kyrgyzstan (20.12.1998), Latvia 10.02.1999), Estonia (13.11.1999), Jordan (11.04.2000), Georgia (14.06.2000), Albania (8.09.2000), Oman (9.11.2000), Croatia (30.11.2000), Lithuania (31.05.2001), Moldova (26.07.2001), China (11.12.2001), Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (1.01.2002).

¹⁴ World Trade Organization. *Overview of Developments in the International Trading Environment: Annual report by the Director-General*. — Geneva, September 2001, p.62.

¹⁵ Sources: Schedule of concessions for separate countries; WTO; WT/ACC/7 and its versions; WTO Secretariat, World Bank, World Bank Review 1999, UNCRAD calculations. — Russia on the Road to the WTO, 2002, No.3, p.12-15. Country classification — assessment of Razumkov Centre experts.

Average import tariff bindings of some new members of the WTO		
Countries that acceded the WTO	Simple average bound tariff (%)*	
	Agricultural products	Non-agricultural products
<i>Transition economies</i>		
Albania	10.6	6.0
Bulgaria	34.9	12.6
Croatia	10.4	5.0
Estonia	17.7	6.6
Georgia	12.1	5.8
Kyrgyzstan	11.7	6.7
Latvia	33.6	9.3
Lithuania	15.6	8.2
Moldova	12.4	5.7
Mongolia	18.4	20.0
<i>Developing countries</i>		
Ecuador	25.8	20.1
Jordan	25.0	15.0
Oman	30.5	11.0
Panama	26.1	11.5

* Specific tariff rates disregarded.



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POINT OF VIEW

**Accession to the World Trade Organization:
rules and mechanisms**

Accession to the WTO is never automatic. Once a country has applied for membership, the negotiations are complex and always take several years. China's accession negotiations took as long as 15 years because the application raised special economic and political issues, but some other cases have also taken many years.

The point is that an applicant does not negotiate with a single institution. Each of 144 individual WTO members has to accept that an applicant is ready to join. Those who are most interested in the applicant country participate in a special Working Party which considers that application. The Working Party scrutinises every detail of the applicant's trade regime and economic laws, and its market opening offers. Working Parties always demand that the applicant must accept all the many obligations under

the WTO Agreements and, most importantly, that **before accession it will have in place all the internal laws and administrative arrangements which are needed to carry out immediately the obligations which it has assumed.**

Even though the body of general WTO rules has expanded enormously in the last 30 years, the WTO is still based on the principle of **bilateral negotiations** between members to open their respective markets. Many individual WTO members want to take advantage of the unique opportunity offered by negotiations with a new applicant in order to get worthwhile access for their goods and services in the applicant's own market. This means that in parallel with the Working Party's scrutiny of its overall trade position, the applicant must carry on separate and detailed negotiations on market opening with each of the most important WTO members. On accession, **the concessions agreed with each of them will then have to be applied to all the WTO members** under the so-called *most-favoured nation rule*.

member states interested in negotiations with the applicant about the conditions of its membership in the Organization. The task of the Working Party is to "examine the application for accession to the WTO under Article XII and to submit to the General Council recommendations which may include a draft Ministerial Conference Protocol of Accession".

On the request of the Working Party, the applicant prepares a **Memorandum on the Foreign Trade Regime** and presents **information about the concluded international agreements and copies of legislative and regulatory acts falling under the WTO agreements**. After the review of the Memorandum and the applicant's responses to the questions, negotiations begin **along the four lines: on access to the market of goods, the market of agricultural produce, the market of services and on systemic issues.**

By the results of negotiations a **package of documents of accession** is formed, made up of the following:

- ❖ draft Decision and **Protocol of Accession** — a brief document stating the completion of negotiations and containing recommendations of the Working Party to the governments of the WTO member states to admit the applicant to the WTO;
- ❖ Report of the Working Party¹⁶;
- ❖ **Annexes to the Protocol of Accession:**
 - ♦ Schedule of Concessions and Commitments on Goods;
 - ♦ Schedule of Specific Commitments on Services;
 - ♦ Schedule of Separate Commitments on Agriculture.

After the discussion of the results of the Working Party activity by the WTO General Council or Ministerial Conference, a decision is taken on admission of a new member — as a rule, by consensus. However, if consensus cannot be achieved, the decision may be taken by a two-third majority. In this event prior to the final decision a country opposing such admission may announce non-application of regular commitments and benefits of the WTO to the acceding country.

A contender for the WTO membership ratifies the Protocol of Accession to the WTO that comes into effect and gives the candidate the status of a full member of the Organization on the 30th day after notification of the WTO Director-General about the completion of the relevant ratification procedures.

The duration of every stage varies for different countries and is conditioned by their importance for the partners, the degree of reform of their trade procedures and by their political priorities at negotiations: whether a country attaches priority to the soonest accession to the WTO or to the favourable terms of accession.

¹⁶ In fact, this is the basic document. Its conclusion gives "green light" for the country's accession to the WTO.



Concessions and commitments with respect to goods on the part of particular countries with transition economies that acceded the WTO in 1996-2001

Country	Tariff concessions for agricultural goods	Tariff concessions for other goods	Participation in sectoral initiatives	Aggregate measurement of support of agriculture	Export subsidies for agriculture
Countries that achieved substantial concessions in accession negotiations					
Bulgaria	- 34.9% (in most cases, from 15% to 63%); - Transition period — five-six years; - Application of SSG to some goods	- 12.6% (in most cases, from 5% to 25%); - Transition period — to 15 years	Several "zero" initiatives	- 79% reduction in course of two years	Reduction of actual payments by 35.8% and of allocations by 22% in course of six years
Mongolia	- 18.4% (in most cases, from 10% to 30%); - Without a transitional period; - Non-application of SSG	- 20% (in most cases, from 10% to 20%); - Without a transitional period	Chemical harmonisation	- 10% of gross agricultural product	Zero
Countries that achieved moderate concessions in accession negotiations					
Estonia	- 17.7% (in most cases, from 10% to 30%); - Transition period — five years; - Non-application of SSG	- 6.6% (in most cases, below 15%); - Transition period — six years	Majority of "zero" initiatives, chemical harmonisation, ITA	- 5% of gross agricultural product	Zero
Latvia	- 33.6% (in most cases, from 10% to 40%); - Transition period nine years; - Non-application of SSG	- 9.3% (in most cases, below 15%); - Transition period — nine years	Majority of "zero" initiatives, chemical harmonisation, ITA	- 5% of gross agricultural product; - Use of SDR 24 million (close to 8%), at least till January 1, 2003	Zero
Lithuania	- In most cases, from 15% to 35% (maximum 50%); - Transition period — eight years; - Non-application of SSG	- In most cases, from 10% to 20% (maximum 30%); - Transition period — four years	Majority of "zero" initiatives, chemical harmonisation, ITA	- 17% reduction in course of five years	Zero
Countries that failed to achieve substantial concessions in the process of accession negotiations					
Kyrgyz Republic	- 11.7% (in most cases, from 5% to 20%); - Without a transition period, except for wool; - For wool — five years non-application of SSG	- 6.7% (in most cases, below 10%); - Transition period — seven years	Majority of "zero" initiatives, chemical harmonisation, ITA	- 5% of gross agricultural product	Zero
Georgia	- 12.1% (in most cases, from 12% to 20%); - Transition period — five years; - Non-application of SSG	- 5.8% (in most cases, from 0% to 12%); - Transition period — five years	All "zero" initiatives, with the exception of alcoholic beverages, chemical harmonisation, ITA	- 10% of gross agricultural product	Zero
Albania	- 10.6% (in most cases, from 10% to 20%); - Transition period — seven years; - Non-application of SSG	- 6% (in most cases, from 0% to 10%); - Transition period — nine years	Majority of "zero" initiatives, chemical harmonisation, ITA	- 10% of gross agricultural product	Zero
Croatia	- 10.4% (in most cases, from 0% to 15%); - Transition period five years; - Non-application of SSG	- 5% (in most cases, from 0% to 10%); - Transition period — five years	Majority of "zero" initiatives, chemical harmonisation, ITA	- Reduction against the basic period of 1996-1998 by 20% a year in equal parts in course of six years from the accession date	Zero
Moldova	- In most cases, from 10% to 15% (maximum 40%); - Transition period — four years; - Non-application of SSG	- In most cases, from 10% to 20% (maximum 40%); - Transition period — four years	All "zero" initiatives, with the exception of alcoholic beverages and furniture, chemical harmonisation, ITA	- 16% reduction in course of four years	Zero

Notes to Table:

- ❖ SSG — Special safeguard measures in agriculture.
- ❖ ITA — Information Technology Agreement, or Ministerial Declaration on Trade in Information Technology Products, signed during the Singapore Ministerial Conference in 1996. Parties to the Agreement undertake to entirely cancel import duty for the information technology products specified in the Agreement, at that, the developing countries are given longer terms for reducing trade barriers for specific goods.
- ❖ Sectoral initiatives — unbinding initiatives put forward by separate WTO members with respect to particular commodity groups.
- ❖ "Zero" initiatives — a country's assumption of commitments of reducing import tariffs for certain goods to zero.
- ❖ SDR — Special Drawing Rights, an artificial monetary unit based on a "basket" of the basic Western currencies set up by IMF. SDR serves as an international reserve asset used by IMF members as an accounting unit and for mutual settlements.

For instance, China spent 15 years negotiating substantial concessions, such as retention of increased tariffs in some specific sectors of its economy (Table "Particular rates of China's tariff commitments under the terms of accession to the WTO"¹⁷). A similar result was obtained by Bulgaria, which had negotiated its membership for 14 years.

Meanwhile, some other countries gave priority to the speed of that process. A showy example was demonstrated by the process of negotiations and review of application for the WTO membership of Kyrgyz Republic — the first post-Soviet state that became a WTO member (Insert "The Kyrgyz experience of negotiations on accession to the WTO").

Hence, very often a short term of negotiations is explained not by the effectiveness of the negotiation process but by the intention of a contender country to acquire membership at any cost and rapid surrender of its positions at negotiations. The length of the negotiation process may point either to staunch defence of its interests by a country or to the weakness of the process of reforms in that country or its inability to hold negotiations with consistency and determination. In the case of Ukraine, and then factors are present.

Particular rates of China's tariff commitments under the terms of accession to the WTO

Commodity position	Bound tariff rate at the moment of accession	Final bound tariff rate	Terms of implementation of commitments
0201-0202. Meat of bovine animals	31.8-35.0%	12-25%	At accession
0203. Meat of swine, fresh or chilled	20%	20%	At accession
- frozen	16.8%	20%	2004
0207. Meat and edible offal of the poultry	20%	20%	At accession
- frozen	16%	20%	2004
0210. Meat, meat offal, flours and meals	28-31%	25%	2004
1001. Wheat	74%	65%	2004
1101. Wheat flour	74%	65%	2004
1701. Cane and beet sugar	71.6%	50%	2004
4304. Artificial fur and articles thereof,	18-23%	18-23%	At accession
6101-6114. Clothing	21-25%	14-20%	For the most part, 2004-2005
8418. Refrigerators, household type	20.0-31.7%	10-30%	For the most part, 2005
8509. Vacuum cleaners	26.7%	10%	2005
8510. Electric shavers	30%	30%	At accession
8520. Cassette tape recorders	31.7%	30%	2002
8521. Video tape recorders	39%	30%	2004
Laser video CD players	33.3%	20%	2005
8527. Radio broadcast receivers	For the most part, 20-24%	For the most part, 15-20%	For the most part, 2004
8528. Colour TV receivers	31.7-39.0%	30%	2002-2004
8703. Motor cars	51.9-61.7%	25%	2006
9101-9102. Wrist-watches	17.6-25.0%	11-16%	2002-2004

The Kyrgyz experience of negotiations on accession to the WTO

Kyrgyz Republic filed an official application for the WTO membership on February 13, 1996. The application was reviewed at a scheduled meeting of the WTO General Council on April 16, 1996, where the WTO Working Party was set up, and Kyrgyz Republic obtained an observer status at the WTO.

The Working Party first met on March 10-11, 1997, to review the national Memorandum on foreign trade regime, relevant questions and responses.

At its second meeting on July 18, 1997, the Working Party reviewed additional written questions of the Working Party members dealing with elaboration of the parameters of the foreign trade regime and the responses submitted by Kyrgyz Republic.

On the average, the Working Party meetings were attended by 20 countries (permanent participants being Australia, UK, the EU, Spain, Mexico, Germany, Poland, Slovakia, the USA, the Czech Republic, France, Switzerland, Japan). Furthermore, the Working Party was open for all WTO observers. Representatives of Estonia, China, Latvia, the Russian Federation, IMF, the World Bank and UNCTAD regularly attended the meetings.

The third meeting of the Working Party on the 5th of February, 1998, reviewed the Working Party draft Report on Kyrgyz Republic's accession to the WTO drawn by the WTO Secretariat. The fourth meeting of the Working Party on May 6, 1998, reviewed the text of said draft in detail.

The fifth meeting of the Working Party held on June 23, 1998, adopted the Schedule of Concessions and Commitments of Kyrgyz Republic on Goods and the Schedule of Specific Commitments on Services. Those documents were adopted preliminarily, on the condition of further approval pursuant to the internal procedures of the Working Party member-states.

The sixth, final meeting of the Working Party was held on July 17, 1998. It passed the Working Party Report of Kyrgyz Republic's accession to the WTO, as amended during the meeting, the Protocol of Accession of Kyrgyz Republic to the WTO and Draft Decision of the General Council. Those documents were adopted preliminarily, on the condition of further approval pursuant to the internal procedures of the Working Party members.

Apart from official meetings of the Working Party, there were several multilateral informal meetings held to specify the texts and finalise the documents.

At the last meeting the Working Party decided to recommend the General Council to admit Kyrgyz Republic to the WTO. The issue of Kyrgyz Republic's accession was submitted to the General Council meeting held in late September, 1998.

After a positive decision of the General Council on Kyrgyz Republic's admission to the WTO, the Protocol of Accession of Kyrgyz Republic to the WTO was signed on October 14, 1998. Kyrgyz Parliament ratified the Protocol pursuant to the national procedures on November 20, 1998. Those decisions acquired legal force on December 20, 1998, assumed as the official date of Kyrgyz Republic's accession to the WTO.

Therefore, **Kyrgyz Republic held five rounds of negotiations in course of sixteen months. Five months lapsed between the final meeting of the Working Party and actual membership.**

¹⁷ The WTO database. China. Goods Schedule. — *WT/ACC/CHN/49?Add.1, WT/MIN(01)?3?Add.1.*



2.2 ORGANISATION OF THE PROCESS OF UKRAINE'S ACCESSION TO THE WTO: PLUSES AND MINUSES

The negotiations about Ukraine's accession to the WTO went on very unevenly. In 1998 they were abruptly suspended. Many experts attributed that to serious contradictions in the assessments of the conditions and consequences of accession by the Ukrainian leadership and by pressure from influential political-economic groupings.

However, since 2000, after a series of bilateral negotiations, positive changes have been seen in the process of accession. The seriousness of Ukraine's intentions to exploit positive tendencies in the process of negotiations was proved by the President of Ukraine Decrees "On Additional Measures at Acceleration of Ukraine's Accession to the World Trade Organization" and "On the Programme of Actions for the Completion of Ukraine's Accession to the World Trade Organization"¹⁸.

While positively assessing the signing of such Decrees and many of their provisions, one however cannot but notice that **said documents have substantial deficiencies**, specifically: the September (2001) Presidential Decree **lacks proper substantiation of the terms set for completion of negotiations** and, therefore, the accession to the WTO. The Programme of Actions for the Completion of Ukraine's Accession to the WTO, first of all, **lacks analysis of social, economic and political consequences of the performed actions**; second, **there is no description or analysis of the effectiveness of employment of the available resources (financial, human, etc.) for reforming trade policies** with the purpose of attainment of criteria of the WTO membership, as well as substantiation of the need of attraction of additional resources with possible identification of their potential sources.

These deficiencies **impair the importance of said Decrees and the Programme of Actions as instruments for attainment of the set goal — completion of Ukraine's accession to the WTO.**

Organisation of and support for the negotiation process

Within Ukraine's executive branch **basic elements of the organisational structure supporting the process of negotiations about accession to the WTO have been formed**, including:

- ❖ Interdepartmental Commission for Ukraine's Accession to the WTO¹⁹;
- ❖ Ukraine's Delegation at Negotiations on Accession to the WTO²⁰;
- ❖ Department for Co-operation with the World Trade Organization under the Ministry of Economy and European Integration of Ukraine;
- ❖ Working groups or teams on accession to the WTO in concerned ministries and agencies;
- ❖ Ukraine's Permanent Mission at International Organisations in Geneva.



The main tasks of the **Interdepartmental Commission for Ukraine's Accession to the WTO** encompass:

- ❖ preparation and conduct of negotiations;
- ❖ drawing of necessary documents and their submission to the WTO Secretariat and Working Party members;
- ❖ analysis of Ukraine's legislation for its harmonisation and compliance with the WTO norms and principles, agreements and understandings signed by the WTO members in the framework of multilateral trade negotiations;
- ❖ constant information of the WTO Secretariat and heads of missions of the WTO members about legislation, economic situation and progress of economic reforms in Ukraine.

The fact that the Interdepartmental Commission is headed by Vice Prime Minister of Ukraine **enhances its capability of influencing formulation of an economic policy aimed at effective integration into the WTO system.**

The Department for Co-operation with the World Trade Organization under the Ministry of Economy and European Integration of Ukraine and structural divisions and working groups of other ministries and agencies should greatly expand the circle of officials engaged in co-operation with the WTO. They should become **basic elements of an integral organisational structure capable of effective solution of the tasks ensuing from the future WTO membership.** However, at present, the activity of such structural units meets significant difficulties of their stuffing with qualified experts specialising in the WTO activity, insufficiency of funds for effective professional training of such experts and their lack of interest in permanent employment in the relevant state governance structures.

Therefore, **the effectiveness of the current organisational measures is so far limited.**

¹⁸ The President of Ukraine Decrees No.797 of September 5, 2001, and No.104 of February 5, 2002, respectively.

¹⁹ See: The President of Ukraine Decree "On the Interdepartmental Commission for Ukraine's Accession to World Trade Organization" No.619 of June 4, 1999.

²⁰ See: The President of Ukraine Directive "On Ukraine's Delegation at Negotiations on Accession to the World Trade Organization" No.109 of April 30, 2002.

Harmonisation of the national legislation with the WTO norms and principles

As the experience of the WTO accession by other countries and Ukraine itself shows, **in the first place, the national legislation should be brought in compliance with the WTO norms in the following sectors: tax regulation; customs regulation; regulation of rendering particular services; sanitary and phytosanitary regulation; protection of intellectual property rights; state support for industry and agriculture.**

On the basis of analysis of compliance of the national legislation with the WTO norms and rules, a plan of reform of Ukraine's trade legislation was drawn for the eighth meeting of the Working Party and submitted to the WTO members, presenting a list of 20 priority laws and codes²¹. 15 of them have already been passed, but more efforts are needed to approve the pending legislative acts²².

At the same time, it should be noted that **the problems of harmonisation of the Ukrainian legislation with the WTO norms are not confined to the mentioned "list of 20" and include quite a few other complex issues**²³. Furthermore, the passed laws implementing the provisions of the WTO agreements should be effectively put into life. After all, the WTO experience proves that **some countries (first of all, least developed) quite often assume commitments exceeding actual capabilities of their implementation.**

In this connection, there arises an urgent task of **preventing adoption of legislative and other regulatory and legal acts running contrary to the WTO agreements.** This demand is based on the known **"stand still" principle** that should be observed by any applicant country in the process of negotiations on accession. This means that a country can not, without the risk of protracting negotiations, pass arbitrary changes in its regulative environment contradicting the WTO norms and the information about its trade regime previously submitted to the WTO.

To be sure, the Government that immediately conducts negotiations on accession must play the key role in single-minded and timely adoption of the necessary regulatory and legal acts and prevention of adoption of those running contrary the agreements achieved in the process of negotiations and the effective provisions of the WTO agreements.

Therefore, **an effective mechanism of monitoring the compliance of the Ukrainian legislation with the WTO norms should be created.** After all, in most cases Ukraine's laws vest the duty of creation of mechanisms of their application in the Government, and **on the Government level there appears a great many regulatory documents running contrary to the WTO norms.** At that, the Government's regulatory activity is the least transparent and open for control²⁴.



In this connection it seems important to **strengthen the mechanisms of performance of the main function of the Interdepartmental Commission for Ukraine's Accession to the WTO — control over the compliance of all drafts of regulatory and legal acts dealing with the reform of Ukraine's foreign trade regime with the WTO norms.**

Parliament's role in the process of accession to the WTO

In the context of accession to the WTO, one of the most acute problems of the reform of foreign trade system lies in the **difference (asymmetry) of motives of political actions of the would-be winners and losers.** By and large, the reform is to promote common well-being, but in many cases obtained benefits will be disseminated among many economic agents. Each of them will get comparatively small potential benefit. In particular, potential profit from the reduction or withdrawal of protectionist measures will be distributed among the great many consumers. The benefits obtained by each particular consumer seem so small that he is little motivated to actively influence the process of decision-making at reformation of trade regime. **And the losses of separate non-competitive manufacturers may appear sizeable, so, they may be interested in active opposition to the process of liberalisation and, therefore, accession to the WTO.**

In this situation **Parliament is to play a key role** in reformation of legislation with account of interests of all parties falling under the influence of reforms and in establishment of effective interaction in those issues with Government.

However, today, **the level of co-operation between the Cabinet of Ministers and the Verkhovna Rada on issues related with accession to the WTO is insufficient.** The Verkhovna Rada has not comprehensively reviewed the issue of Ukraine's accession to the WTO yet²⁵. In such a situation, one cannot rule out **serious problems at the stage of ratification of the future Protocol of Accession**

²¹ For more details see the article by V.Rohovi "Ukraine on the Road to the WTO: the Problems, Gains and Prospects" published in this magazine.

²² Customs Code; Tax Code; Law of Ukraine "On Amendment of the Law of Ukraine 'On State Regulation of Agricultural Imports'" (dealing with removal of quantitative restrictions on imports of cattle breeding produce); Law of Ukraine "On Amendment of the Law of Ukraine 'On Television and Radio Broadcasting'" (dealing with an increase in the amount of foreign investments admissible in authorised capital of Ukrainian television and radio companies); Law of Ukraine "On Amendment the Law of Ukraine 'On Quality and Safety of Foodstuffs and Food Raw Materials'" (dealing with harmonisation of the national legislation with international standards and requirements, EU directives in the sphere of regulation of quality and safety of foodstuffs and food raw materials).

²³ See subsection 2.3 of the analytical report.

²⁴ Requiem after the WTO. — AHT Consulting Group, Kyiv, 2001, p.12.

²⁵ By contrast to that faulty practice, the State Duma of the Russian Federation has already held special hearings on that issue.



of Ukraine to the WTO. Therefore, it seems topical to hold special parliamentary hearings on Ukraine's accession to the WTO involving representatives of political parties, business circles, trade unions, scholars and experts. The Cabinet of Ministers assignment of initiating such hearings was set by the President of Ukraine Decree "On Additional Measures at Acceleration of Ukraine's Accession to the WTO" of September 5, 2001. However, it remains unaccomplished by the Government.

Information support for WTO accession

Building of an effective system of information support for the process of accession to the WTO presents a key element of the mechanism set to ensure balanced decisions based on the national interests of Ukraine.

However, the survey performed by the AHT Consulting Group shows that today, there is only one properly functioning element of the system of information support for Ukraine's accession to the WTO — information of the WTO Secretariat in Geneva. All other information flows are of an unsystematic, sporadic character. This especially refers to the commonly accessible information about the Government's activity in that

domain. Up until recently, the Interdepartmental Commission actually has not commenced a systematic media campaign. As a result, Ukraine's society is very poorly informed about the Government's activity related with Ukraine's accession to the WTO²⁶.

Information resources provided for in the WTO agreements have not been created. Meanwhile, the WTO membership binds every country to establish information services (inquiry points) on services, technical barriers to trade, sanitary and phytosanitary measures. In fact, this makes relevant information accessible to users in all WTO members. Furthermore, access to databases created in the WTO in the recent years — the Integrated Database and the Consolidated Tariff Schedules Database — should be provided on the national level.

The absence of systematic information support for the process of accession to the WTO in Ukraine puts on the agenda resolute measures in that sphere. So, the Cabinet of Ministers of Ukraine Directive "On Measures at Information Support for the Process of Ukraine's Accession to the World Trade Organization"²⁷ intended to resolve some of the above-mentioned problems was timely (Table "Governmental measures at information support for the process of Ukraine's accession to the WTO").

Governmental measures at information support for the process of Ukraine's accession to the WTO		
	Event	Term of performance
1.	Creation of a Web-site of the Interdepartmental Commission for Ukraine's Accession to the WTO. Preparation of reports for the Web-site of the Interdepartmental Commission for Ukraine's Accession to the WTO, in particular, placement of texts of multilateral agreements of the WTO and information about the performance of the Programme of Actions for the Completion of Ukraine's Accession to the WTO (at the expense of technical assistance). Software support for the Web-site of the Interdepartmental Commission for Ukraine's Accession to the WTO (at the expense of technical assistance). Preparation of other reports about the main actions and events in the framework of Ukraine's accession to the WTO.	May, 2002 Permanently Permanently —//—
2.	Creation of the rubric "Ukraine and the WTO" on Web-sites of the central executive bodies.	—//—
3.	Placing on Web-sites of the central executive bodies: ❖ information about public events within the framework of Ukraine's accession to the WTO, reports about their conduct; ❖ speeches of officials of the executive branch during public events devoted to Ukraine's accession to the WTO (materials of press conferences, interviews, comments, statements, reports, etc.); ❖ regulatory and legal acts dealing with Ukraine's accession to the WTO, including those prepared for the harmonisation of Ukraine's legislation with the rules of the WTO agreements; ❖ analytical materials devoted to the consequences of Ukraine's accession to the WTO for particular sectors of industry and services.	Permanently —//— —//— —//—
4.	Organisation of public events (forums, seminars, exhibitions, conferences, presentations, etc.) on the issues of Ukraine's accession to the WTO in the regions.	Permanently
5.	Providing for participation of heads of central executive bodies in television and radio programmes devoted to the process of negotiations of Ukraine's accession to the WTO and the advantages obtainable by the national economy from Ukraine's membership in that organisation.	Upon co-ordination with the media concerned
6.	Organisation of press conferences, interviews, meetings with mass media by the results of bilateral negotiations and the Working Group meetings on the issues of Ukraine's accession to the WTO.	Upon co-ordination with the media concerned
7.	Regular newspaper publications about the events conducted by the executive bodies within the framework of Ukraine's accession to the WTO and the advantages obtainable by Ukrainian manufacturers from Ukraine's membership in the WTO, specifically: ❖ "Ukraine's Industry and Expected Consequences of the WTO Membership"; ❖ "Ukraine's Accession to the WTO as a Factor of Increasing Foreign Investments to Ukraine"; ❖ "Accession to the WTO and Ukraine's Agriculture"; ❖ "Accession to the WTO as a Step towards Ukraine's Integration to the European Union"; ❖ "Safeguard remedies for Ukraine's Domestic Market in Accordance with the WTO Agreements".	Upon co-ordination with the media concerned
8.	Review of the issue of introduction of special training programmes on the trade policy development and the WTO activity at universities, including as part of retraining programmes.	Permanently
9.	Development and publication of textbooks and methodical materials on issues regulated by WTO agreements (at the expense of technical assistance).	—
10.	Foundation of a reference centre of the WTO in Ukraine (at the expense of technical assistance).	Second half of 2002

²⁶ Requiem after the WTO..., p.15.

²⁷ The Cabinet of Ministers of Ukraine Directive "On Measures at Information Support for the Process of Ukraine's Accession to the World Trade Organization" No.248-p of May 16, 2002.

There are reasons to hope that the mentioned Governmental Directive will change the situation with information support for the process of accession to the WTO for the better, since it envisages some concrete events. However, it should not be viewed as a sufficient precondition for the solution of the entire set of problems of information support. After all, **there should be not an isolated, one-time decision but restructuring of the entire system of information support for political and economic activity in the country pursuant to universally accepted principles.**

Training of specialists in the WTO activity and issue of relevant professional manuals

One of the most important tasks in the process of Ukraine's accession to the WTO lies in **organisation of training of Ukrainian specialists in issues of the WTO activity.**

The system of the WTO agreements is extremely complicated and requires high qualification for its correct understanding and employment. It is evident that the success of negotiations and the ability to fulfil the assumed commitments and effectively employ the rights and opportunities offered by the WTO membership largely depend on the depth of mastering of all the gains of the GATT/WTO system.

In this connection, creation of an effective system of training and retraining specialists in separate aspects of the trade policies, law and international economic relations in spheres related with particular WTO agreements acquires particular importance. There should be a national programme of training lawyers, economists, managers qualified in the WTO activity²⁸, including anti-dumping procedures, technical barriers to trade, protection of intellectual property rights, etc.

Only with a strong corps of specialists possessing comprehensive knowledge of fundamentals of the GATT/WTO system conditions may be created for the transformation of the business environment in Ukraine, effective performance of the assumed international commitments and the required level of protection of the national economic interests in the international trading system, in particular, within the framework of anti-dumping, safeguard and countervailing investigations.

