HOW TO OPTIMIZE ADVANTAGES OF ACCESSION TO THE WORLD TRADE ORGANIZATION AND MEASURES TO BE TAKEN TO MEET POSSIBLE CHALLENGES
How to Optimize Advantages of Accession to the World Trade Organization and Measures to be Taken to Meet Possible Challenges

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1. INTRODUCTION

Developing countries’ sustainable economic growth and the resultant increase in the exports of their processed commodities and manufactured goods have made their need for securing market access more glaring in today’s increasingly integrating global economy. This is more so now that the preferential market access that these developing economies, particularly the least-developed and low-income countries, hitherto enjoyed will most likely erode soon as their exports become more competitive. With the growing importance of the World Trade Organization (WTO) as the main regulatory system of international trade in goods and services, this further leads to a greater reliance on the multilateral rules of the WTO system.

Trade liberalization increases competitive pressure on domestic producers, whereas the removal of export taxes and other incentives can create new market opportunities for domestic exporters. While trade is beneficial to sectors that are efficient, competitive, and able to adjust to new developments on the market, it adversely affects weak sectors that lack the capacity to adjust to the new developments that are usually characterized by stiff competition.

WTO membership and economic liberalization often become contentious issues in countries that have large public-sector enterprises, protected markets, and strong support for their labor unions. Accession to the WTO signifies the willingness by countries to ensure that domestic laws, regulations and administrative procedures in particular, those pertaining to trade conform to WTO Agreements. The impact of WTO membership is dependent on the ability to take advantage of the opportunities offered by trade liberalization and to manage the changes induced by WTO membership. Hence it is important to understand the economic realities on the ground—including resource endowments, the characteristics of the external sector, and the economic policy environment—in order to assess the impact of WTO membership.

WTO membership will have wide-ranging social, cultural, and economic impacts, as accession would mean a commitment to open one’s economy to external competition and to benefit from a multilateral trading system. Only firms that can compete effectively can, however, draw tangible benefits from access to new markets. While the benefits to be gained may be diffused and drawn out, the immediate costs of accession will have to, nevertheless, be borne upfront.

Accession to the WTO signifies the willingness by countries to ensure that domestic laws, regulations and administrative procedures—in particular, those pertaining to trade—conform to WTO Agreements.
Consequently, it is imperative that the impact of accession to the WTO is clearly understood, and the constraints and external factors that determine successful integration examined thoroughly. The impact of accession, be it positive or negative, will, among other things, depend on the success of the private sector and the Government’s ability to properly manage the transition with appropriate institutions and policies and to negotiate accession terms that best fit the realities on the ground—not on some perceived benefits of membership.

Accession to the WTO and the cost of an active participation in the organization could be dear. To begin with, application for accession to the WTO requires commitment to open one’s economy to external competition. Why? Because that is the only way that the benefits of the multilateral trading system could be garnered. In other words, for the benefits to accrue to WTO members, the international competitiveness of domestic firms is a prerequisite. Countries may further be burdened with large administrative costs on issues of little relevance to improved market access. In sum, WTO membership will have wide-ranging social, cultural, and economic impacts. Though the tangible benefits to be gained from accession may be mild and long-term, the immediate costs of accession, adjustment, and risks of exposure to international competition must be borne upfront.

The above considerations and the debate over the costs and benefits of WTO membership to least-developed countries (LDCs) like Ethiopia, in view of post-Seattle developments, particularly as they relate to preferential market access, have led the Addis Ababa Chamber of Commerce and Sectoral Associations to initiate this study, which is titled, “How to Optimize Advantages of Accession to the World Trade Organization and Measures to be Taken to Meet Possible Challenges.”

This has been made necessary given the existing apprehension, real or perceived, about the immediate and long-term costs of accession, adjustment, and risks of exposure to international competition that must be borne by the business community.

In view of the above and mindful of the popular contention that accession of developing countries like Ethiopia to the WTO confers several benefits through a multilateral trading system provides a level playing field to all members, regardless of their stages of development, this study seeks to provide a fairly detailed elaboration and analysis of the benefits and challenges of accession to the WTO for Ethiopia. The study sets out to address the following general topics and main headings in the chapters and sections that follow:

**Chapter 1** deals with a brief introduction of the topic touching upon the hopes and fears of WTO accession.

**Chapter 2** is a survey of the GATT/WTO system—that is, its history, structure, and objectives. The basic functions and the guiding principles of the organization, the main agreements and the critical issues, WTO membership and the accession process are covered in a fairly detailed manner in this chapter.
Chapter 3 is a review of the Ethiopian economy and the WTO-accession preparations that the country has made to date. The chapter kick-starts with a general overview of the Ethiopian economy and delves into an in-depth review of the Ethiopian foreign-trade regime. An analysis of Ethiopia’s foreign-trade statistics—namely, exports by commodity and destination, imports by commodity and origin, as well as the merchandise trade balance—is also done in this chapter. Bilateral, regional, and multilateral trading opportunities, along with issues of competitiveness, external vulnerability, and openness are further discussed. Ethiopia’s WTO-accession preparations to date are also dealt with.

Chapter 4 deals with the process, terms, and issues of accession. The process and terms of accession at the different phases of application and the establishment of a fact-finding Working Party, and the negotiation phase up to the protocol of accession are discussed. The state of Ethiopia’s accession is also presented in brief.

The legal and economic perspectives of WTO accession, including LDC’s overall perspective of accession issues, challenges and managing the challenges are discussed in Chapter 5. Furthermore, the principal legal obligations and accession procedures as well as the legal instruments and benefits of membership are discussed. A synopsis of the accession experiences of selected countries is also presented in this chapter.

Chapter 6 concludes and ends with recommendations.
2. THE GATT/WTO SYSTEM

2.1 The World Trade Organization: Its History and Institutions

The World Trade Organization (WTO) was established in 1995 as the successor to the 1947 General Agreement on Trade and Tariffs (GATT). The WTO is the umbrella international organization responsible for the administration of global rules of trade among nations. It provides the principal contractual obligations, determining how governments frame and implement domestic trade laws and regulations. Additionally, the WTO provides a platform for negotiations among members on trade matters, on a continuous basis, through periodic negotiation meetings widely known as "rounds."

The GATT was negotiated in the aftermath of World War II. It came into being in 1947 in Geneva, Switzerland, as a framework for regulating international trade. The multilateral framework of principles and rules arose out of the inter-war period, beginning with the strong economic nationalism of the 1920s, the collapse of world trade in the 1930s following the Smoot-Hawley Tariff Act in the United States of America and the Great Depression that immediately ensued therefrom. The World Bank and the International Monetary Fund (IMF), which were established in 1944, were associated with initiatives to deal with matters of international development and finance.

At the outset, it was intended to establish an organization that would administer the agreed-to multilateral rules of trade. This organization, the International Trade Organization, however, never came into being because of tensions in the USA, particularly over agriculture. Instead, a Secretariat based in Geneva was set up to administer the GATT. This Secretariat became a de facto world trade organization.

As a result, GATT continued to be governed by "provisional" and "interim" measures and remained an agreement without a formal organization to enforce it. These "provisional" arrangements persisted up until 1994, the year in which the Uruguay Round (UR) Agreement was concluded and the WTO established.

The WTO is the only international organization that deals with the global rules of trade among nations by helping trade to flow as smoothly, freely, and predictably as possible.

The other stated objectives of the WTO include the following:

- Raising the standard of living;
- Ensuring full employment;
- Promoting the steady growth of real income and effective demand;
- Expanding the production of trade in goods and services; and
- Sustainable development and environmental protection.
Above all, the overriding objective of the WTO is to promote the liberalization of trade by encouraging non-discriminatory treatment in international trade through a multilateral system of trade that provides a level playing field to all members, regardless of their stages of development and the reduction and possible elimination of trade barriers.

2.2 The Structure of the WTO

WTO's top-level decision-making body is the Ministerial Conference, which meets at least once every two years. The first WTO Ministerial Conference was held in Singapore in December of 1996, followed by Geneva in 1998, and Seattle in 1999. The Fifth WTO Ministerial Conference was held in Cancún, Mexico, in September of 2003, and the sixth in Hong Kong in December of 2005.

Immediately below the Ministerial Council is the General Council. It normally consists of ambassadors and heads of the delegation in Geneva as its members, but sometimes includes officials sent from member countries. The General Council meets several times a year at the WTO headquarters in Geneva. When the need arises, the General Council also meets as the Trade Policy Review Body and the Dispute-Settlement Body of the WTO. The General Council is assisted in its work by the following Commissions:

- The Council for Trade in Goods, which oversees the implementation and operation of GATT 1994 and its associate agreements;
- The Council for Trade in Services that oversees the implementation and operation of the General Agreement on Trade in Services [GATS]; and
- The Council for TRIPS, which oversees the operation of the Agreement on TRIPS.

At the bottom of the decision-making hierarchy of the WTO is the Secretariat. The Secretariat is based in Geneva and is headed by a Director-General. Since decisions are made by a consensus among members, the Secretariat does not have the power to make any decisions—unlike the other international agencies. Its main duties are limited to the provision of technical support to the various WTO Councils and Committees, and the Ministerial Conferences. Providing technical assistance for developing countries and analyzing world trade and explaining WTO affairs to the public and the media are also among the Secretariat's main duties.

