

LESSONS FROM MONGOLIA'S ACCESSION AND POST-ACCESSION EXPERIENCE IN THE WTO

ESCAP Experience-Sharing Workshop on WTO
Accession of Selected Asian Countries
in Support of Uzbekistan's Accession

Mongolia's Accession Timeline

Source: https://www.wto.org/english/thewto_e/acc_e/a1_mongolia_e.htm

Mongolia's Timeline

I. Overview

GATT application received	17/06/1991	L/6886			
GATT accession Working Party established	08/10/1991	C/M/252			
GATT terms of reference & accession Working Party membership	15/10/1991	L/6919 (+ revisions 1 , 2 , 3)			
WTO application received & WTO accession Working Party established	In pursuance of the decision adopted by the General Council on 31 January 1995, the Working Party on the Accession of Mongolia to the GATT 1947 was transformed into a WTO Accession Working Party.				
WTO terms of reference & accession Working Party membership	21/06/1996	WT/ACC/MNG/8			
Chair of the Accession Working Party					
1st	06/1993 - 06/1996	Ambassador Winfried LANG (Austria)			
Formal Meetings of the Working Party	Date of the meeting	Convening notice	Statement(s) by the Head of the Delegation	Statement(s) by Working Party members	Delegation list
1st	03-04/06/1993	GATT/AIR/3436	—	—	—
2nd	01-02/02/1994	GATT/AIR/3536	—	—	—
3rd	24-25/05/1994	GATT/AIR/3585	—	—	—
4th	03-04/11/1994	GATT/AIR/3638	—	—	—
5th	26/06/1996	—	—	—	—

Note: Numerous informal and plurilateral meetings

Experience of Mongolia in

- * Understanding, Education and Research
- * Institutions and Legislations
- * Some Particulars of Negotiations

Understanding, Education and Research

Lesson 1: WTO should be understood well and by all stakeholders

The multilateral trading system (MTS) is different from the United Nations and other intergovernmental bodies in that it is rules-based and its decisions and members' commitments and obligations are binding. That's why it takes years to negotiate and agree on terms of accession to the WTO.

Understanding, Education and Research

Lesson 2: Accurate translation of the WTO texts into national language is essential

When Mongolia joined the WTO early 1997, we did not have the translation of the full texts of the WTO agreements in the Mongolian. This limited the understanding and knowledge of the WTO to a very few officials who mastered English.

Understanding, Education and Research

Lesson 3: Training and retention of experts on WTO should be priority

About 400 Mongolian officials went through various short- and long-term trainings at the WTO and at home since it had become a WTO member. But only less than 10% of them are more or less engaged now in the WTO-related activities.

Understanding, Education and Research

Lesson 4: Research capacity must be developed

The WTO subject has never been a focus of an academic institution in Mongolia. We still do not have dedicated research institute and/or program at any university solely devoted to the multilateral trading system.

No Mongolian academic institution to my knowledge did apply for and was qualified to use so far, for example, the WTO Chairs Program launched in 2010 with an aim “to enhance knowledge and understanding of the trading system among academics and policy makers in developing countries through curriculum development, research and outreach activities by universities and research institutions”

INSTITUTIONS AND LEGISLATIONS

Lesson 5: Foreign trade should be an important, stable component of Government structure

During the last 30 years, Mongolia has been shifting foreign trade portfolio among different ministries. Foreign trade issues have changed hands 7 times back and forward (Ministry of Trade and Industry to Ministry of Industry and Trade to Ministry of Economic Development to Ministry of Foreign Affairs).

This has resulted in a partial loss of institutional memory.

INSTITUTIONS AND LEGISLATIONS

Lesson 6: A framework law on foreign trade is vital for transition period

Since 1992 when Mongolia adopted its first democratic, market-oriented Constitution, it has promulgated over 100 laws (58), parliamentary resolutions (12), government decrees (24) and ministerial decisions (11) directly dealing with particular foreign trade issues.

The main purpose of a framework law is to institutionalize the policy coordination among ministries and agencies and to define clearly the responsibilities of all stakeholders, which seems warranted especially for the transition countries like Mongolia who are undergoing a complicated process of redefining the State role in foreign trade.

