



## COMMENTARY

# Uzbekistan and the World Trade Organization

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Uzbekistan is actively pushing to achieve WTO membership after what will have been the longest accession negotiations ever. Uzbekistan's application to join the WTO dates from December 1994 but became dormant in the 2000s while still at a fairly early stage. After President Karimov died in August 2016, the process was reactivated by his successor, President Shavkat Mirziyoyev. The lengthy break was related to Karimov's inward-looking and interventionist economic development strategy and the revival after 2016 is associated with Mirziyoyev's more outward-oriented strategy. This paper analyses the evolution of Uzbekistan's application and the evolution of the WTO over this period. The answer to the question of whether Uzbekistan will, or should, join the WTO depends on the commitment to economic reform. If the government is serious about replacing dependence on resource exports by a more diversified competitive economy, then Uzbekistan will achieve and benefit from WTO membership. If the economy remains resistant to fundamental reform, then accession will be difficult and of little value if it happens.

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On 7 July 2020 the working party on Uzbekistan's accession to the World Trade Organization (WTO) met for the first time since October 2005. Sardor Umurzakov, Deputy Prime Minister and Minister of Investments and Foreign Trade of Uzbekistan, said that accession to the WTO is 'an absolute priority' and 'an integral part of the ongoing reforms aimed at further integration of Uzbekistan into the world economic community and the multilateral trading system.'

In December 1994, Uzbekistan was the first Central Asian country to apply to join the World Trade Organization (WTO). Negotiations lapsed after a few years, which was not uncommon, with the exception of Kyrgyzstan (**Table 1**). Nevertheless, Uzbekistan stands out potentially as the country which will have had the longest delay between application and WTO membership of any country in the world. This Commentary asks why Uzbekistan's road to WTO membership has been so long and what needs to be done to complete the process.

**Table 1:** Status of WTO Accession Negotiations.

	<b>Applied</b>	<b>Member</b>
<b>Kazakhstan</b>	January 1996	November 2015
<b>Kyrgyzstan</b>	February 1996	December 1998
<b>Tajikistan</b>	May 2001	March 2013
<b>Turkmenistan</b>	*	
<b>Uzbekistan</b>	December 1994	
<b>China</b>	July 1986	December 2001
<b>Russian Federation</b>	June 1993	August 2012

Source: www.wto.org.

\* Turkmenistan, the last of the fifteen former Soviet republics to seek a relationship with the WTO. In July 2020 Turkmenistan obtained observer status with the intention of initiating accession negotiations before 2025.

## 1. Uzbekistan's Long and Winding Road to the WTO

Uzbekistan's WTO accession process has been strongly influenced by domestic economic and political developments. After the shocks surrounding dissolution of the USSR in December 1991, creation of the national currency was followed by a conventional macroeconomic package in the second half of 1994. Uzbekistan emerged as a reform leader in Central Asia, and WTO accession negotiations began in December 1994. Everything changed in October 1996, when the Uzbek government reacted to declining receipts from cotton exports by imposing foreign exchange controls. Restricting access to foreign currencies with which to pay for imports was a fundamental breach of WTO principles.

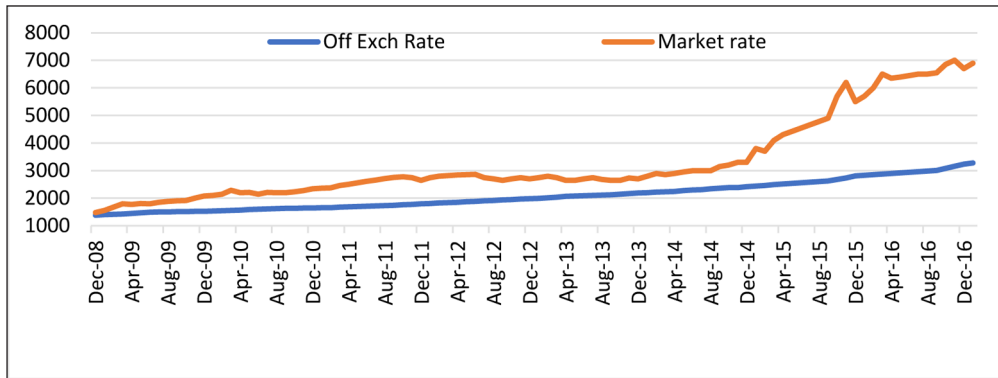
In the early 2000s the government discussed easing the forex controls but was never willing to take decisive steps towards making the currency freely convertible. In 2003, the government's announcement of the end of forex controls was followed by a number of workshops and other projects to analyse the impact of WTO accession (Normatov, 2018). However, despite recommendations to include WTO accession in a program of economic reform, the government tightened exchange controls and WTO negotiations lapsed after 2005. The black-market premium on foreign exchange widened to around 50% by 2012 and, after the resource boom ended in 2014, the premium exploded (**Figure 1**). In sum, despite statements of intent to remove foreign exchange controls, forex liberalisation did not occur during the presidency of Islam Karimov.

