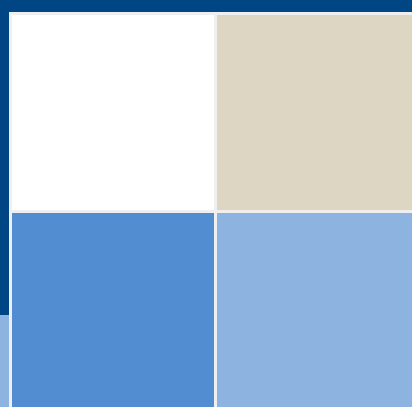


Policy Analysis - No. 06/2016



GROUP FOR LEGAL
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STUDIES

Kosovo's Accession to the WTO – An Assessment of Potential Costs and Benefits



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*Arbëresha Loxha & Erëza Pula

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Group for Legal and Political Studies
'Rexhep Luci'' str. 10/5
Prishtina 10 000, Kosovo
Web-site: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 227 944

*Research Fellows at Group for Legal and Political Studies

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KOSOVO'S ACCESSION TO THE WTO – AN ASSESSMENT OF POTENTIAL COSTS AND BENEFITS

Introduction

In this time of globalization, countries are increasingly interested in participating and further integrating in the global economic system in order to benefit from the intensified economic interconnectivity. The World Trade Organization (WTO) is an international organization responsible for regulating trade cooperation between nations and ensuring that free-trade rules and standards are put in place and are fully respected.¹ According to the WTO agreement “any state or customs territory having full autonomy in the conduct of its trade policies is eligible to accede to the WTO on the terms agreed between it and WTO Members”.²

The WTO framework consists of six agreements to which the states accept to be bound by: the General Agreement on Trade and Tariffs (GATT), the General Agreement on Trade in Services (GATS), the Trade Related Aspects of Intellectual Property Rights (TRIPS), the Dispute Settlement Understanding (DSU), the Trade Policy Review Mechanism (TPRM) and the Plurilateral Trade Agreement. WTO members have no choice but to become bound by all six agreements as a single package, except for the Plurilateral Trade Agreement, which is the only agreement that a member state can choose whether or not to join. In addition, there are 11 other specific agreements under the GATT that member countries should abide by.^{3,4}

The abovementioned agreements represent all the legal regulations needed to govern the WTO international commerce. Firstly, the agreements specify the trade rights and obligations of each member country, and facilitate the conduct of business for producers, exporters, and, among others, importers. Second, the agreements also highlight the liberalization periods and principles, and the acceptable exceptions on goods, services, and intellectual property. They specify the obligations of each specific country to lower their custom tariffs and other trade barriers, to open their services markets, as well as to settle disputes. Finally, the agreements require member countries to be transparent with regards to the laws and measures adopted, the implementation of which is supervised by WTO committees and councils.

Member states are responsible for making all major decisions with regards to their own respective trade regimes, even though becoming a WTO member affects to large extent

¹ WTO mandate extends from administering the agreements falling under WTO, managing the dispute settlements and trade negotiations, periodically reviewing the nations' trade flow and their policies, and facilitating the cross-border flow of labor, capital, goods, services, and among others, technology.

² World Trade Organization: How to become a member of the WTO. Article XII of the WTO Agreement. Available at: https://www.wto.org/english/thewto_e/acc_e/acces_e.htm

³ Namely, the Agreement on Agriculture (AoA), Agreement of the Application of Sanitary and Phytosanitary (SPS) standards, Agreement on Textiles and Clothing, the Agreement on Technical Barriers to Trade (TBT), the Agreement of Customs Valuation, the Agreement on Trade-Related Investment Measures (TRIMS), Agreement on Pre-shipment inspection, Agreement of Rules of Origin (ROO), Agreement on Import Licensing Procedures, Agreement on Subsidies and Countervailing Measures and Agreement on Safeguards. This report will discuss mainly issues related to GATT and GATS. It will also briefly discuss DSU and SPS.

⁴ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. Journal of Bhutan Studies. Vol (23).

domestic policies of the respective state and also involves a loss in the policy autonomy.⁵ Different countries have been driven by various rationales in their efforts to become a member of the WTO. In general, the main reason for joining such an organization is the economic opportunities that the free trade regime would offer;⁶ whereas, for some countries the rationale for becoming a WTO member is purely political.⁷ For instance, transition economies seek to join the WTO to facilitate their economic reforms but also to show commitment towards the economic international community.