2.3 The Functions of the WTO

In order to ensure that trade flows smoothly, freely, fairly, and predictably, the WTO performs the following core functions:

- Administering trade agreements;
- Acting as a forum for multilateral trade negotiations;
- Settling trade disputes that arise between WTO members;
- Reviewing national trade policies;
• Assisting developing countries in trade policy issues, through technical assistance and training programs; and
• Cooperating with other international organizations, such as the IMF, the World Bank, and UNCTAD (the UN's Center for Trade and Development).

2.4. The Basic Principles of the WTO

There are fundamental principles running through the whole body of the WTO Agreements that are designed to ensure that the objective of freer trade is achieved. These fundamental principles are *trade without discrimination; predictability; freer trade, gradually and through negotiations;* and *fair competition.*

2.4.1 Trade without Discrimination

The underlying assumption behind non-discrimination is that, in order for free trade to be there, competing products or services need to be given equal opportunity so that the winner will be determined only by free competition—not by artificial, discriminatory practices.

In the WTO, this anti-discrimination principle is ensured through the following two core principles:

2.4.1.1 Most-Favored-Nation Treatment (MFN)

According to Article I of GATT 1994, WTO members are obligated to grant to the products of other members treatment no less favorable than that accorded to the products of any other country. Thus no WTO member is to give special trading advantages to another, or to discriminate against it. The MFN principle ensures that countries are able to benefit freely from the best trading conditions whenever and wherever they are negotiated.

2.4.1.2 National Treatment

The National Treatment principle deals with the other possible form of discrimination—that is, between domestic and foreign products. Article III of GATT 1994 stipulates that once goods have entered a market, they must be treated no less favorably than similar, domestically produced goods. The rule does not, nonetheless, purport to mean that countries cannot levy import tariffs on imported products, even if the domestic products are exempted from such tariffs.

2.4.2 Predictability

The WTO strives to make the business environment stable and predictable through the basic ethos of binding commitments and transparency. When countries open their markets for goods on the basis of the concessions they offer, they are bound by their commitments. That could be changed only
after negotiations with the other trading partners are held, which would entail compensating for any loss in trade. To encourage transparency within the trading system, WTO rules require that members disclose their policies and practices to the WTO. The regular trade policy review mechanism of the WTO provides a further means of encouraging transparency at the multilateral level.

2.4.3 Freer Trade, Gradually and through Negotiations

Lowering or removing trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include tariffs and measures such as import-ban or quotas that restrict quantities selectively. While opening markets by lowering or removing trade barriers can be beneficial, it is also recognized that it requires adjustment. Consequently, WTO Agreements allow members to introduce changes gradually, through "progressive liberalization" and negotiations. As already noted, there have been eight rounds of trade negotiations since the creation of GATT in 1947. A ninth round, under the Doha Development Agenda (DDA), is now underway.

The Doha Ministerial Conference, the most contentious so far, was held in Doha, Qatar, in 2001. It came up with the "Doha Development Agenda." This round was to have begun at the Third Ministerial Conference in Seattle in 1999 and was to have been called "The Seattle Round." The Conference was, however, disrupted because of severe demonstrations and was postponed until the meetings held in Doha, Qatar. The Doha Development Agenda aims at negotiating the opening of agricultural and manufacturing markets. The intent of the Round, according to its proponents, was to make trade rules fairer to developing countries. Opponents, however, said that the Round would expand a system of trade rules that does not enhance development and, in fact, interferes excessively with countries' domestic "policy space."

2.4.4 Fair Competition

Although WTO is sometimes referred to as a "free-trade" institution, that is not entirely accurate. The system does allow for tariffs, and, in limited circumstances, other forms of protection. More accurately, WTO stands for a system of rules dedicated to open, fair, and undistorted competition. The aim is to discourage unfair trade practices, such as export subsidies and the dumping of products below cost to gain market share.

2.5 The Main Agreements of the WTO

With progress from the industrial to the information age and with international transactions in services, investment, and information technology surpassing the traditional trade of manufactured products, GATT, with its emphasis on trade in goods, became inadequate. The WTO, on the other hand, has addressed some of these issues by initiating agreements related to services, intellectual property, investment, information technology, and government procurement. Currently, the WTO Agreements consist of several agreements to which members
are a party. Although built on the Uruguay Round, which is a GATT legacy, the WTO has added many new issues and features. Many older agreements have been replaced by new, stronger agreements, as well as by a number of trade sectors and issues not addressed by GATT. These are presented below.

2.5.1 General Agreement on Tariffs and Trade (GATT)

The General Agreement on Tariffs and Trade (GATT) covers international trade in goods. GATT, originally signed by 23 nations in 1947, was an informal multilateral agreement covering international trade activities among states. A series of rounds under GATT have progressively moved nations to freer trade through the removal of tariff and non-tariff barriers. In 1995, the Uruguay Round of GATT created the WTO as an international body to administer GATT.

Work relating to GATT agreements now falls under the responsibility of the Council for Trade in Goods (Goods Council), which is made up of representatives from all WTO-member countries. The Goods Council has, under it, eleven committees dealing with such specific areas as agriculture, market access, subsidies, and anti-dumping measures. The membership of these committees is constituted by the representatives of all member countries. Also reporting to the Goods Council are the Textiles Monitoring Body, the Working Party on State Trading Enterprises, and the Information Technology Agreement (ITA) Committee.

2.5.2 The Agreement on Agriculture (AoA)

The establishment of the WTO in 1995 saw the introduction of the first effective rules governing international trade in agriculture and food. Following the Uruguay Round of negotiations, all agricultural products were brought under multilateral trade rules by the WTO Agreement on Agriculture. This instituted a framework for the liberalization of trade in agriculture through the reduction of import duties (tariffs), trade-distorting production subsidies, and export subsidies. Members' commitments under the AoA fall under three broad areas: market access, domestic support, and export competition.

2.5.2.1. Market Access

The subject of market access deals with the tariff regimes. Tariffs are trade measures that allow countries to control the prices, speed, and volumes with which imports enter their domestic markets. Under AoA, all non-tariff barriers, or quantitative import restrictions (quota, controls, etc.), are to be replaced by tariffs that are bound and subsequently reduced through a process known as “tariffication.” Under the Agreement, it was decided that developed countries would be required to reduce their tariff rates by 36 percent in six years, and developing countries by 24 percent in ten years.

The Agreement allows countries for invoking Special Safeguard Measures (SSM) against imports of designated “tariffed” products. Such
measures may be taken at any time when the import value, or volume, of a “tariffied” product reaches the “trigger price” or “trigger quantity.”

Put simply, the required policy options relate to the removal of all trade-distorting measures, including high tariffs and other restrictions on exports from developing countries. If the developed countries fail to fulfill their commitments to a substantial reduction in tariffs, it will be surmised that the spirit of the Doha Development Round will not be achieved, and that developing countries will be the losers in this multi-lateral trading system, for they will be systematically denied market access to the developed world when that happens.

2.5.2.2 Domestic Support

The concern about policies that support domestic prices or subsidize production is that they result in overproduction. This squeezes out imports or leads to export subsidies and low-price-commodity dumping on markets. Subsidies are considered an important element of national agricultural policies to promote agriculture, rural development, and food security.

While developing countries were forced to reduce their subsidies to these sectors, as a result of the Structural Adjustment Program, other loans and poor fiscal conditions, developed countries, especially EU members and the USA, are allowed to provide huge subsidies to their farmers under various schemes. At the outset, these subsidies have been controversial and trade-distorting. The following are noted to be among the several negative consequences of these policies:

- Dumping of agricultural products by developed countries on developing-country markets;
- Rendering producers in developing countries uncompetitive with highly subsidized goods from developed countries;* and
- Adversely affecting rural livelihood and food security in poor countries.

Domestic support measures are disciplined through reductions in the Total Aggregate Measurement of Support (AMS). AMS is a means of quantifying the aggregate value of domestic support, or subsidy, given to each category of agricultural products.

*It is estimated that OECD countries provide subsidy amounting to one billion USD per day to their agricultural sectors. OECD estimates that the value of support to farmers was a staggering USD 279 billion in 2004 alone.
Each WTO-member country has to make calculations to determine its AMS wherever applicable. Commitments made require a 23-percent reduction in Total AMS for developed countries over six years. The reduction in Total AMS for developing countries, however, is 13 percent over ten years. There are no reduction requirements for LDCs.

Currently, developing countries are raising their voices against the double standards of developed countries on the above matters, which led to the failure of the Cancun talks. For example, the Blue Box under the current negotiating framework has been strengthened to allow for a large chunk of agricultural subsidies, which are currently under the Green Box and the Amber Box of the developed countries. This has gotten in the way of the fight that developing countries have been waging to make the Doha Agenda a success by phasing out all trade-distorting subsidies, including the Blue Box, and the review of the Green Box (see Annex at the end of the chapter for a description of the terminologies in AoA).

2.5.2.3 Export Competition

The third component of the Agreement on Agriculture deals with export competition. This Agreement prohibits export subsidies on agricultural products unless the subsidies are specified on a member’s list of commitments. Where they are listed down, the Agreement requires that WTO-member countries cut both the amount they spend on export subsidies and the quantities of the export products that receive subsidies.

