

Moldova's accession to the world trade organization (wto)



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The World Trade Organization (WTO), successor of the General Agreement on Tariffs and Trade (GATT) founded in 1947, today represents a common institutional framework for the development of trade relations among its members, based on the principles harmonized at the international level through a number of multilateral agreements. At present the WTO includes 140 countries, with another 32 countries having an observer status. Moldova, Armenia, China and Vanuatu are at the final stage of accession. Today only a few countries with planned economies in their past and some developing countries have remained outside the WTO. Integration, of the developing countries and of the countries with their economies in transition, into the international trade system offers a good opportunity to take full advantage from the participation to enter the globalization process. Countries with their economies in transition view the WTO, whose rules of international trade are being established and monitored, as a structure that offers an important opportunity for integration into the world economy and of the improvement of their national legal framework in the economic and commercial field.

The WTO basic functions are as follows:

- to facilitate the application, administration and successful functioning of the WTO laws and regulatory framework;
- to promote the achievement of objectives of each WTO agreement that concerns specific trade issues;

Proceeding from these functions, the WTO can be viewed as an international structure, which for its member states represents the following:

- a forum for negotiations of issues concerning trade relations and matters incorporated into international multilateral treaties;
- a forum for future international negotiations, representation of each member's interests;
- a legal and institutional framework for the application of the results of talks between states;
- a framework ensuring the application of rules and procedures for settling disputes between states;
- a framework providing for the use of the mechanisms of scrutinizing and ensuring transparency of commercial policies.

3. 1. Advantages of the World Trading System

The world trading system is not perfect, particularly taking into account the attempts of the Member States to have after their accession, the current rules revised. However, since the establishment of the WTO in 1995, countries involved in this system maintain that a state outside the system should be aware of the advantages the WTO offers to its members and of the reasons in favor of the WTO membership.

In most cases, the decision of countries to apply for the WTO membership was influenced mainly by political factors, as their economic and commercial interests were not one of the major factors in initiating the accession process. On the other hand, candidate countries were conscious of certain disadvantages of staying away from the WTO – bilateral and multilateral agreements are not sufficiently comprehensive, the image of a non-member

state among foreign investors is not favorable enough etc. In this order of ideas we suggest looking into the advantages of accession to the WTO.

As it was mentioned above, the WTO rules were produced on the basis of the world trading system, specifically a set of rules established by the consensus of all 140 Member States of the World Trade Organization.

These rules are said to make life easier for everybody, since the decisions within the WTO are taken by consensus, likewise all multilateral agreements have been negotiated and then ratified by the parliaments of each Member State. The WTO agreements are compulsory for every country, developed or less developed, big or small. Without a multilateral forum, such as the WTO, the more developed countries would have had more freedom to impose unilaterally their will on their smaller partners.

Free trade reduces living expenses. A great deal of research has been done on the conflict between protectionism and free trade. Protectionism is expensive: it always raises prices. The WTO system pursues the goal of removing trade barriers by following the rules of the game set by mutual agreement and is based on the principle of non-discrimination. This brings lower production costs, lower prices for goods and services, and as a result, life becomes less expensive.

The world trading system offers a much wider range of various products. Import provides for a better choice of goods and services of different quality. Even the quality of local goods can be improved in conditions of competition generated by import. Imported goods are not used only as a finished

product, but also as materials, components and equipment for the
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production of local goods. This allows manufacturers to broaden the range of products, services and technologies applied, which ultimately contributes to the increase of exports.

Trade increases incomes. Analysis and estimates of the impact of the Uruguay Round (in other words, of the establishment of the WTO) or of the creation of the European Union (EU) common market, proved that these processes brought about considerable additional revenues, which greatly stimulated economic development. Trade incurs challenges and certain risks — local manufacturers have to offer products of the same quality as the imported ones, yet not all producers succeed in this. However, the fact that there are additional revenues means that there are resources for the governments allowing for redistribution of the available benefits. This can help business operators become more competitive in the traditional fields or in the newly developed and promising ones.

Trade stimulates economic growth, which implies, among other things, creation of new jobs. It is true, however, that some jobs are lost as a result of the expanding commercial activities. The same applies to the technological progress: the implementation of new technologies creates new jobs, while at the same time, cuts down jobs requiring an un- skilled labor force. In both cases, a coherent policy facilitates settlement of the employment problems, thus ensuring a better final result, particularly in conditions of a free trade, and also provides for the use of advanced technologies.