2.3 UNDERSTANDING REACHED REGARDING FUTURE CONDITIONS OF WTO MEMBERSHIP

Analysis of the reached understanding about the future conditions of Ukraine's WTO membership presents an uneasy task. This is caused by a number of factors: **first of all**, scantiness of the official information on that issue²⁹; **second**, many issues are still under discussion; **third**, the conditions of Ukraine's participation in the WTO, evidently, may change as soon as the WTO reaches new agreements within the framework of the new round of multilateral trade negotiations.

²⁸ Some achievements have been gained in that sphere. In particular, issues of the WTO activity are constantly and systematically studied in the Kyiv National University of Economics and Trade and the Ukrainian Academy of Foreign Trade, where appropriate textbooks have been prepared and issued. Therefore, there are some scientific and methodical materials for the process of teaching in various aspects of the WTO activity that may form the basis for training and retraining of specialists in that sector.

²⁹ This section builds on the data borrowed from the Web-sites of the WTO (www.wto.org), LIGA: ZAKON legal computer network (www.liga.kiev.ua), Ukrainian-European Policy and Legal Advice Centre (www.ueplac.kiev.ua), the Ministry of Economy and European Integration of Ukraine (www.me.gov.ua), the Ministry of Foreign Affairs of Ukraine (www.mfa.gov.ua).

³⁰ The Protocol on Access to the markets of goods and services with Latvia was signed in Geneva on June 20, 2002 — Interfax-Ukraine, June 21, 2002.



Main achievements in the process of Ukraine's negotiations with WTO members

Analysis of the accessible results of Ukraine's Government activity at harmonisation of the legislation with the WTO norms and the results of bilateral negotiations proves the existence of achievements in the process of Ukraine preparation for accession to the WTO.

(1) Seven protocols were signed with WTO members: Canada, Latvia³⁰, Mexico, New Zealand, Republic of Korea, Slovenia and Uruguay (out of the 42 members of the Working Party). Bilateral negotiations on access to the markets of goods with Brazil, Cuba, Ecuador, the EU, Japan, Turkey, and the USA are nearing completion.

In course of negotiations tariffs of 80% out of 5,000 items inquired by the Working Party members have been agreed.

(2) Ukraine plans joining sectoral agreements and initiatives on:

- ❖ chemical harmonisation, steel, toys, timber, textiles and clothing, non-ferrous metals, pharmaceuticals, information technologies — in 2004;

- ❖ paper, agricultural machinery, furniture — in 2005;

- ❖ construction equipment, scientific and medical equipment — in 2006;

- ❖ civil aviation — in 2010;

- ❖ distilled alcohols (three years after accession to the WTO), beer, oilplant seed, fish.

(3) Negotiations on access by WTO members to Ukraine's market of services are conducted in accordance with the Schedule of Commitments, whose draft



encompasses 139 sectors of services (out of 155). **Commitments to liberalisation have been agreed in the following sectors of the services market:** legal, computer, research, rent and leasing, construction, distribution, education, environment protection, tourism, recreation, culture and sports.

(4) On June 14, 2001, during multilateral negotiations in Geneva on the issues of reform of **agriculture the Ukrainian delegation announced Ukraine's obligation not to apply the export subsidies subject to reduction pursuant to the Agreement on Agriculture**³¹.

Therefore, in general, Ukraine has reached evident progress in the co-ordination of parameters of future membership in the WTO. Head of the Working Party for the review of Ukraine's application for WTO membership S.Marchi during the Geneva Meeting with Vice Prime Minister of Ukraine V.Rohovyi said that "Ukraine is at the final stage of accession to the WTO"³².

Problem issues in the process of Ukraine's negotiations with the WTO member states

The multiplicity of problem issues in the process of Ukraine's negotiations with the WTO member states is demonstrated by the following.

(1) Some provisions³³ of the Programme of Actions for the Completion of Ukraine's Accession to the World Trade Organization require amending the effective laws of Ukraine, including:

- ❖ suspension of restrictions on the professional activity of foreigners in Ukraine;
- ❖ introduction of the procedure of assessment conformity for imported goods meeting the requirements of the Agreement on Technical Barriers to Trade;
- ❖ amendment of: the Laws of Ukraine: "On Provision of Sanitary and Epidemic Safety of the Population", "On Protection of the Population from Infectious Diseases", "On Pesticides and Agrochemicals", "On Beekeeping", "On Quarantine of Plants", "On Plant Kingdom", "On Seeds" — for bringing them in compliance with the international sanitary and phytosanitary standards; the Law of Ukraine "On Information Agencies" — for withdrawal of restrictions for foreign individuals and legal entities setting up information agencies, limitations on the

share of foreign investments in their authorised capital; the Law of Ukraine "On Banks and Banking" — for granting foreign banks the right to set up branches on Ukraine's territory; the Law of Ukraine "On Encouragement of Agricultural Production in the Period of 2001-2004" — regarding cancellation of the requirement of mandatory use of the Ukrainian raw tobacco; the Law of Ukraine "On Power Engineering" — regarding suspension of the priority given to domestic manufacturers at tenders for equipment of power generating facilities; the Law of Ukraine "On the Bar" — regarding cancellation of the requirement of Ukrainian citizenship for engagement in advocacy; the Law of Ukraine "On Foreign Economic Activity" — for the provision of procedures of automatic and non-automatic licensing of imports, deadlines for application review, a mechanism of informing foreign states about licensing procedures.

(2) Provision of the Programme of Actions for the Completion of Ukraine's Accession to the World Trade Organization setting the task of **drawing tables of compliance of Ukraine's legislation with the WTO norms and requirements on whose basis the Cabinet of Ministers of Ukraine is to organise development and appropriate approval of the relevant regulatory and legal acts**³⁴. The analysis of compliance of the legislation on intellectual property protection to the TRIPS Agreement³⁵ revealed numerous discrepancies in that sphere. There are no reasons to believe that such analyses in other spheres will produce better results, since in the past two years the sphere of intellectual property protection in Ukraine underwent reforms at a much faster pace than the majority of other sectors dealing with WTO Agreements³⁶.

(3) The results of the recent surveys of the process of Ukraine's accession to the WTO show the **multitude of problems relating to the compliance of Ukraine's legislation with WTO norms**. In particular, Ukrainian laws do not meet WTO norms in the following sectors³⁷:

- ❖ **agriculture** (the Laws of Ukraine "On State Regulation of the Production and Sale of Sugar", "On State Regulation of the Production and Trade in Ethyl, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products" (Article 14), "On Value Added Tax" (Clauses 11.21 and 11.29), "On Writing Off Indebted

³¹ Export subsidies subject to reduction under the Agreement on Agriculture include: (1) direct subsidies contingent on export performance; (2) sale of non-commercial stock of agricultural products at a price lower than on the domestic market; (3) export payments financed pursuant to government policies, including those funded at the expense of proceeds from taxation on producers; (4) subsidies aimed at reduction of costs of marketing of exported produce (with the exception of widely spread export promotion and advisory services), including costs of handling, upgrading and other processing costs, international transport and freight; (5) internal transport and freight charges on export shipments on terms more favourable than for domestic shipments; (6) subsidies on agricultural products contingent on their incorporation in exported products.

³² Interfax-Ukraine, June 21, 2002.

³³ See: President of Ukraine Decree "On the Programme of Actions for the Completion of Ukraine's Accession to the World Trade Organization", Clause 3 "Legislative Support for Ukraine's Accession to the WTO".

³⁴ See: *ibid.*

³⁵ Comparative Analysis of Requirements of the TRIPS Agreement with the Effective Legislation and Bills Dealing with Intellectual Property Protection. — Kyiv, December 2001, 228p.

³⁶ For more details see: The Problems of Intellectual Property Protection in Ukraine. UCEPS analytical report. — *National Security & Defence*, 2001, No.10.

³⁷ Strategic Targets for Ukraine. Ukraine-WTO Negotiation Process: the Results and Prospects. — AHT Consulting Group, Kyiv, 2002, pp.11-15.

Taxes and Duties (Mandatory Payments) of Taxpayers in Connection with the Reform of Agricultural Enterprises”);

❖ **subsidies** (the Laws of Ukraine “On the Economic Experiment at Enterprises of the Mining and Metallurgy Complex” (Article 1), “On Writing Off and Restructuring Overdue Taxes of Taxpayers — Enterprises of Tractor Building and Harvester Building” (Article 1), “On Writing Off and Restructuring Overdue Taxes of *Lysychansknaftoorgsyntez* Open Joint-stock Company as of October 1, 1999”, “On Restructuring Overdue Taxes of *Kryvorizhstal*, Kryvyi Rih State Mining and Metallurgy Plant”, “On Writing Off and Restructuring Overdue Taxes of Coal Mining, Coal Processing and Mining Enterprises of the Ministry of Coal Industry of Ukraine and Underground Mining Enterprises of the Ministry of Industrial Policy of Ukraine” (Article 3);

❖ **services** — regarding limitations on market access for foreign companies (the Laws of Ukraine “On Audit” (Articles 5, 6), “On the Bar”, “On Publishing Business” (Article 18), “On Communications” (Article 11), “On Information Agencies” (Article 2), “On Banks and Banking”, “On Financial Services and State Regulation of Markets of Financial Services”, “On Insurance”);

❖ **regulation of investments** — regarding local content requirements for production (the Law of Ukraine “On Encouragement of Automobile Production in Ukraine”);

❖ **tax regulation** — regarding the national procedures of domestic taxation (the Laws of Ukraine “On Excise Duty on Alcoholic Beverages and Tobacco Products” (Articles 4, 5, 7); “On Value Added Tax” (Articles 5, 11)).

Therefore, the task of harmonisation of the Ukrainian legislation with WTO norms is a huge one and will probably require much time.

The most acute problem areas whose settlement will be of key importance for the prospects of Ukraine’s accession to the WTO include:

(1) One of the most painful issues of the current negotiations lies in co-ordination with WTO members of

Ukraine’s obligations regarding domestic support of agriculture and reduction of such support.

The WTO Agreement on Agriculture bans domestic support for agricultural procedures if it results in the excess of the levels of commitments assumed by a country in the framework of negotiations, with the exception of support granted as:

❖ measures causing no or minimal trade distortions and influence on production (so-called “green box” measures³⁸);

❖ measures applied with the purpose of agricultural development or development of rural areas in developing countries;

❖ direct payments under production retirement programmes.

The issue of transformation of agricultural regulation on the basis of WTO rules cannot be viewed as a one-time measure. That sphere remains most sensitive for the WTO, and very often the limits of the allowed and disallowed are established individually for each country after a complex negotiation process. Although Ukraine has not completed negotiating its commitments in the sector of agriculture, it seems clear that the legislation needs to be amended **to ensure comprehensive transformation of the system of state support for agriculture**. Besides, one of the key issues of the new round of multilateral trade negotiations will be the conclusion of new agreements on gradual reduction of tariffs and subsidies in the agrarian sector. Given all this, the most rational behaviour of the Government in the sphere of agriculture presumes **gradual reduction of the forms of support that will anyway fall under the commitments of reduction and focus on the internationally accepted forms of support for the agrarian sector**.

(2) In the process of bilateral negotiations with the Working Party members on access to the market of services, **the conditions of access to the national market for foreign suppliers of financial and telecommunication services remain unsettled**. Tackling those tasks is uneasy for Ukraine’s Government, since the competitiveness of the national companies active in those sectors is limited³⁹. However, such decisions must be taken anyway as prescribed by the GATS provisions.

³⁸ The Uruguay Agreement on Agriculture envisages two categories of support for agriculture: subsidies not subject to reduction and subsidies that should be reduced. The instruments of economic policy falling under the first category include measures of the “green box”, “blue box” or arrangements of minimal support (*de minimis*). To be entered on the list the support measure should have no or minimal distorting effect on trade or production. (For a subsidy not to be reduced it should be extended only at the expense of a state programme, not consumers, and should not take a form of producer price support.)

The “green box” encompasses the following forms of domestic support: (a) general services, such as funding of research, pest and disease control, training and retraining of specialists, inspection, marketing and promotion services and maintenance of infrastructure; (b) direct payments to producers, such as income support not related to the results of production (decoupled income support), income insurance and income safety-net programmes, payments to producers for the loss of crops and livestock from diseases, payments under producer and resource retirement programmes, investment aids, payments under environmental and regional assistance programmes; (c) public stockholding for providing food security; (d) domestic food aid.

The “blue box” measures include direct payments under production-limiting programmes (e.g., payments for decommissioned land in the EU and deficiency payments in the USA), while *de minimis* arrangement includes general and specific measures, i.e., product-specific measures making up less than 5% of the value of production for the developed countries and 10% — for the developing countries. In those countries some investment subsidies, agricultural input subsidies for low-income producers and encouragement of producers for their refusal from cultivation of narcotic crops did not appear on the reduction list either.

The measures of the second category fall under the commitments of reduction and belong to the “amber box”. Those commitments are based on the Aggregate Measurement of Support, AMS — the aggregate of all expenditures on domestic support for all products and measures not exempt from reduction. Before 2000 every country was to reduce its AMS by 20% (the developing countries — by 13.3% before 2005). See: Cramon-Taubadel S., Zorya S. *Agricultural Aspects of Ukrainian Membership in the WTO*. — Institute for Economic Research and Policy Consulting, 2000, pp.7-9.

³⁹ See Section 3 of the analytical report.

(3) In the process of accession to the WTO the issue of Ukraine's observance of the requirements of the Agreement on Technical Barriers to Trade (TBT Agreement) remains sensitive. The Ukrainian system of technical regulation came close to solving one of the most inveterate problem issues in the relations with the WTO — recognition of the results of the conformity assessment procedures performed in other WTO member states⁴⁰. Furthermore, harmonisation of the national standards with the international ones is in line with the WTO policy in the sphere of technical regulation, and approach of the Ukrainian standardisation and certification systems to the international and European systems creates preconditions for the removal of barriers for the Ukrainian produce access to the world markets.

(4) The issue of possible implications of Ukraine's accession to the WTO and the ways of raising the competitiveness of particular branches of the national economy under the WTO membership remains unexplored⁴¹.

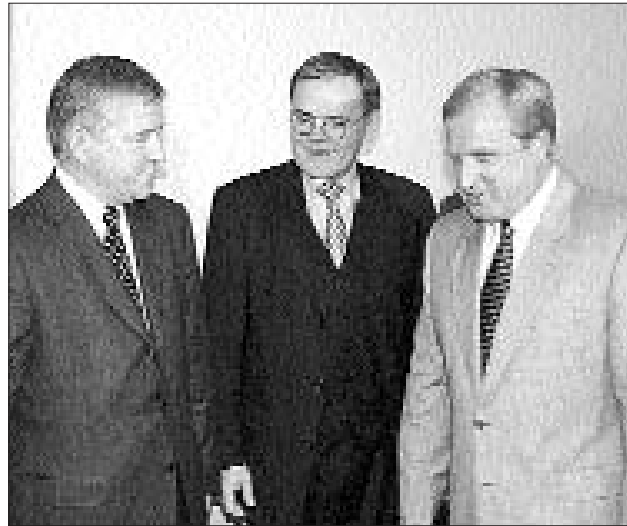
Well-founded and systematic work in that sphere with account of the entire complex of the positive and negative factors, each of them specifically timed, is substituted with blitz-campaigns of preparing "urgent" Governmental acts aimed at softening the "possible negative influence of accession to the WTO" on separate branches. The questions remain: to what extent does the present economic and political elite of Ukraine (or, at least, its majority) need such analysis; how much can such analysis influence formulation of the economic policy and removal of the destructive practice of replacement of long-term national interests with immediate tasks of the business and political elite?

2.4 THE PROSPECTS FOR UKRAINE'S ACCESSION TO THE WTO

Apart from the above factors, the prospects of Ukraine's accession to the WTO depend on a number of other important factors largely or entirely lying beyond the sphere of influence of the Ukrainian politics.

First of all, this is the attitude to the plans of rapid accession to the WTO on the part of the Working Party members, which, in the process of negotiations, defend their interests and will hardly sacrifice them for Ukraine's earliest accession to the WTO.

Second, during the negotiations the number of the WTO members keeps increasing. They may put their own demands to Ukraine, thus becoming involved in the negotiation process, and the agreements of access to the markets of goods and services will have to be made with them, too. China is especially likely to put forward such



demands. It is not ruled out that in the event of accession of Russia to the WTO ahead of Ukraine, that state may also make certain demands⁴².

Third, the beginning of a new round of multilateral trade negotiations means that from now on, WTO members will evidently pay much more attention to negotiations aimed at achievement of a new level of arrangements for themselves than to negotiations on expansion of the WTO. Furthermore, the new round of multilateral trade negotiations will see gradual establishment of new parameters of the international trading system that applicants will have to adapt to.

Proceeding from the present state of negotiations, assessment of the scope of the outstanding problems and the possible effects of the above-mentioned "external factors" on the process of Ukraine's accession to the WTO, it is possible to assess the existing versions of the terms of accession.

The President of Ukraine Decree "On Additional Measures at Acceleration of Ukraine's Accession to the World Trade Organization" rests on rather an optimistic assumption: "To Complete before October, 2002, bilateral negotiations on access to the markets of goods and services with delegations of the member states of the Working Party on the Accession of Ukraine to the World Trade Organization".

However, as of June 1, 2002, the majority of the Decree's provisions are not accomplished properly, specifically:

- ❖ the deadlines for specific events are not observed, as was the case with the approval of the Programme of

⁴⁰ Pursuant to Article 6 of the TBT Agreement, the WTO should, as much as possible, provide that the results of the conformity assessment procedures are accepted by other WTO members, even if such procedures differ from their own, provided they are satisfied that such procedures offer equal assurance of conformity of goods with the effective technical regulations or standards.

⁴¹ For more details see Section 3 of the analytical report.

⁴² This thought is shared by 48.1% of experts polled by the Razumkov Centre Sociological Service. — For more details see Section 3 of the analytical report, Insert "Expert poll", question 6.

Actions for the Completion of Ukraine's Accession to World Trade Organization adopted only in February, 2002;

- ❖ large-scale parliamentary hearings have not been held;

- ❖ the system of effective information support for the process of Ukraine's accession to the WTO has not been created, only a decision on its formation has been passed;

- ❖ passage of laws aimed at harmonisation of Ukraine's legislation with the requirements and norms of the system of the WTO agreements, such as the Tax Code of Ukraine, has not been speeded up; the Customs Code of Ukraine was returned for revision; amendment of a number of Ukrainian laws on intellectual property protection, regulation of the sphere of services, agriculture, etc. seems problematic.

Even if a miracle happens and Ukraine manages to complete negotiations on commitments regarding access to the markets of goods and services and in October-November, 2002, holds a round of negotiations to discuss draft Report of the Working Party, the next (according to the WTO regulations) round may be held only in two or three months, and only then comes WTO General Council approval and Verkhovna Rada ratification.

Therefore, even theoretically, in the best-case scenario, which is highly unlikely to occur, Ukraine's accession to the WTO cannot happen before the beginning of 2003.

Early accession to the WTO may be hindered by the following circumstances.

(1) *Reluctance of the Working Party members to meet more frequently than prescribed.*

Such reluctance is quite substantiated and rests on the reserved assessment of Ukraine's achievements in internal economic reforms and approach to WTO regulatory standards (Insert "*Ukraine on the road to the WTO: the view of a foreign expert*").

For instance, the Working Party at its informal meeting in February, 2002, did not agree to hold the next meeting in April and postponed it till May-June of the current year. With account of the experience of other countries, the draft Report of the Working Party may be discussed two or three times. I.e., **under favourable circumstances the discussions may be held in autumn 2002 and winter 2003, and a decision on Ukraine's accession to the WTO may be taken in spring or summer of 2003.**

(2) *Non-observance of the terms of adoption of the basic laws, including the Customs and Tax Codes, amendment of the legislation on intellectual property protection, regulation of agriculture, sphere of services, etc.*

Passage of bills necessary for Ukraine's accession to the WTO in the first half of 2002 was wrecked due to the election campaign and prolonged structuring of the Verkhovna Rada of the new convocation. It is known however that the Working Party pays attention not only to the adoption of the relevant laws but also to the mechanism of their implementation. Hence, **negotiations on systemic issues may take place only in late 2002 - early 2003.**

POINT OF VIEW***Ukraine on the road to the WTO:
the view of a foreign expert***

Michael JOHNSON,
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Ukraine is quite well advanced in this negotiating process, but still not near the end. It has progressively improved its offers to WTO members on market access, covering such matters as setting maximum tariffs for the import of goods and access to the Ukrainian market for foreign service undertakings (like banks, insurance and transport companies). However it has so far reached bilateral market access agreements with only a few countries. In February, 2002, President L.Kuchma issued a comprehensive decree requiring that the Government, with the agreement of the Verkhovna Rada, should complete by the end of 2002 all the legislation needed for Ukraine's complete conformity with all the requirements of the WTO. It will not be possible to persuade the WTO Working Party that Ukraine is ready to join until all that necessary legislation is in place, and until WTO members are satisfied that Ukraine has committed itself to adequate market opening terms.

We really cannot forecast how long this process will take. In the end it depends on how quickly Ukraine can revise its economic laws to meet WTO standards, offer acceptable market access commitments to its new partners, and where necessary negotiate special transitional arrangements for itself.

At the moment Ukraine is not ready to join the WTO. But if the process now runs smoothly and if the timetables for law reform which are laid down in President Kuchma's Decree are met, it could be possible to agree terms and achieve actual accession in about two years.

Every applicant for WTO membership is treated basically the same, although the detail of negotiations varies widely from case to case. Ukraine is not being specially penalised or discriminated against. It is a large country, which has important industries and agriculture, and it is in the middle of a difficult process of economic reform. It is obvious that WTO members want to look closely at Ukraine's future ability and willingness to apply the standards, which they have all accepted for themselves.

The Ukrainian Government is taking seriously the administrative and organisational tasks which will arise from WTO membership. All Ukrainian trade officials will need to have a good working knowledge of WTO procedures and rules, and they will need to develop their international negotiating skills. As Ukraine prepares to join the WTO several donor agencies including the EU and individual governments such as the United Kingdom are running advisory and training projects in Ukraine to build capacity for the more efficient and systematic conduct of trade policy.

(3) *A kind of "competition" for earlier accession to the WTO between Ukraine and the Russian Federation and substantial differences in the results achieved by the two.*

The formal results of negotiations of the two countries look as follows:

- ❖ the Ukrainian delegation took part in nine official and several unofficial meetings of the Working Party, the Russian — in 14;

- ❖ the Working Party for the Accession of Ukraine to the WTO consists of 42 representatives of governments of the WTO member-states, the Working Party for the Accession of the Russian Federation to the WTO — of 65;

- ❖ as of June, 2002, Ukraine signed seven bilateral protocols on access to the markets, Russia — none.



On the other hand, the Working Party for the Accession of the Russian Federation to the WTO has already drawn up a draft Report, its first discussion was held on 24-25 April, second — 19-21 June, 2002. Preparation of a similar Working Party Report on Ukraine has not begun yet⁴³.

Therefore, Ukraine is currently losing at this most important stage of the negotiation process.

Apart from the deficiencies in the internal organisation of the process of accession in Ukraine, the reason of Ukraine's lag to some extent lies in the policy of the WTO leadership and representatives of the leaders of Western states, more interested in the admission of the Russian Federation. The WTO leadership and its leading "actors" — the EU, the USA and other states — in 1998-2000 paid similarly great attention to China, the fourth world's largest exporter and importer by the results of 2001. After the admission of China, Russia became target No.1 for the WTO (Insert "*From the experience of negotiations on the Russian Federation's accession to the WTO*").

Therefore, in the "competition" of Ukraine and the Russian Federation for accession to the WTO, **Russia has better chances of joining the WTO in the first half of 2003**, since:

- ❖ Ukraine is not a priority partner for the WTO;
- ❖ Ukraine's society and the legislative branch are not sufficiently informed and prepared for taking responsible decisions;
- ❖ Russia "overtook" Ukraine by the level of preparation of issues on accession to the WTO.

Ukraine lacks political activity aimed at accession to the WTO comparable to Russia's. So far, there are no forces in sight capable of organising large-scale events for the solution of the problem issues of Ukraine's accession to the WTO by the Russian model.

Therefore, the prospects of Ukraine's accession to the WTO, and especially its realistic terms, may be defined as the autumn of 2003 — on the condition that Ukraine's delegation at the negotiations will manage to promptly agree all commitments and the Working Party Report on conditions acceptable for the national interests.

CONCLUSIONS

The prospects for countries acceding the WTO depend on their ability to interpret the basic provisions of WTO agreements proceeding from their national interests, present the national trade regime in a good light, compromise, exchanging concessions while staunchly defending the fundamental positions. Exactly this explains the substantial difference in the specific results of the achieved agreements on the conditions of accession to the WTO by particular countries that joined that organisation after 1995.

From the experience of negotiations on the Russian Federation's accession to the WTO

In the second half of 2001 and early 2002, numerous visits and top-level meetings were held involving:

- ❖ on the part of Russia — President of the Russian Federation V.Putin, Head of the Russian Government M.Kasyanov, Minister for Economic Development and Trade G.Gref, Head of the Russian Governmental Commission on Accession of the Russian Federation to the WTO, First Deputy Head of the Russian Government A.Kudrin, Head of the Russian governmental delegation at the negotiations on accession to the WTO, Deputy Minister of Economic Development and Trade M.Medvedkov and others;
- ❖ on the part of the WTO — WTO Director-General M.Moore, Head of the Working Party for the Accession of Russia to the WTO K.Bryn, the U.S. Trade Representative R.Zoellick, Commissioner for Trade of the European Commission P.Lamy (responsible for negotiations with Russia about the conditions of its accession to the WTO), Sweden's Minister of Trade L.Pagrotsky and others. In May, 2002, support for the Russian Federation accession to the WTO was expressed by the President of the U.S. Chamber of Commerce T.Donohue.

Similar activity has not been observed towards Ukraine.

In April, 2002, WTO Director-General M.Moore said that Russia's accession to the WTO will mark "a further step to reaching fuller universality of the multilateral trading system which would be beneficial for all Members". He stressed that governments of the member-states, the Russian authorities, the WTO Secretariat and the international community should "redouble efforts in order to make Russia's accession happen as quickly as possible" and noted that Russia "will take a central place in the management and future development of the world economic system". "It will be a great failure of leadership if this accession is not completed in time for the Mexico Ministerial Conference next year", M.Moore said⁴⁴.

The Russian government pays a great deal of attention to the information and analytical support for the process of accession to the WTO, actively co-operates with the State Duma of the Russian Federation, public associations of entrepreneurs.

For instance, in July-October, 2001, a series of regional conferences were held in seven regional districts on the subject of "Russia, WTO and the Interests of the Business Community" organised by the Ministry for Economic Development and Trade of the Russian Federation jointly with the State Duma Committee on Economic Policy and Entrepreneurship and the Russian Union of Industrialists and Entrepreneurs.

In 2001 alone, the Ministry for Economic Development and Trade of the Russian Federation held over 260 meetings with various unions and associations of manufacturers to discuss Russia's position at negotiations on accession to the WTO.

In April-May, 2002, round-tables were held in Russian regions devoted to the subject of "Economic and Legal Issues of Accession of Russia to the WTO. Development of Agriculture and Food Industry". They were organised by the Russian Foundation for Legal Reform within the framework of the "Legal Culture" project, the Ministry for Economic Development and Trade and the WTO Information Office.

Accession to the WTO envisages some stages of the negotiation process with strict rules and mechanisms. Yet before accession, a country must pass all internal laws and administrative rules necessary for immediate performance of the assumed commitments. Negotiations on the conditions of accession take place along the four lines: (a) access to the market of goods; (b) access to the market of services; (c) agriculture; (d) systemic issues. Concessions agreed with

⁴³ The commencement of such activities was one of the goals of Ukraine at the next round of negotiations within the framework of the Working Party held on June 25, 2002.

⁴⁴ Mike Moore. Russia and the WTO: Reintegration into the World Economy. — Fifth Annual Russian Economic Forum, London, April 19, 2002; see also: http://www.wto.org/english/news_e/spmm_e/spmm84_e.htm.



every particular country in the process of bilateral negotiations further apply to all WTO members. Negotiations end with the conclusion of a Protocol of Accession with annexes including commitments of access to the markets of goods, including agricultural products and services.

The duration of every stage of accession is individual for each country and conditioned by its importance for the partner states, the pace of reform of its trade regime and by its political priorities at negotiations: whether a country attaches priority to the earliest accession to the WTO or to the favourable terms of accession.

The decrees of the President of Ukraine on Ukraine's accession to the WTO of September, 2001, and February, 2002, and the latter decree's approval of the Programme of Actions for the Completion of Ukraine's Accession to the WTO create potential conditions for success in that process. However, the effectiveness of those decrees is impaired by their shortcomings connected with the lack of: proper substantiation of the cited terms of completion of negotiations; analysis of social, economic and political implications of the performed measures; description and analysis of the effectiveness of use of the available financial, human and other resources necessary for the reform of the trade regime.