Yet OECD-member countries provide huge support to their agricultural exports in the form of export-credit guarantees and similar mechanisms. The elimination of such support has long been demanded by developing countries, as this makes them less competitive on the world market. The Hong Kong Ministerial Meeting has, in this regard, decided on a parallel elimination of all forms of export subsidies and disciplines on all export measures, with an equivalent effect to be completed by the end of 2013.

2.5.3 Non-Agricultural Market Access (NAMA)

As their name suggests, WTO negotiations on Non-Agricultural Market Access aim at reaching an agreement on market access that covers non-agricultural products. All products outside the AoA are, therefore, included. These products are mostly industrial, but natural resources such as fisheries, forests, gems, and minerals are also being considered.¹

The original mandate for negotiations on NAMA is found in the General Agreement on Tariffs and Trade (GATT) of 1947. Successive rounds of trade

¹ NAMA also covers products such as shoes, toys, and jewelry.
talks under GATT achieved substantial levels of tariff reductions, especially in the case of developed countries. The negotiations were conducted based on an offer of, or a request for, a reduction of tariffs in specific sectors.

Market access for non-agricultural products relates to the reduction of, and eventual elimination of, tariffs and non-tariff barriers on industrial goods. Most developed countries support the negotiations on the reduction of tariffs because at present only developing countries keep higher tariffs on industrial goods for reasons of government revenue and protection of domestic industries. Developing countries argue that the developed countries were able to reach where they are today by protecting their domestic industries through tariffs, and that those countries that have liberalized their foreign trade too fast have been de-industrialized—that is, their factories were closed, resulting in very high unemployment rates.

Trade policy, particularly in agriculture and manufacturing, is considered to be a key component in promoting development and eradicating poverty in developing countries, including the LDCs. It is argued that industrial tariffs play an important role in protecting infant industries, creating jobs, or tackling balance-of-payments problems. For this reason, many developing countries have maintained that flexibility in their industrial trade policy would ensure the successful development of their manufacturing bases.

The non-agricultural market access (NAMA) talks of the Doha Round, however, have practically nothing that is of benefit to developing countries. On the other hand, rich nations continue to push for a highly ambitious, but developmentally devastating agenda to open up developing-country manufacturing markets on behalf of their industrial exporters. This is evolving to be a basic issue under NAMA.

2.5.4 The General Agreement on Trade in Services (GATS)

The WTO Agreement on Services, known as the General Agreement on Trade in Services (GATS), represents a first step toward the liberalization of international trade in services, which is the entry of foreign services and foreign-service providers into a country. It was adopted in 1994 and has broad implications that cover not just cross-border trade in services but also the setting up of corporate operations in other countries in order to provide services locally—namely, foreign direct investment (FDI), or in GATS' language, "commercial presence." As Renato Ruggiero, then Director-General of WTO, observed in 1998, GATS extends "to areas never before recognized as trade [and] neither governments nor industries have yet appreciated the full scope of these guarantees, or the full value to them of the commitments already made."

Components of the GATS Agreement include the main text containing general principles and obligations, annexes dealing with rules for specific sectors, and individual countries' specific commitments to providing access to their markets. Unlike trade in goods, GATS has a fourth special element:
a list showing where countries are temporarily not applying the MFN principle of non-discrimination. These commitments, like the tariff schedule under GATT, are an integral part of the Agreement. The Agreement defines four potential modes of international service supply, all of which are described here below.

2.5.4.1 Modes of International Trade in Services

Services cover economic activities ranging from banking, insurance, and telecommunications to recreation, cultural, and sporting services. In this regard, the WTO has identified over 150 services sub-sectors.

One of the main characteristics of services is that they are intangible and invisible. Goods, by contrast, are tangible and visible. These differences also influence the modes in which international trade transactions take place. While international trade in goods involves the physical movement of goods from one country to another, only relatively few service transactions involve cross-border movements. For most service transactions, nevertheless, proximity between the service provider and the consumer is necessary. Such proximity can be obtained either by establishing a commercial presence in the importing country (e.g., opening a branch) or through the movement of natural persons for a temporary period (e.g., a lawyer or an architect moving to another country). In the case of a few service activities, consumers may have to move to the country of importation (e.g., tourism, where tourists travel to another country).

Trade in services is growing fast. Currently it accounts for over 20 percent of all international trade. The General Agreement on Trade in Services, which was negotiated in the Uruguay Round, has created a framework (of about 29 Articles, including a series of basic obligations) for bringing trade in services under international discipline. Its provisions apply to all the modes in which international trade in services takes place. These are cross-border supply (Mode 1), consumption abroad (Mode 2), commercial presence (Mode 3), and presence of natural persons (Mode 4).

2.5.4.1.1 Cross-Border Supply (Mode 1)

Cross-border supply is defined to cover service flows from the territory of one member into the territory of another member (e.g., banking or architectural services transmitted via telecommunications or mail).

2.5.4.1.2 Consumption Abroad (Mode 2)

Consumption abroad refers to situations where a service consumer (e.g., a tourist or a patient) moves into another member's territory to obtain a service.
2.5.4.1.3 Commercial Presence (Mode 3)

Commercial presence entails that a service supplier of one member establishes a territorial presence, including through ownership or lease of premises, in another member’s territory to provide a service (e.g., domestic subsidiaries of foreign insurance companies, or hotel chains).

2.5.4.1.4 Presence of Natural Persons (Mode 4)

Presence of natural persons relates to persons of one WTO-member country entering the territory of another WTO-member country to supply a service (e.g., accountants, doctors, or teachers). The “Annex on Movement of Natural Persons Supplying Services under the Agreement,” however, specifies that members remain free to take measures regarding citizenship, residence, or access to the employment market on a permanent basis.

A key political and social issue that GATS raises is the role of governments and their responsibilities in providing essential services to their populations. It has been customary for the governments of both developed and developing countries to provide such public human services as health, education, water, electricity and social safety nets. As this is a long-standing custom, it is taken for granted that rendering these services is part and parcel of the social contract. In other words, governments have the responsibility of providing these services to citizens. As a matter of fact, since some of these services fall under the rubric “human rights,” as per the provisions of the UN’s Universal Declaration on Human Rights, governments are all the more required to ensure that they are enjoyed by all persons living within their jurisdiction.

While GATS does not technically insist that public services be privatized, the logic of the liberalization of trade in services and the legal requirements of the Agreement will continue to erode the public-service sector. For example, if under the national treatment obligation, a country subsidizes a public service, it will have to do the same for any foreign provider of the same service.

Public and private providers of services have different priorities and, therefore, serve communities differently. The private sector is a for-profit sector.

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2 National treatment is a specific obligation and applies only to services sectors in which a country has made a GATS commitment. GATS members must “grant foreign services and services suppliers treatment no less favorable” than domestic services and suppliers. This measure outlaws any regulations, which would give preference or competitive advantage to the domestic services industry and means that “certain foreign suppliers would also be entitled to receive any subsidies given to competing domestic suppliers.”
As such, it has no obligation to provide services for rural areas or to people in poverty. The public sector, nevertheless, has the obligation of serving all citizens and, therefore, must often subsidize the service to ensure that it is available to economically disadvantaged areas and people as well. Whether a country fulfills its GATS national-treatment obligation by subsidizing both public and private supplies or by stopping subsidizing public suppliers altogether, the people living in the economically disadvantaged areas will suffer. Why? Because they will face a two-tiered system whereby those who can afford to buy the services will enjoy them, whereas those who cannot afford to buy them will either experience diminished access to, or no service at all in, that sector.

Proponents of the GATS liberalization process argue that Article 1 of GATS excludes “services supplied in the exercise of governmental authority.” However, this assertion is modified by GATS’ definition of government services, which states: “a service supplied in the exercise of governmental authority’ means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers” (GATS, Article I, 3, c). Since most public services often have a fee and are provided by both public and private suppliers, such as health and education, the ambiguity of language in this section leaves all public services virtually open to liberalization and privatization.

### 2.5.5 The Agreement on Trade-Related Intellectual Property Rights (TRIPS)

Intellectual property rights can be defined as the rights given to people over the creations of their minds. Intellectual property rights usually give the creator an exclusive right over the use of his/her creations for a certain period of time. Components of the TRIPS Agreement and the main categories of intellectual property rights are summarized below.

#### 2.5.5.1 Components of the TRIPS Agreement

The WTO TRIPS Agreement recognizes that the development of international trade can be adversely affected if the standards adopted by countries to protect intellectual property rights (IPRs) vary widely from country to country.

Part I of the Agreement reaffirms the basic GATT principle of national treatment under which nationals of other members must be given treatment no less favorable than that accorded to a member’s own nationals with regard to the protection of intellectual property. It also contains the most-favored-nation (MFN) clause under which any advantage a member gives to the nationals of another member must normally be extended to the nationals of all other WTO-member countries.
Part II of the Agreement addresses different kinds of intellectual property rights and how to protect them. The purpose is to ensure that adequate standards of intellectual property protection exist in all member countries, taking as a starting point the substantive obligations of the main pre-existing conventions of the World Intellectual Property Organization (WIPO). The Agreement adds a significant number of new, or higher, standards where the existing conventions were silent or were thought to be inadequate. These include copyrights, trademarks, industrial designs, patents, layout designs of integrated circuits, undisclosed information and trade secrets.