It is known that trade, which ensures a more efficient and adequate use of production resources, generates division of labor among countries. An

additional advantage offered by the WTO system is an increase of efficiency with less expenses. This becomes possible due to the important principles laid on the basis of the system. These principles are as follows: non-discrimination, transparency of rules and regulations, commitments to remove trade barriers and increase the access on other markets, fostering trade through making customs procedures easier and uniform, and others.

» In the WTO framework governments are in a better position to defend themselves from being lobbied by some smaller groups. Thus, governments can carry on a commercial policy that satisfies the interests of all parties involved in the economy. At first sight, the application of certain restrictions on imports seems to be an efficient method of supporting the economic sector. In fact, it imbalances the economy and affects other sectors. At the same time, it is well known that making exceptions leads indirectly to tax evasion and corruption. In some cases, even the protected sectors are affected. When the policy of support given by the State is incoherent and is not rendered until the final consolidation of the capacities of enterprises, the latter at a certain point can go bankrupt or be swallowed by big corporations.

Due to the fact that the WTO framework covers a wide range of sectors, if there is a case in which a pressure group resorts to lobbyism in order to be protected, the government can put up resistance to such pressures, motivating it by the fact that an agreement suitable for all sectors of the economy has to be reached. In practice governments often invoke such a reason.

The system encourages good government. Governments often use the WTO framework as a practical external restriction for the elaboration of economic policies, by giving the following reason, “ we can’t act differently because it’s against the WTO regulations”. According to the WTO rules, once a commitment has been undertaken, it would be difficult to change this decision. For business this means a greater certainty and clarity in conditions of trade. For governments this means more discipline and correctness.

Also, the world trading system contributes to peace consolidation. It seems a bit exaggerated, and yet, the system contributes to strengthening peace in the world, since, to some extent, peace is a result of the application of the two basic principles of the WTO, particularly, ensuring continuous trade and offering a fair and constructive way to settle trade disputes. An eloquent example is the trade war of 1930, when the involved countries competed in raising trade barriers in order to protect local manufacturers. This fact deepened the Great Crisis and played a certain role in the outbreak of World War II. A key-element of the WTO system is the fact that disputes are solved in a constructive way. Naturally, the development of trade may generate trade disputes which can lead to

serious conflicts. Therefore, a great deal of tense international trade situations can be settled by the organizations specializing in tackling trade disputes, such as the WTO. A growing number of disputes brought before this organization reflects closer economic ties throughout the world, a growing number of the WTO members and an increasing confidence in the capacity of this system to settle disputes [2].

To summarize the advantages of the WTO membership, we can name some of them:

- a) the implementation of the WTO agreements, in general, offer wider trade opportunities to the Member States;
- b) multilateral regulations with a higher degree of restrictions ensure a safer and a more stable trade environment and provide more certainty in trade relations;
- c) only Member States can take advantage of the rights laid down in the WTO agreements;
- d) the WTO agreements have substantially improved transparency of commercial policies and of the practices of trade partners, a fact that strengthens safety and stabilizes trade relations;
- e) only the WTO members have an access to the mechanism of settling disputes with a view to defending their rights and commercial interests;
- f) membership status offers an opportunity to take part in multilateral negotiations, thus, ensuring the promotion of each member's commercial and economic interests.

3. 2. The Republic of Moldova's Accession to the WTO

Accession, accomplished in the appropriate conditions, is a rather difficult and complicated process that may be delayed and that requires a high level

of competence and coordination of government institutions, as well as a political consensus to efficiently promote national interests.

The accession process involves thorough bilateral and multilateral negotiations with all WTO members concerned in the policy carried on by the candidate, which can procrastinate the process of accession. Countries in the process of accession are bound to examine and adhere to all multilateral agreements, and, optionally, to the two plurilateral agreements, adherence to which de jure is not compulsory. In fact, the contracting parties to these agreements expect that the candidate becomes a party of these agreements in the accession process to the WTO. This condition turns automatically into a commitment, also observed in the context of discussions and positions of the WTO member states during multilateral trade negotiations.

Accession of the Republic of Moldova to the WTO was determined by the advantages offered using the legal framework of international trade and by the reasons in favor of WTO membership. Back in 1993 the Government of the Republic of Moldova applied to join GAIT. The request, which following the creation of the WTO in January 1995, had been reiterated by Moldova. The purpose of accession to the WTO was to urge the process of integration into the world economy, which provides for building a democratic society, an economy based on market economy principles. The accession was motivated also by specific disadvantages of a non-member status in the WTO, in conditions when bilateral trade agreements were not sufficiently developed. It was also motivated by an adverse image, especially among foreign investors, generated by the “ out of the system” status.