Basic elements of the organisational structure supporting the process of negotiations on accession to the WTO have been created within the legislative branch in Ukraine. However, the effectiveness of the performed organisational measures is limited. Serious problems remain: prevention of adoption of legislative and other regulatory and legal acts that do not meet the requirements of the WTO agreements; lack of effectiveness at implementation of the laws passed in pursuance of the provisions of the WTO agreements; insufficient activity of the Interdepartmental Commission for Ukraine's Accession to the WTO. The level of co-operation between the Cabinet of Ministers and the Verkhovna Rada in crafting solutions to issues related with the preparation for Ukraine's accession to the WTO is insufficient, too. In such a situation problems with ratification of the future Ukraine's Protocol of Accession to the WTO cannot be ruled out.

An effective system of information support presents a key element of the mechanism of accession to the WTO. There should be not an isolated, one-time decision but restructuring of the entire system of information support for political and economic activity in the country pursuant to universally accepted

principles. The absence of systematic information support for the process of accession to the WTO in Ukraine, a PR-campaign for winning public trust in the governmental steps related with accession to the WTO put on the agenda resolute measures in that sphere.

Creation of an effective system of training and retraining specialists in separate aspects of trade policies and law, international economic relations in spheres related with particular WTO agreements acquires special importance.

By and large, Ukraine has reached evident progress in the co-ordination of parameters of future membership in the WTO, which allows speaking about the entrance of the process of accession into the final stage. However, the task of harmonisation of the Ukrainian legislation with the WTO standards is vast and will require more time.

The most problematic issues critical for the prospects of Ukraine's accession to the WTO include: assumption by Ukraine of commitments regarding the level of domestic support for agriculture and its reduction; formulation of the conditions of access to the national market for foreign suppliers of financial, communication and transportation services; Ukraine's performance of the requirements of the Agreement on Technical Barriers to Trade; assessment of the possible consequences of Ukraine's accession to the WTO and the ways of raising the competitiveness of branches of the national economy in the conditions of the WTO membership.

At the final stage of negotiations Ukraine may face a number of factors beyond its control that will hinder the negotiation process, including the reluctance of some members of the WTO Working Party defending their own interests in the process of negotiations and unwilling to sacrifice them for soonest accession of Ukraine to that organisation, and the probability of demands to Ukraine on the part of new members of the Working Party. However, the strongest hindering factor lies in the beginning of the new round of multi-lateral trade negotiations that will divert attention from the process of the WTO expansion and establish new parameters of the international trading system contenders will have to adapt to.

The analysis of the possible temporal parameters of Ukraine's accession to the WTO shows that the autumn of 2003 may be a feasible term, provided by that time Ukraine's negotiations delegation co-ordinates all commitments and the Working Party Report on conditions acceptable for the national interests. ■

3. POSSIBLE CONSEQUENCES OF UKRAINE'S ACCESSION TO THE WTO

The thoughts of Ukrainian scholars and politicians about the possible consequences of Ukraine's accession to the WTO are varied and largely disembodied. In contrast to Russia, in Ukraine, there has been no tender for preparation of an independent survey of the socio-economic effects of accession. Even if the Government conducted a comprehensive assessment, it was never made public. There were no proper consultations with representatives of the national business circles on issues related to formation of the conditions of accession to the WTO; scientists were not involved in that work on a systematic basis either.

Meanwhile, a system analysis and generalised assessment of the possible consequences of Ukraine's accession to the WTO are necessary both for the increase in the effectiveness of the final stage of the negotiation process and for outlining the state activity at providing conditions for the best use of potential advantages of the international trading system and timely actions for minimisation of possible negative consequences of accession.

Ukraine is and will be influenced by many factors related with accession to the WTO. Many of them may hardly be ultimately termed as positive or negative — everything depends on the political and economic situation. There are many preconditions — and not fewer limitations — for the employment of the positive factors and neutralisation of the negative ones. The final result will depend on the authorities' ability to make an unbiased assessment of those factors, develop and implement an effective state policy, find support of the population, political and business circles.

This section analyses possible positive and negative consequences of Ukraine's accession to the WTO; produces their summarised qualitative assessment based on the following fundamentals: (1) provision of the economic theory of the influence of trade liberalisation on consumers, producers and national economies; (2) experience of the countries that joined the WTO under the established accession procedure; (3) expert assessments of the possible consequences of Ukraine's accession to the WTO⁴⁵.

3.1 POSSIBLE POSITIVE CONSEQUENCES OF UKRAINE'S ACCESSION TO THE WTO AND LIMITATIONS ON THEIR ATTAINMENT

The consequences of Ukraine's accession to the WTO will be both felt on the micro-level — by producers and consumers — and influence the macroeconomic situation in the country as a whole. Potentially,

the WTO membership may give Ukraine the following advantages.

Possible positive consequences for producers

❖ **Facilitated access to world markets** of goods, services, technologies, capital; acquisition of internationally recognised **rights of protection of the national economic interests on those markets** (pursuant to the WTO norms and rules).

⁴⁵ It is very difficult to make an exact economic calculation of those consequences for a number of limiting factors: uncompleted formation of the conditions for Ukraine's accession to the WTO and absence of full information about the achieved agreements; impossibility of formalisation of many important effects of accession (e.g., greater stability of legislation, its transparency for companies, etc.); presence of indirect influences (accession to the WTO will cause not only immediate effects that may be calculated directly but also numerous indirect effects, for instance, caused by acceleration of structural changes in the economy, the pace of innovation, etc.); synergetic action of many positive and negative factors influencing the aggregate effect of accession to the WTO. The latter determines possibility of existence of various variants of assessment of the consequences of accession — dependent on the specific combination of unevenly timed factors. This set of limitations complicates formulation of trustworthy assessment of the consequences of joining the WTO.

Meanwhile, formulas of computation of the consequences of accession to the WTO with respect to the sector of goods exist in the USA, of services — in Australia. For instance, positive effects of changes in tariffs and non-tariff measures on the level of production, exports, imports and consumption of relevant goods and services in the USA and other WTO members were assessed under a unified methodology, employing mathematical modelling. The survey showed that the effects of acceding the WTO were positive for 35 out of 48 sectors, negative — for 13. Proceeding from the obtained results, the U.S. position was adjusted and new agreements made. In 2000, the USA examined the influence of China's accession to the WTO. The results of that survey were used to adjust the U.S. position at the negotiations.

Facilitated access may be provided through unconditional extension of the most-favoured-nation treatment in trade in goods and services and through the national treatment as regards domestic taxation and non-tariff (in particular, technical) regulation.

❖ **Reduction of commercial risks** in the result of establishment of more stable trade regime, which will encourage reduction of the price of supply and therefore increase the competitiveness of the Ukrainian produce on relevant markets.

❖ **Booming of production in certain export-oriented sectors of the economy** in the result of liberalisation of access to foreign markets. For instance, the Agreement on Textiles and Clothing envisages complete elimination of quantitative restrictions in 2004, with gradual suspension of the existing restrictions. This may have a strong positive effect on the relevant sector of Ukraine's economy.

❖ **Reduction of losses incurred by Ukrainian exporters as a result of discriminatory measures** (totalling, according to some sources, \$2-3 billion a year⁴⁶), in particular, through the possible obtaining of non-discriminatory conditions governing the application of anti-dumping mechanisms. This is especially important for Ukraine, given its presence on the list of countries worst hit by anti-dumping measures. This is conditioned by the structure of Ukraine's exports dominated by articles the most vulnerable to such measures: non-precious metals and products thereof account for 32% of the initiated anti-dumping investigations and 38% of anti-dumping measures taken by the WTO member states in 1995-2001 (Table "The countries worst hit by anti-dumping

measures implemented between 1.01.1995 and 31.12.2001 and registered in the WTO)⁴⁷.

It should be noted that initiators of anti-dumping procedures have been viewing Ukraine as a non-market economy, hence, sanctions were introduced against entire sectors, rather than particular enterprises. At that, they did not take into account the actual prime cost of Ukrainian products, and the structure of pricing used for establishing the fact of dumping was artificially modelled after a pattern of foreign countries.

Anti-dumping measures resulted in substantial limitation of Ukraine's export capacity, although they hit only the market of raw materials and semi-finished goods, not finished products. According to some estimates, Ukraine's lost profit in 1995 made up \$3-4 billion (Insert "Some losses of Ukraine from anti-dumping measures").

Some losses of Ukraine from anti-dumping measures

Exports of ferromanganese silicon that previously totalled \$600 million a year, after the imposition of sanctions was reduced to naught. After the European Commission imposed anti-dumping measures against imports of silicon, ferromanganese silicon and ferrosilicon, losses of Zaporizhabrazvyv Joint-stock Company, Nikopol and Zaporizhya ferroalloy plants hit \$162 million⁴⁸.

As a result of anti-dumping measures, Ukraine's exports to Russia in 2001 fell by \$300 million⁴⁹.

As a result of anti-dumping investigation against mineral fertilisers, exports of chemical products fell by \$43 million⁵⁰.

Limitations of steel imports by the USA in 2002 may cause losses worth \$63-220 million a year⁵¹.

The countries worst hit by anti-dumping measures implemented between 1.01.1995 and 31.12.2001 and registered in the WTO, number of measures

Country-initiator of measures \ Country-object of measures	Argentina	Australia	Brazil	Canada	Chile	Colombia	Czech Republic	Egypt	European Communities	Guatemala	India	Indonesia	Israel	Japan	Republic of Korea	Malaysia	Mexico	New Zealand	Nicaragua	Peru	Philippines	Poland	Singapore	South Africa	Thailand	Trinidad and Tobago	Turkey	USA	Venezuela	Total
Brazil	23	0	0	3	0	0	0	0	3	0	1	0	0	0	0	0	7	0	0	0	0	0	0	3	0	0	1	4	0	45
China	23	2	9	6	1	1	0	0	23	0	35	1	1	0	6	0	4	0	0	6	2	2	0	11	0	1	5	29	10	178
Taiwan	8	1	1	3	0	0	0	0	8	0	8	1	0	0	1	0	3	1	0	2	0	1	0	4	0	0	2	11	0	55
Colombia	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	2
India	1	0	2	3	0	0	0	0	13	0	0	3	0	0	0	0	1	0	0	0	0	0	0	8	0	1	1	5	0	38
Indonesia	0	2	0	2	0	0	0	0	7	0	6	0	0	0	0	2	0	0	0	0	1	0	0	2	1	0	1	7	0	31
Japan	3	1	1	2	0	0	0	3	7	0	12	1	0	0	5	1	2	0	0	0	0	0	0	1	0	0	0	18	3	60
Republic of Korea	6	3	1	2	0	0	0	3	9	0	13	1	0	0	0	2	1	2	0	0	0	0	0	13	1	0	3	10	0	70
Russia	2	1	1	3	2	3	0	0	9	0	9	2	0	0	2	0	4	0	0	1	2	0	0	1	0	0	3	6	2	53
Thailand	0	5	1	1	0	0	0	0	12	0	5	0	0	0	0	2	0	4	0	0	1	0	0	2	0	1	0	5	1	40
Ukraine	1	0	0	3	2	2	0	1	6	0	2	1	0	0	0	0	4	0	0	1	0	0	0	1	0	0	2	5	2	33
USA	3	2	5	9	0	2	0	0	3	0	9	0	2	0	3	0	13	0	0	0	0	0	0	4	0	0	0	0	2	57

⁴⁶ Ukraine in the World Trade Organization: Expectations and Realistic Prospects. Collected scientific articles (Ed. Ya.Zhalilo). — Kyiv, 2002, p.40.

⁴⁷ WTO Statistics on Anti-dumping. See: http://www.wto.org/english/tratop_e/adp_e/adp_e/htm.

⁴⁸ Borysenko S. Struggle for the World Markets: the Ukrainian "Freestyle". — 5 Kontinentov, 2001, p.19.

⁴⁹ Data of the Ministry of Economy and European Integration of Ukraine. — A Draft Forecast of the Economic and Social Development of Ukraine for 2003.

⁵⁰ Data of the Ministry of Economy and European Integration of Ukraine. — Ibid.

⁵¹ Estimate of the Cabinet of Ministers of Ukraine. See: Interfax-Ukraine, May 8, 2002.



❖ **Reduction of transportation costs** in the result of guaranteed freedom of transit of goods across the territory of the WTO member-states, **which will help reduce total cost of the Ukrainian produce and, correspondingly, raise the competitiveness of Ukrainian companies.**

❖ **Acceleration of structural reforms and creation of incentives to enhance competitiveness.** Structural priorities will be determined by the potential competitiveness of particular sectors and enterprises on foreign markets, and streamlining of the procedures of access to those markets is to encourage structural changes.

Similar effects will be produced by the access of foreign companies to the domestic market. For instance, access of foreign banks to operations in national currency with resident natural persons of Ukraine on certain conditions may promote public trust in the banking system as a whole, expand the range of services and improve their quality.

❖ **Greater stimuli for innovation as a result of better protection of intellectual property:** the country may obtain positive effects from this, most probably, in 3-5 years.

❖ **Reduction of costs as a result of moving away from double standards** for the domestic market and for exports. For instance, mutual recognition of product quality certification may reduce costs of certification and assessment of conformity by 3-5%, dependent on the type of a product⁵².

❖ **Application of mechanisms of fair settlement of trade disputes.** Accession to the WTO will mean that trade relations with other states fall under multilateral international rules and mechanisms of dispute settlement. This may improve the terms for protection of the interests of Ukrainian companies — on the condition of skilful employment of the opportunities for dispute settlement offered by the WTO.

❖ **Acquisition of an internationally recognised right to apply a set of balanced (substantiated) measures at safeguard remedies of the domestic market and particular sectors of the economy pursuant to the WTO agreements:** Article XII GATT on balance-of-payment provisions; the agreements on safeguards, on agriculture, on application of sanitary and phytosanitary measures, on subsidies and countervailing measures, as well as Article VI GATT on anti-dumping and countervailing measures.

Possible positive consequences for consumers

❖ **Expansion of the stock and improvement of the quality of offered goods and services, reduction of their prices.** At that, elimination (reduction) of trade barriers may cheapen not only finished imported goods and services but also domestic ones made with the use of foreign components. This may be attained already in the mid term (in three years). At the same time, **relevant changes will take place in the structure of consumption**

that will approach to the standards of the developed countries. The increase in effective demand will have a positive impact on production growth, demonstrate the improvement of the socio-economic standing of the population (Insert "*Negative influence of protectionism on the well-being of consumers*").

Negative influence of protectionism on the well-being of consumers

Even in the WTO member-states rise of import tariffs, increase of state subsidies to industry (including agriculture) and quantitative restrictions of imports (for instance, of textiles) in the end exert a negative effect on the cost of life. According to statistical calculations, consumers in Great Britain pay for clothing £500 million a year more as a result of trade restrictions on textile exports. For Canadians, that sum makes up some 780 million Canadian dollars. And vice versa — liberalisation of the EU telecommunications sector led to price reduction by 7-10% on the average. Hence, the WTO system encourages competition and reduces trade barriers, leaving consumers profited⁵³.

Possible positive consequences for macroeconomic situation in the country

❖ **Emergence, in the short run, of additional stimuli for required domestic reforms.** This process will be encouraged by the harmonisation of the national legislation (e.g., in the spheres of taxation, customs regulation, standardisation and certification, regulation of the sphere of services, competition policy, intellectual property protection) with the WTO norms and rules forming market regulators of the economy.

Adoption of new legislative acts and amendment of the effective laws of Ukraine in the mentioned sectors and their implementation are to promote formation of a transparent legislative base, development of the competitive environment and result in the increase in the quality of goods and services.

❖ **Creation of preconditions for the protection of a competitive environment and the struggle against corruption.** Greater transparency of the state policy, removal of the great number of personal preferences will help release trade from administrative pressure and at the same time remove the need of intense lobbying of corporate interests in Parliament and the Government.

❖ **Development of new technologies** due to the increased trade in goods and services conditioned by freer and more stable trade regime. Such correlation was demonstrated by the experience of many countries of the world and progress in the development of particular sectors of Ukraine's economy⁵⁴.

❖ **Improvement of the investment climate** through implementation of more stable, transparent and predictable conditions, which may lead to an increase in the volume⁵⁵ and improvement of the structure of investments. According to the official estimates, this will create conditions for the growth of foreign investments in 2.5-3.0 times⁵⁶.

⁵² Ukraine in the World Trade Organization..., p.65.

⁵³ Advantages of the WTO Trade System. See: <http://www.wto.ru/chto.asp>.

⁵⁴ For instance, in the sectors of mobile telecommunications, assembling of computers from imported parts, re-equipment of food industry with advanced imported machinery.

⁵⁵ According to some estimates, in the year of a country's accession to the WTO foreign investments rise by 1.2% of GDP, on the average (other conditions being equal), and the following year go down still remaining 0.8% higher than before accession. See: Russia and the WTO: Myths and Realities. — <http://www.cefir.ru>.

⁵⁶ See: the President of Ukraine Decree "On Approval of the Programme of Actions for the Completion of Ukraine's Accession to the World Trade Organization" No.104 of February 5, 2002.

❖ **Growth of production, employment, producer incomes and resultant expansion of the taxation base, which may have a positive effect on Ukraine's state budget.** According to an estimate of the Ministry of Economy and European Integration of Ukraine, accession to the WTO will increase the state budget proceeds from exports of domestic produce by almost \$200 million a year. **The well-being of the population is to increase accordingly**⁵⁷.

It is worth noting that **Ukraine's participation in the WTO will not bring about any substantial increase in the state budget expenditures**, since the WTO membership is set up on the basis of the country's share in the world trade. Since Ukraine's share in the world trade makes up 0.2%⁵⁸, and the WTO 2002 budget — 143 million Swiss Franks⁵⁹, Ukraine's annual contribution will be close to 290 thousand Swiss Franks⁶⁰ (or some \$195 thousand)⁶¹.

❖ **Decrease in "shadow" imports**⁶² due to their further liberalisation, which will also bring an increase in state budget revenues.

❖ **Strengthening of Ukraine's positions (both economical and political) and performance of commitments under the Partnership and Co-operation Agreement with the EU, which will have a positive effect on Ukraine's integration to the European Union**⁶³.

The listed possible positive effects from Ukraine's accession to the WTO under certain (subjective and objective) conditions may become a reality. This is proven by the analysis of foreign experience, e.g., Chinese (Insert "*Assessments of possible effects of China's accession to the WTO for the Chinese economy*").

Limitations on obtaining advantages

A new member of the WTO can easily use far from all potential advantages. Moreover, there is a clear correlation between the term of membership in the WTO and a body of advantages obtainable from the international trading system. In particular, the following specificity in manifestation of some effects of membership is observed.

❖ **For Ukraine, the main problem in using the advantages of WTO membership lies in its low, by international standards, competitiveness potential.** For instance, by the current competitiveness index drawn in the framework of the Global Competitiveness Report, in 2001, Ukraine occupied the 60th place among 75 countries,

Assessments of possible effects of China's accession to the WTO for the Chinese economy

Most scholars assess the influence of import tariff reduction on GDP growth at a level of 0.6-4.0%⁶⁴.

According to an IMF study performed in 2000, in the first year following the accession there may be a small negative effect, in the second year, real GDP is expected to additionally grow by 0.1%; in the third and fourth years — by 0.6%; the fifth — by 0.8%.

In the first years after the accession imports growth is likely to exceed export growth, which will lead to reduction of the surplus in the balance of payments, but this tendency may be partly offset through cancellation of all quotas on textile articles. The possible deterioration of the current balance of payments may be offset by the increase in foreign investments⁶⁴.

According to the estimates of Chinese economists, there are no grounds for increasing pressure on the labour market and appearance of the problem of redistribution of incomes. Within five years after the accession 13 million workers may be released in rural areas, 1.25 million — in cities, together accounting for only 2% of the employed population⁶⁴. At the same time, the WTO membership will enable China to increase its GDP by 2-3% a year, and every per cent of growth means appearance of another 5 million jobs⁶⁵.

The Government forecasts foreign trade growth from \$320 billion in 1998 to \$600 billion in 2005 and an increase in foreign investments from \$45 billion to \$100 billion⁶⁵.

According to a preliminary assessment of the World Bank, within five years after China's accession to the WTO its share in the world exports will double, its share in the world imports will grow from the present 3.9% to 7.2% before 2005⁶⁶.

and by the growth competitiveness rating — the 69th, while Russia was the 63rd. Ukraine's closest neighbours in that rating are Indonesia, Colombia, Guatemala, Bolivia and Ecuador, all ahead of Ukraine, and Honduras, Bangladesh, Paraguay, Nicaragua, Nigeria and Zimbabwe behind it (Table "*Overall competitiveness rankings of the Global Competitiveness Report*").

The productivity of labour in Ukraine's metallurgy sector — the main provider of export earnings in Ukraine — is extremely low. For instance, the number of persons employed in that sector in Brazil producing roughly the same quantities of steel as Ukraine is three times lower than in Ukraine. The labour productivity measured as output of steel per worker in Ukraine is a quarter of the relevant EU indicator⁶⁷.

Given all that, it is highly important to raise the competitiveness of domestic enterprises hindered by such factors as the high rate of depreciation of fixed capital, obsolescence of infrastructure, huge (in times higher than in the developed countries⁶⁸) power

⁵⁷ After the Uruguay Round, as a result of transition to a new system of trade agreements, the world income increased from \$109 to \$510 billion. See: Advantages of the WTO Trade System. — <http://www.wto.ru/chto.asp>.

⁵⁸ See: <http://www.wto.org>.

⁵⁹ The World Trade Organization. — Ukraine-WTO. Information bulletin. Joint publication of the Ukrainian-European Policy and Legal Advice Centre and the Verkhovna Rada of Ukraine Foreign Affairs Committee, 2001, No.1, cover page 2.

⁶⁰ Apart from the membership fee, a state is to spend some money on maintenance of staff that would support ties between Ukraine and the WTO.

⁶¹ According to USD/CHF exchange rate as of June 27, 2002.

⁶² Illegal imports of cigarettes to Ukraine in 2000 were estimated at UAH 25 billion, of cheese — some 50% of total imports. See: Biyata M. Imports to Ukraine — Problems and Perspectives of Foreign Trade Partners. — *Ukrainian Economic Trends*, December, 2001, p.97.

⁶³ For more details see an article by R.Shpek "Ukraine's Accession to the WTO in the Context of Development of its Relations with the EU" published in this magazine.

⁶⁴ The World Trade Organization. Overview of the Developments in the International Trading Environment. Annual Report by the Director-General, September, 2001, p.68.

⁶⁵ See: China at the Gates of the World Trade Organization. — *Transition*, April, 2000, pp.14-15.

⁶⁶ UNIAN, February 18, 2002.

⁶⁷ See: Ukraine and the World Economy: Assessment of Risks and Recommendations on Economic Policy. Kyiv, 2002, p.14.

⁶⁸ For instance, the cost of energy in Ukraine's steel production makes up some 30% of aggregate production costs, while in the developed countries the share of expenditures on energy does not exceed 10%. See: *Ibid.*, p.16.



Overall competitiveness rankings of the Global Competitiveness Report		
Country	Growth competitiveness index	Current competitiveness index
1. Finland	1	1
2. USA	2	2
3. Canada	3	11
...		
12. UK	12	7
...		
17. Germany	17	4
...		
20. France	20	12
21. Japan	21	15
...		
28. Hungary	28	26
29. Estonia	29	27
...		
37. Czech Republic	37	35
...		
40. Slovakia	40	39
41. Poland	41	41
42. Mexico	42	51
43. Lithuania	43	49
...		
47. Latvia	47	42
...		
56. Romania	56	61
...		
59. Bulgaria	59	68
...		
63. Russia	63	58
64. Indonesia	64	55
65. Colombia	65	56
66. Guatemala	66	69
67. Bolivia	67	75
68. Ecuador	68	72
69. Ukraine	69	60
70. Honduras	70	74
71. Bangladesh	71	73
72. Paraguay	72	70
73. Nicaragua	73	71
74. Nigeria	74	67
75. Zimbabwe	75	65

Source: Global Competitiveness Report 2001-2002, World Economic Forum, p.25.

consumption in industry, absence of the so needed domestic sources of substantial investments, underdeveloped infrastructure for commercial activity on foreign markets⁶⁹.

❖ The advantages of free access to markets largely apply to markets with predominantly price competition, i.e., the markets of raw materials and mass production of finished products. This is far less true for hi-tech products supplied mainly within the framework of the closed turnover systems of transnational corporations and staying under minimal influence of WTO liberalisation measures. Hence, if Ukraine relies only on the effects of trade liberalisation, it will long be held in the sphere of low-tech exports with low incomes, i.e., affected by resource limitations hindering the pace of domestic reforms.

❖ With the reduction of tariffs, the weight of non-tariff regulation increases, and it is far less susceptible to

the influence of measures aimed at the reduction of market access limitations (Table "Employment of measures of technical regulation of trade in the WTO member-states"⁷⁰).

❖ Opportunities for increasing sales of goods and services on foreign markets may be hindered by the incompatibility of the commodity structure of Ukraine's exports and the structure of global trade.

For instance, the key trends of the world trade commodity structure over the past 10 years were the reduction of the share of agricultural produce in the world exports (from 12.2% to 9% in 2000), mining products (from 14.3% to 13.1%), iron and steel (from 3.1% to 2.3%), textiles (from 3.1% to 2.5%), with a simultaneous increase in the share of engineering and transportation equipment (from 35.8% to 41.5%), office and telecommunication equipment (from 8.8% to 15.2%), chemical products (from 8.7% to 9.3%).

Structural priorities of Ukraine's exports are not in line with the bulk of the world trends: by the results of 2001, Ukraine's export structure is dominated by non-precious metals and articles thereof (41.3%), agricultural produce (some 11%), chemical products (some 9%), textiles (3.8%); engineering products, instruments and transportation facilities account for only 14.3%.

A similar situation is observed in the sphere of export of services. By the results of 2001, the lion's share of Ukraine's exports of services falls on transportation services (83.5%), while in the world exports they do not exceed 23%. At the same time, Ukraine's exports of travel services account for only 2.3%, while in the world exports they make up 23%.

❖ Accession to the WTO does not entirely remove the threat of anti-dumping investigations, although, as we already mentioned, it potentially strengthens the positions of a country against which they are initiated. The number of such investigations and anti-dumping measures applied by WTO members demonstrates an upward trend.

According to the WTO Secretariat, in 1995-2001, 1,845 anti-dumping processes were initiated and 1,066 cases of imposition of anti-dumping duties were registered — in 2001, the number of such cases increased against the 1995 level from 157 to 330 and from 118 to 163, respectively⁷¹.

❖ WTO membership does not guarantee settlement of all trade problems. First of all, the set of the WTO agreements and understandings is still neither perfect nor acceptable for entirely all members of the Organization. Second, the developed countries, expanding the sphere of their influence through the WTO,

Employment of measures of technical regulation of trade in the WTO member-states, number of notifications of technical regulations and standards

	1995	1996	1997	1998	1999	2000
EU	123	123	437	276	185	156
Canada	29	20	30	115	24	26
USA	33	40	33	35	49	32
Japan	50	41	35	28	30	56
Total	365	460	795	648	672	611

⁶⁹ According to expert estimates, transaction costs of Ukrainian exporters in 2000 made up some 40% of income (in the developed countries — 3-5%). They encompass taxation, bureaucratic procedures, poor performance of customs services, banks, etc. See: Ukraine on the International Markets: the Problems and Prospects. UCEPS analytical report. — Razumkov Centre 2000, Kyiv, 2001, pp.421-422.

⁷⁰ The World Trade Organization. Overview of the Developments in the International Trading Environment. — Annual Report by the Director-General, September 2001, p.37.

⁷¹ WTO Statistics on Anti-Dumping. — See: http://www.wto.org/english/tratop_e/adp_e/adp_e/htm.

primarily care about their own interests and only to a limited extent concede them in favour of less-developed countries.

For instance, in the EU, preferences extended to the least-developed countries cannot make up for the unequal conditions of trade caused by the EU agricultural subsidies, support for the textile industry, anti-dumping measures, etc. Achievement of not formal but actual equality of all WTO members is on the agenda of the new Development Round.

❖ **Successful use of the mechanisms of multilateral settlement of disputes existing within the WTO may be hindered by the absence of well-trained and experienced experts in different sectors of international commercial law.** Given the deficit of such experts, it will be uneasy for Ukraine to make use of the advantages of its membership in the WTO and avoid unjustified losses in the process of accession.

❖ **Existence of numerous regional free trade regimes presenting exceptions from the most-favoured treatment offered by the WTO membership limits the effect of the WTO norms and rules (Article XXIV of GATT).** In such a situation Ukraine, not being a party to free trade agreements, may appear in a less advantageous situation. This especially refers to Ukraine's relations with the EU.

❖ **Liberalisation of trade potentially may not only encourage foreign investments, but also discourage them in the short and medium run, since it will make import of goods more profitable.** At that, investments may be primarily channelled to trade, specifically, to the creation of shops owned by foreign companies for the sale of imported goods.

❖ **The need of structural adjustment of the economy that requires substantial expenditures may cause some negative influence on the GDP immediately after Ukraine's accession to the WTO.** The growth of positive macroeconomic consequences should be expected after some time required for the adaptation of the economy.

