

VIETNAM'S TRADE LIBERALIZATION AND ACCESSION TO THE WTO

By

Vu Van Hoa

THESIS

Submitted to

School of Public Policy and Management, KDI

In partial fulfillment of requirements for the degree of

MASTER OF PUBLIC POLICY

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ABSTRACT

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The doi moi (renovation policy) that Vietnam adopted in the late 1980s has led to high growth and more openness in the economy. However, for further sustainable development of the country, Vietnam should accelerate the pace of integration into the world economy, and becoming the member of WTO is an important step for Vietnam in this integration process.

The purpose of this thesis is aimed at (i) understanding the WTO principles and agreements and based on that to draw implications for Vietnam's trade liberalization; (ii) finding the answer for the question why the accession process is so time-consuming, what accession procedures are required, especially for a country in transition like Vietnam; and (iii) Reviewing what Vietnam has achieved in trade liberalization process and what are the challenges/problems remained to be solved with a view to become a WTO member; and (iv) Proposing relevant conclusions and recommendations for Vietnam's further trade liberalization and WTO accession.

Dedicated to my wife Nguyen Thanh Tam

And my daughter Vu Dieu Linh

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PART I. INTRODUCTION

1.1. The Background and Purpose of the Thesis

While Asia's financial crisis has left many questioning the wisdom of unrestrained capital flows and liberalization of domestic financial markets without adequate prudential regulation, the case of free trade and openness remains intact. In a global trading environment, minimizing protection of its domestic market will maximize the prosperity of any single country and opportunities available to its people. There are many experiences showing that countries open to trade grow faster, and that lowering trade barriers delivers economic growth as inefficiencies and distortions are eliminated.

In the literature, overwhelming academic research has shown that more open trade leads to a higher rate of growth also in the long run, and that countries with a higher level of trade distortions have lower productivity growth than those with fewer trade distortions. So more openness and freer trade is clearly good for productivity growth and for strengthened competitiveness.

The doi moi (renovation policy) that Vietnam adopted in the late 1980s has led to high growth and more openness in the economy. However, for further sustainable development of the country, Vietnam should accelerate the pace of integration into the world economy, and becoming the member of WTO is an important step for Vietnam in this integration process.

The purpose of this thesis is aimed at (i) understanding the WTO principles and agreements and based on that to draw implications for Vietnam's trade liberalization; (ii)

finding the answer for the question why the accession process is so time-consuming, what accession procedures are required, especially for a country in transition like Vietnam; and (iii) Reviewing what Vietnam has achieved in trade liberalization process and what are the challenges/problems remained to be solved with a view to become a WTO member; and (iv) Proposing relevant conclusions and recommendations for Vietnam's further trade liberalization and WTO accession.

1.2. Organization of Thesis

The Part II provides an overview of the WTO. This part is divided into 3 major subsections. In first subsection, basic knowledge such as history and evolution, purposes and functions, principles and agreements, as well as the organization of the WTO are provided. The second subsection discusses procedures of WTO accession. Here general procedure, including relevant WTO provisions dealing with accession and detail accession process guidelines are provided and discussed. Also in this subsection, procedure and status for countries in transition, experiences of other transitional countries in acceding to the WTO are discussed with a view to draw relevant experience lessons for Vietnam. The third subsection of Part II provides general implications for Vietnam in light of the WTO principles and agreements.

Part III of the current thesis is about trade liberalization process in Vietnam. In this part, the main issues such as the role and importance of trade liberalization in Vietnam's development strategy; Changes in trade policy since Doi moi (Renovation Policy); Trade performance in recent years; Vietnam current integration program (multilateral arrangements: AFTA, APEC and bilateral: with EU and US) and its relevant

to the WTO principles are discussed. Part III also points out challenges/problems that have to be solved in Vietnam trade liberalization process.

Finally, the thesis is completed with Part IV on conclusions and recommendations. It summarizes what have been done and what should be done with a view to accelerate trade liberalization as well as to become a WTO member for Vietnam. Based on the WTO principles/agreements and requirements, concrete actions for Vietnam's accession are also recommended.

PART II. OVERVIEW OF THE WTO

2.1. The WTO in Brief¹

2.1.1. History and Evolution of the WTO

WTO (World Trade Organization) is one of the youngest of the international organizations, it was established as a successor to the GATT (General Agreement on Tariffs and Trade) in 1995. So while the WTO is still young, the multilateral trading system that was originally set up under GATT is already 50 years old.

WTO is the only international body dealing with the principles of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations. These documents provide the legal ground-principles for international commerce. They are essentially contracts, binding governments to keep their trade policies within agreed limits. Although negotiated and signed by governments, the goal is to help producers of goods and services, exporters, and importers conduct their business.

The system was developed through a series of trade negotiations, or rounds, held under GATT. The first rounds dealt mainly with tariff reductions but later negotiations included other areas such as anti-dumping and non-tariff measures. The latest round — the 1986–94 Uruguay Round — led to the WTO's creation.

¹ This part is mainly based on official documents of WTO such as WTO (a), WTO(e), WTO (f), WTO(g), WTO(i) and Ahn (2000).

The negotiations did not end there. Some continued after the end of the Uruguay Round. In February 1997 agreement was reached on telecommunications services, with 69 governments agreeing to wide-ranging liberalization measures that went beyond those agreed in the Uruguay Round.

In the same year 40 governments successfully concluded negotiations for tariff free trade in information technology products, and 70 members concluded a financial services deal covering more than 95% of trade in banking, insurance, securities and financial information.

At the May 1998 ministerial meeting in Geneva, WTO members agreed to study trade issues arising from global electronic commerce.

The 1999 ministerial conference held in Seattle, United States was unsuccessful. The failure of this conference was mainly due to the lack of transparency in the decision-making mechanism leading to the fact that many developing countries could not participate in important negotiations; due to the strict requirements by the United States on environmental and labor standards; and no commitments on liberalization of agriculture by EU (European Union) and Japan.

2.1.2. Main Purposes of the WTO

The system's overriding purpose is to help trade flow as freely as possible —so long as there are no undesirable side effects. That partly means removing obstacles. It also means ensuring that individuals, companies and governments know what the trade principles are around the world, and giving them the confidence that there will be no sudden changes of policy. In other words, the principles have to be “transparent” and predictable.

Because the agreements are drafted and signed by the community of trading nations, often after considerable debate and controversy, one of the WTO's most important functions is to serve as a forum for trade negotiations.

A third important side to the WTO's work is dispute settlement. Trade relations often involve conflicting interests. Contracts and agreements, including those painstakingly negotiated in the WTO system, often need interpreting. The most harmonious way to settle these differences is through some neutral procedure based on an agreed legal foundation. That is the purpose behind the dispute settlement process written into the WTO agreements.

2.1.3. The WTO Principles and Agreements

2.1.3.1 Principles of the Trading System

The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. They deal with: agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards, food sanitation regulations, intellectual property, and much more. But a number of simple, fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system, they can be summarized as follows:

a) Trade without discrimination

Most-favoured-nation (MFN): treating other people equally Under the WTO Agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favour (such as a lower customs duty rate for one of their products) and you have to do the same for all other WTO members.

This principle is known as most-favoured-nation (MFN) treatment. It is so important that it is the first article of the General Agreement on Tariffs and Trade (GATT), which governs trade in goods. MFN is also a priority in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4), although in each agreement the principle is handled slightly differently. Together, those three agreements cover all three main areas of trade handled by the WTO.

Some exceptions are allowed. For example, countries within a region can set up a free trade agreement that does not apply to goods from outside the group. Or a country can raise barriers against products from specific countries that are considered to be traded unfairly. And in services, countries are allowed, in limited circumstances, to discriminate. But the agreements only permit these exceptions under strict conditions. In general, MFN means that every time a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all its trading partners —whether rich or poor, weak or strong.

b) National treatment: Treating foreigners and locals equally Imported and locally produced goods should be treated equally —at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. This principle of “national treatment” (giving others the same treatment as one’s own nationals) is also found in all the three main WTO agreements (Article 3 of GATT, Article 17 of GATS and Article 3 of TRIPS), although once again the principle is handled slightly differently in each of these. National treatment only applies once a product, service or item of intellectual

property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment even if locally-produced products are not charged an equivalent tax.

c) Freer trade: gradually, through negotiation

Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customs duties (or tariffs) and measures such as import bans or quotas that restrict quantities selectively. From time to time other issues such as red tape and exchange rate policies have also been discussed. Since GATT's creation in 1947-48 there have been eight rounds of trade negotiations. At first these focused on lowering tariffs (customs duties) on imported goods. As a result of the negotiations, by the late 1980s industrial countries' tariff rates on industrial goods had fallen steadily to about 6.3%. But by the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property. Opening markets can be beneficial, but it also requires adjustment. The WTO agreements allow countries to introduce changes gradually, through "progressive liberalization". Developing countries are usually given longer to fulfill their obligations.

d) Predictability: through binding

Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives businesses a clearer view of their future opportunities. With stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition —choice and lower prices. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

In the WTO, when countries agree to open their markets for goods or services, they “bind” their commitments. For goods, these bindings amount to ceilings on customs tariff rates. Sometimes countries tax imports at rates that are lower than the bound rates. Frequently this is the case in developing countries. In developed countries the rates actually charged and the bound rates tend to be the same.

A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. One of the achievements of the Uruguay Round of multilateral trade talks was to increase the amount of trade under binding commitments. In agriculture, 100% of products now have bound tariffs. The result of all this: a substantially higher degree of market security for traders and investors.

The system tries to improve predictability and stability in other ways as well. One way is to discourage the use of quotas and other measures used to set limits on quantities of imports —administering quotas can lead to more red-tape and accusations of unfair play. Another is to make countries’ trade principles as clear and public (“transparent”) as possible. Many WTO agreements require governments to disclose their policies and practices publicly within the country or by notifying the WTO. The regular surveillance of national trade policies through the Trade Policy Review Mechanism provides a further means of encouraging transparency both domestically and at the multilateral level.

e) Promoting fair competition

The WTO is sometimes described as a “free trade” institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other

forms of protection. More accurately, it is a system of principles dedicated to open, fair and undistorted competition.

The principles on non-discrimination —MFN and national treatment —are designed to secure fair conditions of trade. So too are those on dumping (exporting at below cost to gain market share) and subsidies. The issues are complex, and the principles try to establish what is fair or unfair, and how governments can respond, in particular by charging additional import duties calculated to compensate for damage caused by unfair trade.

Many of the other WTO agreements aim to support fair competition: in agriculture, intellectual property, services, for example. The agreement on government procurement (a “plurilateral” agreement because it is signed by only a few WTO members) extends competition principles to purchases by thousands of “government” entities in many countries. And so on.

f) Encouraging development and economic reform

It is widely recognized by economists and trade experts that the WTO system contributes to development. It is also recognized that the least-developed countries need flexibility in the time they take to implement the agreements. And the agreements themselves inherit the earlier provisions of GATT that allow for special assistance and trade concessions for developing countries.

Over three quarters of WTO members are developing countries and countries in transition to market economies. During the seven and a half years of the Uruguay Round, over 60 of these countries implemented trade liberalization programs autonomously. At

the same time, developing countries and transition economies were much more active and influential in the Uruguay Round negotiations than in any previous round.

At the end of the Uruguay Round, developing countries were prepared to take on most of the obligations that are required of developed countries. But the agreements did give them transition periods to adjust to the more unfamiliar and, perhaps, difficult WTO provisions —particularly so for the poorest, “least-developed” countries. A ministerial decision adopted at the end of the round gives least developed countries extra flexibility in implementing WTO agreements. It says better-off countries should accelerate implementing market access commitments on goods exported by the least-developed countries, and it seeks increased technical assistance for them.

2.1.3.2. *The WTO Agreements*

Chart 1: The Basic Structure of the WTO Agreements

	Goods	Services	Intellectual Property	Disputes
<i>Basic Principles</i>	GATT	GATS	TRIPS	Dispute Settlement
<i>Additional Details</i>	Other Goods Agreements and Annexes	Services Annexes		
<i>Market Access Commitments</i>	Countries' Schedules of commitments	Countries' Schedules of commitments (and MNA exemptions)		

Source: WTO (a), *Introducing the WTO*.

a) *Three-part broad outline*

The agreements for the two largest areas of trade —goods and services —share a common three-part outline, even though the detail is sometimes quite different.