With regards to developing countries, WTO agreements offer specific conditions including longer transitional periods to implement and fulfill the agreements and commitments, specific measures to increase trade opportunities and capacities, as well as measures to implement the necessary standards stemming from these agreements and to handle the disputes. In this regard, in order to support its members, the WTO annually offers a vast number of technical-cooperation missions as well as various courses and trainings for government officials.⁸

The most recent country to join WTO was Kazakhstan and currently there are 21 accession negotiations under way.⁹ Most of these countries are transition and developing countries including Serbia and Bosnia and Herzegovina. Recently, the Government of Kosovo has also expressed its interest in joining the WTO. In this context, there are four possible options that Kosovo may consider in relation to WTO accession, such as the following: 1) not joining the WTO, 2) joining as a custom territory, 3) joining as an observer, and 4) joining as a member. A brief overview shall be given below.

1. *Not joining the WTO* - implies that Kosovo will preserve its status quo by not applying to become a member of the WTO. In this case, Kosovo will avoid the numerous financial and administrative implications stemming from the WTO agreements. However, it should be noted that in the future, Kosovo would not benefit from the free trade regime with the other WTO members.
2. *Joining as a custom territory* - is available for territories which are not recognized as independent states, but have full autonomy over their trade policies. These territories are eligible to apply and become members of the WTO. This option, as will be discussed below, is not relevant for Kosovo.
3. *Joining as an observer* - allows interested governments to review the documents and attend meetings of other parties, councils, and committees in order to become familiar with the requirements as well as the accession process to the WTO. The observer country, within a period of 5 years, is expected to decide regarding its accession strategy namely, to apply for membership or not. However, there is a possibility for the observer country to

⁵ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. Journal of Bhutan Studies. Vol (23).

⁶ Such as accessing the foreign market, increasing the domestic exports, attracting more foreign direct investments as well as getting recognized by the worldwide business community

⁷ Evenett, S.J., and Braga, C.A.P. (2005). WTO Accession : Lessons from Experience. World Bank. International Trade Department

⁸ World Trade Organization: Understanding The WTO: Developing Countries. Available at: https://www.wto.org/english/thewto_e/whatis_e/tif_e/dev1_e.htm

⁹ World Trade Organization: Accessions. Available at: https://www.wto.org/english/thewto_e/acc_e/acc_e.htm

request prolonging the observer status should the country consider it needs more time.¹⁰

4. *Joining as a member* - implies that Kosovo would initiate the accession procedure, which contains a set of steps briefly discussed below. The entire procedure of becoming a member of the WTO might be a lengthy process, given the fact that it is mostly dependent on the applicant's readiness and commitment to fulfill all the necessary requirements throughout the accession process.

Should the Government of Kosovo decide to join the WTO, it should be noted that the accession process is quite demanding and complex. Initially, the procedure involves submission of a written accession request to the Director General, which is then considered by the General Council, which consists of all member countries. The General Council forms a Working Party (WP) in order to examine the accession request, a stage which does not last more than a few months. Afterwards, the WP submits the findings to the General Council for approval.¹¹

The next step involves the preparation of a memorandum, which includes an explanation of all the policies, legal framework, and institutions of the applicant's trade regime. This stage is quite demanding given the degree of the details that need to be provided and the range of issues to be discussed. Since the preparation of the memorandum is the responsibility of the applicant, the length of this stage depends solely on the applicant's readiness and commitment.¹²

As far as Kosovo is concerned, the Ministry of Trade and Industry (MTI) has initiated the preparation of the draft memorandum, as requested by WTO procedures. In the meantime, European Union observers have recommended that Kosovo should apply as an observer, since some countries would be reluctant to support full membership for Kosovo, due to political reasons. In order to properly comply with EU requirements, the MTI has been awarded a USAID project for technical assistance to further enrich the draft memorandum until the allocation of EU IPA II funds commences, a proportion of which will be allotted to the technical assistance for WTO and trade.¹³

Upon completion of the memorandum, the MTI will express its interest in becoming a WTO member or an observer country by sending a written accession request to the WTO General Director, which will be considered by the General Council.¹⁴ Consequently, as elaborated, the General Council will form a Working Party (WP) responsible to examine Kosovo's accession request and, afterwards, will submit its findings to the General Council for approval.¹⁵ Meanwhile, upon the completion of the draft memorandum, the Prime Minister will decide which option Kosovo should proceed with. It would not be advisable for

¹⁰World Trade Organization. Handbook on Accession to The WTO: Chapter 4; The accession process — the procedures and how they have been applied. Available at:

https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c4s2p1_e.htm

¹¹ Michalopoulos, C. (1998). WTO Accession for Countries in Transition. Policy Research Working Paper No. 1934. World Bank