2.5.5.2 The Main Categories of TRIPS

Conventionally, intellectual property rights have two main categories: *copyright and related rights* and *industrial property rights*.

2.5.5.2.1 Copyright and Related Rights

These are rights granted to authors of literary and artistic works and the rights of performers, producers of phonograms, and broadcasting organizations. The main purpose of protection of copyright and related rights is to encourage and reward creative work.

2.5.5.2.2 Industrial Property Rights

Industrial property rights cover the protection of distinctive signs, such as trademarks and geographical indications, and industrial property protected primarily to stimulate innovation as well as the design and creation of technology. Inventions (protected by patents), industrial designs, and trade secrets fall under this category.

2.5.5.3 The Basic Issues under TRIPS

Farming is the main source of livelihood for three-quarters of the world’s population living in rural areas. In the developing countries, small-holder farmers dominate food production and, using traditional agricultural practices, meet the food requirements of around 66 percent of the world’s population. The introduction of intellectual property rules on plants and seeds under the WTO Agreement on TRIPS could, therefore, damage the livelihoods of these 1.4 billion farmers and undermine food self-sufficiency and food security.

Before the Uruguay Round, intellectual property laws were matters of domestic policy. The introduction of the TRIPS Agreement, nonetheless, made it mandatory for all WTO members to provide for internationally acceptable and enforceable patent protection for new inventions in all areas of technology. TRIPS is forcing developing countries to extend intellectual property rights even to plant varieties and seeds, with consequent impacts on agriculture.
Patents effectively block competition for 20 years and enable the patent holder to set a market price for the product. Six multinationals control around 70 percent of the patents held on staple food crops. Thus the use of patented seeds, plants, and genetically modified animals could make small farmers dependent on the corporations that own the patents. In turn, this could lead to fundamental changes in the way agriculture is practiced in developing countries by facilitating the growth of agribusiness and the decline of small farms and biodiversity. Besides, if the use of patented seeds became the norm, private corporations would dominate the world’s food supply.

One formidable challenge that members of the WTO face in relation to TRIPS pertains to access to life-saving drugs. The implementation of TRIPS, if fully carried out, will cause a serious problem to Ethiopia in its effort to access health care and anti-viral drugs. TRIPS recognizes the patent rights of pharmaceutical companies, almost all of which are owned by big multinationals of the North. Countries like Ethiopia, with insufficient or no manufacturing capacity in pharmaceuticals, will have to, therefore, face an uphill battle in their commitment to enforcing the TRIPS Agreement. This is mainly true, as access to medicines will be limited in the future, in that their prices will be unaffordable when generic alternatives are not available. Ultimately, there would only be the patent holders and their licensees in the pharmaceutical market of on-patent drugs. This would allow them to charge prices that would probably consider only economic factors, but not such humanitarian matters as poor peoples’ access to their products. Consequently, WTO members have been holding discussions on how to minimize the harsh effects of TRIPS—that is, the fact that it limits access to life-saving drugs. The Doha Declaration is a product of this concern among members. It must, however, be noted that the Doha Declaration was not a perfect response in the face of the growing demand for these drugs and the scope of protection within TRIPS.

In order to strike a balance between patent protection and other public-policy interests, it has been suggested that developing countries should make use of a few provisions in the TRIPS Agreement, which could be of vital importance in protecting their interests. One of these provisions is Article 29, as it mandates that member countries should require applicants for a patent to “disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art and may require the applicant to indicate the best mode for carrying out the invention.” It is, therefore, vital that the government imposes on patentees an obligation of complete disclosure, which will make invention possible in that country. It is also important that developing countries require that the patent applicant disclose the (best) mode for making the invention in the developing country. In this regard, it is good to note that the Ethiopian Proclamation on Patent lays down

1 Martin: 1998: 29
these obligations in a way that will help exploit the patent to the fullest extent possible.

In dealing with the challenges of TRIPS, questions may be raised as to whether or not patent protection may be accorded to plants and animals and about the possible ramifications thereof. It must be noted here that the very idea of granting intellectual property rights over life forms and processes has been one of the most intensely debated subjects of our time. Indeed, in many ways, the debate becomes even more polarized when it takes on "food security" and biodiversity angles. Consequently, the rules in this area, as set by the WTO Agreement on TRIPS, have been fiercely debated. Article 27(3) b of the TRIPS Agreement permits members to exclude patents on plants, animals and, essentially, biological processes for the production of plants and animals. Nevertheless, according to this provision, members must provide some kind of legal protection for new plant varieties. It is also laid down that non-biological processes for the production of plants and animals should essentially enjoy patent protection. In point of fact, this provision has been under review since 1999, although it (the review) has not yet been finalized.4 The TRIPS Agreement has not, therefore, spelled out the manner of protection required in cases of plants and animals. Nonetheless, some developing countries have already started issuing patents on such products, having considered them to be "TRIPS-Plus" obligations. In this regard, the government must be aware of the disturbing trend in the external bilateral political pressure that seeks to introduce the option to patent plants and other biological inventions, or, in some cases, to join the International Union for the Protection of New Varieties of Plants (UPOV) under the misguided justification that doing so will ensure food security.5 The assertion that the benefits of international property rights (IPRs) over life forms and processes can ensure food security is, in the eyes of many, only a myth. On the contrary, harnessing IPRs on life forms and processes will not ensure sustained food security in developing countries. Rather, granting strong IPRs on life forms and processes, viewed within the context of developing countries, as is also the case in some developed countries, would go counter to the policy of ensuring food security. Arguably, while doing so may enhance biotechnology, it will not meet the food-security needs of these countries. Instead, it would further the concentration of the power to control the food system in the hands of a few companies. Accordingly, it must be underscored that granting IPRs on life forms and processes impairs access to food, making it impossible for farmers to save and exchange seeds and threatening biodiversity, the preservation of which is pivotal to ensuring food security.


The TRIPS Agreement is primarily intended to effectively protect the interests of IP owners. As such, it is believed that it can serve as an instrument to vigorously seek the recognition of indigenous knowledge and folklore. Protection of indigenous knowledge and folklore is of particular importance to countries like Ethiopia. As Ethiopia has, however, not yet entrenched the system in such a way that IPP could be availed to safeguard the interests of indigenous communities. Yet such a protection is not provided for by the TRIPS Agreement. Speaking of indigenous knowledge and folklore protections as benefits of WTO membership, therefore, becomes ill-placed. On the other hand, WTO membership would put Ethiopia in a position to voice its concern together with the other countries in the system. This is particularly so, as developing countries of the South have long been pushing for the inclusion of a seu generis system in the international arena to address this grand interest.

The absence of IPP covering traditional knowledge and folklore is giving rise to “piracy,” so to speak, particularly as it relates to companies or individuals who may obtain IPP based on traditional knowledge, often without compensation to the indigenous people who are the ultimate sources of such knowledge. To illustrate, the cases of the neem tree from India, the Ethiopian endod, and thaumatin from West Africa are some of the incidences signifying “gene piracy” caused mainly for lack of IPP that accords protection to indigenous knowledge. The dispute between the South African San people and the company that patented the relevant ingredient of hoodia cactus, too, shows the strong need that IPP has for traditional knowledge and folklore.

All said, there is an increasing recognition that IP is indeed the ultimate source of wealth in a knowledge-based economy. Ethiopia has laws and institutions whose objective is protecting intellectual property rights. While TRIPS may not be alien to the country’s existing legal regime, it is imperative that effective enforcement procedures are made available under the national laws that permit effective action against any act of infringement of IP rights. As part of its support package, TRIPS provides countries like Ethiopia with the technical assistance required to accomplish the task of instituting effective enforcement procedures to protect intellectual property rights.

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6 Taljeur: 2002:65
7 Kuyek: 2002: 17
8 Posey and Dutfield: 1996: 19
9 Ibid.
10 Taljeur, supra note 40
11 Kwakwa: 2002:47
The protection of intellectual property rights would benefit Ethiopia in the following ways:

- Improved and more effective IPP will encourage innovative enterprises to focus R&D work on the market needs of countries like Ethiopia.
- Adequate IPP fosters investment and trade. On the other hand, lack of an adequate IPP discourages foreign investment.\(^{12}\)
- IPP is one of the basic factors that guide the flow of technology, which ultimately serves as a tool for economic development.\(^{13}\) Firms, in fact, can be expected to transfer new technologies and inventions only if IPP is guaranteed.\(^{14}\) Proponents of intellectual property rights in the developed world have asserted the economic benefits of enhanced IPR protection. They have also said that a strong system for the protection of IPRs would certainly help the flow of technology from the industrialized nations to developing countries. In this regard, TRIPS Articles 7, 8, 40, 66, and 67 provide for a framework for developing countries to access technology at fair and reasonable prices.