- They start with broad principles: the General Agreement on Tariffs and Trade (GATT) (for goods), and the General Agreement on Trade in Services (GATS). (The agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) also falls into this category although at present it has no additional parts.)
- Then come extra agreements and annexes dealing with the special requirements of specific sectors or issues.
- Finally, there are the detailed and lengthy schedules (or lists) of commitments made by individual countries allowing specific foreign products or service-providers access to their markets. For GATT, these take the form of binding commitments on tariffs for goods in general, and combinations of tariffs and quotas for some agricultural goods. For GATS, the commitments state how much access foreign service providers are allowed for specific sectors, and they include lists of types of services where individual countries say they are not applying the “most-favoured-nation” principle of non-discrimination.

Much of the Uruguay Round dealt with the first two parts: general principles and principles for specific sectors. At the same time, market access negotiations were possible for industrial goods. Once the principles had been worked out, negotiations could proceed on the commitments for sectors such as agriculture and services. Negotiations after the Uruguay Round have focused largely on market access commitments: financial services, basic telecommunications, and maritime transportation (under GATS), and information technology (under GATT).

b) Additional agreements

Two other groups of agreements not included in the diagram are also important: the agreement on trade policy reviews, and the two “plurilateral” agreements not signed by all members: civil aircraft and government procurement.

c) Specific sectors/Issues dealt with by WTO Agreements (Table 1)

Table 1: Specific sectors/Issues dealt with by WTO Agreements

For goods (under GATT)	For services (the GATS annexes)
<ul style="list-style-type: none">• Agriculture• Health regulations for farm products (SPS)• Textiles and clothing• Product standards (TBT)• Investment measures• Anti-dumping measures• Customs valuation methods• Preshipment inspection• Rules of origin• Import licensing• Subsidies and counter-measures• Safeguards	<ul style="list-style-type: none">• Movement of natural persons• Air transport• Financial services• Shipping• Telecommunications

Source: Extracted from WTO(i): “Trading into the Future – the Introduction to the WTO”.

It is important to note that WTO Agreements cover many aspects of goods and services to ensure the same market for members. The key exceptions at present involve farm products and textiles and clothing, which are subject to separate agreements involving some quantitative import restrictions still. However, even with these goods, better (including faster expanding) access can be negotiated bilaterally as part of acceding to the WTO. In general, an import tariff is the only measure that can be used to restrict market access. Moreover, that access is guaranteed through upper limits on those tariffs (called bindings). Typically, members have made commitments not just to cap them but also to phase down over time many of those bound tariff rates.

d) Dispute Settlement

The WTO's procedure for resolving trade disputes under the Dispute Settlement Understanding is vital for enforcing the rules and therefore for ensuring that trade flows smoothly.

Countries bring disputes to the WTO if they think their rights under the agreements are being infringed. Judgments by specially appointed independent experts are based on interpretations of the agreements and individual countries' commitments.

The system encourages countries to settle their differences through consultation. Failing that, they can follow a carefully mapped out, stage-by-stage procedure that includes the possibility of a ruling by a panel of experts, and the chance to appeal the ruling on legal grounds.

Under the WTO, any member country can challenge the governmental activities of other member countries. There is a unified and integrated system -- most of WTO Agreements are to be decided by the single dispute settlement body with two-level procedures: (i) Panel Procedures (ad hoc panel) and (ii) Appellate Body to hear an appeal. This dispute settlement mechanism provides quasi-automatic adoption of panel and Appellate Body decisions. With adoption, panel and Appellate Body decisions have legal binding power to be enforced. In case the losing party did not satisfactorily implement panel and Appellate Body recommendation, a winning party may get an authorization from the WTO to retaliate in an amount equivalent to the injury².

² This is different from GATT Dispute Settlement System, in which there was no Appellate Body to appeal; Consensus was required to establish a panel and to adopt the panel decision. With objection from a losing party, the panel decision is not adopted and thereby had no legal binding power (Ahn, op cit).

2.1.4. The Organization of the WTO

The WTO's overriding objective is to help trade flow smoothly, freely, fairly and predictably. It does this by: (i) Administering trade agreements; (ii) Acting as a forum for trade negotiations (iii); Settling trade disputes; (iii) Reviewing national trade policies; (iii) Assisting developing countries in trade policy issues, through technical assistance and training programs; and (iv) Cooperating with other international organizations.

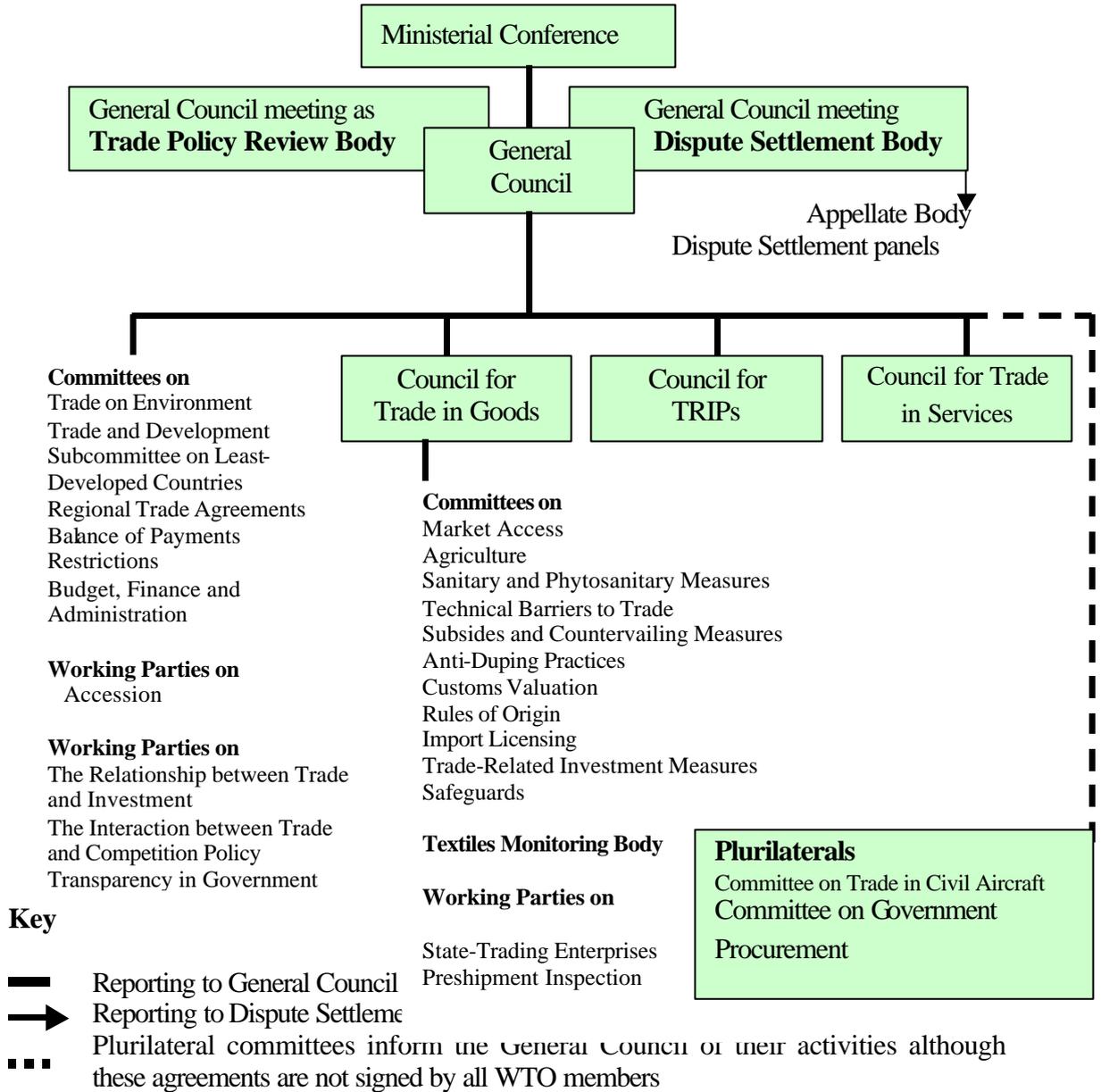
As of October 2000, The WTO has 136 members, accounting for over 90% of world trade. Over 30 others are negotiating membership.

Under the WTO, decisions are made by the entire membership. This is typically by consensus. A majority vote is also possible but it has never been used in the WTO, and was extremely rare under the WTO's predecessor, GATT. The WTO's agreements have been ratified in all members' parliaments.

The WTO's top-level decision-making body is the Ministerial Conference (see Chart 2), which meets at least once every two years. Below this is the General Council (normally ambassadors and heads of delegation in Geneva, but sometimes officials sent from members' capitals), which meets several times annually in the Geneva headquarters. The General Council also meets as the Trade Policy Review Body and the Dispute Settlement Body.

At the next level, the Goods Council, Services Council and Intellectual Property (TRIPS) Council report to the General Council.

Chart 2: WTO Structure



Source: WTO(i): "Trading into the Future – the Introduction to the WTO".

Numerous specialized committees, working groups and working parties deal with the individual agreements and other areas such as the environment, development, membership applications and regional trade agreements.

2.2. Accession Procedure

2.2.1. Relevant WTO Provisions

Article XII of the Marrakesh Agreement Establishing the World Trade Organisation deals with accession. The full text of this provision reads as follows:

- "1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.
2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.
3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement." [WTO (d) – WT/ACC/7/Rev.1].

Perhaps the most striking thing about WTO Article XII is its brevity. It gives no guidance on the "terms to be agreed", these being left to negotiations between the WTO Members and the applicant. Nor does it lay down any procedures to be used for

negotiating these terms, these being left to individual Working Parties to agree. These have evolved separately as will be seen in the next section of this paper. In this, it follows closely the corresponding Article XXXIII of GATT 1947.

A number of other WTO provisions are relevant to accession - for instance:

- Article XVI.1, lays down that "Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947";
- Article XII:2 states that "Decisions on accession shall be taken by the Ministerial Conference", Article IV:2 makes it clear that "In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council";
- Article IX deals with decision-making. On 15 November 1995 the General Council agreed to procedures regarding decision-making under Articles IX and XII of the WTO Agreement, which clarified the relation between these two provisions (WT/GC/M/8, page 6);
- Article XIII provides that:

"1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.

3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so

notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference." [WTO (b) - WT/ACC/1].

2.2.2. *The Accession Process*

(a) General Procedure

The organisation and pursuit of the accession negotiations in each Working Party follow a well-established pattern based on procedures set out in a note by the Secretariat, WT/ACC/1 [WTO (b)] of 24 March 1995.

WT/ACC/1 sets out the different stages in the accession process. It notes that the General Council considers applications to accede under WTO Article XII and the establishment of a Working Party. The Working Party first conducts a factual examination of the trade regime of the acceding government on the basis of a Memorandum presented by the acceding government and replies to questions from Members. The actual multilateral work commences with the submission of a Memorandum on the Foreign Trade Regime by the applicant government. At an appropriate moment, it moves on to negotiate the terms of accession, which relate to three main areas: WTO rules, on goods, TRIPS and services. When agreed, the Report of the Working Party, including a draft Decision and Protocol of Accession, is forwarded to the General Council. The Protocol, which contains a single package of agreed commitments on rules; concessions and commitments on goods; and specific commitments on services, sets out the terms on which the applicant is invited to join WTO. Following the General Council's adoption of the Report and approval of the draft Decision, the acceding government becomes a Member of the WTO thirty days after it accepts its Protocol of Accession.

It seems simple, however, in fact it is quite complicated and time consuming. The process of accession to the WTO can be divided into an introductory phase of formalities and three

substantive phases. The three substantive phases involve: (a) the applicant's preparation of a Memorandum on the Foreign Trade Regime (hereafter referred to as the "Memorandum") describing in detail its policies and institutions that have a bearing on the conduct of international trade; (b) the members' fact finding phase; (c) the negotiation phase.