Therefore, Ukraine will have the opportunity to obtain various positive consequences from its accession to the WTO — for producers, consumers and macroeconomic situation in the country. However, in many cases it will be uneasy to attain them, since employment of the mentioned potential advantages requires additional expenditures and amendment of administrative procedures. Creation of the necessary preconditions for making use of the advantages of the multilateral international trading system presents a key mission of the Government.

3.2 POSSIBLE NEGATIVE CONSEQUENCES OF UKRAINE'S ACCESSION TO THE WTO

Ukraine's accession to the WTO may aggravate a number of internal economic problems presently having a latent character, given the presence of some barriers to trade and state support for particular industries. The most important directions of such unfavourable influence may be considered the following.

Possible negative effects on the macroeconomic situation in the country

❖ Further liberalisation of trade will strengthen the influence of the world market situation on Ukraine's economy. Most probably, this will occur not immediately but, according to experts polled by the Razumkov Centre Sociological Service⁷², in the medium (up to five years) and long (over five years) term. It will cause an increase of Ukraine's economic risks in periods of global economic instability, like in 2001 - early 2002. Those risks may be inadequately offset by the positive influence of the world economic situation in periods of steady growth, since liberalisation and involvement into the global processes do not automatically lead to the correction of structural deficiencies of less developed countries (Insert *"Some unfavourable tendencies of influence of the international trading system on the national economic development"*⁷³).

Some unfavourable tendencies of influence of the international trading system on the national economic development

The recent period of the development of the world trading system is characterised by the following trends:

(1) the spillover effect of deceleration of the world economy growth rate in all three most developed regions of the world appeared stronger than during the previous downturns in the 1990s;

(2) international trade played an important role in the spread of decline observed in industrialised countries to the developing countries: after the 14% growth achieved in 2000, the developing countries managed to increase their exports by less than 1% in 2001;

(3) the majority of Asian states managed to restore a positive rate of economic growth in the last quarter of 2001 thanks to the active policy of stimulation of the domestic demand, which reveals a trend of greater reliance on the domestic market in the conditions of a decline of international trade;

(4) the policy of weakening dependence of the developing countries on exports of raw materials and expansion of exports of industrial products appeared generally ineffective. There is a tendency of redistribution of proceeds from exports of technology-intensive products with high added value in favour of the developed countries and transnational corporations. Given the low market value of the labour force and resources of the developing countries, the increase in the share of industrial products in exports of the latter is not accompanied with a relevant growth of incomes;

(5) due to increased participation of a number of highly populated, low-income countries in the world trade observed in the recent years, up to 70% of the labour force engaged in sectors related with the world trade falls on low-skilled labour.

Furthermore, the negative impact of the world economic situation may sometimes substantially impair the benefits attained by a country as a result of the use of the advantages of the WTO membership. We already mentioned that booming of production in some export-oriented sectors of the economy may become a possible positive consequence of the accession. Therefore, one could expect that reduction and gradual elimination of quantitative restrictions would lead to an increase in the Ukrainian ferrous metal exports to the EU by more than \$240 million⁷⁴. However, unfortunately, there are no

⁷² The poll was held between May 28 and June 14, 2002; 83 experts were polled.

⁷³ See: The UN Trade and Development Conference. Trade and Development Report, 2002. — UN, New York — Geneva, 2002. — <http://www.unctad.org/ru/docs/tdr02ove.en>.

⁷⁴ Ukraine in the World Trade Organization..., p.39.



sufficient grounds for such a conclusion, given the critical state of the world ferrous crisis and the prospects of substantial structural changes in that sector⁷⁵.

Concentration on potential long-term advantages of the WTO membership may lead to the underestimation of the consequences of the initial period. Therefore, there may be lack of planning of the Government's actions in an unfavourable environment (which is quite probable, especially in the event of an incorrect approach to shaping the conditions of accession and inadequate protection of the national interests in the process of accession). With time this may discredit the very idea of the WTO membership. In this respect, the experience of the first years of Kyrgyz Republic's WTO membership is showy (Insert "*First results of WTO membership: the Kyrgyz lessons*"⁷⁶).

First results of the WTO membership: the Kyrgyz lessons

When joining the WTO Kyrgyz Republic undertook the following commitments with respect to tariff rates:

- ❖ tariff rates vary between 0% and 50%; on the eve of joining the WTO in 1998 weighted average tariffs made up some 14%, in 1999 — 11%, and in 2003 they are set to drop to 9.8%. At that, zero rates were adopted for the produce of sectoral initiatives for Agricultural machinery, Chemical industry, Construction equipment, Furniture, Non-precious metals, Paper, Pharmaceuticals, Scientific equipment, Steel, Textiles, Toys, Woodwork, and Information technologies.

However, three years of membership in the WTO failed to bring an increase in exports, imports, inflow of foreign investments and exerted no positive influence on economic growth of the country:

- ❖ a substantial reduction is observed in exports and imports of goods both with the CIS states and with the "far abroad": in 1999, foreign trade turnover increased by 22.3%; in 2000 — by 0.5% (at that, imports from the "far abroad" fell by 7.5%); in 2001, exports fell against 2000 by 5.6%, imports — by 15.7%. Trade balance surplus achieved \$8.9 million;

- ❖ the economic situation remains difficult: in 2001, industry did not manage to overcome the decline; more than a quarter of enterprises did not reach the level of production achieved in 2000; more than half of works and factories are loss-making, some stand idle and only 5% — bring profit. The country's foreign debt equals 130% of the GDP, there are difficulties with its servicing;

- ❖ foreign direct investments fell 3.8 times.

Therefore, accession to the WTO so far has failed to bring Kyrgyzstan substantial advantages in foreign economic policy. Instead, problems appeared in the relations with CIS countries and members of the Customs Union (presently EurAsEC). According to latest reports, Kyrgyz Republic is ready to begin revision of its commitments before the WTO within the framework of formulation of a single position of EurAsEC members in relations with the WTO.

To be sure, the problems faced by Kyrgyz Republic should not be attributed solely to its accession to the WTO, purely domestic reasons played their role, too. However, this example proves that accession to the WTO may strengthen unfavourable effects of internal structural factors.

- ❖ Temporary complications are likely in the sphere of state regulation of economic development because of the need to (a) transition to new, internationally agreed conditions of state regulation of the economy and (b) refusal from the use of the traditional levers of economic, first of all vertical industrial policy, specifically: preferences in taxation, customs and other duties⁷⁷, writing off enterprise debts to the state, use of government procurement as an instrument of support of domestic production⁷⁸, control and regulation of financial flows, requirements to foreign investors regarding sources of their purchase of components (local content requirement) and direction of sale of goods⁷⁹.

Many provisions of the existing sector of development programmes running contrary to the WTO norms (in particular, pursuant to the laws on support of the domestic mining and metallurgy complex, shipbuilding, motor-car industry, aircraft construction) must be suspended, which will create problems for sectors enjoying substantial state subsidies. It is noteworthy that almost all sectors of industry⁸⁰ that may experience problems in connection with Ukraine's accession to the WTO (Insert "*Summarised assessment of possible consequences of access to the WTO for sectors of Ukraine's economy*", p.38) enjoy substantial subsidies.

Possible negative consequences for producers

- ❖ Domestic producers in some cases may appear unprepared for tough competition that will follow the Ukraine's accession to the WTO. The experience of Kyrgyzstan, Georgia and Moldova shows that **accession to the WTO does not automatically lead to economic growth, initially, the result may be reverse — extra problems.** The expert poll results prove the legitimacy of doubt in the readiness of domestic producers to withstand in future competitive struggle. None of the potential problems mentioned in the questionnaire collected so many votes as the "**aggravation of problems related with non-competitiveness of some sectors of the national economy, reduction of their production, growth of the unemployment rate**".

Insufficient readiness of domestic producers to competition in the conditions of open economic environment is caused by the deformation of the national consumer market structure, the low quality and technical imperfection of many domestically manufactured finished products, first of all, sophisticated ones. Harmonisation of the Ukrainian standards with international and European ones goes on slowly and will not allow ensuring the world level of quality and consumer properties of goods in the near future.

⁷⁵ Even on the condition of the WTO membership Ukraine is unlikely to retain its positions on the markets of steel and will be forced to substantially cut production capacities. According to the International Iron and Steel Institute, the world's overproduction of steel makes up nearly 100 million tonnes a year. According to the OECD, the world's production capacities total 1.045 billion tonnes, production volume — 850 million tonnes, consumption (calculated through the volumes of purchases in the machine building sector) — only some 740 million tonnes. At present, that segment of the world market appears in the focus of the OECD (according to the decisions of April 18, 2002, passed during the "steel summit" of that organisation in Paris). The OECD proposed special mechanisms of the steel market co-ordination. Pursuant to the OECD Programme, before 2003, production facilities with the annual capacity of 61-65 million tonnes should be closed down, before 2005 — 9.5 million tonnes, before 2010 — another 23 million tonnes. However, according to the majority of experts, such cuts are clearly insufficient for stabilisation of the market. The U.S. Secretary of the Treasury Paul O'Neal suggests that in the long run, no less than 35% of the world steel production capacities need to be liquidated — three times more than planned.

⁷⁶ The Kyrgyz Republic and the WTO. — Ministry of Foreign Trade and Industry of the Kyrgyz Republic, http://www.mvtp.kg/kyrwtoreport_6.html.

⁷⁷ In the event of preservation of such preferences they should also apply to foreign producers, which makes them ineffective as an instrument of support of the national producers.

⁷⁸ Pursuant to the Agreement on Government Procurement they are to be performed only on a tender basis with equal participation terms of domestic and foreign producers.

⁷⁹ See: Zhalilo Ya. This Sweet Word — WTO..., pp.14-17.

⁸⁰ Except for radio and electronic industry.

The recent increase in the share of domestic producers on Ukraine's market⁸¹ is largely attributed to the low purchasing power of the population for whom imported goods are unaffordable. However, there are no grounds to assume such a situation permanent. On the condition of an increase in proceeds, on the one hand, and cheapening of imports, on the other, the situation may change to the disadvantage of domestic producers.

❖ **For some sectors, reduction of direct state support may present a serious problem.** In particular, this may hit agricultural machine building, motor-car industry, ferrous metallurgy, etc., as well as domestic producers presently falling under the system of government procurement effected in absence of open competition.

At the same time, there are no sufficient grounds to assume such **negative influence universal**. This should be stressed, given the recent emergence of nearly apocalyptic predictions of alleged ruinous consequences of accession to the WTO for Ukraine's economy (Insert "*Some negative forecasts as to the consequences of Ukraine's accession to the WTO*").

Some negative forecasts as to the consequences of Ukraine's accession to the WTO

Analysing the materials of the Scientific-practical Conference "The Prospects and Problems of Ukraine's Participation in the WTO in the Context of Economic Security" held in Kyiv in February, 2002, one can see that its participants termed too many industries as "WTO victims": motor-car industry, aircraft construction, shipbuilding, radio electronic industry, light industry, tyre making, production of some foodstuffs and durables.

Some experts⁸² believe that the lowering of barriers to trade in services may lead to weakening of the competitive positions of Ukrainian shipping companies, banks, insurance companies, trading firms, etc. that in the result of the absence of a clear strategy of development of the Ukrainian market of services will not be able to compete on a par with foreign suppliers of similar services.

There are, however, reasons to believe that some of the mentioned sectors and services appeared on the list of "victims" in the result of an overly emotional assessment of the problems.

In reality, there are few grounds to expect any **shocking influence of accession to the WTO on the market of goods**. According to the Ministry of Economy and European Integration of Ukraine, **the level of tariff protection of Ukraine's domestic market is already on a par with countries that joined the WTO after 1995, at that, 80% of duty rates are on a par with the most recent members (Albania, China, Chinese Taiwan, Croatia, Estonia, Latvia, Lithuania, and Moldova), some 7% are below said level and only 13% of rates exceed it.**

Moreover, according to calculations of the experts from the Ukrainian-European Policy and Legal Advice Centre, **real ad valorem duty tariffs in Ukraine may be assumed equal to 1-2% — i.e., they are lower than in the EU, the U.S. or Japan now, not after the accession to the WTO**⁸³. Such a low rate is explained by the fact that many importers of consumer goods to Ukraine presently evade paying customs duty. Therefore, one should not

expect a serious reduction of the level of tariff protection after accession to the WTO, since the WTO rules and requirements, particularly with respect to customs valuation of goods and cancellation of preferences for particular enterprises and sectors pursue the opposite goal — an increase in the level of duty collection.

With account of those arguments and the results of the detailed expert poll, it may be stated that the effects of accession to the WTO will be quite different for different sectors of the economy (Insert "*Summarised assessment of possible consequences of access to the WTO for sectors of Ukraine's economy*").

Summarised assessment of possible consequences of access to the WTO for sectors of Ukraine's economy

High probability of prevalence of positive consequences

Food industry, light industry, telecommunications, travel services, stock markets, pipeline transport, insurance, postal service, banking services.

Some probability of prevalence of positive consequences

Aircraft construction, shipbuilding, chemical industry, agriculture, rail transport, realtor services, education, sea transport, medical services.

Possible balance between positive and negative consequences

Power engineering, air transport.

Some probability of prevalence of negative consequences

Metallurgy.

High probability of prevalence of negative consequences

Motor-car industry, coal mining, radio electronic industry, agriculture machine building.

❖ **Substantial problems of restructuring, evidently, will be faced by the Ukrainian agriculture sector**, presently enjoying rather a high level of protection against foreign competition.

Some liberalisation of the domestic market of agricultural raw materials and foodstuffs involving an increase in competing imports may become a serious test for some Ukrainian agrarian producers⁸⁴. An increase in exports of goods consumed by the Ukrainian agro-industrial complex — sunflower seed, food and fodder grain — involving price rise on the domestic market may also exert some influence.

At the same time, one should admit that **state support for agriculture in Ukraine is generally lower than in the developed countries**. In recent years expenditures for that purpose totalled some 0.5% of GDP, while in Hungary, they made up 1.8%, Japan and the EU — 1.7%, the Czech Republic — 1.6%, the USA — 1.5%, Canada — 1.3%, and Russia — 0.8%⁸⁵. Per capita subsidies made up: in Japan — \$566, the USA — \$350, the EU — \$336, Canada — \$163, Hungary — \$111, the Czech Republic — \$100, Russia — \$60, and in Ukraine — only \$3.3. The developed countries taken together spend \$1 billion a day on support of competitiveness of their agriculture sectors⁸⁶.

Although the WTO rules do not envisage withdrawal (elimination) of state subsidies to agriculture, demanding only setting their maximum level, problems will

⁸¹ In total sales of consumer goods, the share of domestically manufactured foodstuffs presently makes 93-94%, non-foods — over 60%. See: Express Report of the State Statistics Committee of Ukraine "Sale of Domestically Made Consumer Goods through the Trade Network in 2001", April 17, 2002.

⁸² E.g., see: Zhalilo Ya. This Sweet Word — WTO..., pp.15-16.

⁸³ Alanoca S. The Road to the WTO — When So Far Is So Near. — Ukrainian-European Policy and Legal Advice Centre, Kyiv, 2001, p.2.

⁸⁴ In particular, sugar, dairy products, potato, vegetables, fruit juice.

⁸⁵ See: Bulletin of the Accounting Chamber of the Russian Federation, 2001, No.6. — <http://www.ach.gov.ru/buletins/2001-6>.

⁸⁶ See: Agrarian Reform in Ukraine: Achievements and Miscalculations. Razumkov Centre analytical report. — *National Security & Defence*, 2001, No.5, p.38.



appear with the correspondence of the total volume, forms and mechanisms of subsidizing to the WTO Agreement on Agriculture. At accession negotiations, Ukraine advocates domestic state support in the amount of \$1.37 billion a year⁸⁷. However, problems may arise in connection with the required reduction of the subsidies falling under a ban or reduction under the Agreement on Agriculture, with a simultaneous increase in the allowed subsidies on such purposes as research, training, consulting and marketing programmes, creation of the state stocks for the provision of food security, income insurance and safety-net programmes, payment for the losses caused by natural disasters, restructuring aid, payments under environmental protection and regional assistance programmes.

❖ **The Ukrainian services sector will face restructuring problems, too.** The experience of negotiations of the new WTO members proves that **contenders must show a more liberal and broad approach to the formulation of commitments in the service sector than applied by the participants of the Uruguay Round** (Table “*Commitments of the WTO members in the service sector*”⁸⁸). This refers both to the scope of commitments and limitations in application of the GATS transitional provisions. Hence, Ukraine will be required to assume more liberal commitments in many sectors of services⁸⁹.

It should be noted however that **the majority of service sectors suffer from international competition less than sectors related with production of goods.** Local suppliers of services always have certain advantages before foreigners thanks to better understanding of the local consumer, knowledge of the local traditions of business, legislative and administrative regulation, established public relations, absence of language and cultural barriers.

Meanwhile, some experts believe⁹⁰ that accelerated liberalisation **in the spheres of air and, to some extent, sea transportation services** and omission of preventive measures in raising the competitiveness of national carriers may lead to crowding out of domestic providers from the national markets of services.

❖ Some problems may be presented by the need to **harmonise national standards with international norms.** According to official decisions, Ukraine undertakes to harmonise at least 500 national standards with international ones every year⁹¹. This may cause, inter alia, additional **substantial expenditures of producers and, therefore, consumers.** Experts believe that **a rapid change of the standardisation system may provoke a crisis in connection with the inability of national producers to observe international standards.**

When assessing the possible negative consequences, particular attention should be paid to the effects of **foreign trade factors of economic security.** Today, given the absence of an officially adopted system of

Commitments of the WTO members in the service sector*

Number of sectors committed	Number of countries, which have taken mentioned amount of commitments	Members of the WTO, which have taken mentioned amount of commitments
To 20	44	Most of African countries (in particular, Angola, Benin, Botswana, Cameroon, Central African Republic, Congo, Gabon, Guinea, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Niger, Tanzania, Togo, Uganda, Zambia), Costa Rica, Cyprus, Haiti, Honduras, Malta, Paraguay, Sri-Lanka etc.
21-40	23	Bangladesh, Bolivia, Cote d'Ivoire, Djibouti, El Salvador, Ghana, Guatemala, Kenya, Mongolia, Nigeria, Peru, Qatar, Senegal, Sierra Leone, Tanzania, Uruguay, Zimbabwe etc.
41-60	10	Antigua and Barbuda, Belize, Cuba, India, Morocco, Netherlands Antilles, Nicaragua, Pakistan, Trinidad and Tobago, UAE.
61-80	12	Brazil, Ecuador, Egypt, Hong Kong (China), Israel, Jamaica, Kuwait, Liechtenstein, Poland, Romania, Singapore, Venezuela.
81-100	12	Argentina, Chile, the Czech Republic, Dominican Republic, Indonesia, Lesotho, New Zealand, Panama, Slovakia, Slovenia, South Africa, Turkey.
101-120	7	Australia, Bulgaria, Gambia, Canada, Philippines, Switzerland, Thailand.
Over 121	24	EU (15), Iceland, Japan, Colombia, Korea Republic, Malaysia, Mexico, Norway, Hungary, USA.
Foreseen 139		Ukraine

* as of February 1999.

indicators in the country, such assessment may rest only on incomplete indicators, many of them borrowed from the practice of other countries of the world (Table “*State of external factors of Ukraine's economic security*”, p.40).

Of particular importance for the assessment of external factors of economic security is the structure of imports (what is dominating — import of technological equipment or energy resources) and exports (raw materials, finished products or hi-tech products). An increase in the share of non-critical imports weakens financial possibilities for sufficient imports of products critical for the national economy. It is important whether resource and financial dependence on suppliers of critical imports increases.

The analysis allows assuming that **Ukraine has a certain safety margin regarding the effects of foreign trade factors on economic security by many of the above-mentioned threshold values of indicators.**

❖ Specifically, the foreign trade balance is in surplus. Such indicators as the share of imports of food and non-food consumer goods, foreign debt and expenditures on its repayment and servicing, share of oil imports from one country, coverage ratio of imports with exports are all at the safe level.

❖ At the same time, the share of gas imports from one particular country exceeds the safety level;

⁸⁷ Honcharuk A. This Year Will Be Tough. — *Biznes*, April 8, 2002, p.15. During the review of consequences of accession to the WTO for the CIS agrarian market at the CIS Intergovernmental Committee in autumn, 2001, it was said that the Russian Academy of Agricultural Sciences recommended governments of the CIS member-states to “interpret supportive measures” so as to raise their threshold values from 5-10% to 20% of GDP.

⁸⁸ The World Trade Organization. Overview of Developments in the International Trading Environment: Annual report by the Director-General. — Geneva, September 2001, p.38.

⁸⁹ See: Onyshchuk O. Development of the Market of Services in Ukraine in the Context of Accession to the World Trade Organization. — *Ukrainian Economic Trends*, December 2000, pp.68-71.

⁹⁰ Ukraine in the World Trade Organization..., p.65.

⁹¹ Programme of Actions for the Completion of Ukraine's Accession to the World Trade Organization.

State of external factors of Ukraine's economic security

Security indicators	Threshold values of indicators	Actual status as of 1.01.2002	Ratio between actual and threshold values
Gross international reserves of Ukraine in weeks of imports	no less than 12	9.5	0.79
Trade deficit	no more than 5%	by the results of 2001, surplus in the amount of \$489.6 million	—
Gross national foreign debt: ratio to annual exports of goods and services	no more than 165%	39.1%	4.22
Aggregate national foreign debt: ratio to annual exports	no more than 200-250%	61.1%	3.27-4.09
Total expenditures on foreign debt servicing: ratio to annual exports of goods and services	no more than 18%	9.1% (15.7%)	1.98 (1.15)
Interest payments for foreign debt servicing: ratio to annual exports of goods and services	no more than 12% or no more than 20-25%	2.4% (3.3%)	5.0 (3.64) or 8.33-10.42 6.06-7.58
Export share of hi-tech products	no less than 10%	7.0-8.0%	0.7-0.8
Export share of engineering products	no less than 40%	10.5%	0.26
Share of imports in oil supply (including gas condensate)	no more than 30% of the need from one country	23.3-25.8%	1.29-1.16
Share of imports in natural gas supply	no more than 30% of the need from one country	41.0-42.6%	0.73-0.70
Ratio of import coverage with exports	no less than 90% for three months successive	117% (for the whole of 2001)	1.30
Restrictions on foreign investments for rendering services through commercial presence	49% in the sectors of communication services (some kinds of), audiovisual services — 30%	0% (legal advice, audit, technical maintenance and operation of telecommunication networks of general use) 30%	— 1.63

❖ The ratio between actual and threshold values is rated with respect to the threshold value assumed equal to one. Calculated as the ratio between actual and threshold values where an increase in the relevant safety indicator is desired and vice versa where its decrease is desired.

❖ For a stable economy, trade deficit at a level of 5% is considered normal.

❖ Sources: Bernard and Collie. Explanatory Economic and Financial Dictionary, Vol.1. — Moscow, 1994, p.64; Onyshchuk O. Development of the Market of Services in Ukraine in the Context of Accession to the World Trade Organization. — *Ukraine Economic Trends*, December 2000, pp.68-71; Ukraine's Strategic Goals. Ukraine-WTO Negotiations Process: Results and Prospects. — Kyiv, 2002, p.25; Assessment of the IMF and the World Bank — *Transformatsia*, July-August, 1996, p.18.

❖ Calculations and estimates of Razumkov Centre are based on the data of: the Ministry of Finance of Ukraine (national foreign debt; state budget allocations); the Ministry of Economy and European Integration of Ukraine (long-term foreign debt of the country (under guaranteed and non-guaranteed loans); accrued interest on long-term foreign debt of the country (under guaranteed and non-guaranteed loans)); Express Report of the State Statistics Committee of Ukraine "Ukraine's Foreign Trade Balance in 2001" (March 13, 2002); "The State of Foreign Economic Relations between Ukraine and the Russian Federation in 2001" (March 19, 2002).

Ukraine's gold and currency reserves are critically low, and the share of hi-tech products and engineering equipment in the national exports has not yet achieved a safe level.

Given all of the above, one should not expect significant negative effects for the state of Ukraine's economic security from accession to the WTO. However, the state of the national gold and currency reserves is insufficient to guarantee macroeconomic stability under conditions of increasing influence of global economic fluctuations on Ukraine's economy. The situation with the enlargement of the share of hi-tech products and

engineering equipment remains uncertain: it will primarily depend on the ability of the national industry to adapt itself to tougher competition and accelerated pace of innovation.

One should not make too much of the effects of the negative factors. In the majority of cases, measures may be taken to minimise or prevent negative consequences and risks ensuing from the accession to the WTO. Those measures should be envisaged in final agreements about the conditions of accession and in the programme of governmental actions relating to Ukraine's accession to the WTO. ■

EXPERT POLL

Between May 28 and June 14, 2002, the Razumkov Centre Sociological Service questioned 83 experts about the possible consequences of Ukraine's accession to the WTO. Summarised results of the poll are presented on diagrams and tables in this insert.

The majority of experts believes that in the first year Ukraine will be more able rather than unable to make use of the advantages of accession to the WTO. The most optimistic expectations are pinned to: more predictable development of trade and economic relations with the main partners; acceleration of systemic transformation and structural reforms in the economy at the expense of implementation of generally accepted principles and norms of regulation; more effective protection of the national market from excessive imports in the event of significant injury to national producers.

The overall expert assessment of the possibility of employment of the advantages of Ukraine's accession to the WTO in the five-year period does not change either, but another rating of the advantages is observed.

The assessment of the prospects of employment of the advantages of accession after five years is dominated by the opinion that Ukraine may expect: more predictable development of trade and economic relations with its basic partners; more effective application of anti-dumping or countervailing measures; accelerated systemic transformation and structural reforms in the economy.

More than half of respondents believe that that the most negative effect of Ukraine's accession to the WTO within the next one to five years will lie in aggravation of the problems related to the non-competitiveness of specific sectors of the national economy, the resultant reduction of production and an increase in the unemployment rate. In a longer run, experts mention the increased influence of fluctuations of the world economic situation on Ukraine's economy as the main problem.

The majority of experts believes that for specific sectors of domestic industry, Ukraine's accession to the WTO will have limited positive consequences. The greatest positive consequences are expected in power engineering, chemical industry and shipbuilding, the least — in coal mining and radio electronic industry.

Meanwhile, under an unfavourable scenario, limited negative consequences for specific sectors of the national economy may dominate. The most vulnerable are motor-car industry, agricultural machine building and chemical industry, the least — shipbuilding and food industry.

The dominating thought is that accession to the WTO will have positive implications for agriculture (almost 2/5 of those polled) or its status will not change substantially (over a third).

The least positive influence is expected for the national air transport, education, medical services, and the greatest — in telecommunications, travel and banking services.



The least negative consequences are expected in travel, postal and telecommunication services, the greatest — in air transport, banking services and sea transport.

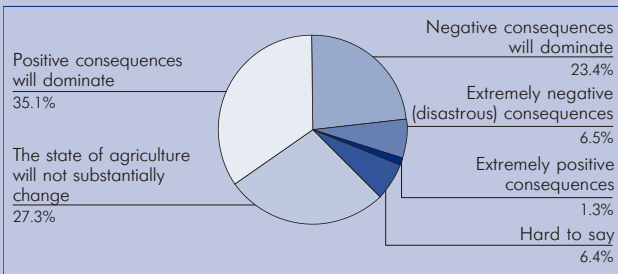
More than 3/4 of the polled believe that in the conditions of integration to the WTO state support should be extended to hi-tech sectors that have good prospects of development (or are in the making), almost half — to the sectors undergoing temporary difficulties but possessing a potential of competitiveness.

Over 2/3 of experts are sure that Ukrainian consumers will win from Ukraine's accession to the WTO, every eighth — that there will be no victory, every ninth — that nothing will change.

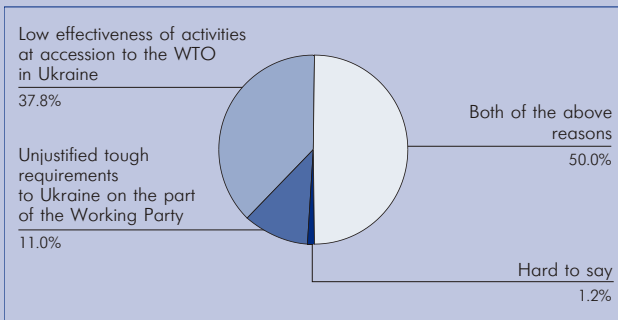
Only a fifth of all experts noted that accession to the WTO would have a positive effect on the state budget, a quarter spoke about a negative effect, and almost a third noted the absence of any substantial effect at all.

The opinion that Ukrainian manufacturers are interested in accession to the WTO is shared by only one out of fourteen polled experts, every fourth sticks to the opposite opinion. According to every ninth respondent, this issue is of secondary importance for the national producers, to every fourth — the latter know nothing about the WTO.