¹² Michalopoulos, C. (1998). WTO Accession for Countries in Transition. Policy Research Working Paper No. 1934. World Bank

¹³ Interview with Ms. Sytrime Dervisholli, Nov, 9, 2015, Ministry of Trade and Industry

¹⁴ Interview with the Ms. Sytrime Dervisholli. Ministry of Trade and industry, Department of Trade. 11 November 2015

¹⁵ Michalopoulos, C. (1998). WTO Accession for Countries in Transition. Policy Research Working Paper No. 1934. World Bank

Kosovo to choose to join the WTO as *custom territory* or *not apply at all* since the former would undermine Kosovo's statehood and independence, whereas the latter would imply the preservation of the status quo. With regards to the option '*apply as a member or as an observer*', special attention should be given to the voting procedure which requires two thirds majority of WTO member votes in favor in order for the applicant country to accede the organization.¹⁶

After the memorandum has been delivered to all WTO members, they will submit questions to the applicant in order to clarify any issues regarding the applicant's policies and institutions concerning its trade regime. This stage takes several months and might involve a few WP meetings to ensure that the institutions and legislation are in compliance with WTO prerequisites. If the member countries are not satisfied with the answers provided by the applicant country, they might resubmit the questions in a following round, thus further prolonging the process.¹⁷

After all questions have been answered by the applicant country, the latter should submit a detailed document including a proposal of all the tariffs and bound tariffs to be imposed and the obligations and limitations towards the goods and services market access. After these detailed proposals are finalized, the final stage involves negotiations between the WTO members and the applicant. These negotiations are mainly concentrated on the level of tariffs, bound tariffs, and the level of openness of the service market.¹⁸

Given that currently Kosovo is in the process of applying as an observer country in WTO, a status which sets grounds for WTO membership in the future, this policy analysis discusses the potential effects of accession, both costs and benefits. Precisely, Section II of this policy analysis discusses potential benefits of joining the WTO; whereas, the expected costs of accession and potential challenges during the process are elaborated in Section III. Section IV offers a set of recommendations as to what the Government of Kosovo should do in order to secure as many benefits as possible from WTO membership, such as enhancing the domestic productivity and competitiveness, increasing exports and generating growth.

I. Potential benefits of joining the WTO

Generally, the trade regime liberalization is expected to phase out the remaining tariff duties between trading partners, create sustainable trade relations between Kosovo and the WTO block, and advance Kosovo's recognition of statehood. Scholars elaborate three main benefits from WTO membership; more precisely the accession is expected to:

- strengthen domestic policies and institutions for the conduct of international trade in both goods and services;
- ease and improve security of market access;
- offer access to a dispute settlement mechanism for trade issues; and
- growth stimulation and pro-poor redistribution of wealth.

a) Strengthen domestic policies and institutions

¹⁶ World Trade Organization: Understanding The WTO: The Organization, membership, alliances and bureaucracy; How to join the WTO: the accession process. Available at:

https://www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm

¹⁷ Evenett, S.J., and Braga, C.A.P. (2005). WTO Accession : Lessons from Experience. World Bank. International Trade Department

¹⁸ Michalopoulos, C. (1998). WTO Accession for Countries in Transition. Policy Research Working Paper No. 1934. World Bank

It is generally argued that the WTO's indirect role as a promoter of domestic reforms accounts for most of the welfare gains associated with the accession to the organization.¹⁹ During the accession process governments need to approve laws and establish institutions free of government interference, such as those related to international standards, sanitary and phytosanitary provisions, intellectual property rights and state trading practices. Another rationale for joining WTO is "that political constraints prevent government from adopting more efficient trade policies, and that through the reciprocal exchange of liberalization commitments these political constraints can be overcome".²⁰ The European integration process and the process of the Stabilization and Association Agreement in particular have been assumed to be able to play this role in Kosovo over the last few years. Although to date several economic and political reforms have been introduced, they largely lack proper implementation.