Intellectual property rights can significantly encourage the acquisition and dissemination of technical information. There are three channels through which technology is transferred across borders: international trade in goods, foreign direct investment (FDI), and licensing of technologies and trademarks to unaffiliated firms, subsidiaries and joint ventures. Economic theory has it that transfers through each channel depend in part on the local protection of IPRs, in complex and subtle ways.\(^{15}\)

Intellectual property rights can vigorously seek the recognition of indigenous knowledge and folklore. Interestingly, Ethiopia has not yet entrenched the system whereby IPP could be availed to safeguard the interests of indigenous community. Nor is such a protection available within TRIPS.

Intellectual property rights enable to strike a balance between the interests of owners and users of IP. As noted earlier, Ethiopia's membership in the WTO will call home the enforcement of certain multilateral treaties such as TRIPS, primarily protects the interests of IP owners, albeit those generally subject to a number of limitations and exceptions, with a view to fine-tuning the balance between the legitimate interests of right holders and of users.

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\(^{12}\) Smarzynska: 1998:3


\(^{14}\) Ibid. See also Schaffer, Earle and Agusti: 1999: 548

\(^{15}\) Maskus Supra 37, P. 369
ANNEX TO CHAPTER 2
BASIC TERMINOLOGY IN THE AGREEMENT ON AGRICULTURE

Amber-Box Policies: An expression that developed during the GATT trade negotiations, using a traffic light analogy to rank policies. The traffic light analogy was that an amber policy be subject to careful review and reduction over time. Amber-box policies include policies such as market-price support, direct payments, and input subsidies.

Blue-Box Policies: An expression that developed during the GATT trade negotiations, using a traffic light analogy to rank policies. The traffic light analogy was that an amber policy could be converted to a blue policy that could eventually become "green." Blue-box policies were seen as acceptable, but also as temporary or transitional policies that would help pave the way for further reforms over time. Blue-box policies represent the set of provisions in the Agreement on Agriculture that exempts a WTO-member country from its reduction commitments.

Green-Box Policies: An expression that developed during The GATT trade negotiations, using a traffic light analogy to rank policies. The Green-Box Policy describes domestic-support policies that are not subject to reduction commitments under the Agreement on Agriculture. These policies are assumed to affect trade only minimally, and include support such as research, extension, food security stocks, disaster payments, and structural adjustment programs. These measures are exempt from reduction commitments and, indeed, can even be increased without any financial limitation under the WTO. The Green Box applies to both developed and developing countries that are WTO members.
3. A REVIEW OF THE ETHIOPIAN ECONOMY AND WTO-ACCESSION PREPARATIONS TO DATE

3.1 A Review of the Ethiopian Economy

Trade liberalization has a profound impact on the allocation of economic resources as well as on the distribution of incomes. Trade liberalization means an increased competition between imported goods and domestically produced goods. The removal of export taxes and other incentives to exports, on the other hand, could create new market opportunities on the world market. While trade is beneficial to sectors that are efficient, competitive and able to adjust to new market situations, the reverse is true about sectors devoid of the capacity to adjust to new competitive environments.

Accession to the WTO signals Ethiopia's willingness to ensure that its domestic laws, regulations and administrative procedures, particularly those pertaining to international trade, conform to WTO Agreements. The benefit of WTO membership is dependent on Ethiopia's ability to take full advantage of the opportunities created by trade liberalization and to manage the changes induced by WTO membership. Hence it is important to understand Ethiopia's economic realities, including its resource endowments, the characteristics of the external sector and the economic policy environment, in order to assess the impact that WTO membership could have on Ethiopia. The following sections are devoted to that.

3.1.1 An Overview of the Performance of the Ethiopian Economy

The Ethiopian economy is predominantly agricultural. Agriculture accounts for about 50 percent of the gross domestic product and for about 85 percent of total exports. Greater than 85 percent of the estimated population of close to 70 million lives off the land, using backward animal husbandry and agricultural practices characterized by very low productivity.

Agriculture further generates over 80 percent of the total foreign exchange earned, and supplies close to 50 percent of the raw material inputs to the manufacturing sector. The sector continues to be dominated by a large number of small-holder farmers. It is also marked by large fluctuations in output, whereas the area under cultivation for major crops remains stagnant, with no significant change occurring in the cropping pattern.

The level of industrialization in Ethiopia is very low. The industry's share of the gross domestic product (GDP), in the national accounts concept, is about 11 percent, and that of manufacturing just seven percent. In terms of value, the share of manufactured exports is about 15 percent of total exports. And the proportion of persons engaged in industry and allied activities accounts for less than five percent.

While the rudiments of manufacturing in Ethiopia began to appear in the 1950s, the Ethiopian experience shows no encouraging signs in
industrialization, despite a relative early entry, compared with other African countries. Ethiopia's industrialization could, in fact, be said to be non-comparable with that of the East Asian economies that began the process at about the same period.

With a per capita income of USD 150 (2004/05), Ethiopia is one of the poorest countries in the world. The country's economy heavily depends on agriculture, accounting for half of GDP, for about 90% of exports, and for 80% of total employment. The agricultural sector suffers from recurring drought and poor cultivation practices. The sector is dominated by small-scale farmers accustomed to low input, rain-fed, mixed farming with traditional technologies.

The policy environment, coupled with the prolonged internecine war and the natural disasters of the Derg era (1974-1991), had made the Ethiopian economy's performance quite dismal throughout the period. Real GDP grew at a mere 1.5 percent on the average, or much below the annual population growth of 2.9 percent during this period. The new Economic Policy introduced after the fall of the Derg, however, instituted a market-oriented economy, replacing the centrally planned economic system that was in place for over one and a half decades.

Since the introduction of the Economic Reform Program of the 1990s, it is indisputable that the Ethiopian economy has grown stronger, for real GDP grew at an annual average of about five percent during the period covering 1993-2005. While this period witnessed a strong performance in the industry and services sectors, in particular, which averaged 5.2 percent and 6.8 percent per annum, respectively, the average annual growth of agriculture was limited to 3.6 percent because of the recurrent drought. In most recent years, especially during the period 2003/04-2005/06, the Ethiopian economy has registered a continued annual growth of more than eight percent, mainly because of the rebounding of agricultural output.

The liberalization of the external sector, as epitomized by the devaluation of the exchange rate to the extent of 58 percent in USD terms, and the subsequent replacement of the auction system by a daily intra-bank foreign-exchange market, the suspension of taxes and subsidies on all exportable items, except coffee, the private sector's entry into the export market, and the relaxation of the foreign-exchange-surrender requirements have greatly facilitated the performance of the export sector. So an encouraging performance was registered in the export sector during the post-reform period.

With regard to imports, the tariff regime has been corrected with massive cuts on tariff rates. The requirements to securing import licenses have been simplified, and the negative lists have been reduced—in addition to the simplification and standardization of customs-clearance procedures.
3.1.2 An Analysis of the Country's Foreign-Trade Statistics

3.1.2.1 Export by Commodity and Destination

Reflecting the overall economic structure, the Ethiopian merchandise export sub-sector has been dominated by agricultural raw materials, which accounted for a significant share of the country's export earnings. These agricultural exports, in the aggregate, accounted for close to 90 percent of the total merchandise export receipts. The major export commodities, in the order of their importance in total export receipts, include coffee, leather and leather products, chat, gold, oilseeds, and pulses.

Although the concern over export diversification, at least explicitly, began with the First Five-Year Development Plan (1957-1961), when it was realized that depending on two or three products alone could entail an economic instability, the structure of the country's merchandise export sector has remained more or less the same over the past three decades. Over the past two decades (1984/85-2004/05), coffee remained the predominant export commodity, accounting for about 54.4 percent of the country's total exports, on average. And leather and leather products were the major non-coffee export products, accounting for 12.5 percent of the country's exports, followed by chat (7.0 percent), gold (6.0 percent), oilseeds (4.4 percent), and pulses (3.0 percent).

Accounting for only 11 percent of the country's export revenues, the manufacturing export sub-sector remains underdeveloped. Only a few non-durable consumer goods such as leather, food and beverages and textile products pervade manufacturing exports. Of the total value of manufactured exports, semi-processed and finished leather products accounted for about 75.3 percent during the post-reform period.

Over the past two decades, the extent of commodity concentration, as measured by the Gini-Hirschman coefficient, stood at an average of 59 percent, indicating the mono-cultural nature of the country's export sector.

Like the commodity structure, the country's export sector was also characterized by geographic concentration where a significant proportion of the country's exports have been going to very few markets. Continent-wise, the main markets for Ethiopian exports were Western Europe, Asia, the USA, and Africa, which accounted for about 80 percent of the total merchandise exports. Country-wise, on the other hand, Germany, Japan, Djibouti, the USA, Saudi Arabia, and Italy accounted, on average, for about 20.2 percent, 12.2 percent, 8.3 percent, 8.1 percent, 7.5 percent and 7.3 percent of the country's total exports, respectively.
Over the period 1984/85-2004/05, there appears to have been a relatively high geographic concentration index (40.2 percent), despite a noticeable improvement in penetrating new markets. The economic implication of such a high level of concentration on limited markets is that the country had been unduly exposed to economic shocks that could have taken place on those markets.