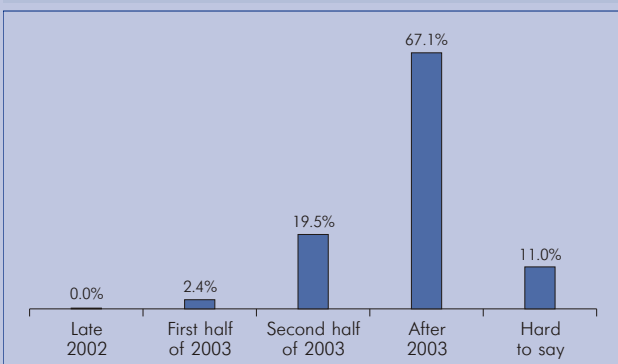
What will be the consequences of acceding the WTO for Ukraine's agriculture?
% of polled experts



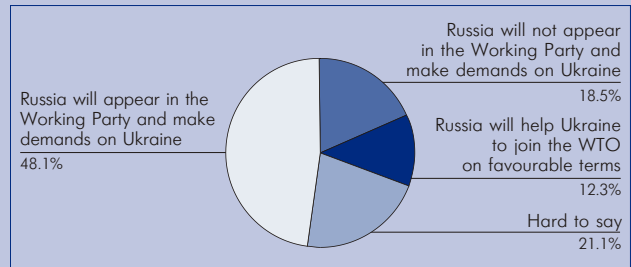
What is the reason of the long uncertainty about Ukraine's accession to the WTO?
% of polled experts



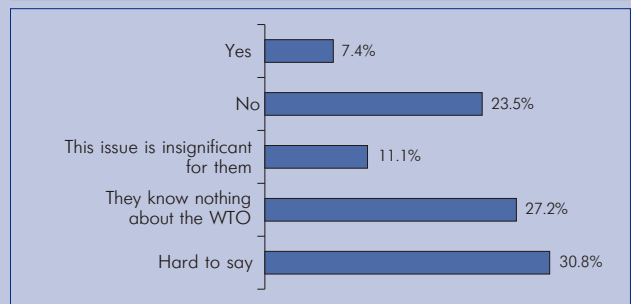
When may Ukraine actually become a WTO member?
% of polled experts



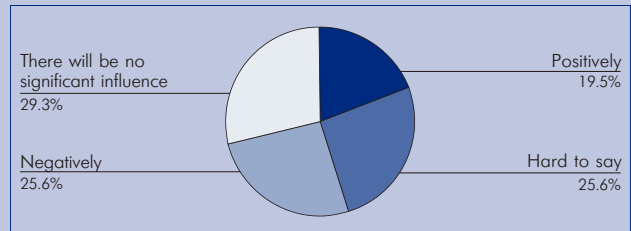
How can Russia's earlier accession to the WTO influence the process of negotiations about Ukraine's accession?
% of polled experts



Are domestic producers interested in Ukraine's accession to the WTO?
% of polled experts



How will Ukraine's accession to the WTO influence the state budget?
% of polled experts



What branches and industries should obtain state support in Ukraine in the conditions of integration to the world trading system?*
% of polled experts

Hi-tech branches (industries) that have good prospects (are in the making)	79.3
Branches (industries) that experience temporary difficulties but are potentially competitive	48.8
Branches (industries) — established technological leaders	40.2
Infrastructure branches	34.1
Branches (industries) that currently ensure substantial export earnings	23.2
Labour intensive branches (industries)	20.7
Basic branches of the economy	18.3
Traditional branches (industries) working for the domestic market that are of particular importance for the state budget	18.3
Other	2.4

* Respondents were supposed to mark no more than three positions

Will Ukraine manage to make use of the following advantages of acceding the WTO?*
% of polled experts

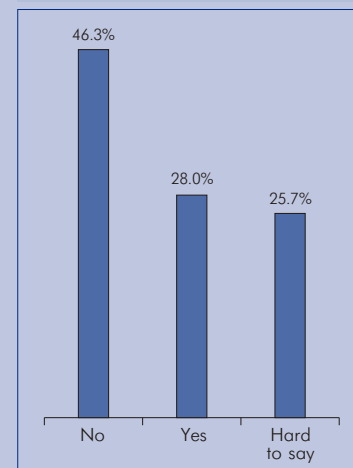
	Within a year					Within five years					Beyond five years				
	Yes	Rather yes than no	Rather no	No	Hard to say	Yes	Rather yes than no	Rather no	No	Hard to say	Yes	Rather yes than no	Rather no	No	Hard to say
Acceleration of systemic transformation and structural reforms in Ukraine's economy at the expense of implementation of generally accepted principles and norms of regulation	3.8	43.8	21.3	26.3	4.8	30.4	54.4	8.9	5.1	1.2	50.6	39.0	5.2	3.9	1.3
Acceleration of Ukraine's integration into the European Union structures	12.3	29.6	38.3	17.3	2.5	21.3	60.0	12.5	3.8	2.4	46.8	42.9	6.5	1.3	2.5
More predictable development of trade and economic relations with the main trade and economic partners	17.1	43.9	23.2	13.4	2.4	36.7	51.9	7.6	2.5	1.3	56.4	34.6	5.1	2.6	1.3
Reduction of tariffs and non-tariff restrictions for Ukrainian goods in international markets and resultant increase in Ukraine's exports	11.3	38.8	32.5	16.3	1.1	30.0	42.5	20.0	3.8	3.7	44.2	46.8	3.9	2.6	2.5
Opportunity of improving the structure of Ukraine's exports	3.8	26.3	36.3	28.8	4.8	12.5	52.5	26.3	3.8	4.9	42.9	35.1	13.0	2.6	6.4
Opportunity of fair settlement of international trade disputes involving Ukraine	14.6	39.0	28.0	14.6	3.8	27.8	50.6	13.9	3.8	3.9	43.6	42.3	9.0	3.8	1.3
Limitation of application of discriminatory measures in trade with Ukraine	17.1	39.0	29.3	13.4	1.2	26.6	54.4	16.5	1.3	1.2	45.3	42.7	9.3	1.3	1.4
More effective application of internationally recognised means of protection of the national producers against undercharging imported goods (antidumping measures) and subsidised imports (countervailing measures)	17.1	36.6	31.7	9.8	4.8	32.9	46.8	13.9	3.8	2.6	52.6	35.9	9.0	0.0	2.5
More effective protection of the national market from excessive imports in the event of significant injury to the national producers (special measures including increased import duties, quantitative restrictions of imports, etc.)	8.6	40.7	30.9	14.8	5.0	17.5	58.8	13.8	7.5	2.4	45.5	42.9	5.2	3.9	2.5
More effective application of means to maintain external balance (including temporary restrictions of imports in the event of balance-of-payments problems)	5.0	37.5	36.3	16.3	4.9	16.7	50.0	21.8	5.1	6.4	39.7	42.3	7.7	2.6	7.7

* Respondents were supposed to give one answer in each line

What consequences should be expected for particular industries in the result of Ukraine's accession to the WTO?
% of polled experts

Branch	Positive consequences				Negative consequences			
	Distinct positive consequences	Limited positive consequences	No positive consequences	Hard to say	Distinct negative consequences	Limited negative consequences	No negative consequences	Hard to say
Motor-car industry	5.1	40.5	38.0	16.4	23.4	48.1	16.9	11.6
Coal mining	0.0	16.9	67.5	15.6	33.3	36.0	14.7	16.0
Power engineering	6.4	53.8	19.2	20.6	6.8	45.2	35.6	12.4
Light industry	25.3	46.8	12.7	15.2	11.7	37.7	37.7	12.9
Aircraft construction	16.7	41.0	19.2	23.1	8.0	33.3	37.3	21.4
Metallurgy	19.0	40.5	32.9	7.6	22.7	40.0	29.3	8.0
Radio electronic industry	9.1	26.0	40.3	24.6	23.4	39.0	15.6	22.0
Agricultural machine building	5.0	31.3	36.3	27.4	21.1	46.1	15.8	17.0
Shipbuilding	6.5	49.4	23.4	20.7	11.0	32.9	37.0	19.1
Food industry	32.5	45.0	11.3	11.2	10.5	32.9	44.7	11.9
Chemical industry	16.5	51.9	16.5	15.1	10.7	45.3	28.0	16.0

Will Ukraine duly take into account the experience of other countries that joined the WTO in recent years?
% of polled experts



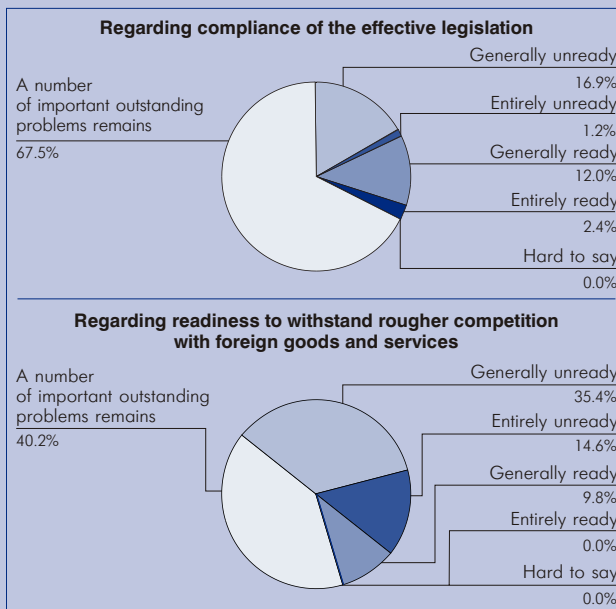


What problems will Ukraine face in the result of its accession to the WTO?
% of polled experts

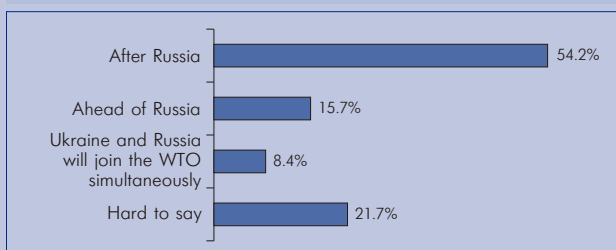
	Within a year	Within five years	Beyond five years
Aggravation of problems related with non-competitiveness of some branches of the national economy, reduction of production, growth of the unemployment rate	58.5	59.8	30.5
Deterioration of the standard of life in Ukraine in the result of decline of incomes in the conditions of competition with foreign goods and services	25.6	25.6	6.1
Reduction of investments into the economy due to decrease of profitability of domestic industry in the conditions of expansion of imports of goods and services	14.6	17.1	13.4
Seizure of key positions in Ukraine's economy by foreign capital	9.8	34.1	31.7
Strengthening of Ukraine's standing as a supplier of raw materials and semi-finished goods to the international markets	29.3	26.8	18.3
Economic decline of some regions having no prospects from the point of view of the international division of labour	15.9	32.9	23.2
Loss of some levers of regulation of the national economy (sector development programmes, subsidies)	26.8	39.0	29.3
Increase in the state budget expenditures related with adaptation to the requirements of the GATT/WTO system	30.5	25.6	7.3
Increased influence of fluctuations of the world economic situation on Ukraine's economy	26.8	45.1	50.0
Lowering of the level of Ukraine's economic security	9.8	12.2	14.6
Other	0.0	0.0	1.2
Accession to the WTO will not cause any problems	4.9	1.2	7.3

* Respondents were supposed to give no more than three answers in each column

To what extent is Ukraine ready to join the WTO?
% of polled experts



When will Ukraine join the WTO?
% of polled experts

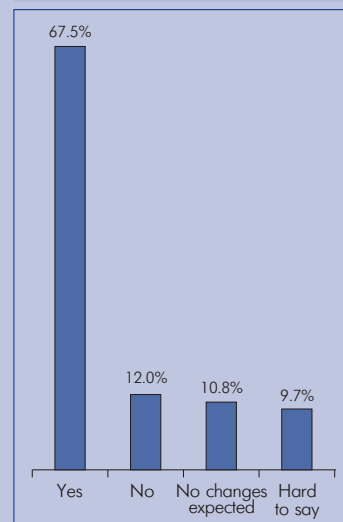


Mark on a 5-point scale*, % of polled experts

Services	Possible positive influence on Ukraine's sphere of services after accession to the WTO					Possible negative influence on Ukraine's sphere of services after accession to the WTO				
	1	2	3	4	5	1	2	3	4	5
Air transport	25.0	15.0	26.3	15.0	8.8	29.4	19.1	14.7	10.3	14.7
Banking services	15.0	7.5	20.0	25.0	26.3	39.7	25.0	17.6	5.9	8.8
Rail transport	20.0	20.0	31.3	16.3	5.0	40.9	21.2	16.7	6.1	3.0
Medical services	22.8	21.5	22.8	17.7	5.1	44.8	17.9	20.9	3.0	6.0
Sea transport	15.4	17.9	21.8	30.8	6.4	26.5	33.8	16.2	8.8	7.4
Education	24.7	18.2	24.7	14.3	9.1	44.8	17.9	19.4	3.0	6.0
Postal service	17.5	17.5	28.8	21.3	7.5	50.0	22.7	9.1	7.6	4.5
Realtor services	11.4	20.3	20.3	20.3	10.1	41.8	20.9	17.9	6.0	3.0
Insurance	8.8	10.0	25.0	26.3	20.0	34.3	17.9	28.4	7.5	6.0
Telecommunications	1.3	10.0	13.8	30.0	40.0	47.8	26.9	11.9	3.0	6.0
Pipeline transport	15.2	8.9	30.4	21.5	13.9	36.8	26.5	16.2	2.9	5.9
Travel services	6.3	11.3	20.0	31.3	27.5	50.0	25.8	7.6	6.1	6.1
Stock markets	6.3	10.0	23.8	22.5	21.3	34.8	27.3	16.7	4.5	3.0

* "1" — insignificant influence, "5" — great influence

Will Ukrainian consumers win from Ukraine's accession to the WTO?
% of polled experts



4. CONCLUSIONS AND PROPOSALS

The accession of Ukraine to the WTO corresponds with Ukraine's strategic interests. The WTO is a leading international economic organisation with almost universal membership; in recent years it substantially expanded the field of its regulatory activity and assumed functions of global regulation. For every country, WTO membership is a necessary precondition for integration into the world economy.

Having joined the WTO in the near future (no later than by the end of 2003), Ukraine will be able to immediately participate in the new round of multilateral trade negotiations (the so-called Development Round) and protect its national interests during formulation of the future rules of multilateral economic regulation. Meanwhile, the beginning of the new round of negotiations is complicating Ukraine's task of adapting itself to the parameters of the multilateral trading system, since in such a situation it may hardly hope for significant indulgences and preferential conditions of accession.

The September, 2001, and February, 2002, decrees of the President of Ukraine on Ukraine's accession to the WTO and approval of the Programme of Actions for the Completion of Ukraine's Accession to the WTO have the potential to create better preconditions for effective implementation of that process. However, the effectiveness of the signed decrees is impaired by their shortcomings connected with the lack of proper substantiation of the cited terms of completion of negotiations; absence of detailed analysis of social, economic and political implications of the performed measures; absence of description and analysis of the effectiveness of use of the available financial, human and other resources necessary for the trade regime reform.

Basic elements of the organisational structure supporting the process of negotiations on accession to the WTO have been created within the legislative branch in Ukraine. However, the effectiveness of the performed organisational measures is limited. Serious tasks and problems remain: prevention of adoption of legislative and other regulatory and legal acts that do not meet the requirements of the WTO agreements; lack of effectiveness at implementation of the laws passed in pursuance of the provisions of the WTO agreements; insufficient activity of the Interdepartmental Commission for Ukraine's Accession to the WTO. The level of co-operation between the Cabinet of Ministers and the Verkhovna Rada in crafting solutions to issues related to

the preparation for Ukraine's accession to the WTO is insufficient, too. In such a situation serious problems with ratification of the future Ukraine's Protocol of Accession to the WTO cannot be ruled out.

An effective system of information support is a key element of the mechanism of accession to the WTO. It requires restructuring of the entire system of information support for political and economic activity in the country pursuant to universally accepted principles. Creation of an effective system of training and retraining specialists in separate aspects of the trade policies and law, international economic relations in spheres related with particular WTO agreements acquires specific importance.

By and large, Ukraine has demonstrated clear progress in the co-ordination of the parameters of its future membership in the WTO, which allows one to speak of the beginning of the final stage of accession. Meanwhile, the most acute problem areas in the process of accession critical for the prospects of Ukraine's accession to the WTO include Ukraine's assumption of commitments as to the level of domestic support for agriculture and its reduction; formulation of conditions for access of foreign suppliers of financial, telecommunication, transportation services to the national market; Ukraine's observance of the requirements of the Agreement on Technical Barriers to Trade; assessment of the possible consequences of Ukraine's accession to the WTO and the ways of raising the competitiveness of particular branches of the national economy in the conditions of the WTO membership.

Ukraine's accession to the WTO may have the following positive consequences for Ukrainian producers: facilitated access to world markets, reduction of their costs and commercial risks, provision of the freedom of transit, reduction of losses of exporters from discriminatory measures, in particular, the possibility to avoid discrimination at anti-dumping investigations. Meanwhile, consumers will obtain direct advantages from the reduction of prices and enhanced access to high-quality goods.

By and large, the accession will encourage acceleration of structural reforms and create stimuli for enhancing competitiveness and innovation. Production in some export-oriented branches of the economy will boom. There will appear a possibility of employing mechanisms of fair settlement of trade disputes; an internationally



recognised right to resort to balanced (substantiated) measures for the safeguard of domestic market will be provided.

Meanwhile, the experience of next to all WTO member states proves one specific feature of manifestation of consequences of accession to the WTO, specifically: the indirect effects of WTO membership frequently have greater impact than direct effects.

Indirect consequences will be related with the increasing action of incentives for the internal economic and political reforms, formation of a stable and transparent legislative base, development of the genuine competitive environment not distorted by excessive lobbying of vested interests, all-embracing spread of the "shadow" economy and a world's highest rate of corruption. This will improve the climate for investments and innovations, growth of production, employment and incomes. Therefore, this will promote expansion of the taxation base, consolidation of the state budget and public well-being.

Accession to the WTO will open qualitatively new possibilities for Ukraine's integration into the European Union — through full performance of Ukraine's commitments under the effective Partnership and Co-operation Agreement, it will put on the agenda transition to higher forms of relations, including conclusion of a free trade agreement and association with the EU.

Not all potential advantages of the WTO are easily attainable. The use of advantages offered by freer access to markets will primarily apply to markets of raw materials and mass production of finished products and to a far lesser extent — of hi-tech products. The positive effects will be impaired primarily by the global trend towards an increase in non-tariff regulation measures, first of all, technical barriers, the structural imperfection of Ukraine's economy and numerous regional free trade regimes. Accession to the WTO does not entirely remove the threat of anti-dumping investigations and does not guarantee settlement of all trade problems. Possibilities for multilateral settlement of disputes may be impaired by the deficit of well-trained and experienced experts in the sphere of international commercial law.

Immediately after accession there may be a certain negative impact upon GDP dynamics attributable to losses related with the need of structural adjustment of the economy and substantial restructuring of the system of its state regulation.

As a result of accession to the WTO the influence of the world economic fluctuations on Ukraine's economy may increase, and in some cases, domestic producers may appear unprepared for tough competition in the conditions of reduced direct support from the state. However, there are no reasons to believe that such negative effects will be ruinous. By and large, one should not expect any substantial negative influence of accession to the WTO on Ukraine's economic security — although the present level of the national gold and currency reserves is so far

insufficient for guaranteeing macroeconomic stability under the conditions of increasing impact of the world economic fluctuations on Ukraine's economy.

The measures that may be taken for prevention of negative consequences and risks ensuing from the accession to the WTO or minimisation of their effects should be envisaged in final agreements on accession and in the programme of governmental actions relating to Ukraine's accession to the WTO. In this connection, a key task of the Government lies in vigorous and comprehensive actions aimed at increasing the potential of Ukraine's use of the advantages offered by the international trading system pursuant to the World Trade Organization concept of *capacity building*.

Proceeding from these conclusions, a set of measures may be outlined for raising the effectiveness of the process of Ukraine's accession to the WTO along the following directions.

REGULATORY AND LEGAL SUPPORT FOR UKRAINE'S ACCESSION TO THE WTO

The Verkhovna Rada of Ukraine should, before the end of 2002, complete amendment of the following Laws of Ukraine:

- ❖ "On Banks and Banking", "On Financial Services and State Regulation of Markets of Financial Services", "On Insurance" (regarding market access limitations for foreign companies), "On Audit" (Articles 5 and 6), "On the Bar", "On Television and Radio Broadcasting", "On Publishing Business" (Article 18), "On Telecommunications" (Article 11), "On Information Agencies" (Article 2) with the purpose of their harmonisation with the GATS norms and regulations;

- ❖ "On Amendment of Some Legislative Acts of Ukraine on Intellectual Property" with the purpose of their full harmonisation with the Agreement on Trade-Related Aspects of Intellectual Property Rights;

- ❖ "On Encouragement of Automobile Production in Ukraine" regarding suspension of the programme regarding the local content requirements for production.

The Cabinet of Ministers of Ukraine should:

- ❖ before August 1, 2002, develop and submit for the Verkhovna Rada consideration a new schedule of passage of bills aimed at final removal of inconsistencies between the Ukrainian legislation and the WTO requirements, including with respect to customs procedures and import licensing, sanitary and phytosanitary measures, registration of pharmaceuticals and plant growing products.

The State Committee for Standardisation, Metrology and Certification, the Ministry of Healthcare and the Ministry of Agricultural Policy of Ukraine should in their respective sectors speed up co-ordination of standards, sanitary and phytosanitary measures with the requirements of the International Organization for Standardization, the International Electrotechnical Commission and the WTO.

ORGANISATIONAL SUPPORT FOR UKRAINE'S ACCESSION TO THE WTO

The Cabinet of Ministers of Ukraine should:

- ❖ create an effective mechanism for monitoring the compliance of Ukraine's legislation with WTO norms. With that purpose, it should strengthen the mechanisms of performance of the functions of the Inter-departmental Commission for Ukraine's Accession to the WTO;

- ❖ with the purpose of encouraging most effective use of the advantages of the WTO membership and minimisation of possible negative effects in the period of adaptation to the WTO system in 2002-2003 take drastic and comprehensive measures within the framework of an all-round strategy of provision of competitiveness of the national economy and relevant governmental measures, including:

- ♦ increase state funding and support for research and development activities, development of new technologies and provision of effective state support for the sphere of innovation on a nation-wide scale, with emphasis on branches defined as priority ones, that possess or may possess competitive advantages. Particular attention should be paid to the substantial growth of governmental and non-governmental investments in the sphere of advanced information technologies largely determining the level of international competitiveness. This sector should enjoy preferences consistent with the WTO norms;

- ♦ raise the level of current funding and governmental investment, create conditions for the increase of non-governmental investments into the system of education, first of all, for provision of priority development of the specialities critical for the future scientific and technical progress;

- ♦ support the development of the general industrial and business infrastructure in the country meeting or exceeding by its technical and technological parameters that of the competitors.

- ♦ create a civilised system of financing and insurance of commercial activities of companies intended to substantially reduce the cost of development resources and the value of economic risks at implementation of innovative projects;

- ♦ ensure preservation at accession to the WTO of preferential regimes for imports critical for domestic production (basic components, materials, equipment and technologies), especially in the branches that have a priority importance and/or form the basis of the national export potential.

The Cabinet of Ministers of Ukraine, the Ministry of Economy and European Integration of Ukraine should permanently co-ordinate with the main economic partners of Ukraine — contenders for the WTO membership positions on accession to the Organization with the purpose of working out, whenever necessary, a co-ordinated approach to the process of accession to the WTO.

The Cabinet of Ministers of Ukraine should:

- ❖ upon submission of the Ministry of Agricultural Policy of Ukraine, before March 1, 2003, ensure all-round transformation of the system of state support for agriculture, envisaging curtailment of the forms of support falling under reduction commitments, with simultaneous provision of economical sound forms of support for the agrarian sector allowed by the WTO norms;

- ❖ upon submission by the Ministry of Economy and European Integration of Ukraine, the Ministry of Industrial Policy and the Ministry of Finance of Ukraine, before December 1, 2002, work out a concept of restructuring of the system of subsidies for particular industries pursuant to the WTO Agreement on Subsidies and Countervailing Measures;

- ❖ before the end of 2002 resolve in accordance with the procedure established by Ukraine's legislation the issue of recognition of the results of conformity assessment performed in other WTO member-states pursuant to the requirements of the Agreement on Technical Barriers to Trade, as well as streamline, ensure greater transparency and reduce the cost of certification procedures.

The Interdepartmental Commission for Ukraine's Accession to the WTO, Ukraine's delegation on negotiations on accession to the WTO should:

- ❖ attach priority to the drawing and beginning of discussion of the draft Ukraine's Protocol of Accession to the WTO with members of the Working Party for Accession to the WTO;

- ❖ in course of negotiations of Ukraine's accession to the WTO, seek the longest possible transition period for the performance of commitments on liberalisation of access to the Ukrainian markets of goods and services which face increased risk of negative consequences of rapid liberalisation; gradual (in three-five years after the accession to the WTO) implementation of the commitments on zero tariff rates within the framework of the WTO sectoral initiatives.

PROVISION OF AN UNBIASED ASSESSMENT OF THE POSSIBLE CONSEQUENCES OF UKRAINE'S ACCESSION TO THE WTO

The Verkhovna Rada of Ukraine should before November 1, 2002, hold parliamentary hearings on the issue of Ukraine's accession to the WTO involving representatives of the leading political parties and public organisations, scientific institutions of the National Academy of Sciences of Ukraine, non-governmental think tanks, business circles, and trade unions.

The National Security and Defence Council of Ukraine, the Cabinet of Ministers of Ukraine, the Ministry of Economy and European Integration of Ukraine, the Ministry of Finance of Ukraine, the National Bank of Ukraine should with the purpose of substantiation of assessment of the possible consequences of Ukraine's accession to the WTO before the end of 2002 work out a strategy of Ukraine's economic security, whereby:



- ❖ outline and approve on the nation-wide level a system of scientifically based indicators of national economic security, with account of relevant foreign trade factors, including the threshold values of economic security indicators of separate regions, branches and individuals;

- ❖ organise permanent monitoring of observance of said indicators.

The Cabinet of Ministers of Ukraine should before September 1, 2002, with the purpose of co-ordinating activities of representatives of different sectors of the economy and protection of the Ukrainian market, create a Consultative Board on the problems of Ukraine's accession to the WTO involving representatives of the Ukrainian Union of Industrialists and Entrepreneurs, Ukrainian Chamber of Commerce and Industry, the Association of Ukrainian Banks, the League of Insurance Companies.

The Ministry of Economy and European Integration of Ukraine should:

- ❖ before October 1, 2002, hold a contest for preparation of a series of independent research papers on the subject of "Analysis and Assessment of Socio-economic Consequences of Ukraine's Accession to the WTO" dealing with particular sectors and markets, to produce quantitative assessments and forecasts of macroeconomic and social implications of Ukraine's accession to the WTO, with account of its influence on the GDP, industrial and agricultural production, financial sector, trade balance and the balance of payments, employment, incomes and expenditures of the population, standards of life, investments, formation and performance of the state budget;

- ❖ before December 1, 2002, perform analysis of the effectiveness of use of the available resources (financial, human, etc.) for reforming trade policies with the purpose of attainment of the criteria of the WTO membership.

INFORMATION SUPPORT FOR MEASURES PROMOTING UKRAINE'S ACCESSION TO THE WTO

The Cabinet of Ministers of Ukraine should:

- ❖ before October 1, 2002, create an information bureau on Ukraine's accession to the WTO and the WTO Ukrainian Information Centre for standardisation, certification and elimination of technical barriers to trade, sanitary and phytosanitary measures;

- ❖ before November 1, 2002, as part of implementation of the Agreement on Technical Barriers to Trade, create an information service to facilitate market access and allow exporters and importers obtain information about the effective requirements and standards;

- ❖ before December 1, 2002, create an information service for the services sector.

HUMAN RESOURCES SUPPORT FOR UKRAINE'S ACCESSION TO AND MEMBERSHIP IN THE WTO

- ❖ **The Ministry of Education and Science of Ukraine** should before September 1, 2002, examine the possibility of soonest provision of training of the national specialists in the WTO activity able to protect in future Ukraine's interests in that organisation, create an effective system of training and retraining specialists in separate aspects of the trade policies, law and international economic relations in spheres related with particular WTO agreements, and a national programme of training lawyers, economists and managers in fundamentals of the WTO activity.

The Ministry of Economy and European Integration of Ukraine should before October 1, 2002, examine the possibility and submit to the Cabinet of Ministers of Ukraine relevant proposals on additional involvement of foreign technical assistance for training specialists in the WTO activity, including under the existing WTO capacity building programmes. ■

UKRAINE ON THE ROAD TO THE WTO: THE PROBLEMS, GAINS AND PROSPECTS



Vasyl ROHOVYI,
Vice Prime Minister of Ukraine,
Chairman of the Interdepartmental Commission
on the Accession of Ukraine
to the World Trade Organization

Ukraine's accession to the WTO is one of the main priorities of Ukraine's foreign economic strategy and a systemic factor of development of the national economy. It will allow liberalising foreign trade and creating a predictable and transparent environment for attraction of foreign investments, which meets the national interests of Ukraine. At present, Ukraine is at the final stage of the process of accession to the WTO.

The process of accession consists of two main components: (1) harmonisation of the national legislation with WTO norms and requirements; (2) bilateral negotiations on the issues of access to the markets of goods and services and signing of relevant protocols with the Working Party member-states on the review of Ukraine's application for accession to the WTO. Ukraine's negotiation partners view progress in those domains as the main indicator of the seriousness of its intentions.