The death of President Karimov in August 2016 and Shavkat Mirziyoyev's victory in the December 2016 presidential election raised hopes of substantial economic reform. In September 2017, Mirziyoyev made the *som* fairly freely convertible, eliminating the most important obstacle to trading under WTO rules.<sup>1</sup> After years when nothing more than the briefest information documents appeared on the WTO website, reports of serious negotiations began to reappear after April 2019.

## 2. Meanwhile in Geneva

The WTO succeeded the General Agreement on Trade and Tariffs (GATT) on 1 January 1995, coinciding with Uzbekistan's application for membership. The 1947 GATT was a short

<sup>1</sup> The official value of the *som* fell by half, closing the black-market premium. Residual foreign exchange controls were not eliminated until August 2019 when the exchange rate fell to 9,300 UZS/USD.



**Figure 1:** Exchange rate, soum/USD December 2008–December 2016.

*Source:* Ben Slay, private correspondence (Pomfret 2019: 113), based on Central Bank of Uzbekistan data and UNDP (United Nations Development Programme) calculations.

document focused on transparency and non-discrimination, establishing that tariffs should be the main instrument of trade policy (not to be substituted by less transparent measures with similar effect) and limiting countries' ability to increase tariffs. GATT contracting parties could reduce tariffs with less fear that trading partners would take advantage by increasing their tariffs. The GATT had a small secretariat in Geneva to keep records and organise meetings.

The most visible GATT activities were rounds of multilateral trade negotiations. The early rounds consisted of bilateral tariff negotiations between principal suppliers of goods; the non-discrimination principle meant that any tariff reductions would apply to imports from all GATT contracting parties. Starting with the 1964–7 Kennedy Round, multilateral negotiations led to more general tariff reductions and in the 1973–9 Tokyo Round this strategy was applied to non-tariff barriers. Finally, the 1986–94 Uruguay Round brought in previously excluded sectors (agriculture, and textiles and clothing), continued the regulation of non-tariff barriers to trade, and introduced a General Agreement on Trade in Services (GATS).

In contrast to the short agreement signed in 1947, the Final Act of the Uruguay Round was 550 pages long, reflecting an extensive body of world trade law. The GATT secretariat was replaced by the World Trade Organization on 1 January 1995. A dispute settlement mechanism gave teeth to world trade law; in early cases brought by Venezuela against the USA and by Ecuador against the EU, the large trade partner accepted the ruling against them and changed the practice that had been challenged. The point was that all countries, large or small, accepted the validity of WTO law and the desirability of upholding it.

The GATT was a success story. In 1947, 23 countries signed the GATT; 123 countries negotiated the Uruguay Round. The small secretariat, decision-making by consensus and slow but steady progress on trade liberalisation led to accumulation of a strong, acceptable framework for international trade. However, the structure was anachronistic by 1995.

WTO membership involves commitment to the body of trade law, based on transparency and non-discrimination, that was established between 1947 and 1994 and consolidated in the Final Act of the Uruguay Round. Each member lodges schedules of tariffs and major NTBs (non-tariff barriers) that can only be increased under specific conditions. The most important of these conditions are remedies for unfair practices: antidumping duties (AD) to counter predatory pricing and countervailing duties (CVDs) to offset subsidies received by exporters. Additionally, members agree to abide by codes and other agreements.

The distinction between the WTO and the GATT is important, even though it is often obscured by media coverage which highlights the failing Doha Round negotiations rather than the increasing trade flows or the dispute resolution cases. The contrast between the GATT and WTO eras also reflects the changing trade landscape as tariffs declined and subsidies, taxation and discriminatory regulations became the main sources of trade frictions. Such issues are less amenable to multilateral trade negotiations than tariff reduction or identification of major non-tariff barriers. They are better suited to judicial processes based on WTO trade law, although the problem remains of how to revise the laws when proven unsatisfactory or when new areas require governance.

The smaller Soviet successor states joined the WTO fairly quickly (Kyrgyzstan in 1998, Latvia and Estonia in 1999, Georgia in 2000, Lithuania and Moldova in 2001, Armenia in 2003). For a small open economy, the optimal tariff is zero and these states were not giving up much when they agreed to bind their tariffs at low levels and forswear use of non-tariff barriers to trade. The larger economies, including Uzbekistan, adopted a wait-and-see approach. The benefits of WTO membership were obscured during the resource boom; the WTO is irrelevant for trade in oil and gas or most minerals, in which few importing countries want to restrict trade. As the resource boom ended and governments considered export diversification, WTO accession became more attractive. Russia joined the WTO in 2012, Tajikistan in 2013 and Kazakhstan in 2015, leaving Uzbekistan, Belarus, Azerbaijan and Turkmenistan as the remaining non-members among Soviet successor states.