Accession negotiations coincided with the structural and systematic reforms program and with the elaboration of the country's economic policy, including the commercial one. However, an underdeveloped administrative system and a lack of human and financial resources directly affected technical capacities providing for this complex process of accession to be conducted shortly and efficiently.

Besides, in addition to the fact that it was necessary to adopt a concept to promote a commercial policy which would comply with the WTO multilateral obligations, Moldova, as any applicant country, was required to accept concessions with regard to the access to the goods market and to the consolidation of customs tariffs, as well as with regard to the commitments in the field of internal support in agriculture, and the special commitments concerning trade in services. It should be mentioned that in the course of Moldova's accession the attitude of the main trade partners towards the applicant countries became harsher compared to the period of accession to GATT. The "standards" of adhesion have been raised considerably. Some WTO members took a firm position requiring the applicant countries to accept a higher level of obligations compared to the one accepted by the initial members, having already included the eventual results of the next future multilateral negotiations. In practice, this means that the Republic of Moldova had to accept the level of tariffs consolidation and certain commitments in the services area comparable to the level of the developed countries. At the same time, the Republic of Moldova did not have the opportunity to benefit from certain provisions stipulated by the WTO agreements, which provide a special and preferential regime offered to the

developing countries. The status of a developing country was not given to any applicant country with their economy in transition during the period in which they entered into the accession negotiations with the WTO. This situation made negotiations a lot harder for Moldova than for other candidates included in the UN list of developing countries.

Despite these difficulties, as compared with the other CIS states, Moldova launched a very active process, being outrun only by Kyrgyzstan and Georgia. Initially, in conformity with the accession procedure, a memorandum on the foreign trade regime was presented. Later, a Working Group for the accession of the Republic of Moldova was created comprising 24 WTO members (the European Union having one vote), followed by rounds of questions and answers. Numerous bilateral and multilateral negotiations have been conducted on the access to the goods and services market, on offering subsidies in agriculture and on aligning national legislation on the WTO regulations

The most intense negotiations were conducted with Australia, Bulgaria, Canada, the Czech Republic, India, Japan, Mexico, Poland, Slovakia, USA, Turkey and the EU. The longest in duration and the most consistent were the negotiations with the EU, the United States, Australia, Canada, India, and Bulgaria. A special part in the accession process was both the adjustment of the current legislation to the regulations adopted by the Uruguay Round, and the elaboration of new laws in the areas that have a direct or indirect impact on foreign trade.

The negotiation process lasted long due to a negative influence of a number of factors, some of which have already been mentioned. Another important factor was the absence of an adequate institutional framework and of mechanisms of elaboration of policies necessary for the operation of a market economy at the beginning of the negotiation process, which was supposed to ensure rapid development of the latter, it is also known that frequent changes in the upper level of administration affect and considerably delay, the accession process. These reasons have slowed down the elaboration and adoption of an adequate national legislation, a fact noticed by the Working Group members on the accession of the Republic of Moldova to the WTO.

Protraction of the Republic of Moldova's accession has partially offered some facilities to the WTO members that only the WTO framework can offer. Since the presentation of the memorandum on the foreign trade regime and, later, of the replies to the questions of the working group members for working out the Report of the Working Group and of the Protocol of Accession, Moldova had to submit a great deal of information from different fields related to commercial policies, which required significant expenses. The more this process was delayed, the more information was requested, which sometimes indirectly allowed the member states to speculate on some of the plans or strategies of the applicant countries. For example, in the process of the accession of the Republic of Moldova, information in the following areas was required: practices and prices regulations, the taxation system, subsidies in agriculture, foreign investments, the environment, customs tariffs, including preferential tariffs, payments for customs procedures, exemption from

customs duties, license on import, export regulations, trading enterprises owned by the state, standardization of imported goods, sanitary and phytosanitary standards, foreign exchange operations, and the protection system of intellectual property rights, etc. It should be mentioned that the presentation of this information was compulsory or unavoidable, since the purpose pursued was to advance the accession process.

On the other hand, all these have led to facilitation of the aims of the major WTO actors, who use different levers in the accession process in order to have the applicant countries undertake anticipated commitments within the WTO, thus ensuring their alignment on the subjects discussed during multilateral negotiations.

As a non-member country we have already missed many opportunities to negotiated on various bilateral agreements with the states of Central and Eastern Europe - the WTO members. Foreign business operators are discouraged by the lack of a clear set of rules, which would allow them to set up their business on the basis of internationally recognized principles. The relations of cooperation in the economic and commercial fields with the countries of the European Union or of the Central Europe Free Trade Area (CEFTA) have been blocked or not given pertinent importance. Treatment of the economic system of the Republic of Moldova as one that is not based on market principles