Harmonisation of the national legislation with the norms of WTO agreements

In this sphere Ukraine has achieved noticeable progress. A Schedule of consideration of relevant bills was drawn and sent out to the Working Party member-states on the review of Ukraine's application for accession to the WTO (hereinafter — the Working Party)¹. It included 20 bills that have a systemic character and regiment activity in such spheres as customs procedures, taxation, insurance, intellectual property rights, agriculture, etc.

In 2001-2002, 15 out of 20 bills entered into the Schedule were passed. Establishment of the legislative base for harmonisation of the systems of standardisation, certification and government procurement has actually been completed; substantial progress was achieved in such spheres of legislation as protection of intellectual property rights, sanitary and phytosanitary measures, taxation, information services. For instance, with the adoption of the Law of Ukraine "On Procurement of Goods,

Works and Services at the State's Expense"², the legislative base necessary for creation of a single system of state procurement was established in Ukraine. In that way, the national legislation on government procurements became consistent with the requirements of WTO agreements.

With the purpose of harmonising the national legislation with the norms of the Agreement of technical barriers to trade, the Laws of Ukraine "On Standardisation", "On Certification of Compliance" and "On Accreditation of Compliance Assessment Bodies" were passed³. Relevant amendments were introduced to other sectors of legislation regimented by WTO agreements, too.

The legislative base dealing with the sphere of trade aspects of regimentation of intellectual property rights underwent substantial positive changes (Insert "Regulatory-legal acts in the sphere of intellectual property right protection passed by Ukraine within the framework of harmonisation of the national legislation with WTO norms").

¹ Prepared for the eighth meeting of the Working Party.

² Of February 22, 2000.

³ The laws were passed on May 17, 2001.



Regulatory-legal acts in the sphere of intellectual property rights protection passed by Ukraine within the framework of harmonisation of the national legislation with WTO norms

- ❖ The Law of Ukraine "On Amendments to the Law of Ukraine 'On Protection of Rights in Inventions and Utility Models' of June 1, 2001";
- ❖ The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Strengthening Responsibility for the Violation of Rights to Intellectual Property Objects" of April 5, 2001;
- ❖ The Law of Ukraine "On Amendments to the Law of Ukraine 'On Copyright and Related Rights'" of July 11, 2001;
- ❖ The Law of Ukraine "On Ukraine's Accession to the World Intellectual Property Organization Performances and Phonograms Treaty" of September 20, 2001;
- ❖ The Law of Ukraine "On Ukraine's Accession to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations" of September 20, 2001;
- ❖ The Law of Ukraine "On Ukraine's Accession to the World Intellectual Property Organization Treaty on Copyright" of September 20, 2001;
- ❖ The Law of Ukraine "On the Specificity of Business Activity in the Field of CD-ROM Production, Export and Import" of January 17, 2002;
- ❖ The President of Ukraine Decree "On Measures at Intellectual Property Protection in Ukraine" No.285 of April 27, 2001;
- ❖ The President of Ukraine Decree "On Priority Measures for Straightening of Intellectual Property Rights Protection in the Field of CD-ROM Production, Export and Import" No.85 of January 30, 2002;
- ❖ The Cabinet of Ministers of Ukraine Resolution "On the Procedure of Allocation of Special Identification Codes to CD-ROM" No.411 of April 28, 2001;
- ❖ The Cabinet of Ministers of Ukraine Resolution "On Approval of the Regulations of the Procedure of Registration of Moving of Goods Containing Intellectual Property across Ukraine's Customs Border" No.412 of April 28, 2001.

It is known that today, influential trade partners of Ukraine, e.g., the USA, have some questions regarding Ukraine's legislation on intellectual property protection. However, here the problem lies in insufficient observance of already passed regulatory-legal acts. Work in that direction continues, and there are reasons to believe that in the near future the problem will be resolved.

Today, the first priority lies in adoption of the Tax Code and implementation of the new version of the Customs Code, which is critical for Ukraine's speediest accession to the WTO.

In the recent months ministries and agencies have been co-ordinating a new Schedule of passage of bills regimenting specific issues of foreign trade procedures. Apart from the mentioned Customs and Tax Codes, the Schedule includes a number of bills intended to remove mainly technical discrepancies between separate elements of the Ukrainian legislation and WTO norms. The Schedule is to be completed before March, 2003.

Negotiation process

From mid-2001, Ukraine substantially intensified the process of negotiations on accession to the WTO. The past year saw two meetings of the Working Party and four rounds of bilateral talks with the Working Party member-states that have led to a significant reduction of the list of problem areas.

The scope of basic commitments has been established and bilateral protocols on access to markets of goods and services signed with Canada, Mexico, New Zealand, South Korea and Uruguay, as well as a protocol on access to the commodity markets with Slovenia; Latvia gave consent to signing of a bilateral protocol. Negotiations with Ecuador and Turkey on the access to commodity markets are actually over. Negotiations on services markets have been completed with Brazil, Ecuador, Cuba and Turkey. Tariff concessions have been agreed with delegations of Brazil, the EU, India, Cuba, and Japan. Pursuant to a President of Ukraine Decree, bilateral negotiations are to be completed before October, 2002⁴.

Co-ordination of tariff concessions presents a key element of bilateral negotiations. To define the required level of protection of Ukraine's domestic market in course of negotiations, the Interdepartmental Commission on Ukraine's Accession to the WTO examined a representative sample of goods from all commodity groups of UCGFEA⁵, which was requested by the Working Party member-states.

It is worth notice that Ukraine protects its domestic market by tariff measures on a par with the countries that joined the WTO after the completion of the Uruguay Round of multilateral negotiations. For instance, 80% of all sampled duty rates are at the level of tariffs of the countries that recently joined the WTO (Albania, Estonia, Latvia, Lithuania, Moldova, China, Taiwan, and Croatia), 13% are higher than established in the named countries and only 7% are lower. Therefore, **Ukraine's tariff offers at negotiations generally correspond to the level of other countries and are reasonably protectionist.**

At the same time, practice shows that the countries joining the WTO later are forced to make greater tariff concessions; hence, it makes sense to speed up Ukraine's accession to the WTO.

Formulation of commitments regarding access to Ukraine's market of services is also nearing completion. As we already mentioned, negotiations on services have been completed with six countries — members of the Working Group. At talks with other countries, some problem issues require additional examination. They include, *inter alia*, the following:

- ❖ legislative and regulatory regimentation of extension of medical services (e.g., the possibility of extension of medical services by foreigners) and operation of the telecommunication sector after Ukraine's accession to

⁴ The President of Ukraine Decree "On Additional Measures at Acceleration of Ukraine's Accession to the World Trade Organization" No.797 of September 5, 2001.

⁵ UCGFEA — Ukrainian Classification of Goods for Foreign Economic Activity.

the WTO, including provision of stability of procedures of investment into the sector of telecommunications;

- ❖ formulation of commitments regarding removal of restrictions on foreign capital participation in the sector of news agency activity;
- ❖ formulation of additional commitments in the sector of pipeline transport;
- ❖ formation of a position regarding access to the market of sea transport.

The schedule of Ukraine's specific commitments of access to the services market covers 139 out of 155 sectors, being one of the highest indicators of liberalisation of access to the services market not only among countries applying for WTO membership but also among member-states.

Acceleration of accession

The need of acceleration and soonest completion of the process of Ukraine's accession to the WTO is conditioned by two main external factors.

The **first factor** is the changes taking place within the WTO system itself. It is known that after the failed WTO Ministerial Conference in Seattle in 1999, the Organization appeared in a critical situation caused primarily by more intense protection of national economic and trade interests by the least-developed WTO members. At present, the WTO is holding a new round of multilateral negotiations initiated by WTO Ministerial Conference in Doha (Qatar)⁶. The main goal of negotiations declared by the WTO leadership and its most influential members lies in the establishment of a world trading system meeting the interests of all members of the Organization without exception. The negotiations will determine the conditions of world trade for decades, so, it is very important that Ukraine's interests are taken into account, too. To be sure, this is possible only on the condition of Ukraine's full membership in the WTO.

The **second factor** is the EU eastward expansion set to begin on January 1, 2004. Accession to the WTO will allow for a liberalising of the procedures of trade between Ukraine and the EU, decreasing tariff and non-tariff restrictions on exports of Ukrainian goods (e.g., metal, textiles, ready-made garments) to the EU and beginning real work at conclusion of a free trade agreement between Ukraine and the EU, and in the longer run — an agreement of Ukraine's associated membership in the EU. WTO membership is also vital for Ukraine's accession to the Central European Free Trade Association (CEFTA).

The President and Government of Ukraine are sparing no efforts for speeding up the process of Ukraine's accession to the WTO. For instance, on September 5, 2001 the President of Ukraine signed the Decree "On Additional Measures at Acceleration of Ukraine's Accession to the World Trade Organization"⁷. The document substantially raised the level of management of the Interdepartmental Commission on the Accession of Ukraine to the WTO; the Head of the Ukrainian



delegation at negotiations on Ukraine's accession to the WTO was appointed; priority directions of harmonisation of the national legislation with WTO norms and requirements and joint activities of the Government and the Verkhovna Rada were outlined; terms of preparation and conduct of bilateral negotiations on access to the markets of goods and services were set.

In order to ensure a systemic approach and co-ordination of actions of the executive bodies for speeding up Ukraine's accession to the WTO, the *Programme of Events for Completion of Ukraine's Accession to the WTO* was drawn and approved by the President of Ukraine Decree⁸. The main goal of the Programme is to complete bilateral negotiations in 2002, which will open Ukraine the way to WTO membership in 2003.

Legislative support for the accession to the WTO envisaged by the Programme presumes urgent adoption of the bills already drawn and submitted to the Verkhovna Rada (e.g., the Customs and Tax Codes, bills on amendment of the Laws of Ukraine "On Television and Radio Broadcasting", "On State Regulation of Agricultural Imports", "On Quality and Safety of Foodstuffs and Food Raw Materials"), as well as development and submission to the Verkhovna Rada of Ukraine of a number of bills, including on the following issues: access to the market of financial and professional services; technical barriers to trade, sanitary and phytosanitary measures.

Besides, it is envisaged to perform comprehensive analysis of the legislation on such spheres of foreign trade procedures as protection of intellectual property rights, customs tariff regulation, investment procedures, technical barriers to trade, taxation, trade in services, etc. By the results of such analysis, tables of compliance of Ukraine's legislation with the norms and requirements of WTO agreements are to be drawn and additional amendments introduced to Ukraine's legislation.

⁶ The Conference took place on November 9-13, 2001.

⁷ The President of Ukraine Decree "On Additional Measures at Acceleration of Ukraine's Accession to the World Trade Organization" No.797 of September 5, 2001.

⁸ The President of Ukraine Decree "On the Programme of Events for Completion of Ukraine's Accession to the World Trade Organization" No.104 of February 5, 2002.



The Programme also envisages a number of measures aimed at provision of balanced access to markets of goods and services, transformation of state support for agriculture, attraction and employment of foreign technical assistance.

The Government also takes steps for informing the public and winning support for Ukraine's accession to the WTO from political and public organisations, business and scientific circles. For instance, recently, a number of public events have been held that allowed the public, scholars, political and public figures, journalists to learn about the WTO parameters, the problems and implications of Ukraine's accession to the WTO (Insert "Public events aimed at informing the public on the prospects of Ukraine's accession to the WTO").

Public events aimed at informing the public on the prospects of Ukraine's accession to the WTO

- ❖ Conference "Accession to the WTO: the Prospects, Consequences and Related Tasks" organised by the Ukrainian-European Policy and Legal Advice Centre (UEPLAC);
- ❖ Round-table "Topical Issues of Ukraine's Trade Policy in the Context of Accession to the World Trade Organization on the Eve of the 4th WTO Ministerial Conference" conducted during the visit of the Head of the Working Party for the review of Ukraine's application for WTO membership Sergio Marci;
- ❖ Conference "Employment of Experience of Countries with Transition Economies in the Process of Ukraine's Accession to the WTO" organised by the Ukrainian Centre of Trade Policy and Law; the Conference gathered representatives of Ukrainian ministries and agencies, high-ranking officials from the countries, which had recently joined the WTO (Georgia, Moldova), journalists and representatives of public organisations;
- ❖ Round-table meeting "Security of Economic Transformations" on the subject "Ukraine in the WTO: Expectations and Realistic Prospects";
- ❖ Meeting of the National Reform Press Club that reviewed topical issues of the process of Ukraine's accession to the WTO.

Additionally, in the near future, a Web-site of the Interdepartmental Commission on Ukraine's Accession to the WTO will be created. It will be the main source of information on the issues of Ukraine's co-operation with the World Trade Organization. There, one will find the texts of WTO agreements with comments, information about the process of accession to the WTO and other informational and analytical materials.

What will WTO membership give Ukraine?

I am sure that there is no alternative to Ukraine's accession to the WTO. Only this step will enable Ukraine to diversify its main trade flows and give a new impetus to the development of the European vector of the national economy.

Furthermore, Ukraine's accession to the WTO will offer it other advantages, too:

- ❖ increase in foreign investments into Ukraine's economy and resultant technological renovation and



re-equipment of the national industry, growth of the export potential and increase in exports of high-tech products⁹;

- ❖ reduction of tariffs and non-tariff barriers for access of Ukrainian goods to actually all major commodity markets of the developed countries of the world and corresponding increase in currency proceeds from exports of domestically manufactured goods;
- ❖ obtaining the most-favoured nation treatment in trade with all WTO members, i.e., one-time improvement of the conditions of trade with 144 countries of the world accounting for over 93% of the world trade;
- ❖ possibility of securing the interests of Ukrainian producers in accordance with the WTO procedure of trade disputes settlement;
- ❖ removal of the threat of Ukraine's trade and economic isolation not only from West and Central European countries but from East European and Baltic states, many of which are already associated members of the EU;
- ❖ removal of the threat of replacement of Ukrainian goods on EU markets with similar produce from Central and East European countries;
- ❖ increase in the state budget revenues thanks to the removal of privileges, expansion of the basis for payment of customs duties and intensification of the trade turnover.

Therefore, accession to the WTO is a key step on the path of attainment of the strategic goal of Ukraine — integration into the EU, and its soonest completion entirely meets the national interests of Ukraine. ■

⁹ The experience of Central and East European countries convincingly proves that after accession to the WTO foreign direct investments in those countries substantially increased. The most striking example is demonstrated by Bulgaria where within one year after joining the WTO investments increased 3.7 times, and in 1999-2000 — another 1.5 times. In Slovenia investments almost doubled the year following accession to the WTO.

UKRAINE'S ACCESSION TO THE WTO IN THE CONTEXT OF DEVELOPMENT OF ITS RELATIONS WITH THE EU



Roman SHPEK,
*Representative of Ukraine
at the European Communities
(The European Union)*

There is an obvious, direct and immediate correlation between Ukraine's accession to the WTO and the prospects of its co-operation with the EU. This was reiterated in the speech of the President of Ukraine L.Kuchma on February 8, 2002, at a conference devoted to European integration. Among the preconditions of Ukraine's accession to the EU, the President attached the first priority to "solution (in 2002-2003) of the entire set of problems related with Ukraine's accession to the World Trade Organization".

Ukraine's accession to the WTO will make Ukraine's trade procedures compliant with EU norms and enable creation on this basis of a free trade area no later than 2004, to be followed by Ukraine's Customs Union with the EU.

Arguments in favour of such an approach originate from the very nature of the European Union. One should just recall the history of its establishment and evolution.

From the early days of implementation of the idea of a common coal and steel market formalised by the Paris Treaty in 1951, integration processes in the European economy went through the stages of formation of a **free trade area** free from tariffs and quotas in relations among the participants, establishment of a **customs union** and a **common market**, whose milestones were determined by the single trade policy towards third countries and cancellation of restrictions on the movement of services, labour and capitals.

On January 1, 1993, harmonisation of economic policies and institutional bodies resulted in formation of the **single domestic market**, and in 2002 we witnessed final formation of the **economic and monetary union**. Those stages of EU development were accompanied by steady economic growth combined with solution of social problems, guarantees of the well-being of citizens and perfection of democratic institutions of the member-states.

The experience of EU activity vividly illustrates the fatality of the policy of isolation from the outer world. I mean the country where we lived just 10 years ago. The Soviet Union, with its immense natural resources and cheap labour pool, rejecting international norms and rules, failed to make proper use of its advantages, which led to a natural result. Let us also remind the ways of doing business, the levers of "free" movement of labour or its limitation by the notorious registration at the place of residence. The experience of rigid administering of the economy made it non-competitive. Is it worth repeating the mistakes we so long learned from?

Why is the EU interested in Ukraine's accession to the WTO?

Ukraine aspirations for Eurointegration may find adequate support by its EU partners only in the event of our country's accession to the WTO.

Proceeding from my own experience as Ukraine's Representative at the EU, I can cite a concrete example of direct influence of our remaining outside the WTO on the attempts of initiating a process of negotiations with the European Commission on creation of a



free trade area (FTA) with the EU. Creation of the FTA means establishment of qualitatively new trade relations; lacking this, it is impossible to plan a substantial increase of mutual trade and, correspondingly, to speak about future stages of closer integration (creation of a Customs Union, associate membership, accession to the European economic area and, finally, attainment of full compliance with the criteria of EU membership).

Brussels has rejected our long and so far unsuccessful attempts of beginning negotiations on this issue motivating its reluctance by repeated mention of the need of Ukraine's prior attainment of the adequate terms and standards to ensure future proper functioning of the *free trade procedures* between the parties. The European Commission views Ukraine's membership in the WTO as the first and the most important prerequisite of an FTA.

The thing is that the WTO principles essentially coincide with the economic criteria of EU membership and envisage liberalisation of the trade procedures, encouragement of fair competition, creation of a favourable investment climate, perfection of the structure, diversification of exports, etc. Hence, Ukraine's accession to the WTO means its adoption of the norms and standards that will enable unimpeded establishment of free trade procedures with the EU.

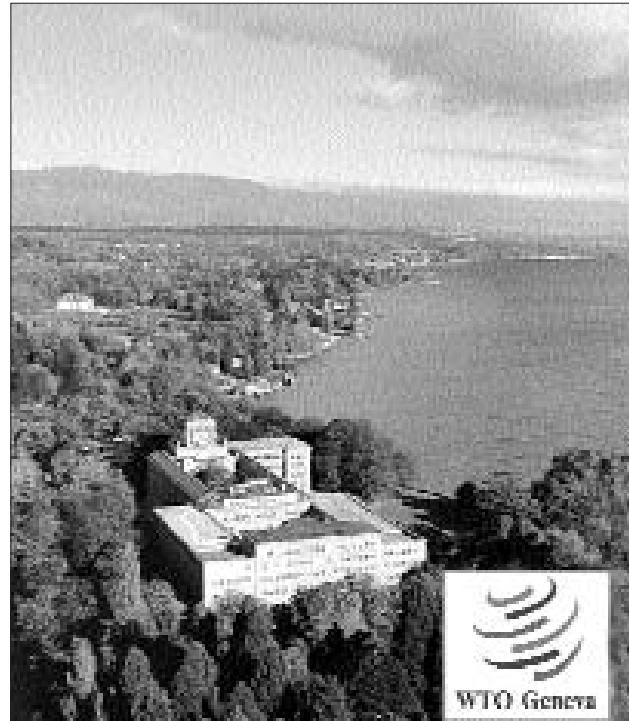
Furthermore, the non-compliance of Ukraine's present foreign trade procedures with the WTO requirements poses rather serious problems for implementation of the basic agreement between Ukraine and the EU — the Partnership and Co-operation Agreement (PCA), since that Agreement is based on WTO principles.

Hence, the EU interest in Ukraine's accession to the WTO is dictated by the objective need for establishing foreign trade procedures in Ukraine adequate to those of the countries of the European Union. Such position entirely meets the intention and national interests of Ukraine pursuing the course of European integration.

EU requirements to Ukraine in the context of its accession to the WTO

By and large, the European Union informs about its requirements and position on the conditions of Ukraine's accession to the WTO through its permanent representative office at the WTO headquarters in Geneva. However, a substantial part of such a common European position and specific requirements regarding Ukraine is largely formed in Brussels by experts of the European Commission and EU member states. Thus, although the EU requirements to Ukraine in the context of its accession to the WTO do not fall under my immediate competence, the experience of participation in negotiations in Brussels and everyday promotion and protection of the national interests in that domain allow clearing up the essence of those requirements, drawing some conclusions and making recommendations.

By and large, the EU is demanding from Ukraine the taking of resolute legislative and practical steps for settling a number of bilateral trade problems on the basis of PCA provisions and WTO norms. **Harmonisation of**



the national legislation with the Organization's norms and requirements is one of the main requirements and, correspondingly, elements of the process of Ukraine's accession to the WTO. It means harmonisation of tariff and non-tariff barriers for access to the markets of goods and services.

The past two years brought substantial positive changes in regulatory-legal support for Ukraine's accession to the WTO in nearly all basic directions and spheres of foreign economic relations. 15 (out of the planned 20) new laws were adopted. They regimented the issues of customs procedures, intellectual property protection, standardisation and certification, etc. in accordance with WTO principles; some issues were regulated by decrees of the President of Ukraine; several-ties and procedural issues — by resolutions of the Cabinet of Ministers of Ukraine.

Such a backlog of regulatory-legal acts enabled Ukraine's plenipotentiary delegation to secure success at the next round of bilateral talks on February 18-22, 2002, in Geneva on the issues of access to the markets of goods and services. During a monitoring meeting of the Working Party for the review of Ukraine's application for accession to the WTO simultaneously held in the capital of Switzerland, the work made by our state after the previous, 8th meeting was highly praised. In particular, Ukraine was supported by the delegations of Australia, Bulgaria, Georgia, Ecuador, the EU, India, Canada, Korea, Cuba, Moldova, Norway, Slovenia, Hungary, and Japan. Especially important for Ukraine was the support from the delegations of the EU, Bulgaria, India and Hungary — by contrast to the U.S. criticism of deficiencies in provision of proper protection of intellectual property rights and inconsistencies with the WTO rules for non-tariff protection of commodity market.



As for the conclusion of bilateral protocols¹, negotiations with the EU and some other WTO members on that subject continue. Thanks to the efforts of our colleagues from the Ministry of the Economy and European Integration of Ukraine, the situation in this domain is clearly changing for the better.

The latest elaborate version of EU requirements to Ukraine in the context of its accession to the WTO was made public by the European Commission Trade Commissioner P.Lamy during his meeting with Vice Prime Minister of Ukraine V.Rohovyi on March 11, 2002². Participants of the meeting once again stressed that creation of a free trade area between Ukraine and the EU would be possible only after Ukraine joins the WTO. According to P.Lamy, "The WTO is the base-ment without which it is impossible to build the follow-ing storey", i.e., to establish fully-fledged *free trade pro-cedures*, since "it is the WTO who defines a clear balance of rights and commitments" between the part-ners. In the opinion of P.Lamy, a free trade area repre-sents a higher level of relations compared to the oppor-tunities and advantages of the WTO. Literally, his position was as follows: from implementation of an FTA we expect to get something more than the WTO".

However, as we already mentioned, to complete the first stage of the process of European integration, Ukraine must resolve a number of problem issues stressed by our partners in the EU and in one or another way hindering Ukraine's accession to the WTO. They include, *inter alia*:

- ❖ **adaptation of legislation.** As we noted above, Ukraine indeed made a lot to bring its national legisla-tion in compliance with WTO requirements, but it should demonstrate that its legislation is transparent and stable, particularly regarding the field of intellectual property protection;

- ❖ **implementation of the recently adopted *actional legislation***, specifically in the field of intellectual prop-erty protection. It is worth noting that the European Commission and personally European Commission Trade Commissioner P.Lamy, speaking about the changes for this better and the problem issues that need to be resolved for legislative regimentation of the sphere in Ukraine, express readiness to grant specialists who might render practical assis-tance to Ukrainian experts, draw appropriate conclusions and make specific recommenda-tions or give good advice.

- ❖ **removal of discriminatory procedures in the sphere of regulation of Ukraine's automotive market.** Today, a work is underway at the expert level. Ukraine drafted a plan of actions for further solution of that problem. Presently that document is being finalised with account of comments of the European Commission, and we hope that its consistent implementation will make it possible to settle that long-standing problem No.1 in bilateral relations.

Solution of the mentioned and other problems still observed in the foreign trade procedures of this state will enable Ukraine to speed up its accession to the WTO, and, therefore, integration into the European Union.

Does the EU position coincide with Ukraine's interests?

At the present stage of international co-operation characterised by a high degree of integration and mutu-al penetration of capital, transparency and publicity, it is very difficult to ensure macroeconomic stability in the country (the first by the order of sequence criterion of EU membership in this group) and steady economic growth without participation in the world economic processes. And the latter are mainly governed by agree-ments within the framework of the WTO. Ukraine's position outside the system of those agreements creates a number of natural barriers for the access of Ukrainian goods and services to the markets of EU member-states and for import operations. As a result, Ukraine's inte-gration with the EU is slowing down and becoming restricted.

Share and volumes of mutual trade in goods and services present one of the main indicators of the real level of Ukraine's economic integration into the EU. In 2000, total trade turnover between Ukraine and the EU was **\$5.236 billion**, which exceeded the 1999 level by almost 16% (or **\$619 million**). Of that, exports of Ukrainian goods to the EU increased by 11.13% (from \$2,119 million in 1999 to \$2,354 million in 2000).

However, despite a gradual increase in bilateral trade observed in the recent years, the overall share of Ukrainian exports falling on the EU does not exceed 20%. At the same time, as is clear from Table "Trade with the EU", the absolute volumes of trade between the biggest Central and East European countries — appli-cants for EU membership and the EU in 1999-2000 were of an order higher than Ukrainian.

Trade with the EU						
	Exports to the EU		Increase	Imports from the EU		Increase
	1999	2000		1999	2000	
Poland, € bln.	17.60	23.20	31%	29.0	33.70	17%
The Czech Republic, € bln.	16.80	21.50	27%	18.4	23.80	29%
Hungary, € bln.	17.60	21.90	24%	18.4	23.00	25%
Ukraine, \$ bln.	2.65	3.18	20%	2.4	2.88	20%

The EU is the main foreign trade partner of the applicant countries. For instance, the share of the EU in the exports of Poland, Hungary and the Czech Republic make up 64.2%, 71.2% and 68.6%, respective-ly; of Romania, which is among the "second wave" of contenders — 56.6%. The share of imports from the EU in the structure of foreign trade of those countries is also high: of Poland — 63.8%, Hungary — 62.8%, the Czech Republic — 69.1%, Romania — 52.5%.

¹ Protocols of access to markets of goods and services have been signed with Canada, Mexico, New Zealand, South Korea and Uruguay; a protocol of access to commodity markets — with Slovenia; negotiations with Ecuador and Turkey on access to commodity markets are completed.

² The meeting was held in Brussels within the framework of the 5th Session of the Ukraine-EU Co-operation Council.



Meanwhile, Ukraine's share in EU foreign trade is extremely low and, according to the European Commission, does not exceed 0.3%, while Poland, the Czech Republic, Hungary and Russia are among the ten main trade partners of the European Union, and their shares in the structure of EU foreign trade respectively are 3.28%, 2.61%, 2.59%, and 3.30%.

Proceeding from the above, it may be concluded that acceleration of Ukraine's accession to the WTO and the EU will help intensify its foreign trade relations, increase in the exports of the Ukrainian produce and advance Ukraine's economy, especially its competitive export-oriented branches.

Investments are another problem for Ukraine. For structural reform and innovative development so important for Ukraine's economy, substantial foreign investments are needed. But potential investors view stability and predictability as the main guarantee. What may provide such a guarantee? The answer is clear: commitments assumed by Ukraine in the framework of international agreements, its participation in the world integration processes. Hence, accession to the WTO will promote creation of a proper investment climate in the country and inflow of capital, thus giving an impetus to Ukraine's economy.

Finally, unemployment presents an acute social and economic problem. It affects fates of millions of Ukrainians, many of them are forced to search for jobs abroad, including illegally. That problem also has negative foreign political resonance. The flow of illegal migrants creates substantial difficulties for our European partners, causes their natural dissatisfaction and leads to the requirements of ceasing illegal labour migration from Ukraine. At the same time, it is clear that since per capita GDP in Ukraine, as calculated by some international institutions, is less than \$1,000, it is extremely difficult to speak about cessation of emigration of Ukrainian citizens in the able-bodied age.

Settlement of this problem alone with account of our national interests will require, as we already noted, inflow of capital for the development of the national economy, which, in turn, requires favourable conditions for the development of business and trade, and guarantees of protection. Such conditions can be created only in an economic space open for civilised competition, with its rules established by international treaties.

Hence, accession to the WTO and then to the EU in the end will lead to the growth of GDP and the well-being of Ukrainian citizens. To prove this thought, let



me cite the striking example of successful integration into international structures of one EU member — Portugal. At the time of its accession to the EU in 1986 per capita GDP in Portugal made up \$2,000. In 1998, it increased five-fold and reached \$10,000. Isn't that a convincing argument in favour of Ukraine's accession to the WTO and then to the EU?