After a country sends a letter to the Director General of the WTO expressing its desire in acceding to the Organization, the request is considered by the WTO General Council, which consists of representatives of all members and which meets frequently during the course of the year. The General Council routinely decides to set up a working party (WP) with appropriate terms of reference to consider the accession application and nominates its chairman³. Membership of WP is open to all members of the WTO. In the case of large countries such as China or Russia, a large number of countries participate, in the case of smaller countries, usually only the "quad" countries, Canada, EC, Japan and the US, plus Australia, New Zealand, Switzerland, a few of the larger trading developing countries as well as some neighbouring countries which are significant trading partners. This phase can be quite short.

The first substantive phase, involving the preparation of a *Memorandum* on the Foreign Trade Regime by the applicant explaining its policies and institutions, can be a very demanding task, because of the range of issues that the memorandum has to address and the degree of detail required. The issues include much more than simply trade in goods and services -- although the latter, which encompasses the financial sector, insurance, telecommunications, professional services etc. is a large task in and of itself. They range over various aspects of macroeconomic policy, especially related to foreign exchange management and controls, investment and competition policy, protection of intellectual and other property rights, as well as enterprise

³ Usually an Ambassador, permanent representative to the WTO of one of its members. Countries frequently request and obtain observer status at the WTO, which permits them to familiarize themselves with the institution and its procedures, prior to a formal request for accession.

privatization. The preparation of this report is the sole responsibility of the applicant -- and so are any delays in its preparation.

To the extent that the original Memorandum is done quickly but is incomplete in its details or the legislation and practices inconsistent with WTO provisions, the more protracted is the subsequent question and answer period. Sometimes, members have asked the WTO Secretariat to review draft Memoranda before their circulation so as to prevent incomplete documentation from being circulated. But the Secretariat does not assume any responsibility regarding the contents of the Memorandum.

Questions and Answers. Once the memorandum has been circulated to the WP members, the accession process enters the second and, in most cases, the most time consuming process, which consists of members asking questions and obtaining clarifications on the applicant's policies and institutions, either based on the memorandum or on independent evidence about the situation gathered by the members. The first part of the process involves the initial questions and answers regarding the policies and institutions based on the applicant's Memorandum. The Working Party typically does not meet until the Memorandum and the initial questions and answers have been distributed. It is followed by further questions and answers of clarification, which can take several working party meetings sometimes covering a period of several years. (Michalopoulos 1998).

(b) Procedure and status for countries in transition

The WTO treaties contain very few provisions regarding the countries in transition. The major exceptions are that such countries are given more time to implement GATT provisions regarding the elimination of export subsidies as well as the implementing legislation under Trade Related Intellectual Property Rights (TRIPS). Thus,

the major challenge faced by each country in the process of accession is to enact the laws, develop the institutions and apply the policies that would enable it to conform to the fundamental rules and disciplines of the WTO. This is a major challenge for countries in transition, which have to make fundamental changes in the laws, institutions and policies governing international trade.

Countries in transition have viewed membership in the World Trade Organisation, within which the rules for the conduct of international trade are set and administered, as essential to their full integration in the international economy. Accordingly, in the aftermath of the collapse of central planning and the breakup of the Soviet Union, most countries in transition, which were not members, applied to accede to the GATT and then the WTO. Those like Hungary, Poland and Romania, which had joined GATT under special Protocols, renegotiated them in the early 1990's and joined the WTO at its establishment. After a decade, except for countries in Central and Eastern Europe (CEE) three from the Former Soviet Union - Georgia, Kyrgyz Republic and Latvia- other countries in transition are still in different stages of accession to the WTO (see Table 2).

The processing is slow because (Michalopoulos C. 1999):

- Legislative requirements needed for accession are time-consuming;
- Candidate countries are weak institutionally and unfamiliar with the economic and legal issues to be addressed;
- The fact finding process is unnecessary cumbersome and time-consuming;
- Technical assistance to applicants in meeting the requirements for WTO accession is not effectively coordinated;
- Addressing the commercial interests of all members requires protracted negotiations.

Table 2: Timetable of Accessions to the WTO

Government	Date of WP Establishment	Date of Circulation of Memorandum	Date of Circulation of First Q&A	Draft WP Report	Report adopted by Council	Member-ship
Armenia	Dec 1993	Apr 1995	Sep 1995	Mar 1997		
Azerbaijan	Jul 1997	-	-			
Belarus	Oct 1993	Jan 1996	Jun 1997	-		
Estonia	Mar 1994	Mar 1994	Oct 1994	Nov 1998	May 99	Nov 99
Georgia	Jul 1996	Apr 1997	Sep 1997			
Kazakhstan	Feb 1996	Sep 1996	Jan 1997			
Kyrgyz Rep.	Apr 1996	Aug 1996	Jan 1997	Apr 1998	Oct 98	Dec 98
Latvia	Dec 1993	Aug 1994	Feb 1995	Dec 1996	Oct 98	Feb 99
Lithuania	Feb 1994	Dec 1994	Sep 1995	Jun 1997		
Moldova	Dec 1993	Sep 1996	May 1997	Jul 1999		
Russia	Jun 1993	Mar 1994	Jun 1995	-		
Ukraine	Dec 1993	Jul 1994	Feb 1995	-		
Uzbekistan	Dec 1994	-	-	-		
Albania	Dec 1992	Jan 1995	Sep 1995	Jul 1999		
Cambodia	Dec 1994	-	-	-		
China	Mar 1987	Feb 1987	Nov 1987	Dec 1994		
Croatia	Oct 1993	Jun 1994	Aug 1995	Apr 1999		
FYR Macedonia	Dec 1994	-	-	-		
Laos	Feb 1998	-	-			
Vietnam	Jan 1995	Oct 1996	Mar 1998	1999		
Algeria	Jun 1987	Jul 1996	Jul 1997			
Andorra	Oct 1997	-	-			
Nepal	Jun 1989	Feb 1990	Nov 1990			
Oman	Jun 1996	Oct 1996	Mar 1997			
Saudi Arabia	Jun 1993	Jul 1994	Nov 1995			
Seychelles	Jul 1995	Aug 1996	Jan 1997			
Sudan	Oct 1994	-	-			
Chinese Taipei	Sep 1992	Oct 1992	Mar 1993	Mar 1998		
Tonga	Nov 1995	-	-			
Vanuatu	Jul 1995	Nov 1995	May 1996			

Source: Drawn from WTO (WT/ACC/1), (WT/ACC/7/Rev. 1,2) and Michalopoulos C. (1999).

For countries in transition, there is an important provision to the application of non-discrimination rules. It is that the acceding country has completed bilateral negotiations with each WTO member and that each of those members consents to the accession of the new member. Otherwise, according to GATT Article XXV, a WTO member has right to deny MFN treatment (Ahn *op cit.*). The US and EU have designated many former centrally planned economies ‘non-market’ economies and use it to apply different, less transparent and potentially discriminatory practices in their determination of anti-dumping and their use of safeguards against imports from those economies. The US also has used it to link MFN access to freedom of immigration and other human right issues under section 402 of US trade law (the Jackson-Vanik Amendment of 1974 Trade Act).

2.3. WTO Principles and Implications for Vietnam

Becoming a WTO member can bring about both benefit and cost for Vietnam, it offers rights but with them come obligations; it provides new opportunities but also some challenges. Evidently the net benefits are overwhelmingly positive, given that 136 countries are members and more than 30 others have applied to join. To be an outsider of this trading system is a big disadvantage for Vietnam. To become a WTO member, as above described, there are many principles and principles to be met, entry conditions and formal procedures to be followed. Occasionally the principles and obligations upset political sensitivities because some groups within a country may lose a privilege (e.g., protection from import competition), but almost invariably those rules boost the overall economy of each WTO member. As summarized by Rodrick (1995), the general benefits that come from the freer trade those principles encourage include the following:

- Better allocation of national resources towards industries with the strongest comparative advantage;
- Enhanced learning and newer technologies from interacting more with the rest of the world;
- Greater flexibility, via trade for dealing with shock such as natural disasters; and
- Less wasteful rent-seeking lobbying activities by groups seeking government assistance and protection.

Three specific benefits of WTO membership are greater and more secure market access abroad for a country's exports, availability of a dispute settlement mechanism, and greater discipline at home in sound economic policy-making.

One the first if these, WTO principles, and particularly GATT Articles I and III, ensure that a member's exporters are entitled to non-discriminatory treatment by other WTO members in terms of their access to their markets. This is very important for Vietnam as a country in transition, being a WTO member ensures that it does not have to go to the United States government every year to plead for MFN status in US market. Nor can the US unilaterally impose tighter restrictions on access to another WTO member's exports for say, its own domestic political reasons: its tariffs must remain at or below the bound rates, and for each tariff item the tariff rate must be the same for all WTO members (Anderson 1998).

Secondly, if the member feels another member is not playing by the rules, it can challenge to the dispute settlement body for resolving the issue. Thanks to the Uruguay Round, the dispute settlement mechanism is now much stronger, faster, impartial, and binding than was the case under GATT prior to 1995. As a result, members are less inclined to bend or break WTO principles and, if they do, other members have reasonable

chance of bringing them back into line and/or being compensated. This ensures much greater security of access to markets for WTO members as compared with non-members.

And thirdly, Because WTO principles also apply to one's own policies; membership brings discipline to economic policymaking at home as well.

More specifically, Vietnam will be required to tariffy its non-tariff import restrictions, bind them, and agree to phasing down in those bound rates over time; to free up in services over time with specific commitments recorded in its schedules; to strengthen and enforce its intellectual property rights legislation; to reduce state support for enterprises; to limit any domestic support for agriculture (accept for R&D) and to enforce WTO principles uniformly and predictably.

All trade and trade-related policy measures must be notified to the WTO Secretariat. This adds to domestic policy transparency, making it more difficult for interest groups to be protected without detection. The WTO Agreements require Vietnam a single enquiry point where WTO members can seek information on policies covered by those agreements (e.g. TBT, SPS, TRIPs and GATS). Vietnam is also required to inform the WTO Secretariat each year if any significant policy changes occur, to provide statistical information annually in a set format, and to undertake with the Secretariat a comprehensive review of the member's trade and trade-related policies and practices (Anderson op cit.).

PART III. TRADE LIBERALIZATION PROCESS IN VIETNAM

3.1. The Role of Trade Liberalization in Vietnam's Development Strategy

The government of Vietnam has recognized that further trade liberalization is an integral part in the broader strategy for economic integration and development; and has identified the key elements of its economic reform agenda as follows (WB, ADB and UNDP, Vietnam Development Report 2001):

- Raising the efficiency and competitiveness of the economy;
- Stepping up reform of state enterprises;
- Creating a healthy financial system;
- Combining economic growth and cultural development to achieve social justice and progress and to protect the environment; and
- Ensuring agricultural and rural development.

Trade liberalization has a critical role in achieving these objectives. As in any country, macroeconomic management and trade, foreign investment, competition and regulatory policies shape the environment in which industrial restructuring occurs, along with the legal and administrative framework governing enterprise development. But Vietnam's transition to a market economy, the legacy of central planning and the extensive direct role of the state in industrial production mean that trade liberalization and industry policy reform are linked to almost every aspect of economic policy and state activity.

For these reasons, a realistic strategy for sustained economic growth has to encompass a wide range of concerns. It must emphasize pushing forward with the

transition to a market economy. Actions must be taken across a wide front, and these actions will be strongly interconnected, including (CIE, 1999):

- Industry policies, dealing with the main macro and microeconomic policies shaping the environment for decentralized decision making and the investment and production decisions of state and private enterprises;
- Enterprise development, covering the regulatory environment for enterprise formation and development, and the process of SOE divestiture and reform;
- Factor markets, dealing with actions required to promote development of efficient markets for land, labor and capital; and
- Institutional development issues addressing the need to foster development of market institutions, strengthen the legal framework for business transactions, and to create a sound and competitive financial sector to mobilize finance for industrial sector activities.