SOME PARTICULARS OF NEGOTIATIONS

Lesson 7: Ambitious but reasonable strategies should be in place

“A strategy that some countries have pursued in their accession negotiations is to try to liberalize as little as necessary to ensure accession. Several transition countries (examples of economies choosing such an approach are Albania, Estonia, Georgia, Kyrgyz Republic, Latvia, and Mongolia) that have recently become WTO members pursued a different strategy in most respects adopting a liberal trade strategy.”

Dr. Sok Siphana. *Lessons from Cambodia's Entry into the World Trade Organization*
(<https://www.adb.org/sites/default/files/publication/159380/adbi-lessons-cambodia-wto.pdf>)

SOME PARTICULARS OF NEGOTIATIONS

Lesson 8: A strong national negotiating team is a must

When negotiating its entry into the WTO, Mongolia failed to secure enough concessions and sufficient transition periods because we did not have a professional negotiating team. Our government officials who negotiated on the accession lacked proper training, knowledge and skills for multilateral and bilateral trade negotiations.

SOME PARTICULARS OF NEGOTIATIONS

New Zealand's Experience:

ORGANIZATIONAL STRUCTURE OF THE NEW ZEALAND'S DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

ORGANIZATIONAL STRUCTURE OF THE NEW ZEALAND'S DEPARTMENT OF FOREIGN AFFAIRS AND TRADE							
Lead Minister (Ministry of Foreign Affairs and Trade) Minister of Foreign Affairs Minister for Disarmament and Arms Control		Minister for Trade and Export Growth Minister of State for Trade and Export Growth			Associate Minister for Trade and Export Growth		Chief Executive and Secretary of Foreign Affairs and Trade
Deputy Chief Executive	People & Operations Group	Americas and Asia Group	APEC New Zealand	Europe, Middle East & Africa, & Aus Group	Multilateral and Legal Affairs Group	Pacific and Development Group	Trade and Economic Group
Communications Division	Finance Division	Americas Division	APEC People	Australia Division	Corporate Legal Unit	Global Development & Scholarships Division	Economic Division
COVID Policy Coordination Division	Information Management Division	North Asia Division	CEO Summit	Europe Division	Consular Division	Pacific Bilateral Division-Melanesia & Micronesia	Trade Negotiations Division
International Security and Disarmament Division	Asset Management Division	South and South East Asia Division	Professional Services and Performance	Middle East and Africa Division	Environment Division	Pacific Bilateral Division-Polynesia & French Pac	Principal Advisers and Lead Negotiators
Maori Policy Unit	Commercial Division	Asia Regional Division	Group Business		Legal Division	Pacific Regional Division	
	HR Business Partners		APEC Policy Division		Protocol Division	Partnerships, Humanitarian & Multilateral Division	
Strategy and Performance Division	HR Organisational Capabilities Division		Chief of Operations		UN & Commonwealth Division	Capability & Insights Division	
	Organisational Resilience Division					Sustainable Development Sector & Thematic Division	
	People Capabilities Division						
	Portfolio and Delivery Services Division						
	Security Division						
	HR Strategy and Coordination						

SOME PARTICULARS OF NEGOTIATIONS

Lesson 9: Use all available avenues for better concessions and reasonable commitments

There are some instruments that a newly acceding country can use against the abnormal outcomes of negotiations (dubbed as “WTO-plus concessions and WTO-minus rights):

- Provisions on Special & Differential Treatment in favor of developing and least-developed countries
- Enabling Clause adopted in 1979 to allow derogations from the MFN principle in favor of developing countries
- Application to the extent of necessity of transition periods seeking delays in implementation of specific provisions of the WTO agreements (of course, to be accompanied with a time-bound, realistic plan)
- Provisions of Waiver of Obligations (see note)

Table: Commitments of Mongolia versus Selected Countries

Countries	Bound Rates, %			Applied Rates, %		
	Average	Agricultural Products	Non-agricultural products	Average	Agricultural Products	Non-agricultural products
Mongolia	17.5	18.8	17.3	5.2	6.5	5.0
Russia	7.6	11.2	7.1	6.8	11.2	6.1
China	10.0	15.7	9.1	9.8	15.6	8.8
Japan	4.7	19.3	2.5	4.4	15.7	2.5
R of Korea	16.5	58.0	9.8	13.7	57.0	6.7
India	50.8	113.1	36.0	17.1	38.8	13.6
EU	5.1	12.8	3.9	5.2	12.0	4.2
Kazakhstan	6.5	10.0	6.0	6.4	9.6	5.8
Morocco	41.3	54.4	39.3	11.4	27.6	8.8
Vietnam	11.7	18.8	10.5	9.5	16.5	8.4
Laos	19.0	19.6	18.9	8.5	11.2	8.1
Kyrgyz R	7.5	12.8	6.7	6.5	9.1	6.1

SOME PARTICULARS OF NEGOTIATIONS

Lesson 10: *Bilateral negotiations are the cornerstones*

Mongolia was not able to pay a serious attention to our bilateral negotiations due to the above-mentioned shortcomings. We did not fully realize that bilateral schedules of concessions become integral parts of the overall Protocol of Accession.