In addition, through WTO membership countries gain credibility from the international business community since membership reflects the willingness of acceding countries to implement necessary economic reforms and restructure domestic institutions.²¹ Kosovo could use such benefits to attract potential foreign direct investors. Consequently, an increase in foreign direct investment is expected to boost economic development for WTO members; however, such welfare gains may fail to be distributed equally,²² thus resulting in increased inequalities.

b) Market access

Another argument in favor of accession is that the WTO provides an opportunity for countries to gain access to new markets and expand the existing ones, leading to an increase in efficiency, wealth, growth and redistribution of wealth. In the long term, the acceding country will be able to take advantage of all future trade negotiations with WTO members, which is important for small countries since it is very costly to negotiate many bilateral trade agreements on simultaneous basis. In order to be able to increase its market share, Kosovo should improve its export capacities as well as ensure that firms will meet the non-tariff barriers, as further elaborated in the next section. However, some studies have highlighted that the argument of improved market access for the transition countries is overestimated.²³ This is mainly due to the small size of the transition markets and their disadvantaged negotiating position. It has been noted that the multilateral trading regime has had a modest 'impact in furthering trade liberalization in developing countries'²⁴ Section III will discuss potential deterrents that may prevent Kosovo to fully grasp the benefits of WTO accession,

¹⁹ Bajona, C. and Chu, T. (2003). Economic Effects of Liberalization: The Case of China's Accession to the World Trade Organization. <http://www.econ.umn.edu/workingpapers/tchu32003.pdf>

²⁰ cited in Voituriez, T. (2007). WTO Entry and Beyond: Accession Benefits and the Cost of Membership. □ A Preliminary Analysis in the Case of Vietnam* □ Paper prepared for the MALICA Seminar 2007 "Recent changes affecting quality in Vietnam's agriculture and food chains—institutional challenges and methods", Hanoi, December 11 & 12. This version: 22 Nov. 07

²¹ Basu, S.R., Ognivtsev, V., and Shirotori, M. (2009). Building Trade-Relating Institutions and WTO Accession. UNCTAD Policy Issues in International Trade and Commodities Study Series No.41

²² Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. Journal of Bhutan Studies. Vol (23).

²³ Eremenko, I., J. Dean and N. Mankovska (2003), Will WTO membership really improve market access for Ukrainian Exports?. Paper presented at the 37th Annual meeting of the Canadian Economics Association Conference, Carleton University, Ottawa: Ontario.

²⁴ Mattoo, A., and Subramanian, A. (2004). The WTO and the Poorest Countries: The Stark Reality. IMF Working Paper. WP/04/81

which include, among others, accessing new markets.

c) Dispute Settlement Body (DSB):

Another potential benefit of WTO membership, as elaborated in the literature, is the access to an impartial and binding dispute settlement mechanism. More precisely, such a mechanism gives countries legal protection in the case of violation of any WTO rules governing the trade.²⁵ However, as expected, this mechanism has been rarely used by developing countries.²⁶

Several factors significantly contribute to the lack of engagement by developing countries in DSB activity, which consequently affects countries' effective gains. The first factor relates to the enormous financial requirements needed for the DSB litigation.²⁷ Studies report that legal fees for each side of the dispute may be very high; and a full three-year course case including appeals related to implementation may cost millions.²⁸

The second factor relates to unsuccessful economic outcomes. Undergoing a dispute settlement may lead to an unwanted economic outcome even for the country, in favor of which a DSB decision has been granted. Furthermore, even after DSB grants a decision in favor of a developing country, that still does not guarantee an increased market access. More precisely, due to lack of enforcement capacity, developing countries cannot force the respondent states to comply with DSB decisions.²⁹ Moreover, some argue that, "developing countries could face a bad economic outcome even if they legally win a case, if the respondent engages in retribution outside of the WTO system. For instance, this can be done by reducing bilateral assistance (e.g. development, military), reducing preferential access under the Generalized System of Preferences (GSP), or another preferential trade agreement".³⁰

d) Stimulation of growth and pro-poor redistribution of wealth

It is also argued that accession to WTO leads to an expected increase in wealth, efficiency, growth, and wealth redistribution among acceding countries. Yet, all these expected effects

²⁵ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. *Journal of Bhutan Studies*. Vol (23); Voituriez, T. (2007). WTO Entry and Beyond: Accession Benefits and the Cost of Membership. □

A Preliminary Analysis in the Case of Vietnam* □ Paper prepared for the MALICA Seminar 2007 "Recent changes affecting quality in Vietnam's agriculture and food chains—institutional challenges and methods", Hanoi, December 11 & 12. This version: 22 Nov. 07

²⁶ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. *Journal of Bhutan Studies*. Vol (23); Busch, M.L., and Reinhardt, E. (2003). Developing Countries and General Agreement on Tariffs and Trade/World Trade Organization Dispute Settlement. *Journal of World Trade*, Vol. 37(4), pp. 719–735

²⁷ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. *Journal of Bhutan Studies*. Vol (23)

²⁸ Nordström, H., and Shaffer, G. (2007). Access to Justice in the World Trade Organization. The case for a Small Claims Procedure: A Preliminary Analysis. ICTSD Dispute Settlement and Legal Aspects of International Trade □ Issue Paper no.2.