Today, the efforts of Ukraine's Government in the sphere of pursuance of the foreign policy (including support for Ukraine's accession to the WTO) are concentrated on active formation of new foreign trade procedures with further integration of the national economy into the world economic community through: gradual increase in the openness of the national economy; harmonisation of the economic legislation and its compliance with WTO norms; implementation of domestic economic reforms; removal of technical barriers in trade, etc.

Ukraine's partner relations with the EU in general and on the issue of accession to the WTO in particular have a very special character and play a vital role for attainment of Ukraine's foreign economic and foreign political priorities. Those priorities are primarily determined by the internal needs of this state. Increase in the standard of living of Ukrainian citizens is to be based on economic growth that simultaneously presents a guarantee of national independence and public support for the political course of the state. ■

UKRAINE'S ACCESSION TO THE WTO: "PROS" AND "CONS"



*Petro SYMONENKO,
Leader of Communist Party of Ukraine faction
in the Verkhovna Rada of Ukraine*

Ukraine's accession to the World Trade Organization and a number of other international trade and economic institutions is a natural process on the road of state-building and consolidation in the period of globalisation and economic integration. To be sure, accession to the WTO has its "pros" and "cons", as assessed proceeding from national interests.

First the "pros". Ukraine joins the ranks of the developed countries of the world with competitive economies, acquires free access to the world market as a partner. We must note however: joins the ranks, but not on a par with others...

"Cons". Paradoxically, "pros" may turn into "cons", especially at the initial stage. Sadly, Ukraine, despite its huge potential, is still unprepared and, given the present economic situation, will not soon be prepared for full membership in a common, single market of goods, works, services, capital, labour, etc.

In the result of unreasoned and inconsistent actions this country may turn into a source of raw materials, market of low-quality goods, cheap labour and a dump of environmentally hazardous industrial waste.

People say, to each his own... Given the present low level of the national economy, we may stay a "poor relative" for long, may be, forever.

The issue of Ukraine's accession to the WTO is more political than economic. After all, it goes about national security and preservation of independence of our state. That is why the Verkhovna Rada of Ukraine should accelerate the adoption of Fundamentals of Domestic and Foreign Policy. This is envisaged by the Constitution, and the CPU faction introduced a relevant bill even before the beginning of the work of Parliament of the past convocation.

Furthermore, there should be a strategy of national economic security for the forthcoming 10 years. This is highly topical for our economy, given the sharpening of internal and external threats, extremely difficult social environment, situation in the sphere of science and high technologies.

Favourable tax and investment procedures should be established, protection of intellectual property rights provided, and a set of organisational arrangements made.

We believe that without co-ordination of positions on WTO accession with our main trade and economic partners — Russia, Belarus, Moldova and other CIS countries — Ukraine will jeopardise the internal and external markets of its produce, which will inevitably lead to a sharp increase in the unemployment rate and demolition of the national manufacturer. Now, we need to develop more active co-operation with Russia, Belarus, Moldova and other CIS countries, join the single Customs Union, and strengthen the positions of the Ukrainian manufacturer.

In this connection, assistance should be granted to the project of a gas transportation consortium (a joint venture of Ukraine, Russia and Germany) for management and development of Ukraine's gas transportation network. This would rule out involvement of smart underground money-makers in the operation of the gas market. This highly profitable sphere will become a prerogative of the state, which will allow defending the interests of Ukraine, not the purses of robbers from the gas market. Additionally, establishment of the consortium will make it impossible to privatise Ukraine's gas transportation system.

In our opinion, these and other similar measures will improve Ukraine's image on the international scene, further the development of its economy and on this basis — promote accession to the WTO. In the end, all this is aimed at raising the standard of living of the Ukrainian people. ■

UKRAINE AND THE WTO: PROBLEMS TO BE RESOLVED BEFORE AN ACCESSION



Volodymyr SPIVACHUK,
*People's Deputy of Ukraine,
Socialist Party of Ukraine faction*

Ukraine's accession to the WTO is an imperative of the time primarily dictated by the formation of a post-industrial, noospheric model of the economic fundamentals of modern civilisation. This involves further trans-nationalisation of production and turnover, increasing intensity of the processes of regional integration, accelerated development of intellectual and informational components of the technological mode of production activated by the scientific and technological revolution.

Accession to the WTO may help Ukraine join the world scientific and technological processes with a view of future access to higher levels of civilisation. However, the experience of the past decade shows that all actions of Ukraine aimed at participation in the activity of any international economic organisation are usually accompanied with growing dependence of the domestic market on the cyclical nature of the international economic system.

This is primarily conditioned by the un-readiness of the bulk of Ukrainian enterprises for work in conditions of tough competition; the predominantly raw material structure of Ukraine's exports, and unfavourable conditions for active investment activity of domestic and foreign business entities.

Hence, in the context of Ukraine's accession to the WTO, a number of key problems need to be resolved:

- ❖ ensure the most-favoured treatment of imports critical for the national manufacturer, first of all, in network-forming industries;

- ❖ take concrete measures aimed at funding of and investment into the education system for the development

of specialities critical for scientific and technological progress;

- ❖ take measures for strengthening informational content of labour through accelerated development of information systems, gradual transition from the energy to the informational basis of production, substantial decrease in the cost and raising the quality of products, improvement of technical specifications of mechanical systems and technological processes;

- ❖ take under permanent state control innovative activity at enterprises and in industries that already have or may have competitive advantages, meaning not only strengthening state support but direct participation of the state in such activity;

- ❖ develop a general infrastructure of production and entrepreneurial activities with a view to its perfection and the optimisation of its technical and technological parameters (from the point of view of the world economy).

Finally, it should be stressed that Ukraine's accession to the WTO is an important and serious step, and since an export-oriented strategy makes the economy more vulnerable, well thought-over and balanced decisions are needed. ■

UKRAINE'S ACCESSION TO THE WTO: WHAT IS NEEDED ARE POLITICAL WILL AND PROFESSIONAL NEGOTIATION PROCESS



Yuliya TYMOSHENKO
*Leader of Yuliya TYMOSHENKO's
Bloc faction in the Verkhovna Rada*

The place and role of Ukraine in the WTO will largely depend on the quality of the negotiation process, aggressiveness, professionalism and intellectual adequacy of the Ukrainian party at protection of its national interests. Over its entire history the WTO demonstrated huge flexibility in formulation of requirements to the candidates and conditions of their accession to the Organization. The parameters of membership varied from favourable to tough. It is known that all member states of the WTO undertake to observe uniform rules, in that way creating a more stable and predictable environment of trade relations. However, the Ukrainian party, as well as any other candidate for accession, should be aware that accession to the WTO is not a gift in the form of growing trade at the expense of more intense ties with more developed economic systems. The 144 present WTO members are united in a single trade system based on competition of the national economies, their specific sectors, branches and commodity offers. So, a tough line at negotiations on accession will guarantee the most favourable initial position, diminish economic losses related with transformation of the legislation and trade relations structure and, correspondingly, ensure long-term economic benefits in a competitive environment.

Preparing to join the WTO, China was forced to assume 300 additional commitments, apart from 30-40 envisaged by the standard procedure. It was a high price for solution of a painful problem of the Chinese economy — its dependence on foreign markets.

Russia, despite strong international opposition, has actually negotiated accession on standard terms, which should be viewed as a great success of Russian diplomacy.

Therefore, the issue of consequences of accession to the WTO should be divided into three important components — **basic** (typical, documented for any potential candidate), **agreed** (taking into account specificity of a country, its economic potential, resources and requiring particular attention at negotiations) and **political** (rise of a country's rating, implementation of new standards of life and level of political and economic decisions).

The basic components include one of the greatest pluses — reduction of tariffs and non-tariff barriers for Ukrainian goods nearly on all world markets. Removal of barriers largely attributed to the weak position of Ukraine at protection of its foreign economic interests will allow substantial improvement of its export structure.

Protecting its access to external markets in accordance with the uniform norms applicable to all WTO members, Ukraine will in the end be able to concentrate on export offers where our economy holds the strongest positions, not confine itself to those with which it was forced to go to the market through narrow passages in the fences of barriers and limitations.

With accession to the WTO we will be able to move from trade in raw materials and semi-finished goods to proposal of science-intensive technologies.

A single regulatory base will help stop scandalous anti-dumping actions initiated in different countries of the world against Ukrainian enterprises, in particular, against metallurgical enterprises.

Ukraine's accession to the WTO will give advantages, first of all, to exporters. Obtaining access to foreign markets, we in turn open our domestic market for imports. Competition will be encouraged in the country, which involves broadening of the range of products and enhancement of the quality of goods. One may speak about another "plus" — the fullest satisfaction of Ukrainian consumers' needs. At the same time, liberalisation of the domestic market involves negative consequences for the Ukrainian economy that, however, may be remedied or removed through **agreements**.

Radical liberalisation of trade relations is fraught with exclusion of those sectors of Ukraine's economy that rely on state support from the domestic market. Huge pressure will be exerted on agriculture; science-intensive technologies may turn from potential exportables into rubbish. Ukraine should insist on such conditions of accession that would envisage continuation of subsidising of the basic branches for another 7-10 years with gradual reduction of their financial support.

In the WTO, a particular role belongs to transnational corporations (TNCs), which in recent years have been pursuing an aggressive development strategy. According to different sources, some 50% of international trade and over 90% of investments are presently controlled by TNCs. The rate of their development exceeds the pace of global production growth by almost 50%. The supranational character of TNCs allows them to rapidly vary their presence in separate regions. This points to a potential threat of strengthening TNCs' influence in a certain country to a level threatening that country's national security. Therefore, the issue of TNCs' activity should remain under permanent control of WTO member-states, especially those where the national economy is weak, and the high degree of corruption of the state machinery facilitates the resolution of many issues not to the benefit of the national interest.

The **political** dimension. Even now, Ukraine has no long-term strategy of foreign economic activity necessary for steady development of the economic complex. There, priorities are established by lobbies. Their proximity to the President, representation in the Verkhovna Rada and key positions in the Government transform into state support for those exports that utmost satisfy the financial appetites of particular politico-economic groups. Rotation of the top state officials, as a rule, leads to adjustment of export politics, instability of partner relations and corresponding decline of trust in Ukraine.



In the eyes of Western economists, it is exactly the lack of trust in Ukraine that is the key hindrance to WTO accession. Political scandals, suspicions about involvement of Ukraine's authorities in crimes, absence of stable legislation and a clear system of foreign policy priorities cause not unfounded doubts in the ability of this country to comply with WTO requirements. Such doubts could not but be provoked, for instance, by the recent concurrent statements of President Kuchma: about the course of accession to the EurAsEC and the firm intention to become an EU member. Furthermore, WTO members can hardly understand why Ukraine, having filled an application for WTO membership as far back as 1993, abruptly suspended negotiations on accession and did not conduct them from 1998 till July, 2000. Such gaps point to the absence of political will among the country's leadership.

Tariffs and customs policy requires thorough examination and revision. Politico-financial clans should be removed from influence on decision-making in that domain. Before accession to the WTO, the state should create conditions for an increase of competitiveness in the sphere of services, agriculture and precise technologies.

As is known, the WTO intends to expand the sphere of its regulatory powers. In this connection it is very important for Ukraine to join in time, so that the new rules of the game are not imposed without account of Ukraine's interests. However, that process should not be artificially sped up. Accession to the WTO should be the final stage before joining the European Union. The available time should be used for preparation of Ukraine's legislative basis for work in the new system of trade relations. ■

UKRAINE'S ACCESSION TO THE WTO: A STEP TOWARDS THE SOLUTION OF FUNDAMENTAL QUESTIONS



Viktor YUSHCHENKO,
*Leader of "Our Ukraine" faction
in the Verkhovna Rada of Ukraine*

In the context of Ukraine's future accession to the WTO, a lot has been said about the possible positive and negative implications of that step. At the same time, the Ukrainian experience of negotiations on WTO membership clearly shows the magnitude of economic and political problems created by Ukraine's non-accession to that Organization. Hence, it seems more reasonable not just to assess its positive and negative implications but to consider concrete ways of diminishing or offsetting possible negative consequences of Ukraine's accession to the WTO.

Ukraine, exporting up to 60% of its GDP, must be highly interested in the removal of barriers for access of its produce to foreign markets. WTO membership guarantees stable and predictable access to markets with low import duties and provides a possibility of using international legal procedures of possible trade disputes settlement. Verbally, the Ukrainian authorities have always admitted that. Ukraine's Government filed its application to the GATT Secretariat as far back as the end of 1993; negotiations began in February, 1995. However, the Ukrainian side did not hurry to make practical steps for bringing trading procedures in compliance with WTO rules; there was a time when the negotiations actually stalled.

The "multi-vectored story" repeated itself. Having sent a political signal to Western partners, Ukraine copied its negotiating position from the Russian pattern.

At that time, Russia did not consider accession to the WTO a priority. It conducted torpid negotiations presumably aimed at winning time for restructuring its economy and winning concessions for some of its sectors. For instance, Russia sought to preserve protectionist tariffs in trade in agricultural produce, limit foreign bank access to the sphere of banking services, etc. Russia's role in the world trade in comparison to, say,

China is insignificant, but, given its political weight, hopes for some concessions were not ungrounded.

As far as Ukraine is concerned, the size and solvent demand of its domestic market do not allow us to seek very special conditions of joining the WTO. The talks have long revealed the main problems of the Ukrainian trade regime and the space for partner concessions in particular sectors. It should have been followed by the process of accession as such, with drawing of relevant protocols. Instead, several years have been lost due to absolutely senseless "endurance test" of foreign partners, when the Ukrainian side under the motto of "protection the national manufacturer" introduced various trade barriers. Those measures failed to bring any positive results, some of them, such as introduction of quotas for livestock product imports, were never implemented. However, their announcement in documents of different levels presented a breach of agreements achieved with partners. To be sure, that made the partners doubt in the desire of the Ukrainian side to achieve a positive result at the negotiations.

Import limitations might have seemed more attractive in the light of the 1998 crisis. A favourable situation on the external markets did not encourage prompt completion of the procedure of accession either. The

talks deadlocked, although some Ukrainian producers had time to feel powerless due to the absence of access to the mechanisms of trade disputes settlement within the framework of the WTO.

The lack of progress at negotiations on Ukraine's accession to the WTO gave the EU reason to speak about the absence of progress in implementation of the Partnership and Co-operation Agreement. Before joining the WTO, the Ukrainian initiative of creating a free trade zone with the EU is doomed to failure. **Such a delay with WTO accession has suspended development of economic co-operation with the most promising trade and political partner of Ukraine — the EU.** Only eight years after signing the Partnership and Co-operation Agreement the Ukrainian authorities finally admitted that joining the WTO is necessary for deepening co-operation between Ukraine and EU and adoption by the European Union of decisions on the new level of partnership and possibility of EU membership favourable for Ukraine.

Delay with Ukraine's accession to the WTO allowed Russia to form a separate regime of bilateral trade (or even regimes of Ukraine's trade within CIS borders). Russia, being a stronger trade partner, will inevitably dominate in such regimes, all references to the international law therein notwithstanding. In fact, the delay enabled Russia to create a trade mechanism for attaining its political goals.

A turn in Russia's relations with the West after the events of September 11, 2001 sharply changed the situation with its accession to the WTO. Russia's membership in the WTO in the near future is highly probable. Accession to the WTO has become a truly urgent problem for Ukraine. Only WTO membership will make it possible to make the regime of bilateral trade more transparent and predictable. It is also important that the access to the mechanisms of dispute settlement within the WTO will greatly reduce Ukraine's interest in creation of other regulatory mechanisms, like the CIS Customs Union or the Eurasian Economic Community.

The main problems Ukraine must resolve in connection with joining the WTO are versatile and require systemic efforts, since it is impossible to guarantee employment of all advantages of WTO membership through adoption of a series of decrees or resolutions.

Participation in the WTO means consent to compete under certain rules. The WTO provides some possibilities of state interference for fighting unfair competition. But they are productive only if the state is able to employ them, i.e., when there is a relevant legislative base and effective mechanisms of their implementation. I would like to reiterate that Viktor Yushchenko's Government drafted a number of laws intended to bring the Ukrainian legislation in compliance with WTO



agreements. For instance, these are the laws that allowed regulation of the issues of standardisation and certification of imports that had long been a stumbling block at negotiations.

The competitive branches of the economy will win from Ukraine's participation in the WTO; so, increasing the competitiveness of Ukrainian products should be the main line of preparation. First of all, modernisation of export-oriented branches (metallurgy, agriculture) should be encouraged, a set of problems related with stable energy supply be resolved, power intensity of the national product be reduced.

In a broad sense, it is restructuring that will allow Ukraine's economy to employ the advantages of WTO membership. In the context of preparation for accession, one may also recall the tax reform, attraction of investments, protection of intellectual property.

Hence, the events related with WTO accession may not be planned or performed separately from the economic or even social policy. The Reform for Prosperity Programme and the programme of "Our Ukraine" Bloc have proposed a policy whose implementation will ensure economic and social development of Ukraine, improvement of the standard of living of its citizens. Ukraine's accession to the WTO presents an important instrument for the implementation of those programmes. ■

WE SUPPORT UKRAINE'S GOAL OF JOINING THE WTO



Carlos PASCUAL,
*Ambassador Extraordinary and Plenipotentiary
of the United States of America in Ukraine*

In a world growing increasingly smaller due to converging economic interests and new forms of communication, the World Trade Organization (WTO) plays an ever more important role as a stabilising force in global economic trade. WTO member states dominate the world economy; trade between its more than 140 members accounts for 93% of global trade. Improved and consistent access to 93% of global trade is clearly in Ukraine's interests. Over the past two years, export growth has played a crucial role in Ukraine's general economic recovery, which has resulted in small but significant improvements in wages, purchasing power, and general living standards for citizens across Ukraine. To sustain this export growth and its socio-economic benefits, Ukrainian exporters will need improved and more predictable access to major world markets.

Thus, we firmly support Ukraine's goal of joining the WTO and provide assistance towards that end. WTO membership would hold great benefits for both Ukraine's consumers and exporters. As Ukraine drops its import tariffs, imported consumer goods will become more affordable for all Ukrainians, especially low-income families and pensioners. Proponents of protectionist policies might argue that cheaper imports would threaten Ukrainian manufacturers. I, however, would argue the opposite. Inexpensive high-quality imports will force Ukrainian producers to increase productivity in order to compete with their foreign counterparts. In the long run, this will lead to higher-quality products from Ukraine that will be competitively priced for not just the Ukrainian market but foreign markets as well.

The most important advantage Ukrainian exporters will gain from WTO membership is increased and more stable access to foreign markets. The WTO operates on the principle of non-discrimination. This means that the same regulations apply to each and every member, making trading conditions more certain and predictable. Commitments to lower trade barriers are binding, and mechanisms under which trade barriers

can be increased (through anti-dumping mechanisms, for example) are governed by WTO regulations. The consistency and transparency of the WTO trade process will make life easier and more predictable for Ukrainian exporters, whose market access to foreign markets will be governed by WTO rules.

Finally, **WTO accession would allow Ukraine to utilise the WTO's formal dispute settlement mechanism.** Currently, Ukraine must resort to its own diplomatic means to resolve trade disputes, with varying degrees of success. The WTO dispute settlement body provides a fair hearing for all members with grievances, from the world's most powerful nations to its smallest states. The WTO levels the playing field for trade disputes.

Recognising the many advantages to be gained by accession, the Ukrainian Government has declared WTO accession to be one of its top goals and has stated that Ukraine hopes to join the Organization in 2003.

The process of preparing to join the WTO can be divided into two parallel paths. On the one hand, the accession process requires that a prospective member complete bilateral agreements on tariff offers, trade in services, and agriculture with any country that

expresses interest (members of its Working Party). As of May, 2002, Ukraine had completed agreements with just six of the 22 members of its Working Party. Generally, smaller countries agree to bilateral protocols earlier in the accession process, leaving tougher issues to be resolved with larger countries like the United States and the European Union; all member states are entitled to the best offers agreed to during the bilateral negotiations.

On the other hand, a prospective WTO member must comply with the general accession protocol. While the bilateral negotiations afford prospective members some degree of flexibility in negotiating the terms of bilateral agreements, the overall accession protocol affords no flexibility (although the prospective member can propose the timing for adherence to the protocol).

Ukraine's legislation on issues such as investment policy, non-tariff regulation of foreign trade, intellectual property rights, and sanitary and phytosanitary regulations must comply with WTO norms. Although Ukraine has made significant progress in this area, significant additional legislative amendments are still required. Of particular importance are the Customs, Tax, and Civil Codes, as well as legislation to bring Ukrainian laws into compliance with the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

These laws are instrumental elements of the legal foundation for a market economy. The WTO accession protocol, however, demands more than just legislation. **Ukraine will need to actively enforce legislation in a manner consistent with WTO norms. In order to join the WTO, Ukraine must act like a WTO member.** This is especially important in the sphere of customs procedures; Ukraine's burdensome customs procedures slow trade across its borders.

Demonstration of effective enforcement will also be important in the area of intellectual property rights. Although the issue of audiovisual piracy has received the most attention over the past several years, piracy affects a wide range of industries in Ukraine, including consumer goods, tobacco, pharmaceuticals, and chemicals. The TRIPS Agreement requires that member countries not only have TRIPS-compliant legislation, but that they also actively enforce that legislation.

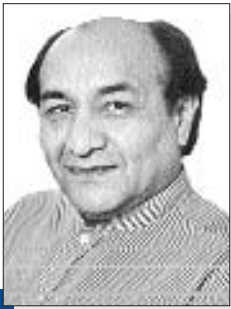
For Ukraine, to successfully move down both paths to WTO accession, greater co-operation between all branches of the Ukrainian Government is needed. Despite the hard work of those promoting



WTO-compliant legislation, the Verkhovna Rada sometimes passes non-compliant legislation, and government agencies take actions that seriously impede accession efforts. For example, in November, 2001, the Verkhovna Rada passed on the very same day two codes that governed the same spheres of economic activity: a market-based Civil Code, and a Commercial Code based on a command economy approach to commercial law. Both codes were later vetoed. Implementation of the Commercial Code could have had disastrous consequences for Ukraine's bid for WTO membership. Similarly, government decisions are sometimes reached without consideration for compliance with WTO norms. The State Veterinary Service's ban of U.S. poultry imports is not consistent with WTO phytosanitary regulations. Such decisions damage Ukraine's credibility with the WTO Working Party members, who may question Ukraine's commitment to free market policies. This negatively impacts Ukraine's ability to successfully negotiate its bilateral agreements.

As I stated before, to become a member of the WTO, Ukraine must act like a WTO member. Adherence to the overall accession protocol will transform Ukraine into a freer, more market-based economy, while bilateral commitments to lower tariffs will open Ukraine's borders to free trade. These steps in and of themselves will result in a more efficient and prosperous economy even before Ukraine joins the WTO. WTO membership will then allow Ukraine's economy to compete on a level playing field with non-discriminatory rules and a fair dispute settlement mechanism. In the end, membership and the reforms necessary for membership will benefit Ukrainian consumers and producers alike. ■

UKRAINIAN ACCESSION TO THE WTO: IMPLICATIONS AND CHALLENGES FOR THE GOVERNMENT AND THE PRIVATE SECTOR



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The purpose of this article is to present selected aspects of the Ukrainian accession process to the World Trade Organization (WTO), and outline the implications and challenges that it generates for the government and the private sector.

Background and situation on WTO accession

Ukraine applied for accession to the WTO in 1993. Since then eight Working Party (WP) meetings and a series of bilateral negotiations have taken place. Following the last round of negotiations in June, 2001, and the intensification of bilateral negotiations thereafter, the results are considered as positive steps in the process of accession to the WTO. It is roughly estimated that Ukraine has accomplished about 60-80% of its goods and services offer, and concretised important aspects of the WTO accession process.

The overall offer has been improved, and a set of an additional 20 related supporting laws have been presented. However, many issues remain to be clarified, including the approval of 5 of the 20 laws presented, the adoption of a set of 20 normative acts, including intellectual property rights, sanitary certification, as well as agricultural and standards issues offer, among others. The Ukrainian Government should also show real measures of implementation before accession of various aspects of

the WTO agreements, and satisfaction of certain key requirements of WTO members. This will allow the country to reduce the "implementation and credibility gap" that it is suffering. The country's WTO delegation also needs to improve explanations on questions of Working Party members (WPM), and raise the reliability of its propositions during negotiations.

During the past year, the Government has shown clearer political will on accession to the WTO. It has accelerated the process with a Decree¹ of the President of Ukraine targeting an accomplishment of bilateral negotiations by the end of 2002. This has pushed the negotiation team to intensify negotiations in Geneva². But, bilateral negotiations with important players of the WP still remain, such as with the EU, the USA, Switzerland and Australia, and about 20 other WP members interested in bilaterals. This includes China³, which has shown an interest in being part of the WP.

Given the number of remaining countries (24), the schedule of obligations in services⁴ and the number of

¹ The Decree of the President of Ukraine "On Additional Measures at Acceleration of Ukraine's Accession to the World Trade Organization" No.797 of September 5, 2001.

² For more details see: Rohovyi V. Ukraine on the Road to the WTO, the Problems, Gains, and Prospects published in this issue.

³ It should be noticed that in the WP on Ukraine's accession to the WTO 42 countries are registered, 30 of them — are most active. However, anyone of WTO members may initiate bilateral negotiation until the last day before the accession.

⁴ See: The Decree of the President of Ukraine "On the Programme of Measures at Completion of Ukraine's Accession to the World Trade Organization" No.104 of February 5, 2002.

questions to clarify and reach an agreement, it seems too difficult that the country's negotiators are going to finish bilaterals before the end of 2002, or even conclude successful accession negotiations before the Presidential elections 2004. To that end, important and serious policy changes and efforts are necessary at various levels.

To reach agreements in bilateral and multilateral negotiations, the Government needs to modify and reach agreements on the agricultural offer, clarify reached agreements on technical barriers to trade conditions, tariffs, intellectual property rights and custom issues, among others. Many supporting laws and regulations need amendments and/or changes. We must remember that the amendments to laws not only facilitate accession, but also strengthen and lock-in the country's trade reform according to WTO rules. It is beneficial for the whole economy, although can hurt the interest of particular sectors and industrial pressure groups.

Goods and tariffs: offers and problems

Ukraine has shown strong progress on tariff negotiations during the past two years. It has achieved agreements in bilateral negotiations on customs tariffs with the seven countries⁵, and the decisions on the Zero for zero initiatives (ZZ) have been taken by the Presidential Decree⁶. It is estimated that if the country continues with the same political will and rhythm, it can close its negotiations on tariffs by the end of the year with certain members, and over the next 2 years, with the remaining WP members. Some differences still exist with a number of WP members such as, the EU, the USA, Argentine, Brazil, Bulgaria, Japan, India, Poland, Turkey, and others.

On agriculture, seasonal tariffs and quotas are still being negotiated. The Law of Ukraine "On Unified Custom Tariffs" of April 5, 2001, allows changes on tariffs to remain with the Parliament. By the way, it also incorporates tariff rate increase. Several WP members are against this situation. Since 1998, in spite of the standstill requirement in WTO accession, tariff increases have been set on about 550 products, which varied between 30 to 50%, or even up to 70%. For some products, they are simple mercantilist measures, rather than sectoral protectionism. This situation must be resolved with various WPMs before agreeing on tariff schedules reduction of the goods offer.

Ukraine has expressed its commitments to join 16 of the 19 sectoral Agreements and Initiatives (AI) proposed by the Quad group of countries⁷. These are known as the Zero for Zero (ZZ) commitments negotiated during the Uruguay Round (UR), which proposed a reduction of



customs tariffs to zero percent for selected products in industrial countries, and a substantial reduction, or 0% in developing countries. Ukraine is proposing to implement these commitments gradually: in 2004 — on chemical, steel, toys, woods, textile and clothes, non-ferrous metals, pharmaceuticals and information technologies; in 2005 — on agricultural machinery, furniture and paper; in 2006 — on construction, medical and scientific equipment; in 2010, 3 years following accession — on civil aircraft and on distilled spirits, beer, oil crop seeds, and fish.

The Ukrainian announcement to implement the ZZ commitments in those particular years is received positively by WP members. It relatively raises some of the country's credibility, but various negotiators think that this should be proposed only after accession, (three, five, or more years)⁸. This type of wording in the commitments gives stronger bargaining power during negotiations, and can save millions of dollars for enterprises, if they are not prepared to face competition. As far as we do not know when the country will access, the proposal can be interpreted that Ukraine will implement it anyhow or unilaterally, with or without accession and independent of the level of negotiations.

One can also remark that Quad countries and others agreed to negotiate on the ZZ after a careful study of the implications of the tariff reduction on the sectors⁹.

⁵ Canada, The Republic of Korea, Latvia, Mexico, New Zealand, Slovenia and Uruguay.

⁶ Having in mind the Decree of the President of Ukraine of February 5, 2002.

⁷ Quad group is a group of leading WTO members (the EU, Canada, the USA and Japan) that have the most influential positions in WTO Secretariat.

⁸ Most of the countries implemented the ZZ, only some years after the UR, and new WTO members, have done so only after 3-8 years of accession.

⁹ The USA for example estimated before negotiations that the ZZ commitments affect only 6.7% of US imports (\$31.3 billion in 1989) and the pre-UR tariffs of the U.S. of these goods were already low, 4.6% (trade-weighted average). ZZ initiatives were negotiated for periods going from one to eight or more years.