Looking at the most recent year (2004/05), the performance of the export sector stood at a record high of USD 817.7 million (7.31% of GDP), in terms of value—that is, it was up by 36 percent and 69 percent over the preceding two fiscal years, respectively. This boost in exports came about mainly because the price of coffee on the world market went up, and the volume of Ethiopia’s major export items increased substantially.

Earnings from coffee exports surged by 50 percent—to USD 335.3 million in 2004/05—as a direct result of the increase in the price of coffee on the world market from USD 1.43/kg in 2003/04 to USD 2.08/kg. Following coffee, the other well-performing export products were, in a descending order, leather and leather products, pulses, oilseeds, chat, meat, live animals and others. In fiscal year 2004/05, Ethiopia’s export earnings from meat and meat products and live animals were, in fact, able to double as a direct result of the market deepening in the Middle East and the opening-up of a new market for its meat products in Egypt. Improved performances were also recorded in the exports of beverages, cut flowers, and AGOA-related exports of textiles.

Cut-flower exports have been growing dramatically over the last three years due to the increased FDI inflows toward the sub-sector, which have been benefiting from the Government’s incentive schemes. Accordingly, export receipts from cut-flower exports increased sharply from an insignificant USD 8,000 in 2002/03 to USD 2.3 million in 2003/04. It increased further to USD 7.8 million in 2004/05. In absolute terms and considered as a whole, the cut-flower sub-sector is, nevertheless, still in its infancy.
<table>
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<th>Particulars</th>
<th>2002/03 A</th>
<th>2003/04 B</th>
<th>2004/05 C</th>
<th>Percentage Change</th>
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<td>223.45</td>
<td>335.37</td>
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<td>156</td>
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<td>2.08</td>
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<td>9.41</td>
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<td><strong>Unit value</strong></td>
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<td>4.14</td>
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<td>22.58</td>
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<td>82.66</td>
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<td><strong>Fruit and vegetables (value)</strong></td>
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<td>12.72</td>
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<td>23.34</td>
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<td>7.66</td>
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<td>1.91</td>
<td>2.01</td>
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<td>6.08</td>
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<td><strong>Chat (value)</strong></td>
<td>58.02</td>
<td>88.02</td>
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<td>19.43</td>
<td>4.92</td>
</tr>
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<td><strong>Unit value</strong></td>
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<td>4.75</td>
<td>5.15</td>
<td>8.24</td>
</tr>
<tr>
<td><strong>Gold (value)</strong></td>
<td>42.08</td>
<td>48.71</td>
<td>52.5</td>
<td>7.78</td>
</tr>
<tr>
<td><strong>Volume</strong></td>
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<td>0.0045</td>
<td>0.0036</td>
<td>-18.897</td>
</tr>
<tr>
<td><strong>Unit value</strong></td>
<td>8417.85</td>
<td>10867.26</td>
<td>14441.83</td>
<td>32.89</td>
</tr>
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<td><strong>Others (value)</strong></td>
<td>86.66</td>
<td>69.15</td>
<td>84.96</td>
<td>22.86</td>
</tr>
<tr>
<td><strong>Total export value</strong></td>
<td>482.78</td>
<td>600.45</td>
<td>817.74</td>
<td>36.19</td>
</tr>
<tr>
<td><strong>Total export value of non-coffee com­modities</strong></td>
<td>317.52</td>
<td>377</td>
<td>482.37</td>
<td>27.95</td>
</tr>
</tbody>
</table>

Despite the increase in the export earnings observed in 2004/05, the import-financing capacity of the export sector declined—from 26.0 percent in 2002/03 to 22.5 percent—as a result of a dramatic surge in the total import bill. This underlines the importance of diversifying the country's export products, both in type and composition, as well as penetrating new and reliable markets by drawing up an appropriate strategy to that end. This would require, among other things, a concerted effort among all stakeholders and appropriate and evolving export-related incentives on a continuous basis, so as to introduce new products into the export market while securing expanded markets for existing export products.

3.1.2.2 Imports by Commodity and Origin

Ethiopia depends on imports for its capital goods, fuel, chemicals, and consumer-goods requirements. This is substantiated by the significant share of these items in the country's overall imports. In this regard, an examination done on imports by end-use has disclosed that capital goods accounted for 34.8 percent of total imports, followed by consumer goods (30.1%), fuel (15.4%) and semi-finished goods (14.8%) during the period 1982/83-2004/05. Capital goods imports have been predominantly accounted for by industrial capital goods, with an average of 20 percent of all imports, or 60 percent of the imports of capital goods. Transport goods accounted for 13.8 percent of all imports, or for about 40 percent of capital goods imports. From the consumer goods basket, the non-durables' category, comprising cereals, other food, medical and pharmaceuticals, textile fabrics, and others accounted for 21.3 percent of the total import bill of the country. Cereals import comprises, in the main, food aid and commercial imports for food and beverages-producing plants.

*Figure 2. Average share of Import Items*
Like the export sector, the country's import, too, was characterized by geographic concentration where a significant proportion of imports originated from limited and long-established markets. The main sources of Ethiopian imports over the period 1984/85-2004/05 were Italy (10%), the USA (8.8%), Germany (8.2%), Saudi Arabia (8.2%) and Japan (6.1%). The geographic concentration of imports, as measured by the Gini-Hirschman index, stood, on average, at 42 percent during the assessment period.

For the first time in decades, merchandise imports surged to over USD 3.63 billion (32.5% of GDP) in 2004/05, mainly due to the hike in the price of fuel on the world market and the increased demand for capital goods to implement the capacity building program of the Government in the power and telecommunications sectors, among others. Compared with the USD 1,856.4 million and USD 2,586 million registered in 2002/03 and 2003/04, respectively, total imports in 2004/05 were respectively much higher at 95.7 percent and 40.4 percent.

Component-wise, a marked increase was registered in capital-goods imports, recording a sharp increase from USD 549.5 million in 2002/03 and USD 876.6 million in 2003/04 to USD 1,199 million in 2004/05. Reflecting the increase in the investment activities of the public and private sectors, industrial capital goods accounted for about 67 percent of the total capital goods imported in 2004/05.

Despite the slide in their share from 35.2 percent in 2002/03 to 27.1 percent in 2004/05, consumer-goods imports increased from USD 654.4 million in 2002/03 and USD 895.6 million in 2003/04 to USD 986.1 million in 2004/05.

Following the continued rise in the price of oil on the world market, mainly on account of the ongoing political instability in the Middle East, fuel imports more than doubled in 2004/05 to reach USD 668.7 million—from USD 310.5 million in 2003/04, and USD 287.5 million in 2002/03. The price of oil has been galloping ever since 2003. It went up from USD 37.76 per barrel in 2004 to USD 52.96 per barrel in April of 2005, and to over USD 70.00 per barrel in August 2006. The adverse economic impact of such a hike in fuel could not be overstated for LDCs like Ethiopia where foreign exchange reserves are limited, and developmental needs quite enormous. In a clear indication of the adverse impact of the hike in the price of oil on the Ethiopian economy, fuel imports accounted for about 18 percent of the country's total import bill in 2004/05, compared with 12 percent in 2003/04.

Imports of semi-finished goods and raw materials also recorded a dramatic increase—that is, from USD 49.1 million in fiscal year 2003/04 to USD 664.7 million in fiscal year 2004/05. The increase in the import of raw materials was the resultant effect of the increased demand by domestic industries, on the one hand, and the increase on the world market in the prices of metal products, on the other.
### Table 3.2: Value of Imports by End-Use

<table>
<thead>
<tr>
<th>Description</th>
<th>2002/03 Share in Total Import</th>
<th>2003/04 Share in Total Import</th>
<th>2004/05 Share in Total Import</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>C/B</td>
</tr>
<tr>
<td>Raw Materials</td>
<td>21.83</td>
<td>1.18</td>
<td>25.98</td>
<td>1.00</td>
</tr>
<tr>
<td>Semi-finished Goods</td>
<td>274.64</td>
<td>14.79</td>
<td>435.17</td>
<td>16.82</td>
</tr>
<tr>
<td>Fertilizers</td>
<td>53.90</td>
<td>2.90</td>
<td>106.63</td>
<td>4.12</td>
</tr>
<tr>
<td>Fuel</td>
<td>287.65</td>
<td>15.49</td>
<td>310.51</td>
<td>12.00</td>
</tr>
<tr>
<td>Others</td>
<td>0.51</td>
<td>0.03</td>
<td>0.32</td>
<td>0.01</td>
</tr>
<tr>
<td>Capital Goods</td>
<td>549.49</td>
<td>29.60</td>
<td>876.56</td>
<td>33.88</td>
</tr>
<tr>
<td>Transport</td>
<td>174.04</td>
<td>9.38</td>
<td>298.31</td>
<td>11.53</td>
</tr>
<tr>
<td>Agricultural</td>
<td>5.89</td>
<td>0.32</td>
<td>10.77</td>
<td>0.42</td>
</tr>
<tr>
<td>Industrial</td>
<td>369.56</td>
<td>19.91</td>
<td>567.47</td>
<td>21.94</td>
</tr>
<tr>
<td>Consumer Goods</td>
<td>654.35</td>
<td>35.25</td>
<td>895.58</td>
<td>34.62</td>
</tr>
<tr>
<td>Durables</td>
<td>183.56</td>
<td>9.89</td>
<td>294.60</td>
<td>11.39</td>
</tr>
<tr>
<td>Non-durables</td>
<td>470.79</td>
<td>25.36</td>
<td>600.99</td>
<td>23.23</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>68.45</td>
<td>3.69</td>
<td>43.06</td>
<td>1.66</td>
</tr>
<tr>
<td>Total Imports</td>
<td>1,856.41</td>
<td>100.00</td>
<td>2,586.87</td>
<td>100.00</td>
</tr>
</tbody>
</table>