²⁹ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. *Journal of Bhutan Studies*. Vol (23)

³⁰ Bown C.P., and Hoekman, B. (2005). WTO Dispute Settlement and the Missing Developing Country Cases: Engaging the Private Sector. *JIEL*, Vol. 8 (4), pp. 861-890

are dependent on the DSB, a mechanism which secures fair market trade regime. Furthermore, these effects lack both empirical evidence and consensual simulation results, notably in the case of low-income economies.³¹ Findings on Kosovo's trade with 28 EU countries over the period 2005-2012 "reveal that trade liberalization on its own will not promote balanced trade and economic development in Kosovo".³² Moreover, it has been noted that the low tariffs in developed countries have not helped the developing countries to gain market shares due to the presence of concealed tariffs and non-tariff barriers like quota restrictions.

Trade liberalization is argued to reduce inequalities mainly by stimulating growth.³³ However, the opening up of domestic markets might lead to welfare losses, as well as damages for both producers and consumers, especially when the economic conditions of the country are unsatisfactory. Indeed, an emerging body of empirical evidence suggests that although in the medium to long-term trade reforms may result in improved growth, trade liberalization alone is insufficient to reduce poverty and inequality. Some ex post empirical evidence suggests that on average, inequality increases when developing countries open up their trade. The relationship between trade liberalization and poverty reduction is country specific; the poor are more likely to share the gains from globalization only if there are complementary policies in place. Hence, the inequality reduction argument is weak and should be examined on a case-by-case basis.³⁴

2. Costs and challenges of joining the WTO

Despite the expected benefits, it is argued that joining WTO is not very beneficial for small or less developed countries. The general power play that is evident in bilateral trade relations between the stronger and weaker economies is also present during the WTO negotiations, 'and in fact is institutionalized in the WTO'.³⁵ It is argued that most of the standards and international best practices were set by selected developed countries; thus, WTO agreements are expected to largely be in favor of developed countries and may not necessarily reflect the interests and priorities of the developing countries.³⁶ Below some of the reasons that undermine the expected benefits from joining WTO are elaborated.

³¹ Voituriez, T. (2007). WTO Entry and Beyond: Accession Benefits and the Cost of Membership. □

A Preliminary Analysis in the Case of Vietnam* □ Paper prepared for the MALICA Seminar 2007 "Recent changes affecting quality in Vietnam's agriculture and food chains—institutional challenges and methods", Hanoi, December 11 & 12. This version: 22 Nov. 07.

³² Gashi, P., and Pough, G. (2015). Kosovo's Trade with the EU: Looking Beyond the Stabilization and Association Agreement. Kosovo Foundation for Open Society.

³³ Morrissey, O., Mbabazi, J., and Milner, Ch. (2002), Inequality, Trade Liberalisation and Growth. CSGR Working Paper No. 102/02.

³⁴ Chabe-Ferret, S., Gourdon, J., Marouani, M.A. and Voituriez, T. (2006). Trade-Induced Changes in Economic □

Inequalities: Methodological Issues and Policy Implications for Developing Countries. World Bank ABCDE □ Conference, Tokyo 29-30 May 2006. □

³⁵ 'The WTO and Developing Countries: Will Vietnam Benefit from Being a WTO Member?'. Paper presented at the Workshop 'WTO and Developing Countries', organised by the International Economic Integration Unit of Vietnam's Ministry of Foreign Affairs, and sponsored by Oxfam (GB), March 5 1999

³⁶ Duval, Y. (2006). 'Cost and Benefits of Implementing Trade Facilitation Measures under Negotiations at the WTO: an Exploratory Survey' Asia-Pacific Research and Training Network on Trade Working Paper Series, No. 3 □

a) Lengthy and costly process

According to some studies, the requirements to join WTO are increasing in terms of market access commitments, and there is an amplified concern related to the cost of joining WTO which may include agreements beyond the GATT/WTO ones.³⁷ The primary reason for the development of such perceptions is that the conditions for WTO accession, rather than the procedures, are not well defined in legal terms.³⁸

The process of questions and answers during the accession process is also time consuming, largely due to institutional drawbacks of the applicant country prolonging assurance of consistency between existing legislation and regulations and WTO requirements.³⁹ For instance, it took Kazakhstan, the most recent member of the WTO, 20 years to conclude its accession process.⁴⁰ In this context, bearing in mind that Kosovo is in the process of implementing various strategies and standards stemming from the recently signed SAA, the length of the WTO accession process might be shorter than expected, given that SAA and WTO requirements largely overlap. Yet, there are several legal and institutional time-consuming implications that still need to be addressed, which in turn might further lengthen the WTO accession process. The implementation of WTO agreements also involves substantial investment in infrastructure and human resources, which in most cases have already been incurred by developed countries. This, in turn, is another disadvantage for developing countries which usually face financial capacity barriers compared to developed ones.