Trade and industry policy reform is central to the government's strategy for a number of reasons, related primarily to the role that open trade policies can play as a means of ensuring competitiveness and efficiency of resource allocation, and of disciplining enterprise investment and production decisions. This becomes apparent because international trade is as a technological process for transforming locally produced goods and services into goods and services made in other countries. It offers alternative way of supplying the goods and services that the Vietnamese people want to purchase.

Seen as a production technology, international trade also provides a benchmark for efficiency of local production. If local producers can produce at the same cost in local

resources and factors of production as it takes to acquire goods through trade, then they are using those resources efficiently. Conversely, if local producers can only generate adequate returns if prices are much higher than international prices, then there is a strong presumption that they are using resources inefficiently, and that those resources would generate greater benefits to the country if they were used in other activities.

Box 1: Comparative Advantage

What did the classical economist David Ricardo mean when he coined the term comparative advantage?

Suppose country A is better than country B at making automobiles and country B is better than country A at making bread. It is obvious (the academics would say “trivial”) that both would benefit if A specialized in automobiles, B specialized in bread and they traded their products. That is a case of absolute advantage.

But what if a country is bad at making everything? Will trade drive all producers out of business? The answer, according to Ricardo, is no. The reason is the principle of comparative advantage, arguably the single most powerful insight in economics.

According to the principle of comparative advantage, countries A and B still stand to benefit from trading with each other even if A is better than B at making everything, both automobiles and bread. If A is much more superior at making automobiles and only slightly superior at making bread, then A should still invest resources in what it does best —producing automobiles —and export the product to B. B should still invest in what it does best —making bread —and export that product to A, even if it is not as efficient as A. Both would still benefit from the trade. A country does not have to be best at anything to gain from trade. That is comparative advantage.

The theory is one of the most widely accepted among economists. It is also one of the most misunderstood among non-economists because it is confused with absolute advantage. It is often claimed, for example, that some countries have no comparative advantage in anything. That is virtually impossible.

Source: Adopted from WTO (a): Introducing the WTO.

3.2. Changes in Trade Policy since *Doi moi* (Renovation)

3.2.1. Key policy changes and developments

Changes in trade and foreign exchange policy, along with liberalization of controls on foreign investment, have been key features of the opening up of the Vietnamese economy since the introduction of *doi moi*. As a result of these changes, the trade regime—and Vietnam's trade performance—has undergone a significant transformation. The International Monetary Fund (IMF) described the pre-reform trade system in Vietnam as follows:

Before the reforms, foreign trade in Vietnam was subject to central decisions by the planning authorities and could be carried out only by a small number of state trading monopolies. Domestic prices were isolated from the influence of international prices through a complex system of multiple exchange rates and trade subsidies. Exports were discouraged through overvalued exchange rates and low procurement prices, while imports were impeded by an extensive system of quotas and licenses. Isolated from the world market, Vietnam relied heavily on its former CMEA partners to obtain basic commodities, such as petroleum products and fertilizers, while exporters were obliged to fulfill CMEA quotas (arranged through a system of government-to-government protocols) before they were allowed to export to the convertible currency area. (IMF 1996.)

To be able to identify ways of further trade liberalization and fulfil the requirements of becoming a WTO member, it is useful to summarize the evolution of the

current situation, based on that to evaluate what have been done and to make recommendations on what should be done.

The introduction in 1986 of *doi moi*, Vietnam's wide ranging process of economic restructuring, formally ushered in a period of profound changes in the institutional and policy environment for economic development. Fundamental changes in the underlying approach to economic management, and efforts to introduce the institutional underpinnings of a market-oriented economy, have been implemented in a relatively short period of time. The economy has responded impressively to these changes, and has weathered shocks, such as the collapse of the former Council for Mutual Economic Assistance and the withdrawal of Soviet support.

Some of the key elements of the restructuring and renovation process are listed in box 3.2. These structural changes have been associated with a strong stabilization effort, involving hardening state owned enterprise (SOE) budget constraints, increasing revenues and reducing expenditures, and controls over monetary expansion. This effort ended a long period of hyperinflation, and had a strong impact on confidence in the dong and in the emerging financial system. At the same time, the government has sought to cement Vietnam's entry into the multilateral and regional trading system and to regularize trading relationships on a bilateral basis.

Box 2: Key elements of the Restructuring and Renovation Process

- Reversal of the process of collectivization of agriculture, by granting individuals and families rights to land.
- Price liberalization, to eliminate the ‘two price’ system that prevailed under the old system, and removal of barriers to internal trade.
- Significant steps toward creation of a modern banking system, by splitting off the commercial banking functions of the State Bank of Vietnam, and facilitating the establishment of new foreign and domestically owned banking institutions.
- Partial liberalization of controls on foreign investment and international trade.
- Foreign exchange market reforms and shifting to a more market determined exchange rate system. Steps toward reform of the state owned enterprise system, through enterprise restructuring, introduction of new approaches for management and oversight and changing the relationship between SOEs and the budget and the financial sector. Formal acceptance of the role of the private sector, and creation of the legal framework for the functioning of a corporate sector.
- Budgetary reform, to change the basis of revenue raising to a more modern system of taxation, and adopt formalized expenditure planning and control systems.

Source: Adopted from Vietnam Trade Policy (CIE, 1998).

Regarding trade liberalization, initial steps were taken in the late 1980s⁴. Trade reforms gained momentum in early 1990s, slowed in the middle 1990’s and picked up steam again from 1998. Between 1991 and 1995, private firms were allowed to engage in foreign trade by obtaining a license, tariff exemptions were simplified, an inter-bank foreign exchange market was introduced, and quotas on exports were removed except for rice.

⁴ In 1988, the crucial step of abolishing the central government’s monopoly on trade and in reducing the customs tariff was taken. In 1989, quotas were removed on all but few export and several import commodities, the rates of export duties were reduced, the foreign exchange system was unified, and producers were allowed to sell to any licensed foreign trade company.

Since 1998 the trade regime has been opened up further. The most significant measure was freeing-up of trading rights for firms registered in Vietnam. These firms were allowed for the first time, to export and import goods directly without a license. This newly provided right for domestic firms encouraged significant participation of private firms in foreign trade. The domestic private sectors' share in the value of non-oil export rose from 12 percent in 1997 to 22 percent in mid-2000 and in import value, from 4 percent to 16 percent (see Table 3).

Table 3: Shares in Non-oil Exports and total Imports

	Non-oil Exports		Total Imports	
	1997	Mid-2000	1997	Mid-2000
State-owned enterprises	65	46	68	57
Foreign-invested enterprises	23	32	28	27
Domestic private SMEs	12	22	4	16
Total	100	100	100	100

Source: Ministry of Trade

Although *doi moi* had been preceded by a number of experiments with liberalizing the *domestic* economy (such as, the 1979 introduction of a contract system for agriculture and the legalization of 'fence-breaking' by SOEs), changes affecting Vietnam's interactions with *international* markets really only started in 1987 with the introduction of a new law on foreign investment.

Table 4 presents a chronology of some key changes in policies toward international trade and investment, and the foreign exchange system.

Table 4: Major Changes in Trade Policy since *Doi moi*

Year	Changes in Trade Policy	Other Reforms
1986		<ul style="list-style-type: none"> ▪ VI Party Congress declares beginning of <i>doi moi</i>
1987	<ul style="list-style-type: none"> ▪ Law on Foreign Investment — Introduction of ‘open door’ policy 	<ul style="list-style-type: none"> ▪ Land law establishes private use of allocated land in agriculture ▪ Creation of central treasury to execute the budget
1988	<ul style="list-style-type: none"> ▪ Foreign exchange control decree liberalizes retention of foreign exchange, opening of foreign currency accounts, use of transfers to pay for imports and repay foreign loans ▪ Devaluation of trade and invisible payments exchange rates ▪ Restrictions on establishment of foreign trading organization relaxed and central government monopoly of foreign trade terminated ▪ Law on Import and Export Duties introduces the customs tariff 	<ul style="list-style-type: none"> ▪ Creation of two-tier banking system ▪ Cooperative method of agriculture production abandoned in favor of households ▪ Farming households given long-term rights to use land for agricultural production ▪ Official policy of encouraging private enterprises
1989	<ul style="list-style-type: none"> ▪ Quotas removed on all but ten export and 14 import commodities (subsequently reduced to seven export and 12 import commodities) ▪ Requirement that SOEs fulfill CMEA export targets before exporting to convertible currency area removed ▪ Number of export commodities subject to duties reduced from 30 to 12 and most rates reduced ▪ Producers of exportables allowed to sell to any appropriately licensed foreign trade companies ▪ Number of import commodities subject to duties reduced from 124 to 80, range of rates expanded from 5-50 per cent to 5-120 per cent. ▪ Foreign exchange rate system unified ▪ All budgetary export subsidies removed 	<ul style="list-style-type: none"> ▪ Nearly all forms of direct subsidization of production and price control removed – end of ‘two price’ system. ▪ Domestic trading in gold legalized ▪ Ordinance on Economic Contracts establishes rights for legal entities to enter into contracts ▪ Bank interest rates made possible in real terms

Table 4: (Continued)

1990	<ul style="list-style-type: none"> ▪ Special sales taxes introduced ▪ Turnover tax and profit tax introduced ▪ Law Foreign Investment revised ▪ Special import duties imposed on selected goods such as mopeds and tourist vehicles ▪ General export-import companies required to register with regulatory organization for individual commodities ▪ Exports of certain commodities limited to member relevant exporters associations 	<ul style="list-style-type: none"> ▪ Law for State Bank and National Law on Banks, Cooperative Credit Institutions and Financial Institutions enacted, Prohibiting SBVN from commercial banking and empowering it as central bank ▪ Law on Private Enterprises establishes legal basis for establishment of sole proprietorships ▪ Law on Companies establishes legal basis for limited liability and shareholder business entities
1991	<ul style="list-style-type: none"> ▪ Foreign exchange trading floors opened at SBVN ▪ Regulation on setting up export processing zones (EPZs) promulgated ▪ Export duty on rice reduced from 10 per cent to 1 per cent ▪ Imported inputs used to produce exports exempted from duty ▪ Private companies allowed to directly engage in international trade 	<ul style="list-style-type: none"> ▪ Ordinance on Civil contracts establishes legal basis for most forms of contract ▪ Decrees establish rights of SOEs to manage assets, provide rule for SOE formation and initiate registration review which leads to major rationalization of SOE sector ▪ Agriculture Bank of Vietnam allowed to lend to households
1992	<ul style="list-style-type: none"> ▪ Harmonized system of tariff nomenclature introduction ▪ Foreign investment law amended to reduce discrimination in favor of joint-ventures against 100 per cent foreign-owned enterprises, and to introduce build-operate-transfer (BOT) concept for infrastructure projects ▪ Trade agreement signed European Union (EU) establishes quota on exports of textiles and clothing to EU and grants tariff preference on selected imports from EU 	<ul style="list-style-type: none"> ▪ New Constitution allows individuals to exercise property rights over income producing assets and personal property ▪ Pilot equitization program for SOEs introduced

Table 4: (continued)

1993	<ul style="list-style-type: none"> ▪ Export shipment licensing relaxed – six monthly licenses issued for 22 export commodities ▪ 90 day duty suspension system for inputs into export production introduced ▪ Tariff and revenue laws amended to add provisions for other than normal importation (such as, goods in transit) ▪ Vietnam joined Customs Cooperation Council ▪ United Nations (UN) layout key for customs declaration adopted 	<ul style="list-style-type: none"> ▪ New Land Law makes agriculture land user rights transferable and useable as collateral ▪ Laws on bankruptcy and environmental protection promulgated
1994	<ul style="list-style-type: none"> ▪ Elimination of import permits for all but 15 products ▪ Responsibility to initiate change in tariff passes from Ministry of Finance to Ministry of Trade ▪ Vietnam gains GATT observer status ▪ Introduction of interbank foreign exchange market ▪ Steps in process of licensing to engage in international trade reduced from three to two ▪ Duty exemption system for exports extended to suspend duty payment for 90 days ▪ Export shipment licensing further relaxed –completely lifted for all commodities except rice, timber and petroleum 	<ul style="list-style-type: none"> ▪ Economic Court established ▪ Labor Code establishes protection of employer and employee rights, regulation of contracts, social insurance and sets up arbitration mechanism ▪ Law on Promotion of Domestic Investment, elaborates roles of different levels of governments in licensing and lays out initiatives for domestic investment ▪ Pilot work on creation of general corporations as groupings of SOEs initiated