3.1.3 The Merchandise Trade Balance of Ethiopia

An evaluation of Ethiopia’s merchandise trade balance discloses a widening deficit from year to year, as the increase in imports has been significantly higher than that of exports. The performance of the export sector has been sluggish. Merchandise trade deficit widened in 2004/05 to USD 2,815.9 million (25.2 percent of GDP), from USD 1,373.3 million (20.7 percent of GDP) in 2002/03, and to USD 1985.7 million (24.7 percent of GDP) in 2003/04. This was due to the surge in imports by 40.5 percent, despite the 32.6-percent increase in the value of exports. Mirroring the widening of the merchandise trade deficit, the current account deficit (including official transfers) more than doubled and stood at USD 1,013.6 million (11.4 percent of GDP) in 2004/05, compared with a deficit of USD 501.7 million (6.2 percent of GDP) in 2003/04.

Table 3.3: The Merchandise Trade Balance of Ethiopia (2002/03-2004/05)

<table>
<thead>
<tr>
<th>Particulars</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>C/B</td>
</tr>
<tr>
<td>Merchandise Export</td>
<td>482.78</td>
<td>600.45</td>
<td>817.74</td>
<td>36.19</td>
</tr>
<tr>
<td>% of GDP</td>
<td>7.30</td>
<td>7.50</td>
<td>7.31</td>
<td>-2.55</td>
</tr>
<tr>
<td>Merchandise Import</td>
<td>1,856.41</td>
<td>2,586.87</td>
<td>3,633.29</td>
<td>40.45</td>
</tr>
<tr>
<td>% of GDP</td>
<td>27.91</td>
<td>32.23</td>
<td>32.47</td>
<td>0.75</td>
</tr>
<tr>
<td>Merchandise Trade</td>
<td>1,373.63</td>
<td>1,986.42</td>
<td>-2,815.55</td>
<td>41.74</td>
</tr>
<tr>
<td>Balance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% of GDP</td>
<td>-20.70</td>
<td>-24.70</td>
<td>-25.16</td>
<td>1.88</td>
</tr>
</tbody>
</table>


Meanwhile, the net reserve holdings of the National Bank of Ethiopia (NBE) remained at USD 52.8 million in 2004/05, reflecting the Bank’s policy of maintaining an adequate level of reserve. In effect, the international reserve of the country as at July 07, 2005 was sufficient to cover over 3.6 months of imports of goods and of non-factor services of the following year. However, the country’s level of international reserve, in terms of imports of goods and services, went down to below three percent at the close of June 2006 due to the temporary suspension of support by some development partners following the May 2005 national elections.

3.1.4 Bilateral, Regional, and Multilateral Trading Opportunities

3.1.4.1 Bilateral Trading Opportunities

Ethiopia has entered into a number of bilateral economic-cooperation agreements with various countries, with a view to enhancing its
access to their markets. So far, the country has signed more than 15 general economic-cooperation agreements, with trade as one of the sub-components, and some bilateral trading agreements with countries in Africa, Europe, and the Middle East. For instance, the bilateral trading agreement with Sudan evolved into a Free Trade Area in 2004. Since then, Ethiopian and Sudanese goods have been trading quota- and tariff-free.

These trade agreements are meant to provide the country with the legal framework necessary to entitle it to benefit from the most-favored-nation treatment by removing tariff barriers. In accordance with the GSP Agreement, most of the country’s products enjoy preferential tariff treatment in the USA, Canada, Sweden, Finland, Norway, Austria, Switzerland, Japan and many EU-member countries.

3.1.4.2 Regional Trading Opportunities

3.1.4.2.1 The Common Market for Eastern and Southern Africa (COMESA FTA and Customs Union)

The COMESA FTA is a zero-tariff intra-regional trade arrangement, which is intended to open markets within the regional economic grouping for goods originating from member countries. This arrangement is believed to enhance both domestic and foreign competition, thereby creating an environment that is conducive for attracting foreign investment. It is believed that increased competition would encourage the country to take aggressive export-promotion measures in order to increase its exports of both traditional and non-traditional products.

So far, 15 countries have joined COMESA FTA. And preparations were underway to establish a Customs Union by January 01, 2005. Ethiopia has undertaken an impact-assessment study to weigh the benefits and costs of joining COMESA FTA. And further attempts are being made to assess the extent of trade diversion and identification of sensitive products for exclusion from liberalization. In view of the fact that the COMESA region, as a bloc, has a total population of over 353 million, it is expected that more market opportunities will be created for Ethiopian export products.

3.1.4.2.2 The African Growth and Opportunity Act (AGOA)

Enacted in May of 2000, the African Growth and Opportunity Act (AGOA) is part and parcel of the Trade and Development Act of the United States. It provides reforming African countries with the most liberal access to the US market—entitling a total of 48 countries in sub-Saharan Africa (SSA)
to trade substantially all their export items on the US market free of duty and without quota restrictions. The US is the largest single export market of the SSA. It accounted for 20 percent of the region’s total exports in 2002. The value of exports by AGOA-eligible countries to the US in 2003 was about USD 14.0 billion, 55 percent higher than the preceding year, though the increase came about largely due to the increase in the export of oil. The Act has, up to March 2004, created job opportunities for over 190,000 persons, and resulted in an inflow of about USD 340 million in investments in eligible countries.

AGOA also aims at promoting trade and investment between the United States and sub-Saharan African countries through the establishment of the US-sub-Saharan Africa Trade and Economic Forum. The eligibility requirement calls for market-based economies; the prevalence of the rule of law and political pluralism; the elimination of barriers to US trade and investment; protection of intellectual property rights; efforts to combat corruption; policies to reduce poverty, an increase in the availability of health care and educational opportunities as well as in the protection and respect of human rights.

As of August 02/2001, the US government has confirmed that Ethiopia has satisfied AGOA requirements and may begin receiving the textile and apparel benefits of the Act. Since the Act specifically allows textiles and apparels to be imported directly into the United States free of duty and any quantitative restrictions, it provides a good opportunity to develop Ethiopia’s textile industry.

Despite the excellent opportunity created by AGOA provisions, Ethiopia has been the least beneficiary among the participating countries. For instance, it was able to export textile garments worth a mere USD 7.8 million to the US market in 2004/05, compared with more than USD 80 million for Mauritius, and USD 30 million for Kenya.

### 3.1.4.2.3 The Everything-But-Arms (EBA) Scheme and the Economic Partnership Agreement

The existing economic and trade relations between the EU, on the one hand, and Africa, Caribbean, and Pacific (ACP) countries, on the other, is governed by the Cotonou Agreement signed in Cotonou, Benin, in 2000. In line with the special and differential treatment provisions of the Cotonou Partnership Agreement, the EU introduced the EBA scheme in 2001. The EBA is EU’s unilateral decision to provide
tariff- and quota-free market access to all goods, except arms, originating from the ACP-member LCDs. Although Ethiopia’s sugar export is benefiting from the scheme, the overall export performance of the country under the scheme has been quite limited, possibly due to the stringent sanitary and phytosanitary (SPS requirements) of the EU, coupled with the many supply-side constraints facing it (Ethiopia). Also, the limited popularization of the Agreement has been a contributing factor for the lower export performance.

A new Economic Partnership Agreement (EPA) was under negotiations and was expected to be signed and come into effect as of January 01, 2008. The Eastern and Southern African Group, comprising as its members 15 countries, including Ethiopia, is negotiating for a comprehensive economic partnership agreement that accords appropriate concern to the developmental needs of these countries. In addition, these countries have taken a strong position to achieve a binding and contractual EPA arrangement, which is expected to provide a sustainable market access to exports from LDCs like Ethiopia. So far, Ethiopia has undertaken impact-assessment studies and drafted country-negotiation positions for inclusion in the EPA text. Also, a draft development matrix comprising sectoral and crosscutting financial requirements to address supply-side constraints has been prepared. Furthermore, attempts are being made to determine the level of adjustment costs and to select sensitive products for exclusion from liberalization and determination of the level of liberalization of “substantially all trade.”

3.1.4.2.4 The Sana’a Cooperation Forum

The Sana’a Cooperation Forum was set up by Yemen, Sudan, and Ethiopia in October of 2002. Somalia has since joined the group. The Forum promotes cooperation within the group as well as with other countries in the region. The cooperation agreements aim at creating an environment favorable for free trade within the group, encouraging business people to invest abroad and making zero-tariff trade possible in the near future as well as ensure a safe, stable environment for economic cooperation and development within the group.