b) Non-tariff barriers' export revenue foregone by SPS barriers in importing countries

It is generally perceived that the main advantage of joining the WTO is an increase in exports. Moreover, for a small country such as Kosovo it is argued that sustainable growth is driven primarily by exports.⁴¹ If that is the case, the benefits of WTO accession for Kosovo may be questionable due to the fact that the country's production and export capacities are very limited and not promising.⁴² Domestic markets could also face difficulties due to increased imports as a result of tariff cuts and the removal of other trade barriers. In addition, the indirect cost of membership resulting from compliance costs (largely non-tariff barriers), which are necessary to enhance production processes and exports, as well as forgone revenues stemming from exports and imports are of utmost importance.⁴³ This could seriously damage national economic growth and offset the benefits from WTO accession.

³⁷ Evenett, S.J., and Braga, C.A.P. (2005). *WTO Accession: Lessons from Experience*. World Bank. International Trade Department

³⁸ Ibid

³⁹ Cattaneo, O., and Braga, C.A.P. (2009). *Everything You Always Wanted to Know about WTO Accession (But Were Afraid to Ask)*. World Bank Policy Research Working Paper Series no.5116

⁴⁰ World Trade Organization: Accessions; Kazakhstan, Available at: https://www.wto.org/english/thewto_e/acc_e/a1_kazakhstan_e.htm

⁴¹ Gashi, P., and Pough, G. (2015). *Kosovo's Trade with the EU: Looking Beyond the Stabilization and Association Agreement*. Kosovo Foundation for Open Society.

⁴² Gashi, P., and Pough, G. (2015). *Kosovo's Trade with the EU: Looking Beyond the Stabilization and Association Agreement*. Kosovo Foundation for Open Society.

⁴³ Voituriez, T. (2007). *WTO Entry and Beyond: Accession Benefits and the Cost of Membership*. A Preliminary Analysis in the Case of Vietnam* Paper prepared for the MALICA Seminar 2007 "Recent changes affecting quality in Vietnam's agriculture and food chains—institutional challenges and methods", Hanoi, December 11 & 12. This version: 22 Nov. 07

The impact of non-tariff barriers on exports

The introduction of Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) measures⁴⁴ is primarily aimed at assuring quality and safety of agricultural products, which in turn should increase consumer confidence.⁴⁵ However, the number of products rejected by importing WTO markets could increase as a result of SPS measures. The experience of other countries has shown that such measures can instead become a serious barrier and can distort trade amongst countries, as is the case of Serbia which has been restricting the import of products from Kosovo in the context of Central European Free Trade Agreement (CEFTA). Agro-food products from Kosovo were continuously restricted or barred from entering Serbia mainly due to non-recognition of existing product quality certificates issued by the relevant official institutions,⁴⁶ which posed a serious barrier to trade.⁴⁷

SPS measures may create many challenges for developing countries relative to those more advanced from a technical and commercial point view, which would negatively affect the export potential of developing countries such as Kosovo. Developed countries and large producers on the other hand face no difficulties in complying with most SPS and TBT requirements, thus giving them a competitive advantage. For instance, under WTO regulations, subsidies which specifically promote exports such as “price support and direct payments on export performance” are illegal and prohibited. On the other hand, subsidies that do not directly increase or improve exports, such as those allocated for research and development, pest and disease control, extension and training services are legal and allowed. Hence, such regulations pose disadvantages for developing countries which are not able to provide such costly indirect subsidies, by contrast to developed countries.⁴⁸

For small and medium sized producers in developing or transition countries, such as Kosovo and other CEFTA members, meeting SPS standards and overcoming TBT requirements will be more challenging, given such requirements require more resources which are hardly affordable for the business community. In this context, it will also be challenging and time consuming to establish institutions that are capital intensive such as those for SPS measures. It should be noted that SPS standards are the main reason why Kosovo cannot export products of animal origin. Hence, meeting WTO standards should be one of the priorities of the government given the fact that Kosovo has a large export potential of animal origin products.