Table 4: (continued)

1995	<ul style="list-style-type: none"> ▪ Coverage of export quotas reduced to one commodity—rice ▪ Export tax rates raised on 11 products ▪ Vietnam joins ASEAN and accedes to protocols of membership of AFTA ▪ Reduction in number of turnover tax rates from 18 to 11 ▪ Requirement for importers to get import permits on a by shipment basis eliminated for a wide range of consumer and producer goods ▪ Range of goods subject to management by import quota reduced to seven ▪ 1996 list of goods under the common effective preferential tariff (CEPT) for AFTA promulgated ▪ Major reorganization of ministries establishes leading role of Ministry of Planning and Investment (MPI) in approval and regulation of foreign investment 	<ul style="list-style-type: none"> ▪ New regulations on land limits nature of land use rights for private sector and erodes right to mortgage land use rights held by domestic organizations ▪ General Department for monitoring the State Capital and Assets in State Enterprises created in Ministry of Finance to improve supervision and management of SOEs ▪ Law on State Enterprises consolidates previous legislative initiatives on SOEs ▪ Civil Code enacted to lay foundation for market economy. Establishes inter alia legal protection of industrial property rights
1996	<ul style="list-style-type: none"> ▪ Maximum tariff rate reduced to 80 percent special sales tax imposed at rates up to 100 percent on imported (but not locally produced) passenger cars following reduction in tariff rate ▪ List of commodities under CEPT of AFTA for 1997 promulgated ▪ New law on Foreign Investment reduces scope of import duty exemptions for foreign investment projects ▪ Inward foreign exchange remittance tax lifted ▪ Import-export policy decision for 996 reduces number of goods managed by import quota to six 	<ul style="list-style-type: none"> ▪ Credit activities exempted from turnover tax ▪ Law on State Budget formalizes budgetary practice and defines revenue and expenditure responsibilities of different levels of government ▪ First Public Investment Program (PIP) authorized ▪ Law on Materials lays out framework for exploitation of mineral resources ▪ Regulations elaborate regime under Civil Code for protection of industrial property rights

Table 4: (continued)

<p>1997</p>	<ul style="list-style-type: none"> ▪ Decree allocates rice export quotas to provincial People's Committees as well as agencies under central management thus opening the way for direct export by the private sector. All distractions on domestic trade in rice abolished ▪ Imports of sugar prohibited. Number of goods subject to import quotas to achieve natural balances increases ▪ Temporary prohibitions imposed on imports of wide range of consumer goods then lifted ▪ Approval of certain investment projects decentralized to selected people's committees and industrial zones ▪ Import stamp system introduced as anti-smuggling measure 	<ul style="list-style-type: none"> ▪ Law on Credit Institutions establishes basis for supervision and regulation of banking system ▪ Law on State Bank of Vietnam specifies role and functions of SBVN, but still fails to give SVN autonomy in setting monetary policy ▪ Law on Value-added Tax announces introduction of VAT in 1999 to replace turnover tax ▪ Law on Corporate Income Tax announces introduction of company tax in 1999 to replace profit tax ▪ Law on Cooperatives confirms continued government support for cooperative business
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Table 4: (continued)

<p>1998</p>	<ul style="list-style-type: none"> ▪ Forward and swap foreign exchange transactions authorized ▪ Foreign invested enterprises allowed to export goods not specified in investment license ▪ Highest tariff rate reduced to 60 percent ▪ Informal road map of CEPT tariff reductions to 2006 issued ▪ List of commodities under CEPT for 1998 promulgated, completing coverage of inclusion list ▪ Management of imports of most of consumer goods shifted to tariffs rather than quotas or licensing ▪ Decision to allocate rice export and fertilize import quota to private sector enterprises announced ▪ Domestic enterprises authorized to directly export production without an export/import license ▪ Partial surrender requirements imposed on enterprises holding foreign exchange accounts ▪ Restrictions imposed on imports of alcohol ▪ Use of minimum price list for valuation of import by foreign invested enterprises terminated ▪ Amendment to import/export law introduces 3 schedule tariff, and provision for antidumping and countervailing duty ▪ Special sales tax amended, partially extending tax to local motor vehicles, increasing rates on luxuries ▪ General conditions and procedures for Vietnamese enterprises to undertake international trading activities simplified with elimination of requirement for licensing by Ministry of Trade. 	<ul style="list-style-type: none"> ▪ Incentives for domestic investment extended and access simplified ▪ Taxpayer identification numbering system introduced
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Table 4: (continued)

1999	<ul style="list-style-type: none"> ▪ Issued implementing regulations to free up rights of all firms to export and import directly all products listed in firm's business license without requiring license. Exporters are given rights to export products not listed in their license (Jan) ▪ Issued implementing regulations to reduce the number of tariff rates to 12 (from 26) and the maximum tariff to 50 percent (from 60) except for six categories of goods ▪ Permitted private firms to export rice. 	
2000	<ul style="list-style-type: none"> ▪ Quantitative restrictions (QRs) were removed from 8 of the 19 items subject to QRs. ▪ Bilateral Trade Agreement signed with the United State 	

Source: Official Circulars (various editions); Fforde and deVylder (1996); World Bank (1993, 1994, 1995, 2000); Fforde and Goldstone (1995); CIE (1998); Viet Law (various editions); Freshfields (various editions).

3.2.2. Trade, Exchange and Foreign Investment Policies

Liberalization of Vietnam's trade and exchange system has involved actions on six main fronts:

- Phasing out of foreign exchange controls and adoption of a more market oriented exchange rate policy, accompanying large scale restructuring of the financial system;
- Relaxation of controls on entry into foreign trading activities;
- Relaxation of controls used to manage imports and exports;
- Creation and amendment of a system of taxation of imports and exports, as part of a comprehensive change in the revenue raising system; and
- Joining regional and multilateral trading arrangements.

These actions have accompanied efforts to create a legal and regulatory framework to permit and encourage foreign investment.

Exchange Reform

The major steps in exchange reform have been:

- Unification of the multiple exchange rate system that prevailed until 1989 following large devaluation to eliminate serious overvaluation of official rates;
- Liberalization of controls on retention of foreign exchange and use of transfers from abroad —allowing firms that meet surrender requirements to open foreign currency accounts and sell foreign exchange at prevailing exchange rates, and allowing foreign transfers to be used to pay for imported goods and services and make outward transfers;
- Establishment of an interbank market in 1994 following the setting up of trading floors at the State Bank in 1994; and
- Pursuit of a market oriented exchange rate policy that has all but eliminated differentials between the official and parallel exchange markets.

These changes in foreign exchange management have been accompanied by a restructuring of the banking sector —to create a two-tier system from the old monobank, and open up entry to new and foreign banks —and monetary policies aimed at increasing confidence in the local currency and financial system.

3.3. Trade Achievements in Recent Years

Changes in trade policies have been an essential component of the doi moi policy implemented in Vietnam since 1986. Over the years, most export quotas have been lifted and export taxes have been reduced to generally low levels (World Bank, 2000). In addition, export activities by private sector (both domestic and foreign) have been increasingly encouraged, thus breaking the trade monopoly of a small number of state-owned enterprises. These reforms – together with sound macroeconomic management have led to a rapid export and import growth. As it can be seen in Table 5, between 1992

and 1997 (the period before the Asian economic Crisis), the dollar value of imports and exports roughly quadrupled (to \$11,592 million and \$9,185 million respectively), raising the share of trade in GDP from 52 percent to 86 percent – a high share by any standard.

Table 5: Increased Openness

	1992	1997
Value of exports (US\$ million)	2,581	9,185
Value of imports (US\$ million)	2,540	11,592
(Exports+Imports)/GDP (%)	52	86

Source: General Statistical Office (GSO)

The structure of exports also changed. During the 1990s, Vietnam started to exploit its comparative advantage in labor-intensive manufactures. Table 6 shows that export growth was led by light manufactures, dominated by the garment and footwear sectors. Between 1990 and 1999, the share of light manufactures in total exports rose from 13 percent to 37 percent. It is also noticeable that, despite the shrinking share of agricultural goods in total exports, there was a strong rise in the volume of rice exports. In only few years, Vietnam turned from being a net rice importer into the world's second largest exporter.

Table 6: The change in Export Structure

	Share in total Exports in 1992 (%)	Share in total Export in 1997 (%)
Total Export	100	100
Agriculture	50	35
Heavy industry and minerals	37	28
Light Industry	13	37
<i>Of which:</i>		
Textiles and garments	n.a	16
Footwear	n.a	11

Source: General Statistical Office (GSO)

The Asian crisis has interrupted Vietnam's trade expansion. In 1998, exports increased by a sluggish 2.1 percent. To avoid an external deficit, the Government

imposed additional import restrictions which, together with slumping domestic demand, led to a 0.8 percent decrease in the value of imports. This downturn in export performance was the general phenomenon in the region. However, in 1999 it was a surprising recovery in Vietnam export performance. Table 7 shows that in 1999, Vietnam's exports grew by an impressive 23.4 percent, much faster than in most other Asian countries.

Table 7: Strong Export Growth in 1999

Countries	Export growth in 1999 (%)
Thailand	7.4
Malaysia	15.3
Indonesia	0.6
Republic of Korea	11.9
Philippines	18.6
China	6.0
Vietnam	23.4
Vietnam non-oil	16.3

Source: General Statistical Office (GSO) and Asia Pacific Quarterly Update (Adopted from World Bank 2000, op cit.).

Between 1997 and 1999, exports by private sector grew very fast and much faster than those of state-owned enterprises (SOEs). As Table 8 indicates that over the two years 98-99 exports by small and medium domestic private enterprises grew by 72.5 percent, while exports of SOEs rose by 4.6 percent only. Thus despite its small size, the private domestic sector accounted for 39.1 percent of the periods non-oil export growth.

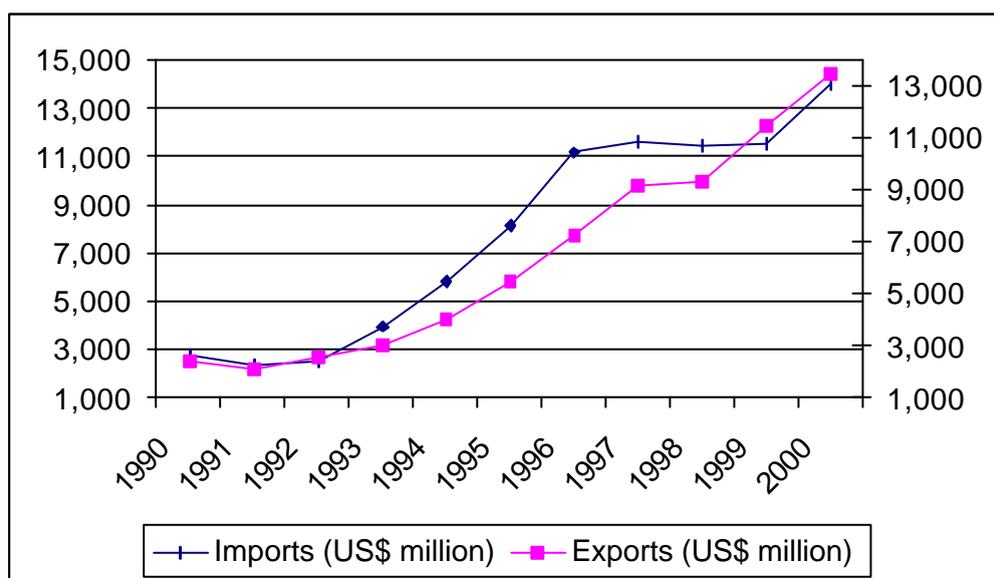
Table 8: Non-oil Export Growth by Sectors

	1997 (US\$ million)	1999 (US\$ million)	2-year Export Growth (%)	Distribution of Export Growth (%)
State-owned enterprises	5,207	5,260	4.6	13.7
Foreign-invested enterprises	1,790	2,590	44.7	47.2
In which: EPZs	292	581	98.8	17.0
Private enterprises	915	1,578	72.5	39.1
Total	7,732	9,428	21.9	100

Source: General Department of Customs and Ministry of Trade

The general trend of imports and exports of Vietnam is presented in Chart 3.

