

“WTO Accession Experience of Mongolia”

*Specially prepared for CAREC countries
in the process of accession to the WTO*

Mongolia went through a six-year negotiation process to become a Member of the WTO, which is considered a comparatively short period of time of accession.

At the outset, it has to be noted that the views presented in this paper do not express the official position nor the policy of the Government of Mongolia.

Rather than elaborating about the accession process *per se* in this paper, it is thought it would be more useful to shed light on what were the consequences and the experience of the implementation of the Agreements and the accession commitments, which would in turn give a clearer picture of what needs to be taken into account during the accession.

Apart from the tariffs and services schedules, Mongolia's commitments concern specific issues including taxation, duties and charges, NTBs, export measures, customs procedures, customs valuation, etc.¹ This paper will shed light on the specific commitments taken by Mongolia during the accession.

1. Goods

Tariffs, of course, are the result of the negotiations. The average bound rate for Mongolia is 18% and the applied rate is 5% across the board with the exception of very few products. This gap, which is often described as “large” is at the discretion of the authorities; when needed, they could always raise the tariff level up to the bound rate. This “policy space” on the one hand and from the WTO point of view, can be criticized as “giving considerable latitude to raise the tariffs”. On the other hand, for the developing countries, LDCs, the economies in transition, the economies of which are not strong and stable, and the economies which lack the proper

¹ See the Working Party Report, WTO document WT/ACC/MNG/9.

infrastructure and structure for trade policies, it can serve as the simplest and less costly “safeguard” against unfair competition.

2. *Services*

The services schedule of Mongolia is a relatively liberal one. Contrary to the goods and tariffs, there is little or almost no criticism that addresses the services commitments. At the time of Mongolia’s accession to the WTO and even in more than a decade of the WTO era in Mongolia, the general public, including the private sector (if we had any substantial representatives at the time of accession) had no knowledge of the “services trade” concept, in particular the “services” as such as covered by the WTO. With the transition to a market economy and the fundamental changes in the very basis of economic development of the country, there was a massive process of privatization of the state-owned enterprises. Yet, the private sector had only started to operate. Within this setting, the Government of Mongolia had virtually “nobody” to consult with during the accession. The self-induced liberalization process went beyond the commitments.

The very liberal commitments are, in general, judged in two ways. On the one hand, the commitments created the “solid ground” for the services sector from the beginning that is consistent with WTO rules and Agreements and would direct the sector to “market-oriented” international competition. On the other hand, with the evolution of domestic industries and their growing self-protective interests, the “very liberal” commitments may be subject to criticism. This is still to be seen.

3. *Specific commitments*

By and large, Mongolia complies with its commitments.² The implementation of the Agreements and the commitments was not without difficulties. The general public, the Government and the legislature lacked the knowledge and understanding of the WTO and its Agreements. The implementation is indeed a lengthy and difficult process. To accelerate the process, the Government of Mongolia sought the support and assistance of such donors as GTZ

² See the “Trade Policy Review of Mongolia”, 2005, and the Minutes of the Review, available at www.wto.org

(the German Technical Cooperation Agency); a project “International Trade Law/WTO” was implemented between 2000 and 2004, which specifically targeted the implementation of the Agreements and the commitments, as well as raising public awareness. There had been other donors such as USAID and UNDP which helped to target specific issues. A working group was set up in 2004, which also includes the private sector.

Raising public awareness and building the capacity of government officials, in particular trade professionals, have been paramount. This appeared to be a non-stop process with the mobility of the officials. The acceding countries may, already during the accession process, seek the assistance of the donors for this particular purpose.

One of the main experiences that Mongolia undertook in the last period was its request for a waiver from the commitment. The issue concerned an export tax on raw cashmere, which was committed to be eliminated in 10 years after the accession, i.e. in 2007. As a result of strong pressures from domestic cashmere producers, the Government sought a waiver from the commitment and extended the application of the export tax by another five years, as a result of serious negotiations with our trading partners. This was the first substantive experience of Mongolia, when it used the WTO. It all depends on the policy options and choices, the strength and perseverance of different groups: a trade policy measure makes one group better off and the other group worse off and often creates winners and losers. Striking the balance between the winners and losers must be the core of the policy choice that has to be based on the economic analysis: whether it is for producers or the herders in the case of cashmere.

Trade policy is, in reality, often dependent on politics. In 2009, the political developments led to elimination of the export tax.

From the above experience, it was learnt that the implementation of the Agreements and the commitments, the result of the negotiations largely depend on the knowledge of the Agreements, the issue itself, the skills to use this knowledge, the negotiating skills, the skills to convince the other side and the lobbying skills.

If the domestic industries during the accession process as well as right after the accession remained “too weak and immature”³ to be able to withstand and criticize the government, the emerging industries’ knowledge of the WTO has been growing, albeit with one-sided approach. They know of what is prohibited under the WTO, but not of what can be done. With this understanding, the domestic industries get the stance to criticize Mongolia’s WTO membership as “too early” and “not well-prepared”.

But “what can be done” seems difficult to implement for such developing countries like Mongolia. There needs to be a proper infrastructure, structure, and again the expertise both in the Government and the private sector alike. For the private sector to get the message through to the government; for the government to be able to implement and make more efficient use of the WTO Agreements. For Mongolia, up until now it has no structure as such to benefit from safeguard provisions and undertake complex investigations in that regard. In order to make the best use of the WTO membership, for Mongolia, at least the Department of Foreign Trade and Economic Cooperation of the Ministry of Foreign Affairs and Trade (the ministry responsible for foreign and international trade) has to build its capacity to be able to get efficiently and effectively involved in negotiations and respond in a timely manner to the needs and demands of domestic industries.

Building the political will, full understanding of what the consequences could be of the membership, coupled with appropriate structure is the lesson Mongolia has learnt in the years of its membership in the organization. The “political will” plays an important role here. Without political will, balancing between the WTO requirements and the protection of domestic industries cannot be achieved.

In 2005, the Parliament of Mongolia passed a law on excise tax which was inconsistent with the GATT and our commitments. The lack of knowledge and understanding or a purposeful or purposeless unwillingness of Parliament Members to comply with the WTO rules and regulations has led to turning a blind eye to these rules. At the time, the knowledge and understanding of the WTO has been gained slowly by the civil society. Only with the claim of a

³ “Mongolia’s WTO Accession: Expectations and Realities of WTO Membership” by D.Tsogtbaatar, p.1, available at http://www.wto.org/english/thewto_e/countries_e/mongolia_e.htm. It is advised to read this article as it gives a clear picture of the realities of the WTO Membership.

citizen to the Constitutional Court was the measure brought into the conformity with the commitments.

What is learnt from above: the diversion of opinions and the misunderstanding between the government and the private sector about the WTO are not alien to the Mongolia case. In order to set-off this misunderstanding, there needs to be a strong collaborative mechanism, effective and mutually supportive, between the government, the private sector and the civil society.

DEPARTMENT OF FOREIGN TRADE AND ECONOMIC COOPERATION
MINISTRY OF FOREIGN AFFAIRS AND TRADE OF MONGOLIA

22 February 2010