⁴⁴ Sanitary and Phytosanitary (SPS) measures include rules and restrictions to protect human, animal or plant life or health. It includes measures such as restrictions for specific substances and ensuring food safety, and for preventing the spread of disease or pests. It also includes all conformity-assessment measures related to food safety, such as certification, testing and inspection, and quarantine. TBT (Technical Barriers to Trade) agreement aims to ensure that technical regulations, standards, and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade. For more details see: https://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm

⁴⁵ Dedaj, Z., and Fetahu, M., and Linotte, D. (2015). NBTs in the CEFTA Context: The Case of Serbia Against Kosovo. Policy Paper No.1. Ministry of Trade and Industry.

⁴⁶ Ibid; Such as sanitary, phytosanitary and veterinary certificates for agro food products

⁴⁷ Dedaj, Z., and Fetahu, M., and Linotte, D. (2015). NBTs in the CEFTA Context: The Case of Serbia Against Kosovo. Policy Paper No.1. Ministry of Trade and Industry

⁴⁸ Wangdi, K. (2010). To Join or Not to Join WTO. A Study on Its Negative Impacts. Journal of Bhutan Studies. Vol (23)

The impact on budget revenues

WTO membership involves negotiation of market access schedules for goods, agricultural products, and services, and, among others, strengthens the prohibition of quantitative restrictions and replaces the existing ones with tariff equivalents, which are to be gradually reduced.⁴⁹ Kosovo, in this regard, may face a decrease in exports due to the increased competition of similar products on the international market and Kosovo's low competitiveness, as well as a decrease in budget revenues as a result the increased imports and reduced tariffs.⁵⁰

Empirical studies have shown that liberalization of trade in developing countries may result in revenue losses unless the foregone revenue from trade is replaced by domestic revenue.⁵¹ To date, there are no estimations on potential losses from joining the WTO. However, the revenue losses for Kosovo from signing the Stabilization and Association Agreement are estimated to be around €20 million per year.⁵² Given Kosovo is largely dependent on imports, its main economic policy has been to collect budget revenues through imposed custom tariffs which constitute the largest share of government revenues. Therefore, if the foregone revenue from trade is not replaced by other domestic revenue sources, the state budget will experience a decrease in revenues. This is an indication of the underdeveloped private sector and low levels of entrepreneurial activity in Kosovo, both major drivers of competitiveness and exports. Moreover, given most of industries in Kosovo are at their primitive stage, except for mineral products and base metals, import liberalization may have negative effects for the local market. In addition, the results of studies on trade between Kosovo and the EU suggest that trade in Kosovo does not fully respond to traditional trade determinants the way long-established market economies do. This is mainly due to a much more dynamic economy on the demand side than on the supply side, which suggests a lack of supply flexibility, i.e. deficient capability of Kosovo firms to enter new markets. The impact on the budget is expected to be even worse considering the low tax compliance, the lack of infrastructure for efficient tax inspection and the misuse of discretionary power in Kosovo. This would suggest that, due to the abovementioned reasons, Kosovo is not expected to benefit much from WTO accession in terms of either economic development and/or trade balance. Given that more than 80% of Kosovo's trade volume is being covered by the Agreement for Free Trade 'CEFTA and recently signed SAA, it should be noted that the trade benefits that Kosovo might receive from accession to the WTO will be minimal; however, Kosovo may benefit in other aspects, such as technical expertise, representation of Kosovo in a renowned international organization such as WTO and access to more information with regards to technical and non- technical trade developments, in a global level.

⁴⁹ Smith, M.G. (1996). Accession to the WTO: key strategic issues. in Jeffrey J. Schott, *The World Trading System: Challenges Ahead*, Institute for international Economics, pp. 167-81

⁵⁰ Mobariz, A.Sh. (2014). WTO Accession of Afghanistan: Costs, Benefits and Post Accession Challenges. Presented on "WTO Accession of Afghanistan: Costs, Benefits and Post Accession Challenges " at the Asia-Pacific Trade Economists Conference: Trade in the Asian century. Unpublished paper

⁵¹ Bhagwati (1982); Rao (1999); Khattry and Rao (2002) cited in Pandey, P.R., Adhikari, R., and Wagle, S. (2014). Nepal's Accession to the World Trade Organization: Case Study of Issues Relevant to Least Developed Countries. CDP Background Paper No.23. UN-DESA

⁵² KosovaPress, 'Çitaku: Kujdes, jemi nën vëzhgimin e BE-së!'. Available at: <http://www.kosovapress.com/sq/politike/citakukujdes-jemi-nen-vezhgimin-e-be-se-3703/> Accessed on 28 August 2015.