In concluding bilateral protocols, a newly acceding country should be careful of according the Initial Negotiating Rights (INRs) to trade partners.

SOME PARTICULARS OF NEGOTIATIONS

*Lesson 11: Commitments in the Protocol of Accession
should be realistic*

Mongolia took some 17 commitments in its Protocol of Accession. But several of them were not fulfilled so far. For example, Mongolia committed to initiate negotiations to join the plurilateral Agreement on Government Procurement but has not yet done so.

SOME PARTICULARS OF NEGOTIATIONS

Lesson 12: Post-accession adjustment efforts are lengthy and costly

Most of our scholars and industry experts are of the view that we became self-satisfied with the membership and left the adjustment and implementation obligations unattended. Occasional steps taken at the concerns raised by the WTO members, especially at the Mongolia' Trade Policy Review exercises (2005, 2012 and 2021), were not sufficient and comprehensive to fulfil our commitments.

Even after almost 25 years after its accession, Mongolia is still looking for an integrated approach and an all-inclusive, stable mechanism for dealing with the WTO and its commitments and obligations. The WTO members call also for improvement of consistency and efficiency.

MAIN POINTS RAISED BY MEMBERS IN THEIR STATEMENTS DURING THE TRADE POLICY REVIEW OF MONGOLIA (17 March, 2021)

Chairperson's remarks:

- Mongolia's economy remained heavily reliant on a few sectors and its trade was concentrated in terms of products and markets, thus Members felt that there was a strong need to diversify.
- It was noted that Mongolia had concluded its first FTA with Japan and had recently implemented the Asia-Pacific Trade Agreement (APTA). Furthermore, it was examining possibilities for future free trade agreements.
- Mongolia benefitted from a number of GSP programs from other Members that could help in diversifying its exports.
- Multilateral Trading System
 - the Asian Group of Developing Countries
 - the Group of Landlocked Developing Countries
- Mongolia's ratification of the Trade Facilitation Agreement, its support of the Buenos Aires Declaration on Women's Economic Empowerment
- encouraged Mongolia to become a party to the WTO's Agreement on Government Procurement in the near future.
- Frequent amendments of investment laws and regulations were seen as unpredictable and created an unstable environment.
 - need to enhance regulatory certainty,
 - reduce investment risk,
 - improve transparency and the business environment,
 - create a level playing field for foreign investors.
- difficulties with Mongolia's customs clearance and inspection procedures.
- SPS regime is lacking alignment with international SPS standards and to make improvements
- Import quotas on certain agricultural products were seen as problematic
 - inconsistency with WTO obligations
- The regulatory framework and new laws proposed on alcoholic beverages were also of concern; and at least one Member referred to disruption to trade flows over mandatory enrichment standards for wheat flour.
- good governance, improving transparency and the legal environment
 - government procurement, investment laws and regulations,
 - regulatory and legislative processes,
 - permits and licensing processes for imported goods.
 - Securing an independent judiciary
 - upholding the rule of law.
- Outstanding Notifications
 - on agriculture, customs valuation,
 - quantitative restrictions,
 - subsidies,
 - import licensing
 - improve transparency in its trade policies and practices through notifications
- were consistently noted as being outstanding.

CONCLUDING REMARKS

An acceding country should not shy away from using all possible technical assistance of development partners (like UNDP, ESCAP, UNCTAD, the World Bank, the ADB and the EBRD) and its major trading partners in pre-accession and post-accession exercises related to the WTO.

Mongolia today still benefits from bilateral assistance like the EU's Aid for Trade with the aim to help developing countries better integrate into the international trading system and take greater advantage of the poverty-reducing benefits of economic openness and enhanced trade efficiency.

CONCLUSION

Thank you!

ALL THE BEST!

You may, later, ask questions at
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