### **3. Is the WTO Still Relevant?**

Street demonstrations in Seattle in 1999 reflected a backlash against globalization and the role of the WTO. Over the next fifteen years there were frequent signs of the presence of anti-globalist forces, as populist parties gained a minor but increasing share of votes in elections around the world. The most significant was Donald Trump's victory in the 2016 US presidential election.

The membership of, especially, China and to a lesser degree Russia and other formerly centrally planned economies that retain strong interventionist proclivities has been perceived as a serious challenge to the WTO's functioning. Although concerns about how to deal with subsidies and state-owned enterprises and about weak protection of intellectual property rights in China predated the 2016 US presidential election, President Trump sharpened US criticisms of China and castigated the WTO for failing to address Chinese trade practices. In 2018-19, criticism turned to concrete action as the USA vetoed replacement of members of the WTO appellate body, so that by the end of 2019 the WTO dispute settlement process was nullified.

Nevertheless, apart from the USA, most members emphasise the desirability of trading according to WTO rules (Levy and Bown, 2020). If the dispute settlement mechanism is inoperative due to lack of an appellate body, then alternative mechanisms must be found. Of course, world trade law will be weakened by the absence of the world's largest economy, but it is still a valuable public good if observed by 163 countries. Amendment of the WTO charter should be tackled by negotiation rather than threats.

However, WTO rules can only be changed by consensus. At the 1996 ministerial meeting in Singapore, members identified four issues (trade facilitation, transparency in government procurement, trade and investment, and trade and competition) that had been omitted from the Final Act. The Doha Round was launched in 2001 to fix weaknesses in current WTO agreements and bring the Singapore issues into world trade law. Two decades later, the only achievement has been a rather weak Trade Facilitation Act.

Areas that scarcely existed in 1995, such as digital trade and e-commerce, should be brought into world trade law. In the absence of consensus, WTO members can adopt plurilateral agreements, which are not binding on members that do not sign them. The most successful plurilateral has been the 1996 Information Technology Agreement signed by 82 countries, who commit to eliminating tariffs on IT products covered by the Agreement. The countries involved include the high- and middle-income countries most involved in electronics global value chains (GVCs) who want to signal to GVC lead firms that components will not be subject to tariffs. In December 2015, over fifty WTO members concluded an expansion of the Agreement; ITA-2 covers an additional 201 products valued at over \$1.3 trillion per year. Interest in the plurilateral approach has increased since 2018, when a subset of WTO members commenced working on an e-commerce agreement. The proposal by 85 members should have been discussed in June 2020 but the ministerial meeting was postponed due to the COVID-19 pandemic. Opponents of plurilateral agreements express concern about undermining the universality of WTO trade law.

Despite caveats about difficulty of law-making by consensus and enforcing laws without a police force, the WTO has proven popular in that almost all countries accept that it is better to be inside the organisation than not. Since 2016, the WTO has 164 members and 24 observers, who are at various stages of negotiating accession; the only UN members with no relation to the WTO are North Korea, Eritrea and several microstates. This almost universal membership is important for establishing trade rules that are accepted across the globe.

#### 4. Uzbekistan's WTO Accession

The WTO aspires to universal membership. Any state or customs territory having trade policy autonomy may join the WTO, but existing members must agree on the terms of accession. After a country applies for membership, the accession process involves four steps, primarily intended to ensure compatibility between the applicant's policies and WTO rules and principles.

In the first step, the applicant government submits a factual description of all aspects of its trade and economic policies that have a bearing on WTO agreements. The Memorandum on the Foreign Trade Regime (MFTR) is examined by a Working Party whose chair is appointed by the WTO (in Uzbekistan's case the Chair is from the Republic of Korea, currently Ambassador Ji-ah Paik) and whose membership is open to any WTO member. Questions about the MFTR can be extensive, for instance in Tajikistan's case they numbered over 1,300 (Jekic, 2019).<sup>2</sup>

When the Working Party has made sufficient progress on principles and policies, parallel bilateral talks begin between the applicant and individual countries. They are bilateral because different countries have different trading interests. The talks cover tariff rates and specific market access commitments, and other policies in goods and services. The new member's eventual commitments will apply equally to all WTO members.

In March 2020, Uzbekistan circulated responses to Working Party members' questions about the MFTR. After consulting with other members, the Chair scheduled a Working Party meeting for 7 July 2020. Once agreement has been reached on the MFTR and the parallel bilateral market access negotiations are complete, work will begin on drafting the Working Party Report. The final package, consisting of the Report, a draft membership treaty ('protocol of accession') and lists ('schedules') of the applicant's commitments, is presented to the WTO

<sup>2</sup> Uzbekistan's MFTR was presented in September 1998 and written answers to questions from WTO members were prepared. The Working Party met three times between 2002 and 2005. When the accession process was reactivated a new Memorandum was submitted in July 2019.