Ukraine's current **customs tariffs** are estimated at 10%, following the simple average approach, and at 7% under the weighted average. However, the real collection rate on tariffs by the custom authorities is estimated at about 1-2%. Thus, the real level of protection from the customs tariff point of view is very low, it is less than in OECD countries (3.8% for industrial products). This is due to the many exceptions allowed to certain enterprises, products, sectors, joint ventures and economic zones. Without these exemptions, the tariff contribution to the budget would be higher, and would introduce clearer rules for importers, and users of such products.

Technical barriers for market access: economic and political perspectives

Customs tariffs is one of the issues most discussed on accession among policy makers, academics, journalists, parliamentarians and the public in general. The issue is important but less than it seems to be. Today, tariffs play a less important role in world trade, as a mean of protection than technical barriers, and non-tariff measures such as quantitative restrictions, import licensing procedures, environmental standards, voluntary restraint arrangements (VRA), and variable levies.

In the case of Ukraine, given the many exemptions, tariffs are an instrument of power and influence among high level policy makers, and different local economic groups to increase their shares in the national market and amplify the difficulties of local competitors. Commitments on tariffs under WTO requirements will modify this situation. It will introduce rule of law for everybody, small and big enterprises, but will affect the interest of selected industrial groups and directors benefiting from the situation.

Regarding the area of **Standards** (TBT Agreement) and **Sanitary and Phitosanitary Measures** (SPS), harmonisation of standards should be accelerated according to the International Organization for Standardization (ISO), the International Electro-technical Commission (IEC), and WTO requirements. Still exists in Ukraine mandatory certification for a number of lower risks products, which does not correspond to existing international practices and WPM requirements. Certification procedures lack transparency, and the fees requested for conformity assessment are disproportional to the services rendered. Thus, they breach not only GATT 94 article 8, but also the PCA Agreement article 16, and are considered as technical barriers to trade and market access obstacles. On the other side, one must remark that since 2000, Derzhstandart (State Committee of Standardisation, Metrology, and Certification — ed.) has made efforts to simplify certification procedures for mass-produced goods, including electrical, appliances and construction products. Plant inspection procedures, have been removed and the duration of selected certificates of conformity has increased.

WP members are expecting that the new law on "confirmation of conformity" will reflect their requirements, i.e., a choice for producers between different assessment procedures to meet legal requirements, depending upon the levels of risk to consumers, workers, and other users. Key members request that the options should include producers' declaration for low to medium risk products. For higher risk products, where third party certification is demonstrated to be necessary, ISO 9000 quality certification should constitute an alternative to costly and time-consuming plant inspections. Ukraine has recently confirmed it's wish to apply such an approach, as well as to provide a list of products that are no longer subject to mandatory certification.

Requests have been also made to Ukraine on improvement of technical regulations and conformity assessment procedures in particular industries, such as cars, soap detergents, cosmetics, electronic and electrical appliances. In cars for example, certification for commercially imported cars is onerous and time consuming with type-approval certificates having a limited validity of 5 years, and not the whole life cycle of the product. Manufacturers must perform conformity tests even when ISO 9000 certificate is given. In addition, all factories of car producers exporting cars to Ukraine are subject to inspections by the Derztstandart officials, with costs borne by the respective foreign manufacturers. This practice is old, and has been replaced by the certification homologation in most of the industries.

In addition to all the efforts made to improve the situation in standards, serious additional efforts are necessary to get closer to WP members requirements. It will take several years to fully implement TBT but WP members require preliminary implementation measures that go in the direction of the agreement. One of them, is the creation of an "inquiry point" required by the TBT Agreement. The purpose is to facilitate market access and allow exporters and importers to receive information on the standards exigencies existing in the country¹⁰. This facilitates transparency and should be present in the near future to WP members.

Sanitary and Phytosanitary measures (SPS), efforts have been made to harmonise SPS measures with the WTO Agreement. Multiple testing requirements have been removed. However, mandatory sanitary controls for products that do not need these, remain. For example, this is the case for hygiene certificates for vehicles and building materials. A list of additional products for harmonisation according to WTO requirements is under preparation.

Customs and import licensing procedures. Ukraine has improved selected aspects, but the lack of a new Customs Code is perceived as one of the main obstacles by WP members. Various companies have complained

¹⁰ In many cases, the higher customs tariffs for protection of the "national industry" benefice rather the board of directors than the workers of the enterprise. The differences of income between them, is in many cases 15-30 times. Thus, one can ask what or whom national customs tariffs defend. Naturally, this situation depends of the industry and region.



Will the reduction of tariffs facilitate the penetration of foreign products, reduce the national industry to nothing, and increase the number of unemployed workers?

Part of this position is correct, especially the fact that the population and enterprises are going to have a wider choice of products to buy according to their income and needs, and the subsidising of indirectly non-competitive firms and their directors will stop¹¹. However, we must remember that the opening of the market is gradual (3-5 years), thus giving enterprises time to react and to improve their competitiveness. On the other side, the elimination of tariff exemptions will increase the real level of tariff protection, and somehow counterbalance the possible negative effects for producers. One must also add that of the countries that have acceded to the WTO in the last three years, none have seen its market flooded by foreign products. This is due to the low purchasing power of the country and importers are targeting only 5 to 10% of the population with higher income. This is already the case in Ukraine with most of the luxury and high tech brands presented in the main cities but do not nearly cover the entire national market. Thus, accession is not going to radically change this situation during the first years.

The market opening to new WTO members will affect only particular non-competitive market segments, especially where the differences between national and foreign prices are substantial. In the case of Ukraine, this will push for the re-structuring of selected industries. However, unfortunately the implications of the accession process and industrial policy seem to be disconnected. In this context, it is necessary to define which industries are competitive in the regional and/or international markets, which could be competitive in the next 5 years and those, which will never be. In the first case, such industries do not need tariff protection because they are competitive, and related tariff reduction can be negotiated at the time of accession, or 1 to 2 years later. For potentially competitive industries, a delay of 3 to 5 years should be negotiated, and for the non-competitive sectors 5 or more years should be allowed for restructuring. To facilitate the task of negotiators, brief key studies should be carried out. These studies should include not only the point of view of the producers, but also of the consumers and the impact on main macroeconomic indicators¹².

Production and market prices

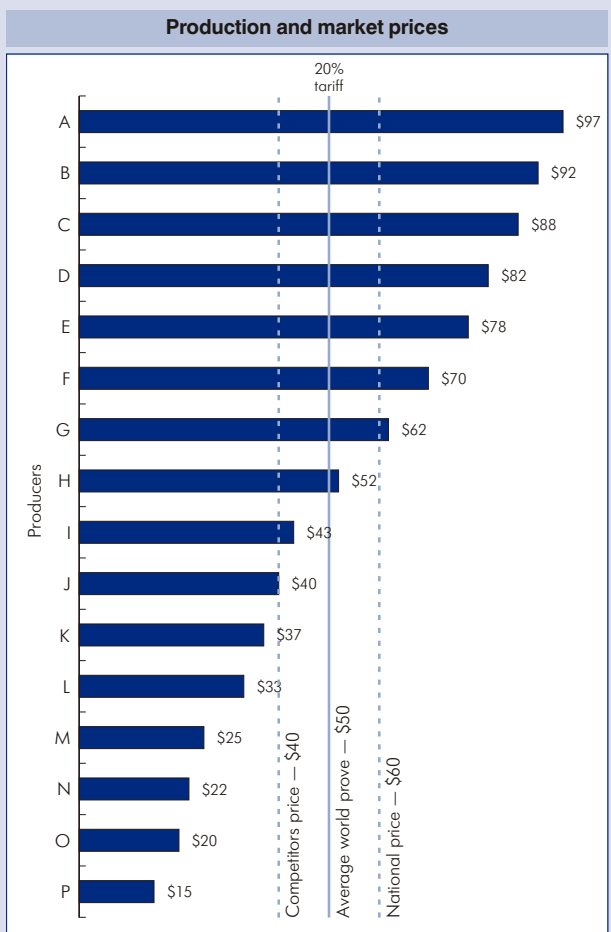
The Diagram presents a basis for the analysis of tariffs, before and during tariff negotiations. The Diagram considers the production of one product by several national producers, producing at a price of \$60 per unit, which includes a 20% tariff; an average of world market price (WMP) at \$50 per unit, and a competitors' price (CP) producing at \$40 per unit, i.e. 20% less than the WMP. Thus, this later price is the price of reference for modifying tariff levels, when the imported products arrive from all over the market. This is specially the case in commodities and consumer goods, but when imports are limited to a selected number of countries, it often does not reflect the trade of a country. In this case, it is the price of the main trading partners, which is the most appropriate, such as in the Diagram for CP. In this case, firms J - P are competitive and can resist tariff reduction, while firms H and I, have an average price position, and firms A - G survive because of tariff protection.

Firms that could become competitive in the next five years, need tariff protection support and tariff reduction in their respective areas which should be gradual, and according to their modernisation plans. This will depend in most cases on the investment needs, and existing interest rates in the market. The higher the rates are, the more difficult modernisation will be. Mergers and acquisitions, the development of

joint ventures, the creation of investment funds and the development of equity, will facilitate the improvement of the competitiveness of those firms. A close co-ordination between government bodies and enterprises is required to determine customs tariff levels, and modernisation plans.

In cases in which firms are not at all competitive (A - G), and will never be, delays in the reduction of tariffs should be negotiated for 2-5 years after accession including the safeguard of a possible extension of the process. This is due to the complexity of the re-structuring process, the new qualification of labour, and the painful social situation that this sometimes generates. Plans of restructuring should be present in negotiation on tariff levels and schedules. Some articles of the WTO's SCM Agreement could be useful, especially Part IV, and article 8, dealing with non-actionable subsidies for poorer regions.

In all of the cases, the level of interest rate level existing in the market, is an important factor. The higher it is, the more difficult restructuring will be. It also shows the weakness of the country's banking sector. This brings us to WTO negotiations on services, and the needs to accelerate banking and investment conditions, in order to facilitate industrial restructuring.



¹¹ To our knowledge China, Croatia, Lithuania, Moldova and nowadays Russia carry studies in this respect. China, for example, carried out 2-3 macroeconomic equilibrium models and several industrial studies. The case of Russia is more or less similar and it includes an adequate use of the technical international co-operation.

¹² It should include standards requirements, conformity and certifications procedures, laws supporting it, and others.



to their representatives in the WTO, that the system lacks transparency, and that customs clearance procedures are time consuming and determined on a case by case basis. In some cases, firms need registration and re-registration due to administrative or legal changes. Under WTO requirements, a country should notify the changes to its trade partners. Certain WP members, especially the EU, are requesting application of "boundary tariffs"¹³ in a non-discriminatory fashion, pursuant to the WTO national treatment obligations. These are also repeating the request that fees for registration should not exceed the cost of the examination/registration procedure, and that implementation of registration procedures for pharmaceutical and crop protection products, should be treated according to the Council of Ministers' resolution¹⁴. WP members are also requesting simplification of the procedures for import licensing¹⁵, in addition to those existing for registration and certification. This is expected to change this year.

Agriculture: the base period and subsidies problems

Agriculture negotiations have intensified during the last two years, but they have not produced clear results. Several issues such as the base period for the allocation of subsidies, the revision of quotas, and seasonal tariffs

remain in consideration. Discussion on the use of subsidies, one of the hottest topics on agriculture negotiations, remains at its preliminary stage. However, the land issue seems to be close to meeting WTO requirement.

Ukraine has proposed a level of subsidies according to the base period of 1994-1996 (aggregate measurement of support — AMS), which provides \$1.38 billion, or 11% of the value of the total agricultural production. Many WTO members especially the Cairns Group of countries¹⁶ consider this amount high, and that it does not reflect the country's agricultural situation in the most recent years. Therefore the Group is requesting an updated base period which more accurately reflects the subsidies support in agriculture. A preliminary estimation based on the 1997-1999 period, gives an AMS of US\$60 million, or 0.5% of the value of the total agricultural production. The difference in both periods is due to important volumes of state procurement, which generated bigger market price support, the benefits from using non-reimbursed financial assistance, and the important budgetary loans for purchases of agricultural products.¹⁷

The agricultural issues are perhaps some of the most sensitive in regards to WTO accession. Considering its difficulties, these negotiations usually end at the very end of the process, and require strong political and human resources support from the Government. It is not only economically important, but also politically and socially. It affects millions of people, many of which are living in poorer regions.

Ukraine needs to present a new more realistic base period to overcome the resistance and requirements of the Cairns Group members. Otherwise the negotiations will face a long stagnation period. Thus, various studies and scenarios with economic and social implications of the different levels of support for regions and sectors need to be carried out. Different alternatives for the use of the "green", "blue" and "amber" boxes are important¹⁸. Some studies have already started at the Ministry of Agricultural Policy, but additional studies are necessary.

Given the difficulties faced during the agricultural negotiations there is a strong need to improve human capital qualification. The agricultural issue will remain for a long time as important topic in the Ukrainian economy, not only on WTO accession but, also in other future international negotiations. Therefore, it is important to strongly intensify training in this area. The

¹³ Order of the Ministry of Healthcare of Ukraine "On Establishment of Border Tariffs for Assessment and Examination of Materials Subject to a State Registration (Re-registration) of Pharmaceutical Products in the State Scientific and Expert Centre of Pharmaceutical Products of the Ministry of Healthcare of Ukraine" No.55 of March 17, 2000.

¹⁴ EU. Aid Memoir on Obstacles to Trade and Investment in Ukraine. — November 30, 2001.

¹⁵ Compulsory licensing is applied for crop protection products and fertilisers, selected cosmetics, personal hygiene and veterinary products.

¹⁶ Informal association of 16 countries-exporters of agricultural products.

¹⁷ Kobuta I. Note on AMS. — *Kyiv*, November 6, 2001.

¹⁸ Different boxes of subsidies are marked with different colours according to WTO classification. We can remember that EU, USA and Japan present a wide utilisation of their subsidies through the "green" box. However, EU "blue" box represents 23% of total domestic support for 1995-1998 against USA 4%, and Japan and South Korea 0% but Norway 34%. See: Ukraine-WTO, 2002, No.1.

executives in charge of this sector need to have a profound understanding of the WTO Agreement, procedures to establish AMS tables, policies applied during the base period, marked price support, and state trading activities. A team of two to three well-prepared persons dealing with the agricultural issue would be very valuable in order to move ahead during the next negotiations. In the future, negotiations on agriculture should be strongly linked to agricultural reform, investment and regional development. One can also remark that the agricultural negotiation cannot be resolved at the technical level only, but also they need strong political support from the highest level.

Subsidies are clearly present in the agriculture agreement, but they are also clearly stipulated in the Subsidies and Countervailing Measures Agreement (SCM). Subsidies are defined in detail and cover industrial sectors, regions and others. Unfortunately, acceding countries make weak use of this Agreement because of their lack of knowledge, financial conditions, or other reasons. The purpose of these subsidies is to make their utilisation more transparent, and render the trade reform process less painful. Thus, the use of Part IV, and article 8 of the SCM Agreement will be useful. It deals with Non-actionable subsidies, or "green" subsidies, because they do not directly effect foreign trade. They can be used in R&D facilities, in assistance to disadvantaged regions, or to "promote adaptation of existing facilities to new environmental requirements imposed by law and/or regulations, which result in greater constraints and financial burdens on firms"¹⁹. Ukraine could use this aspect of the SCM to support re-structuring in injured industries, and reform in poorer regions. To that end, a program of subsidies utilisation should be present, including the conditions, place, form and period of application. This requires a detailed co-ordination with line Ministries, regional authorities, research institutes and the private sector.

Intellectual property protection: an experience, gains, and problems remaining

Relations in this area are determined by the Trade Related Intellectual Propriety Rights Agreement (TRIPS). Ukraine, unfortunately, has had a negative experience in the sphere of intellectual property protection (Insert "*The USA - Ukraine: a controversy around CDs*"). At the same time, Ukraine has shown some progress on the TRIPS legislative base, particularly in the last year. Amendments adopted in July, 2001, to the law on copyright and neighbouring rights, brought this area of regulation broadly into line with WTO requirements. The Criminal Code passed in April, 2001, clarifies and strengthens the penalties for intellectual property rights (IPR) infringements. In October, 2001, the Verkhovna Rada also ratified the Rome Convention and the WIPO (World Intellectual Propriety Organization) Copyright Treaty, and the WIPO Performances and Phonograms Treaty.



However, there are three main legal aspects that need attention:

- ❖ the draft of book IV of the Civil Code, which should affirm the principles upon which specific IPR regulatory positions are founded;
- ❖ the law on licensing of CD production and trade, which is a key instrument in the fight against piracy;
- ❖ new edition of the Customs Code, that needs to clarify and strengthen the ability to prevent counterfeit goods from crossing Ukraine's borders.

Along with legislative measures, Ukraine also needs to take measures to ensure implementation and enforcement of TRIPS i.e. to include the infrastructure to register intellectual and industrial property produced in Ukraine; to collect payments for their use when these are due; to monitor and penalise infringements of these property rights. Measures should be taken not only on CDs copyright, but also on DVDs, CD-ROMs, software, brand names and geographical names. Because the country is still producing "champagne" and "cognac" changes of these registered geographical names requires not only amendments to legislation, but also the political will to implement the changes. In the near future, during accession negotiations, it is expected that French producers will protest this issue, and require compensation, or penalties, following WTO accession.

It is estimated that about 20 provisions of the TRIPS require that the national law be revised and amended. This includes geographical indications and criteria for legal protection of industrial designs, trademarks, etc. Amendments of all provisions could take some time. Therefore, perhaps one of the most expedient ways could be to develop and adopt the Law of Ukraine "On

¹⁹ SCM, article 8c.

Introduction of Changes to Ukrainian Laws in the Area of Intellectual Property, in Order to Bring Them in Conformity with the Trade Agreement Related Aspects of Intellectual Property Rights". This would allow government bodies to control all the stages of the draft and speed up the amendment process²⁰ and hence, — the WTO accession process, as well. We wish to remark that in the last several years, no country has acceded without establishing a clear and reliable set of measures to enforce the TRIPS Agreement.

The USA - Ukraine: a controversy around CDs

Ukraine, under strong pressure from the US, has taken various measures to stop illegal copyrights of CDs. Two CD factories have been closed; three remain, and production capacities has been substantially reduced, from about 40 mln. to 4-5 mln. units. Exports have been officially stopped.

Ukraine has a TRIPS legislation, which in various aspects is better than some WTO members from developing countries, that periodically are confronted by the Agreement's requirements. The dark noise surrounding the issue has been, on one hand, overemphasised by the US private sector representatives and government officials. On the other hand, Ukrainian top level officials have not used all of the available arguments to counterbalance US demands. This is mainly due to the lack of appropriate co-ordination between the technical and the political levels, and is costing the country millions of dollars in penalties.

Thus, the US has argued that the country produced about 70 million CDs a year²¹ and exported over 20-30 million units, and that the US recording and music industry was losing about \$200 million per year. Ukrainian representatives argue that the country does not dispose of sufficient raw materials to produce such a level of capacity, and that the output in 2000 was actually worth 15 million units²². The production of 70 million CDs, require firms to work over 24 hours a day and more. In addition, US losses are evaluated in US prices, and not in terms of local prices, which are 10 to 15 times lower.

In spite of all the discrepancies on capacities, real output and export volumes, one must recognise that local enterprises have produced significant quantities of CDs without licenses. Probably, the directors of the factories have underestimated the dimension of the problem and reaction provoked, and exported important quantities to regions under strict surveillance by sensitive marketing directors from the US recording industry. Part of these exports, appear to be subsequently re-exported to the US and EU markets.

Problems on services market

Relations in this area are determined by the General Agreement on Trade in Services (GATS). Presently Ukraine has an interesting offer. It covers about 139 sub-sectors out of 155 and 11 MFN (Most Favoured Nation) exemptions in three main sectors, including, audiovisual, transport, hospital services and services related to health protection. The offer is perceived in



Geneva as a good one, and over the average approach on market access, than many other recent WTO members' offers.

However, some WTO members require explanations about how, and which authority will enforce the commitments, and the underlying legislation. Amendments are also necessary on the laws of Ukraine "On Banks and Banking Activity", "On Auditing Activity", "On Advocacy", "On Television and Radio Broadcasting" and "On Information Agencies". Further explanations on horizontal conditions, are also necessary, as well as on quantitative limitations, capital requirements, national treatment, and business conditions for branches and subsidiaries in the banking, financial and insurance sectors. Therefore, some technical aspects and legislative contradictions remain to be solved.

The creation of an "inquiry point" for services is also needed.

Audiovisual proposals have been reconsidered in the context of the cultural policy, MFN exemptions, and Ukrainian obligations as a member of the Council of Europe. This will probably need clarifications with the USA, which has a different point of view on audiovisual issues, than the EU. The country negotiators should seriously consider this problem. Various countries encountered difficulties and months of additional negotiations due to this problem (the Baltic States, Croatia, and Moldova).

Additional negotiations are probably necessary in the **financial services and insurance, telecommunications, postal, transport and healthcare services**. The national offer is sufficiently open, but schedules and conditions on market access need precision. Negotiators should consider recent cases of accession²³, as a benchmark for levels and delays of implementation. First of all, the Government related bodies²⁴ and the private sector should study the possible implications and the cost for particular sectors, and the national economy as a whole.

²⁰ Kapitsa Yu. TRIPS Agreement and Ukrainian Law Governing Protection of Intellectual Property. — UEPLAC, Kyiv, 2001.

²¹ 2000 figures.

²² *Kyiv Post*, March 1, 2001; see also: Recording Industry Association of America (RIAA) news, March 13, 2001; <http://www.riaa.com>.

²³ The case of China accession can be taken as just one of the points of reference, but one cannot adapt it fully, because the market conditions, economic situation and goals of each country is different.

²⁴ Ministry of Finance, National Bank of Ukraine, WTO Accession Commission.



Market access on **banking** will probably be one of the most beneficial for the whole economy, but it will probably hurt the interest and position of particular banks.

Ukraine accounts for about 186 banks, of which 30 are in the red, and probably will close in the near future. A similar situation exists in other banks, with low capitalisation, weak market shares, low deposits, old banking management methods, and a lack of credibility within the population. Thus, existing interest rates are higher (30 to 40 %), and credits are scarcer. This situation reduces the investment possibilities in the country to introduce new technologies, improve productivity or simply improve construction and housing conditions.

We can also remark that the national market is already open to the participation of foreign banks. However, there are no more foreign banks opening offices in Ukraine, because the general investment conditions are not clear and not attractive for investors. This reduces the interest of banks participation. Another reason, is the requirements necessary for the opening of subsidiaries, and the percentage of reserves required to be deposited with the central bank. This will need clarification, and probably some WP members will require certain modifications.

Currently, the country disposes of 24 banks with foreign participation, and 6 banks with 100% foreign ownership. The entry of new foreign banks will facilitate the reduction of interest rates and increase investments, and the creation of jobs and qualification of human resources. Foreign banks dispose assets and financial capacities several times more than national banks. Thus, their penetration will strongly affect the activity of local banks. Several of them will probably close, and/or look for mergers and acquisitions, or joint ventures with foreign banks²⁵. As it happens in other countries, various local banks will be absorbed, including their staff, but these banks will introduce new management methods, transparency, better qualification, and higher salaries for the staff.

However, this situation is not going to happen immediately. It will take several years, as experience shows. To minimise negative impacts, brief studies should be carried out and depending upon conclusions, proposals for a gradual opening during negotiations could be necessary. The banks should be involved in studies and suggestions, but not decide on proposals for opening and implementation. This is the task for the Government. It decides and considers the interest of the country as a whole, and not of particular pressure groups.

Conclusions and next steps.

Ukraine has made important progress on its way to accession to the WTO during the past two years. However, clarification and agreements on various issues

to come closer to membership, remain. The Government has shown a wish to complete accession by the end of 2003²⁶. It should strongly intensify negotiations, co-ordination, and carry out brief studies assessing implications of accession. The accomplishment of accession by the end of 2003, will be perceived as a success for the Government's foreign policy, especially if this is achieved prior to the next presidential election-2004.²⁷ WTO accession is one of the pillars of the current foreign trade policy. This would be contrary, if WTO accession is not achieved by this date. The oppositions, as in any other country, could use it as a political scapegoat and leverage on related social and political issues, and slow the process by one to two years. This could also delay ongoing trade reform.

Thus, to accomplish accession, as expected by key governmental policy makers, the government and the WTO Accession Commission should take the following steps.

- ❖ Intensify bilateral negotiations. They should be carried out in Geneva, Kyiv, and in capitals of selected countries. Carrying out negotiations in Kyiv is one of the ways to increase credibility and accelerate the clarification and resolution of some accession issues²⁸. Information sharing and the ability for quick, joint key policy decision among policy makers, meetings are more easily carried out from Kyiv. We must remember that the EU, the USA, Canada, and other WP members have been negotiating in China, and certain members actually negotiate in Russia. To increase the speed of the process, bilaterals could be carried out every six to eight weeks on goods and services, with the remaining WP members.

- ❖ Schedules for these negotiations should be prepared by anticipating and taking into account the availability of WP members representatives, their time limitations due to other accessions, and the preparations of the new multilateral round. Thus, in some cases, Ukraine's WTO accession could become a secondary issue.

- ❖ At the same time as the preparation of a set of bilaterals, short negotiation oriented studies should be carried out together with the private and/or academic sectors to assess the possible implications and the arguments to counterbalance the demands of the WP members. They should also take into account the point of view of consumers, producers and the national economy as a whole. Cost-benefits analysis is one of the simplest approaches.

- ❖ As far as advances are shown in bilaterals, an intensification of legislative amendments should be carried out. This requires strong co-ordination between the concerned bodies, the Verkhovna Rada's Committees and international technical co-operation. (the latter, has

²⁵ Preliminary analysis carry out at the central bank estimates that penetration of foreign banks will accelerate merges and structuring of the sector, thus improving overall credit conditions.

²⁶ See: Syrovatka S. Getting a Jump on Trade. — *The Day*, March 5, 2002, p.4.

²⁷ Alanoca S. The Road to WTO — When So Far Is So Near. — *UEPLAC*, May, 2001, <http://www.ueplac.kiev.ua>.

²⁸ This is like playing football at home, psychologically the advantages are for the home team, and it is likely to obtain some advantages or better accession conditions during negotiations.



been under-utilised during the last years). There is a necessity to increase information on WTO related issues, and accession implications, in particular for MPs of Ukraine. At the end, it is the Parliament that must approve and ratify the conditions of accession of the country. With a weak dissemination of information, and the closeness of the presidential election, WTO accession could become a secondary issue.

❖ In parallel, the preparation and request of schedules for the next Working Party meetings, or multilateral negotiations should be carried out. Near accession, there is generally an intensification of bilateral and multilateral negotiations, which account usually for four to six per year. This increases the tension among negotiators, affects co-ordination, and increases the risk of errors, which could cost millions of dollars to the country.

❖ To insure that the process is moving forward properly, training and preparation of new young WTO specialists should be accelerated not only in Kyiv but also in the main industrial centres. Countries that defend their interests in WTO negotiations the best are those with a well prepared number of GATT/WTO specialists. This is the case for India, Brazil, Hungary, and others. One can mention that, unfortunately, Ukraine does not dispose of a sufficient number of specialists in

the field. In addition, for unknown reasons, it has not profited from all of the trade policy courses that the WTO proposed to the country. The seats reserved for those purposes have been granted to other countries. The training carried out by the international technical co-operation²⁹ has started under the initiative of international donors, rather than by clear requests of the Ukrainian side, with certain exceptions. This support appears to be currently under-utilised.

❖ The increase of activities on accession raises the need for the development and dissemination of information on the WTO, trade commitments, trade rules, etc. This insures not only the development of the process, but also knowledge for the private sector, policy decision-makers, and the public in general. Transparency is one of the main issues of the WTO that facilitates trade development, and future changes. This goes together with the creation of the inquiry points. The information received from the WTO on the activities of different committees³⁰ (standards, customs, agriculture, etc.) should be accessible through an information centre, for government officials, private sector and the public. The creation of Web-sites on the topic has been very well perceived.

The accession to the WTO will imply important changes for the country, but those are gradual and depend on the negotiations conditions obtained by the country's negotiators.

The accession will introduce new rules of the game in the different spheres of foreign trade. This will probably affect selected sectors and enterprises, especially those working with market rent conditions.

In the short term, there will be minimal changes taking place, the true level of implementation of the agreements will over time measure these. WTO membership alone does not generate radical changes. It modifies the trade conditions, as they integrated in a global macroeconomic policy that must go in the same direction. Otherwise, the results will not be so visible. For example, a higher monetary emission, or lower prices of energy, will affect the conditions of accession differently.

However, when the introduction of new trade rules is co-ordinated with the macroeconomic and industrial policy, the results of WTO membership are much more visible. ■

²⁹ Beside the EU, Canada, the United Kingdom and the USA have the last year provided assistance on WTO accession and trade related issues. The USA provide support on answers and questions, TRIPS, selected aspects of legislation and in agricultural offer; Canada and the United Kingdom provide support on trade policy training, study tours, legislation support, and political consensus building.

³⁰ Information on WTO committees and others is accessible on <http://www.wto.org>. In other countries, most of this information is available at the library of selected Ministries or documentation centres.