Chart 3: Trend of Vietnam's Imports and Exports 1990-2000



Source: General Statistic Office

Based on the trade performance of Vietnam in recent years, the World Bank (World Bank 2000) suggested the following findings:

- Exceptional export growth of 23.4 percent in 1999, especially non-oil exports (growing a 16.3 percent), suggests that Vietnam is very competitive in world markets.

Vietnam's export growth exceeded those of other countries in the region.

- Reforms expanding trading rights and access of private SMEs have paid off as non-oil exports by these firms grew by 72.5 percent over two years, accounting for 39.1 percent of the growth in non-oil exports.
- If reforms to liberalize the private sector continue and if normal access to all world markets is enhanced, private domestic SMEs (Small and Medium Enterprises) and foreign investors are likely to undertake the investment required to sustain Vietnam rapid export growth.

3.4. Vietnam's Current Integration Program and Its Relevance to the WTO Principles

3.4.1. Current Multilateral and Bilateral Arrangements

Vietnam signed a preferential trade agreement with the European Economic Community (now the EU) in 1992. This involved the granting of quotas to export textiles and clothing to Europe and the granting of a 2-percentage point preference on imports of selected goods from the EU.

When Vietnam joined ASEAN in 1995 it also became a member of the ASEAN **Free Trade Area (AFTA)**. This involved entering into commitments to reduce tariffs on imports from ASEAN to 0–5 per cent over a ten-year period on a wide range of industrial and agricultural commodities under the Common Effective Preferential Tariff Scheme (CEPT). It also involved making commitments to eliminate nontariff barriers on goods covered by the CEPT and to harmonize customs, investment and standards regulations and procedures.

Vietnam's Specific Commitments under CEPT are as follows (IMF, 2000):

- a) *Inclusion List (IL)*:** This list covers items on which tariffs are to be reduced to the common effective preferential tariff (CEPT) of 0-5 percent by 2006. It effectively comprises all items not on the exclusion list below and will comprise about 6,030 items by 2003. The IL currently comprises 4,233 items, of which tariffs on 1,270 items are over 5 percent and 451 items are over 20 percent, with tariffs on a few items as high as 50 percent. Although a linear tariff reduction over the phase-in period is recommended, the annual tariff rate reduction must be at least 5 percent. Under the implementing arrangements, by 2003 very few IL items would have CEPT rates over 20 percent.
- b) *Temporary Exclusion List (TEL)*:** This list covers items to be phased into the IL by 2003. In early 2000, in accordance with the existing plan, 640 items were moved from the TEL to the IL, to bring the IL up to 4,233 items. After the 2000 installment, the TEL now comprises about 1,800 items, which will be transferred to the IL in three roughly equal annual installments, so that by 2003 the TEL will be depleted.
- c) *General Exclusion List (GEL)*:** This list covers items not subject to liberalization for cultural, security, health, and environmental reasons. This list comprises 202 items, including alcoholic beverages, automobiles, motorcycles and kits, and petroleum products, which are currently subject to quantitative restrictions. However, the scope of the GEL is being reviewed, and a few items, including radios and larger motorcycles are likely to be removed.

d) Sensitive Exclusion List (SEL): In accordance with the Protocol on Sensitive and Highly Sensitive Products signed on September 3, 1999, Vietnam has 51 items, mainly unprocessed agricultural products and including sugar, on the sensitive list and no products on the highly sensitive list. Items on the SEL are to have tariffs reduced to 0-5 percent by 2013, and by at least 10 percent each year starting no later than 2006, but sugar is specially to reach the 0-5 percent target by 2010. All quantitative restrictions and other nontariff barriers are to be removed from these items by 2013.

Vietnam's tariff schedule under AFTA CEPT for 1999-2000 is presented in Table 9.

Table 9: Vietnam' CEPT Tariff Rates, 1999-2000

Bands	Rates in 1999		Bands	Rates in 2000	
	Number of lines			Number of lines	
	Number	Percent		Number	Percent
0	1,523	42.7	0	1,690	39.9
1	82	2.3	1	155	3.7
3	332	9.3	3	335	7.9
4	1	0.0	4	0	0.0
5	561	15.7	5	783	18.5
7	20	0.6	7	10	0.2
10	261	7.3	10	573	13.5
15	470	13.2	15	129	3.0
20	25	0.7	20	107	2.5
25	24	0.7	25	13	0.3
30	33	0.9	30	72	1.7
35	3	0.1	35	280	6.6
40	231	6.5	40	82	1.9
45	1	0.0	45	1	0.0
			50	3	0.1
Total	3,567	100	Total	4,233	100
Average		7.1	Average		7.3
Standard deviation		10.6	Standard deviation		10.7

Source: Tariff Schedule, Ministry of Finance

While the normal tariff schedule is as follows (Table 10):

Table 10: Summary of Normal Tariff Schedule, 1999-2000⁵

Bands	Rates in 1999		Bands	Rates in 2000	
	Number of lines			Number of lines	
	Number	Percent		Number	Percent
0	1,965	32.4	0	2,029	32.0
1	148	2.4	1	173	2.7
3	374	6.2	3	381	6.0
5	616	10.2	5	697	10.7
10	448	7.4	7	7	0.1
15	58	1.0	10	519	8.2
20	531	8.8	12	2	0.0
30	663	10.9	15	79	1.2
40	617	10.2	18	1	0.0
50	574	9.5	20	516	8.1
60	34	0.6	25	3	0.0
100	28	0.5	30	633	10.0
			40	678	10.7
			45	2	0.0
			50	569	9.0
			55	1	0.0
			60	12	0.2
			80	9	0.1
			100	48	0.8
Total	6,056	100	Total	6,341	100
Number of bands		12	Number of bands		19
Average		15.5	Average		15.4
Standard deviation		17.7	Standard deviation		18.1

Source: Tariff Schedule, Ministry of Finance

In 1994 Vietnam was granted observer status at the GATT and in 1996 it submitted a memorandum on its foreign trade regime as part of its application to join the WTO. The status of Vietnam's accession to the WTO is presented in Table 2 (Part II).

⁵ The normal tariff rates are termed preferential in the official schedule. There are also non-preferential tariff rates about 50% higher than these rates, which are applied to imports from countries without a trade agreement (or not in the process of negotiating one).

The US – Vietnam Bilateral Trade Agreement

The bilateral trade agreement signed in July 2000 with the United States (subject to approval of parliaments) would give Vietnam normal trade access to the US market in exchange for Vietnam phasing in steps to liberalize non-tariff barriers, customs procedures, investment measures, and entry requirements for some services, and for reducing some tariffs.

The agreement is divided into six chapters: (1) market access for industrial goods and farm products; (2) intellectual property; (3) trade in services; (4) investment; (5) business facilitation; (6) transparency. In each case, it sets clear and specific commitments and timetables, which will go into effect after the agreement is implemented through a congressional decision of both countries (U.S. Dept. of State, 2000).

In November 1998, Vietnam became a full member of the Asia-Pacific Economic Cooperation (APEC) group, and submitted an Individual Action Plan (IAP) for meeting the liberalization objectives associated with membership.

3.4.2. The Relevance of Vietnam's Integration Program to the WTO

While there are some important differences in detail, each of other multilateral and bilateral agreements embraces principles similar to those of the WTO (CIE, 1998 op cit.):

- Transparency;
- Reducing reliance on nontariff barriers;
- Lowering barriers to trade; and
- Non-discrimination and national treatment.

These principles would be important to apply in Vietnam, even if their implementation was not called for as part of international commitments. This is because of the critical role that trade and investment policies play in shaping the environment for investment and economic development. Applying them would be good for both Vietnam, and for its trade partners.

Transparency

Policy transparency helps investors, producers, workers and consumers to plan their behavior with some degree of certainty about the impact of government activities. Transparency in trade and investment policy may benefit Vietnam's trading partners, but the big benefits are to the people of Vietnam. Improving transparency will require some important institutional and procedural developments, which may in turn involve changes in some overall approaches to administration of economic management. Some of these changes are discussed below.

Reducing Barriers to Trade

Despite the obvious benefits flowing from increased trade over the past 10 years the contribution of lower trade barriers to the welfare of the Vietnamese people questioned by some people. International trade is sometimes seen in Vietnam as more an aspect of international relations policies than it is about domestic economic development and resource allocation. The adjustments caused by reducing trade barriers are sometimes seen as a cost of pursuing international relations objectives.

They can be, however, the main source of domestic benefit that should drive trade reform, with the impact on international relations being seen as a secondary benefit.

Reducing reliance on non-tariff barriers

The case for reducing reliance on non-tariff barriers is often expressed in terms of transparency. However, the most compelling domestic reason for replacing non-tariff barriers by tariffs as an instrument for protection lies in the way in which NTBs provide protection. Of course, some of Vietnam's NTBs are not directly targeted at industry protection objectives. Examples include restrictions used to maintain health and safety standards, or to meet quarantine objectives. For such barriers, acceding to WTO or meeting regional commitments may require using alternative forms of regulation, or adopting internationally recognized procedures for determining the nature and extent of barriers.

When a tariff is used to protect local producers, there is a fixed percentage by which these producers can charge higher prices and sustain higher costs of production. This ensures that producers face incentives to avoid deterioration in their competitiveness. It also puts a cap on the costs that the community at large must bear to protect the industry. Non-tariff barriers, especially quantitative restrictions on imports, by contrast, impose no explicit limit on the level of protection and extent of costs imposed on the community.

In Vietnam, some quantitative restrictions on imports, such as those used for commodities subject to policies aimed at maintaining balances between supply and demand, have a rather complex effect on local producers. Among the effects are:

- Destabilization of domestic markets and prices; and
- Creation of windfall profits which lead to the imposition of other forms of control.

Replacing these non-tariff barriers with moderate levels of tariff protection would appear in some cases to provide advantages to local producers as well as to consumers. More generally, reducing reliance on non-tariff barriers is one of the principles of WTO that would be unambiguously good for Vietnam, and Vietnam should develop a strategy for continuing the ongoing process of eliminating NTBs as a matter of urgency.

Non-discrimination and National Treatment

While the principle of non-discrimination seems to have its logic in achieving fair and equal treatment across trading and investing partners, the more compelling reason for its application lies in its domestic benefits.

Application of the principle means that Vietnam would always have access to the best sources of imports and foreign investment. Discrimination may well involve skewing incentives so that traders purchase imports with higher foreign exchange costs to the nation because the best value source is subject to a higher tariff. This is why Vietnam should seriously consider applying AFTA CEPT concessions on a global basis, rather than limiting them to imports from AFTA countries.

National treatment involves providing country goods and investors the same treatment as their local counterparts. As far as goods are concerned, it is a logical counterpart of non-discrimination, and largely consistent with current practice in Vietnam. Providing national treatment under the General Agreement on Trade in Services and the Agreement on Trade Related Investment measures will involve more changes from current practice. It is broadly consistent with much of present thinking, where there is movement towards creating a unified legal framework for all enterprises regardless of ownership. But there may be a need to accelerate development of other elements of the

legal and institutional framework (contract law, financial regulations, for example) to clear the way for further movement on this front.

3.5. Challenges/Problems and Strategic Considerations

Many of the changes that are being contemplated as Vietnam pursues accession to WTO and meeting its commitments under AFTA are no different from what an appropriate economic development and trade strategy might involve.

However, some people in Vietnam are concerned about the impact of open trade on Vietnam's existing industries. This view may be summarized as follows:

- Vietnam's lower technology means that Vietnamese firms cannot compete in an open trade environment; and
- Trade barriers should be maintained, at least until the economy becomes modernized.

But modernization will not happen if the economy remains closed. And if the economy is opened up on a selective basis with a view to protecting the least competitive—least modern—sectors then, paradoxically, those areas, which need to modernize the most, will be the ones where the least happens.