Recommendations

Benefits stemming from joining the WTO are not automatically obtained and depend on a number of factors. Therefore, in order for the Government and institutions of Kosovo to absorb potential benefits, the relevant stakeholders should concentrate on improving and strengthening the following capacities:

1. Develop negotiating priorities: The government, based on sound analysis, should identify sectors which could benefit most from the WTO, and develop negotiating priorities accordingly during the WTO accession process. Hence, it is of utmost important for the WTO accession negotiating team to develop a strategic approach during the entire process. A large number of individual requests and the multiplicity of details to be provided cannot be properly dealt with unless there are guiding principles and overall objectives that reflect the acceding country's trade and development strategy.⁵³ It is crucial that Kosovo maintain a certain policy freedom suitable to its long-term development goals, namely by assessing and identifying the costs and benefits related to each sector.

2. Conduct a feasibility study: The Government of Kosovo should conduct a detailed feasibility study which would thoroughly analyze the current trade situation and would revise the custom policies and existing tariff duties, in order to gain higher flexibility during the negotiation process, to achieve longer transitional periods and to protect particular products of interest for Kosovo's market.

3. Draft an accession strategy: The negotiation process involves several issues beyond those that lie within the mandate of the ministries related to trade. Therefore, the WTO accession strategy should be prepared by all the relevant stakeholders and the process should be managed by the Ministry of Trade and Industry.

4. Government and domestic producers to be coordinated: WTO membership does not entail full liberalization of trade. Technical and quality requirements, especially non-tariff barriers, will still be evident even after becoming a WTO member. Thus, in order to avoid side effects of non-tariff barriers, the Government of Kosovo must ensure product compliance with international quality standards. Kosovo should gradually change its economic policy by using the tariffs to prioritize and protect specific sensitive sectors and industries, to consider the effect of specific products on GDP and trade with WTO members, as well as to analyze their effects on fiscal policies.

In particular, institutions should give special emphasis to the agricultural sector since the free movement of goods represents Kosovo's primary economic focus. Before joining the WTO, it is of immense importance that producers be well prepared to meet the standards and measures required, especially those related to non-tariff barriers. Thus, the institutions should strategically use the transitional period granted for the agricultural sector to support agricultural producers in order to meet all the necessary requirements and international standards, especially those relating to the SPS.

5. Utilization of the technical cooperation missions: The WTO offers a vast number of technical cooperation missions annually, as well as numerous

⁵³ Smith, M.G. (1996). Accession to the WTO: key strategic issues. in Jeffrey J. Schott, *The World Trading System: Challenges Ahead*, Institute for international Economics, pp. 167-81

courses for government officials of the applicant country.⁵⁴ Therefore, the Government of Kosovo should be prepared to strategically utilize such opportunities in order to properly implement the necessary standards stemming from WTO agreements and to increase trade opportunities and capacities.

6. Competitiveness in Kosovo: The weak institutional structures are the greatest constraint on the growth and competitiveness of the private sector in Kosovo. The removal of barriers for private sector investments and entrepreneurial activity should be paramount to policymaking in Kosovo, as businesses will be reluctant to invest if risks and uncertainties are high. In general, a mix of government policies and firm-specific actions will be required in order to boost competitiveness and increase exports. Thus, creation of an enabling business environment, establishing rule of law, fighting corruption, and providing competitive access to efficient infrastructure services, which facilitate reliable and efficient movement of goods to international markets, should be a principal concern for policy makers. It is important that the policies primarily target the productivity-enhancing factors and other aspects that influence firms' competitiveness, both domestically and internationally.

7. The role of Kosovo Diaspora: Empirical results suggest a significant effect of the Diaspora on exports, which highlights the importance of utilizing the capacity of this community in promoting exports. More precisely, the Diaspora may help reduce high transaction costs in the trade between Kosovo and the countries, especially where the Diaspora is sizable.

8. The establishment of proper tax reforms: Given Kosovo's dependence on imports, it is of immense importance to allow sufficient time for the authorities in Kosovo to establish the necessary tax reforms in order to generate the government revenues necessary to replace budget losses resulting from the liberalization of trade.

⁵⁴ World Trade Organization: Understanding the WTO: Developing Countries. Available at: https://www.wto.org/english/thewto_e/whatis_e/tif_e/dev1_e.htm

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Policy Analysis

Policy Analysis in general is a policy advice paper which particularly aims to influence the key means through which policy decisions are made in both local and central levels of government. The purpose of Policy Analysis is to address, more in-depth, a particular problem, to examine the arguments related to a concerned policy, and to analyze the implementation of the policy. Through Policy Analysis, Group for Legal and Political studies seeks to stimulate wider comprehensive debate on the given issue via presenting informed policy-relevant choices and recommendations to the key stakeholders and parties of interest.