General Council or the Ministerial Conference. If WTO members vote in favour, the applicant can sign the protocol and join the WTO.

The starting point for negotiations is that the applicant must accept the pre-existing WTO multilateral agreements. The WTO Charter is centred on the GATT as modified up to 1994 and the GATS. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and Agreement on Technical Barriers to Trade (TBT) are codes requiring standards of proof for introducing regulations that may negatively impact trade but also have justification in terms of health, safety, environmental protection, etc. Other multilateral agreements focus on import licensing procedures, on implementation of GATT articles on antidumping and subsidies and countervailing duties and on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as well as more specific agreements on customs valuation, pre-shipment inspection, rules of origin and safeguards. However, there is considerable room for negotiation on bound tariff rates and on exemptions and exclusions from GATS, TRIPS and other agreements.

Although WTO members may request reduction of what they consider to be excessive trade barriers, the applicant has bargaining room to maintain tariffs that it considers important. Tajikistan, for example, agreed to an average bound rate of 10.4% on agricultural goods and 7.6% on manufactured goods, which included higher duties on strategic agricultural goods (such as dried fruits 15–20%, honey 20%, fresh fruits and vegetables 20–23%, alcoholic products 18–23%) and industrial goods (including textiles 20%, shoes 20–30%, carpets 30%, tobacco products 18%), as well as to permissible support for agriculture up to 8% of GDP (Jekic, 2019).

The Working Party may also raise questions about other trade-related policies (for example, foreign exchange and payments, balance-of-payment measures, investment regime, state ownership and privatisation, and pricing policies) and about institutions (e.g. the structure and powers of all levels of government, public administration and judicial review). State-owned enterprises with explicit or implicit subsidies will come under scrutiny during the accession process. The Uzbek government has already begun reform of the car industry by reducing support for the monopoly producer, *Uzavtosanoat*, and encouraging entry by foreign producers (O'Casey, 2018; Umirdinov and Turakulov, 2019). The applicant may choose to sign plurilateral agreements, but these are not binding on WTO members.

Apart from the detailed bilateral negotiations on tariff bindings and pre-existing trade barriers, accession negotiations may include commitments on status for special and differentiated treatment (S&D treatment) or as a market economy. WTO members accept the United Nations definition of 'least-developed countries' but the category of 'developing country' is not defined, even though special treatment for developing countries is included in, for example, the 2017 Trade Facilitation Agreement and the proposed plurilateral agreement on e-commerce. Non-market economy status is determined by the importer in an AD (anti-dumping) case and allows discretion in how benchmark prices are constructed if the exporter's domestic prices are considered artificial. An applicant might seek commitments that it will be treated as a developing country and will not be considered a non-market economy. Status as a developing country and as a market economy are worth seeking but the future situation is unstable.<sup>3</sup>

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<sup>3</sup> S&D treatment is controversial because it undermines the universal application of WTO trade law. Some countries consider it unfair that major trading nations like China qualify for special treatment. Conversely, China considers non-market status to be an excuse for discretionary resolution of AD cases in favour of domestic interests.



## 5. Conclusions

Under President Karimov, Uzbekistan had a controversial economic record. After a brief period of market-oriented reform in 1994–6, economic policy featured gradual change and pervasive government intervention; the president saw little reason to pursue WTO membership. Following Karimov's death in 2016, President Mirziyoyev mended bridges with neighbours and worked to improve international economic relations. In September 2017, he implemented the crucial liberalisation of foreign exchange markets. Other reform measures are less spectacular and harder to evaluate, but they reinforce appearances that a revived WTO application is likely to succeed.

Negotiations take time because the WTO in the 2020s is less about agreeing on the height of barriers to trade than about ensuring a level playing field. WTO members will expect Uzbekistan to abolish many measures used to help particular sectors or even individual producers. At the same time, Uzbekistan can take the opportunity to negotiate exemptions from WTO regulations and codes that are not in its national interest, e.g. where health, safety or environmental reasons for exclusion are strong.

If Uzbekistan is as committed to reform as President Mirziyoyev claims, then the path to WTO membership will be easier and WTO membership will benefit the reformed economy. With a positive domestic environment, WTO membership signals a commitment to abide by accepted world trade law and helps to ensure that a country can reap benefits from specialisation and trade with diminished fear of protectionist responses in foreign markets. WTO accession also signals a commitment to good policies and good governance that helps traders and makes foreign direct investment, as well as domestic investment, more attractive.

## Competing Interests

The author has no competing interests to declare.

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