While many people in Vietnam see an open trade regime as a desirable policy objective, some of them are concerned that the institutional arrangements for efficient market allocation are not yet established. On the basis of these concerns it is suggested that trade barriers be reduced slowly and that there be some centralized direction of resources.

As other economies in transition pursuing integration activities under the WTO Vietnam also has *problems with institutional arrangements to support a market economy*. As a centrally planned economy, for many years these institutions were not

encouraged to grow. And many existing institutions, including the continued reliance on SOEs and the relationship of these enterprises with government line departments, are all likely to inhibit market responses. This raises three questions from a strategy viewpoint. First, how much of an integration strategy should be about building institutional arrangements for a market economy? Second, pending the development of these arrangements should the government go slow on removing trade barriers? And third, what should the government do in the interim as institutions are evolving?

On the first question —how much should an integration strategy be about institutional development —the answer is simple: a lot. While many of the lessons from the experience of other countries are open to various interpretations, this one is not — there is general agreement that institution matter. Although Vietnam is starting from behind due to its centrally planned past, the emphasis is already well recognized in Vietnam.

On the second question — should the lack of market oriented institutional arrangements be a basis for slowing down the program of trade reform associated with membership of regional and multilateral agreements —we see no basis for trying to dilute or escape these commitments. To the contrary, there are good reasons *not* to tie the pace of trade reforms to the negotiation process of WTO accession. Meeting WTO accession procedure would help Vietnam to accelerate institutional reform.

First, the government has already done much to establish market-oriented institutions. The speed at which these arrangements have become consolidated is partly driven by demand. If firms, including state owned firms, are to be required to operate in an administered, centrally directed framework they are less likely to see a need for

market based institutions — private property, rules of contract, banking systems, financial markets and the like. However, if they operate in international markets where everyone they meet has access to these things they are likely to want them to be established at home. A perfect harmony between openness and institutional arrangements is never likely to exist. Even in the most developed economies, institutional arrangements for, say, communications, banking and employment is constantly changing as communication, transport and international capital markets are changing. The lack of perfect institutional arrangements in these countries is a trigger to building better ones and not a basis for raising artificial barriers to the rest of the world.

A second reason for sticking to existing commitments is that the problem with many of the existing arrangements is that market correction of mistakes will be slow to occur. This is particularly important given the government's commitment to the continual existence of a large state owned sector. Openness creates a powerful source of information for international markets, central planners and SOEs.

A third is the benefit of credibility and predictability. Programs such as the CEPT program under AFTA and tariff bindings under the WTO will provide a basis for people to plan their investments.

The Problem of NTBs (Non-tariff Barriers)

The feature of Vietnam's current trade policies lying at the heart of the main costs being born is the regime of administrative controls on trade, especially NTBs to imports.

Despite the fact that great efforts have been made in reduction of NTBs, various kinds of NTBs are still used in Vietnam to pursue a wide range of objectives. Some reflect a continued concern to 'manage' or to 'balance' demand and supply for goods that

considered being of strategic importance for the economy. Others are designed to conserve the use of foreign exchange or to deter imports of goods considered to be of low priority, or to protect local producers. Some, for goods under specialized line management, are used to achieve a range of regulatory objectives.

Effective April 1, 2000, quantitative restrictions (QRs) were removed from 8 of the 19 items subject to QRs. The items liberalized were liquid soda, raw material for plastics, fertilizer, ceramic and glass consumer goods, bicycles, ceramic sanitary wares, consumer electric fans, and plastic packaging. Tariffs on these items were increased to 100 percent for some glass consumer products and 80 percent for bicycles, but the rate on fertilizer was only raised to 5 percent.

More generally, there appears to be much greater easing of import regime than implied by the removal of QRs. In the first half of 2000, imports rose by an estimated 34 percent (over the same period in 1999), after three years of no increase in the value of total imports (despite large increase in oil prices, high export growth in 1999, and real GDP growth of 5 percent during these three years).

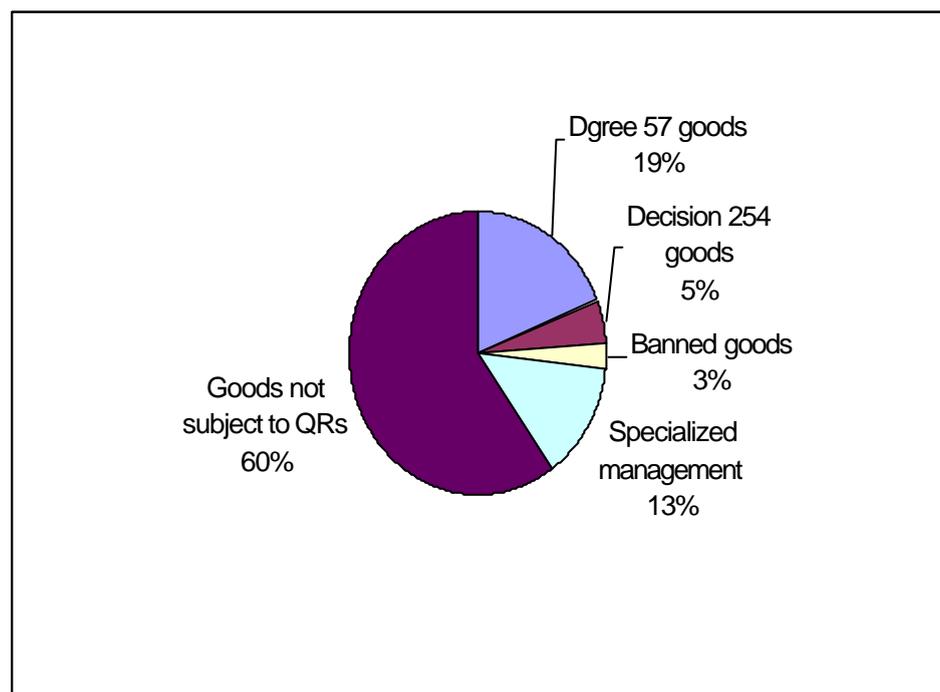
The goods remaining subject to QRs are ceramic and granite tiles, vegetable oil, window glass, paper newsprint writing, and packaging), construction steel, cement and clinker, motor cars for 16 or fewer passengers, motorcycles and kits, sugar, alcoholic beverages, and petroleum products. The last two items were removed from the list of items subject to import licensing (Decision 242/1999/QD-TTg), but are under separate controlling instruments that still restrict the total value of permitted imports.

In early 1999, a new and substantially revised the tariff schedule was introduced. It reduced the maximum standard tariff rate to 50 percent; about 1 percent of line items

had rates above this level, mainly alcoholic beverages and motor vehicles. This new schedule was also more in line with the harmonized standard nomenclature, increasing the total number of tariff items to about 6,000.

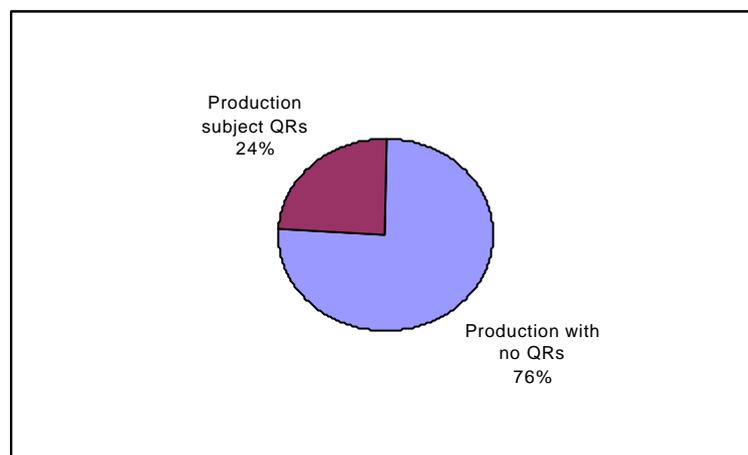
In early 2000, the tariff schedule was again revised, partly to reflect the tariff increases needed for newly liberalized imports. These changes contributed to the increase in the number of tariff rates to 19 from 12 in 1999. Notwithstanding the increase in tariff rates on the liberalized items, the average tariff rate from the schedule remained at 15.5 percent, since the number of items with rates of 20 percent or less increased slightly.

Chart 4: Import Coverage of QRs



Source: General Statistic Office (GSO), 2000

Chart 5. Production Coverage of QRs



Source: General Statistic Office (GSO), 2000

Chart 4 shows that approximately 40 percent of imports are subject to administrative restrictions. Chart 5 shows the coverage of QRs under Degree 57 and Decision 254, in terms of goods production levels. Around 24 percent of production of goods is subject to protection from QRs. In terms of total production (goods and services) coverage is about 15 percent. Some 3 percent of the work force I in sectors where QRs are in effect.

CIE's study of NTBs (CIE 1999) presents information on the potential impact of QRs on cost of production in the economy. Table 11 shows some indications of the costs incurred in different sectors of the economy because of the current QRs on imports.

Table 11: Estimated cost savings from removal of QRs and associated protection

Industry	Cost savings
	%
Agriculture	3.1
Construction	3.8
Food processing	6.4
Printing and publishing	2.2

Source: CIE (1999)

For many of the industries, whose outputs are covered by QRs, it is not the case that all producers need the blanket protection accorded by the restriction. Case studies of cement, steel and plastics presented in the report on NTBs (CIE 1999) show that technology, costs and competitiveness vary considerably across enterprises in these enterprises. They also show that the price differentials (between international and domestic prices) supported by these barriers are volatile and often quite small. Many industries protected by QRs are subject to constraints on pricing, market exploitation and investment that offset or blunt the incentives for expansion created by the protection. But at the same time these constraints raise production costs and give rise to inefficiencies. A policy approach that removed these constraints and the protection might see many enterprises in these industries to compete better.

NTBs are generally undesirable instruments to meet trade policy objectives because of the following reasons:

- The use of NTBs disconnects an important signal to resource allocation – the price in international markets – which provides signals to investors, producers and consumers about Vietnam’s comparative advantage and the opportunity costs of producing (or not producing) goods locally;
- Absence of transparency – because trade is subject to administrative controls, whether or not the import of a particular good is allowed is settled in a process that is both obscure and unpredictable. This increases the risks associated with trading and production decisions, and makes them vulnerable to lobbying and strategic manipulation by traders and producers;

- Managing trade to achieve ‘balances’ within the economy – an explicit objective for key NTBs – is becoming close to impossible as the economy becomes more diverse and complicated;
- The level of protection accorded by NTBs is not fixed, and rises to accommodate deteriorating competitiveness of local producers. Incentives to become efficient are thus muted at best;
- The cost born by other sectors on the economy also varies according to the competitiveness of local producers, increasing their uncertainty;
- Current NTBs, which are often very selective within classes of product, can promote wasteful importation as users substitute less appropriate alternatives for the imports under control;
- Allocation of rights to import goods subject to NTB confers access to economic rents – these rents are often dissipated and allocation methods do not ensure that the most efficient importers get access to rights; and
- NTBs are often complex to administer, adding to the burdens on customs and traders.

PART IV. CONCLUSION AND RECOMMENDATIONS

Since doi moi, many changes have been done in the field of trade liberalization that have contributed to high growth rate and trade performance in Vietnam. However, to complete the remaining stages of accession Vietnam should:

- Incorporate the guiding principles of WTO into domestic policy formulation as quickly as possible;
- Formulate and adopt a strategy for tariff based protection, involving a program for phasing out NTBs and moving towards a lower and more uniform and more stable tariff structure;
 - For some NTBs, the key is to develop appropriate, non-discriminatory forms of regulation to achieve non-protective objectives
 - For other, the issue is to switch to tariff based protection as soon as possible to send clear signals to producers and investors that the level of protection is bounded;
- Let markets determine the exchange rate;
- Adopt an appropriate policy and institutional regime to promote domestic competition
 - placing priority on review and reform of regulation, laws and administrative practices that impede competition; and
- Moving towards a unified legal, regulatory and taxation treatment of domestic and foreign investment.

The process of accession to WTO poses a number of challenges for transition economies like Vietnam, primarily with respect to how liberal a trade and investment

regime to commit to in the negotiation process. The key areas where these decisions need to be made relate to the level at which to bind tariffs, the support to be provided to agriculture and the range of commitments in the area of trade in services.

There is a tendency for some countries to approach these issues with a strategy aimed at the committing to the least liberalization possible to ensure accession. The negotiation/concession framework of the accession process —and the general WTO approach to liberalization —are inclined to foster such an approach, since it is seen to provide countries with ‘bargaining chips’. However this is a very dangerous, and rather perverse approach. As one commentator has pointed out (Michalopoulos, op cit):

Individual countries, especially small transition economies, have little leverage in market access negotiations: hence the potential benefits they may be able to obtain from such a strategy may be very small. At the same time, maintaining protection through relatively high tariffs and protected agriculture and service sectors, simply means that they impose costs to their own economies, by foregoing the benefits of a more liberal trade regime, which in the first instance accrue to the country itself. If, on the other hand, countries bind tariffs at levels higher than those applied and assume few commitments regarding agriculture and services, both of which are possible under WTO rules, they are subject to another risk: they create the opening for domestic interests to exert political pressure for additional protection in the future.

The experience of some Former Soviet Union countries has been that placing limited offers on the table during accession negotiations serves mainly to delay the process —accession Working Parties have been known to simply ask the country to submit a revised offer before serious negotiations occur (Michalopoulos, op cit).

This leads to a broader question of the implications for Vietnam of entering into binding international commitments that constrain the government's scope for imposing restrictions on international trade and investment. At one level, this could be seen as accepting external limitations on domestic policy making. Membership of WTO may involve adhering to certain codes of conduct with respect to government procurement, operation of state trading enterprises, quarantine controls, agricultural subsidies, as well as application of non-tariff barriers to imports and short-term protection. And the forthcoming round of WTO negotiations may lead to further agreements.

In order to address the requirements of joining WTO, attention will need to be given to a wide range of policy and institutional issues.

Much of the country's reform efforts under *doi moi* have been targeted at establishing the legal and institutional underpinnings of a market economy. Implementing a number of the WTO agreements will involve taking these reforms further. This is not only because agreements (such as TRIPS and TRIMS) require specific changes in legislation. Equally importantly, for the domestic economy to take best advantage of the opportunities created by integration, certain reforms will need to be pursued with urgency. Some obvious examples are:

- Improving the framework for governance of SOEs;
- Restructuring the banking system, and developing more appropriate systems of supervision and regulation;
- Extending and integrating the system of enterprise legislation

- Strengthening legal and institutional mechanisms affecting contracting, especially credit contracts (secured transactions, bankruptcy, dispute resolution procedures etc)
- Making administrative structures more responsive to the emerging systems of economic management and regulation in a market economy.

One of the key considerations in addressing some of the WTO agenda, particularly the newer agreements such as TRIMS, TRIPS and GATS, is the speed with which Vietnam can improve the environment for domestic investors and corporations. Acceptance of the integration agenda is dependent on the extent to which all sectors in the community can benefit from the associated changes in policies. If the domestic business sector remains constrained by unnecessary regulation, a poorly functioning financial sector, uncertainty with regard to property rights, there may be strong resistance to change. More importantly the overall benefits of integration may be slower in coming if these other improvements are not made.

As discussed in Part II, the basic reason for the slow process of accepting new members in the WTO is that potential members are subject to far more comprehensive obligations than before. It is not just the direct and indirect ramifications of trade policies affecting manufactured imports as, with the conclusion of the Uruguay Round, services, agriculture and other areas are included in the WTO system. Further more, since special exemptions for developing countries have been either reduced or eliminated, new members must fulfill stricter conditions. Likewise, in the case of the most important candidates major members are attempting to extract even better liberalization and market agreements (ESCAP, UNCTAD and ADB, 1999).

In this context, Vietnam should do its best to accelerate trade liberalization to be eligible for WTO membership while make use of exemptions for a developing country⁶ where possible.

More specifically, based on the WTO principles/agreements we would like to recommend the following actions for Vietnam's accession to the WTO (Table 12).

Table 12: Summary of WTO Principles/Agreements and Recommended Actions for Vietnam's Accession

Item	Content	Recommended Actions
General principles		
MFN	Accord all members the most favorable treatment accorded any trading partners	Review of bilateral trade agreements to ensure MFN consistency
National treatment	Treat domestic and foreign products, services and nationals the same	Move to unified legislation, regulatory framework for foreign and domestic enterprises operating in Vietnam
Limiting use of non-tariff trade instruments	Limited use of quotas, technical barriers to trade for protection except in special circumstances	- Phase out of QRs on import - Reform specialized management of imports of certain commodities
Reducing and binding import tariffs	Commit not to increase tariffs and to participate in future negotiations to tariffs	- Formulate strategy on tariff binding for access negotiation - Develop long-term tariff structure
Customs Valuation	Adopt GATT customs valuation agreement, placing invoice value as primary base for value for duty	Phase out minimum price list, train customs in valuation procedures
Agreement on Technical Barriers to Trade	Refrain from using technical requirements to create barriers to trade and provide protection	Reform of specialized line management of imports. Upgrading of systems, procedures associated with design, recognition and enforcement of technical standards

⁶ Because this mainly depends on negotiations, the country's capacity building and assistance from international recourses are needed.

Table12: (Continued)

<p>Agreement on Sanitary and Phytosanitary Measures</p>	<p>Quarantine measures should be transparent and based purely on scientific considerations. Information bureaus required to meet needs of interested parties</p>	<p>Review and upgrading of quarantine system and capabilities</p>
<p>Agreement on import licensing procedures</p>	<p>Ensure licensing procedures and transparent, predictable, fair and do not create extra constrains on trade</p>	<p>Review and shorten list of goods under specialization management. Make basis of restriction on importation of selected goods explicit. Reform procedures for enforcing standards to replace licensing system.</p>
<p>Agreement on Subsidies and Countervailing Measures</p>	<ul style="list-style-type: none"> - Discouraging and constraining use of subsidies which may impact and distort trade. - Allowing members to impose measures to countervail effects of subsidies. - Determining principles for imposing antidumping duties 	<ul style="list-style-type: none"> - Modification certain export promotion measures and regional investment promotion. - Review subsidies provided to state enterprises (confessional credit, debt write offs and debt rescheduling).
<p>Agreement on Trade Related Investment Measures (TRIMS)</p>	<p>Prohibits using measures inconsistent with national treatment and rules against use of QRs, including local content and trade balancing requirements, restrictions access to foreign exchange for imports</p>	<ul style="list-style-type: none"> - Significant changes in foreign investment legal framework - Further development of market based management of foreign exchange
<p>General agreement on Trade in Services (GATS)</p>	<p>Application of general principles of national and MFN treatment, mutual recognition, qualifications for supply of services, transparency of procedures. Also involves specific market access commitments</p>	<ul style="list-style-type: none"> - Changes to mechanisms for formulating and implementing laws and regulations impacting on services to meet transparency principle. - Detailed analysis to develop strategy for market access commitments, to develop appropriate regulatory regimes

Table12: (Continued)

Agreement on Government Procurement	Application of MFN and national treatment principles to procurement by government bodies ⁷ .	Development of laws and regulation on bidding
Provisions on state trading enterprises	Ensure arms length transitions with state trading enterprises and limitation of privileges accorded such enterprises.	Elimination of de jure and de facto state enterprise monopolies in trade.
Agreement on Trade-related Aspect of Intellectual Property Rights (TRIPS) ⁸	Set minimum compulsory standards for intellectual property production	Amendments to provisions of current legal basis for IPR protection. Strengthen mechanisms for enforcement of IPRs.

⁷ Membership of WTO does not require accession to the requirement. But transition economies pressured to join the agreement in WTO accession process.

⁸ For the details of this issue see WTO (c) - WT/ACC/9: Implementation of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), Note by the Secretariat, 15 November 1999.

REFERENCES

- Ahn Dukgeun, 2000: Lecture Series on International Trade Policy and Law, KDI School of Public Policy and Management, Seoul, Korea.
- Barshefsky C., 2000: Remarks on the .U.S.-Vietnam Trade Agreement, U.S. Dept of State, Washington DC.
- CIE (Center for International Economics), 1999: Trade and Industry Policies for Economic Integration, Sydney Australia.
- CIE, (Center for International Economics)1998: Vietnam Trade Policy 1998, Sydney, Australia
- Dang Duc Dam, 1997, Economic Renovation in Vietnam: Current situation and Perspectives (In Vietnamese), Financial Public House, Hanoi 1997.
- Drabek, Zdenek and Sam Laird, "The New Liberalism: Trade Policy Developments in Emerging Markets", WTO, Geneva: 1997.
- Dynamics and Socio-economic Status of Vietnam after 10 years of Renovation (1986-1996), Statistical Publishing House, Hanoi 1996.
- Emiko Fukase and Will Martin, 1999: The Effect of the United States' Granting Most Favored Nation Status to Vietnam, Research Paper 1934, World Bank, Washington DC.
- ESCAP (Economic and Social Commission for Asia and the Pacific), Non- Tariff Measures with potentially Restrictive Market Access Implications Emerging in a Post-Uruguay Round Context. United Nations, New York, 2000.
- ESCAP, UNCTAD and ADB (1999): The Future WTO Agenda and Developing Countries: Selected papers and issues discussed at the ESCAP/UNCTAD/ADB Meeting of Senior Officials, Bangkok, 23-25 August 1999. United Nations, New York, 2000.
- International Monetary Fund (IMF) 1996, Vietnam, Transition to Market Economy, Occasional Paper No.135, Washington DC.
- IMF (International Monetary Fund), 2000: Vietnam's Statistics Appendix and Background Notes, IMF, Washington DC.
- Joseph Fewsmith, 2000, China and the WTO: The Politics behind the Agreement, The National Bureau of Asian Research, Vol.10, No. 5, Essay 2.

- McCarty A., Vietnam's Integration with ASEAN: Survey of non-tariff measures affecting trade, vol.1, Main Report, Hanoi, Vietnam.
- Michalopoulos C. (1999). WTO Accession for countries in Transition, Policy Research Paper 1934, World Bank, 1999, Washington DC.
- Misuo Ezaki and Le Anh Son, 1997: Prospect of the Vietnamese Economy in the Medium and Long-run: A Dynamic CGE Analysis, Nagoya University, Tokyo, Japan.
- Rodrick D. (1995), 'Trade and Industrial Policy Reform', in Handbook of Development Economics, vol.3. Amsterdam, 1995
- U.S. Dept of State, 2000, U.S. – Vietnam Bilateral Trade Agreement (Assistant Secretary Roth Remarks on U.S.-Vietnam Policy), U.S. Dept of State, Washington DC.
- Vu Tuan Anh, 1995: Economic Reform and Development in Vietnam. Publishing House of Social Sciences, Hanoi, 1995 (in Vietnamese).
- WB, ADB and UNDP: Vietnam Development Report 2001. Joint Report for Consultative Group Meeting, Dec. 14-15, 2000.
- World Bank, 1999: Vietnam Preparing for Take-off? WB, Washington DC.
- World Bank, 2000: Vietnam Export Performance in 1999 and Beyond, An Informal Report, WB, Washington DC.
- WTO (a): Introducing the WTO, WTO Geneva
http://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm.
- WTO (b) - (WT/ACC/1): Accession to the World Trade Organization – Procedures for Negotiations under Article XII - Note by the Secretariat.
- WTO (c) - WT/ACC/9: Implementation of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), Note by the Secretariat, 15 November 1999.
- WTO (d)- (WT/ACC/7/Rev.1): Technical Note on the Accession Process - Note by the Secretariat (Revision 19.11.1999).
- WTO (e) - (WT/ACC/7/Rev.2): Technical Note on the Accession Process, Note by the Secretariat, 1 November 2000.
- WTO (f), The WTO and Developing Countries: Agreement Establishing the World Trade Organization, WTO Geneva.

WTO (g): The WTO and Developing Countries: Developing country Trade Experience, WTO Geneva.

WTO (h), the WTO and Developing Countries: How WTO helps Developing countries, WTO Geneva.

WTO (i): “Trading into the Future: the Introduction to the WTO“ (http://www.wto.org/english/thewto_e/whatis_e/tif_e/tif_e.htm).