3.1.4.3 Multilateral Trading Opportunities

3.1.4.3.1 The World Trade Organization (WTO)

The establishment of the World Trade Organization (WTO) as an international body dealing with international trade rules
is aimed at facilitating trade among countries. By encouraging countries to enter into negotiations for the reduction of tariffs and for the removal of other barriers to trade, the WTO is envisaged to create competitive conditions on the global market.

The major advantage of the WTO system to exporters is the market-access security that it guarantees. In trade in goods, the Uruguay Round of negotiations has enabled to bind the tariffs of almost all developed countries and a good proportion of those of the developing and transitional economies from further increase, thereby ensuring an improved market access. In the services trade, on the other hand, countries have made commitments not to restrict access to service products and foreign-services suppliers, although there are no tariff-binding arrangements.

Once countries join the WTO, they are obligated to ensure that their rules for determining dutiable value for customs purposes, for inspecting products to ascertain conformity to mandatory standards, or for the issue of import licenses, conform to the provisions of the set pertinent standards. This is believed to provide a stable access to export markets, thus contributing to the stability of export earnings (the major concern of a commodity-exporting developing country like Ethiopia).

Ethiopia has already applied for accession to the WTO, and a draft memorandum of its foreign-trade regime document has been prepared. The memorandum, having been finalized and subsequently approved by the Council of Ministers, was submitted to the WTO in December of 2006.

3.1.5 Challenges in Bilateral, Regional, and Multilateral Trade Opportunities

The widening merchandise trade deficit, unless minimized through increased exports and an appropriate import-management strategy, would lead to increased and unsustainable external debt and continuing external sector disequilibria. In another dimension, globalization and the information age, the increased trade liberalization following the establishment of the WTO, the strict sanitary and phytosanitary requirements, the advances in technology, the establishment of the COMESA FTA, and of the EPA pose new challenges for the world market. These developments have, among others, resulted in an increased exposure to international competition and exposure to external shocks. Meeting these challenges requires creating and putting in place the conditions necessary for ensuring competitiveness on the world market, as well as adopting the required quality standards thereto.
3.1.6 Issues of Competitiveness and Openness

The real effective exchange rate index (REER), which is the measure of the prices of the country's goods relative to the prices of its trading-partner countries, both expressed in domestic currency, is a quantitative indicator to assess the competitiveness of the country's export sector vis-à-vis the rest of the world.\(^{16}\) Here an attempt is made to assess the competitiveness of Ethiopia's external sector using the REER as constructed by the NBE.

In constructing the REER, the NBE used the wholesale price index of Ethiopia's trading-partner countries as a proxy for the prices of tradables on the world market, whereas the consumer price index of the home country was used as a proxy for the prices of non-tradables on the domestic market. Trading-partner countries were selected by employing a one-percent threshold, where countries that had trade shares of more than one percent were included in the construction of the REER. The NBE used the definition used by the International Monetary Fund (IMF) for the nominal exchange rate (USD per Birr) whereby a decline in the nominal exchange rate (E) shows the currency's depreciation. Accordingly, a fall in the value of the REER, either because of a decrease in E or a decline in the inflation differential, or both, indicates a real depreciation of the exchange rate and, thus, the enhanced competitiveness of the country's goods vis-à-vis foreign goods. On the other hand, an increase in the REER represents a real appreciation, implying a declining competitiveness of the country's goods vis-à-vis foreign goods (NBE, 2004/05 Annual Report).

In this regard, an examination of the index discloses that the country's external sector witnessed a gain in competitiveness during the period 1999/00-2001/02, whereas it lost its competitiveness during the period 2002/03-2003/04. During fiscal year 2004/05, the real effective exchange rate depreciated by 4.85 percent and 3.29 percent against 2003/04 and 2002/03, respectively, in clear gain in competitiveness. The depreciation of the REER in fiscal year 2004/05 was associated mainly with the depreciation in the Nominal Effective Exchange Rate (NEER), which more than offset the relative rise of domestic inflation, resulting in an improved competitiveness of the country's export goods and thereby leading to a sharp rise in the total export receipts.

\(^{16}\) The following alternative REER index formula is considered for the analysis. \( RER = \frac{WPIw}{CPId} \cdot NER \), where NER=the trade weighted nominal exchange rate of trading partner countries, WPIw=the trade-weighted wholesale (producer) price index of trading partners and CPId=the domestic (Ethiopian) consumer price index.
Table 3.4: Trends in the Real and Nominal Effective Exchange Rates

<table>
<thead>
<tr>
<th>Year</th>
<th>REERI</th>
<th>NEERI</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999/00</td>
<td>93.6</td>
<td>95.5</td>
</tr>
<tr>
<td>2000/01</td>
<td>87.9</td>
<td>98.7</td>
</tr>
<tr>
<td>2001/02</td>
<td>85.3</td>
<td>103.1</td>
</tr>
<tr>
<td>2002/03</td>
<td>97.4</td>
<td>96.5</td>
</tr>
<tr>
<td>2003/04</td>
<td>99.0</td>
<td>92.0</td>
</tr>
<tr>
<td>2004/05</td>
<td>94.2</td>
<td>85.2</td>
</tr>
</tbody>
</table>


On another note, there has been a slightly smaller improvement in internal competitiveness captured by the profitability of domestic manufacturing, in contrast with that of domestic non-tradable activities (see presentation at the end of the chapter for a highlight of the competitiveness of the Ethiopian manufacturing industry, based on an earlier study conducted by the Consultant). In essence, and according to the argument highlighted by the Diagnostic Trade Integration Study, DTIS, (2003), the price-raising impact of the exchange-rate depreciation has been powerful enough to compensate for the price-lowering effects of the trade-policy reforms in maintaining the competitiveness of domestic manufacturing.

To fully benefit from the Multilateral trading System (MTS), Ethiopia has to strengthen the competitiveness of its domestic industries and increase the export capacity of its products. To that end, building the capacity of existing manufacturers in a bid to improve their efficiency and productivity is crucially important. That in turn involves binding, at a relatively high level, tariffs for the strategic manufacturing of textiles and garments as well as leather and leather products, in order to allow the government to take measures aimed at increasing the competitiveness of these sectors through increased productivity. It is, therefore, imperative that the various flexibilities of the WTO Agreements for LDCs such as Ethiopia are thoroughly explored for effective use during the accession negotiations.

On the other hand, though the relative profitability of agriculture has improved against its low figure during the decade in the pre-reform period, the degree of improvement in agricultural profitability is much lower than the improvement in the profitability of traded goods, in general, compared with the non-traded goods or the international competitiveness of manufacturing. The plummeting of the prices of the major export products (coffee, in particular) on the world market may have depressed the prices of agricultural products, relative to the prices of manufactured products. The anti-agricultural prejudice in the protection structure may also have played a role in this regard. The anti-agricultural prejudice has largely been the outcome of the high protection enjoyed by input-supplying manufacturing industries (DTIS, 2003).
In respect of the degree of openness, usually captured by the simple ratio of the value of the country's foreign trade (composite) to its total domestic production (GDP), it is worth noting that the trend in the level of openness has shown a general improvement, compared with its post-reform period (Table 3.5).

Table 3.5 Trends in the Degree of Openness

<table>
<thead>
<tr>
<th>Year</th>
<th>Exports as % of GDP</th>
<th>Imports as % of GDP</th>
<th>(Export + Import) as % of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994/95</td>
<td>10.3</td>
<td>16.7</td>
<td>27.0</td>
</tr>
<tr>
<td>1995/96</td>
<td>9.3</td>
<td>16.3</td>
<td>25.6</td>
</tr>
<tr>
<td>1996/97</td>
<td>12.2</td>
<td>19.1</td>
<td>31.3</td>
</tr>
<tr>
<td>1997/98</td>
<td>13.4</td>
<td>21.3</td>
<td>34.7</td>
</tr>
<tr>
<td>1998/99</td>
<td>12.0</td>
<td>24.6</td>
<td>36.6</td>
</tr>
<tr>
<td>1999/00</td>
<td>12.5</td>
<td>25.0</td>
<td>37.5</td>
</tr>
<tr>
<td>2000/01</td>
<td>12.2</td>
<td>24.7</td>
<td>36.8</td>
</tr>
<tr>
<td>2001/02</td>
<td>12.8</td>
<td>28.3</td>
<td>41.1</td>
</tr>
<tr>
<td>2002/03</td>
<td>14.3</td>
<td>29.6</td>
<td>43.9</td>
</tr>
<tr>
<td>2003/04</td>
<td>13.8</td>
<td>30.2</td>
<td>44.0</td>
</tr>
<tr>
<td>2004/05</td>
<td>13.6</td>
<td>29.2</td>
<td>42.8</td>
</tr>
</tbody>
</table>

Source: Computed, based on NBE's data
Though it is normally difficult to find a conventionally set cut-off point, the figures shown suggest that Ethiopia could be considered to be an open economy. The series of tariff reforms that have been undertaken since 1992/93, which have resulted in a significant reduction in both nominal tariff levels and dispersion, further support such a conclusion. In this respect, the tariff rates of 0-230% during the pre-reform period have narrowed down to 0-80% in 1995 and, then, to 0-35% in 2002. The average (un-weighted) tariff rate has also declined from 28.9 percent in 1995 to 17.5 percent in 2002. Most specific tariffs have, further, been converted into ad-valorem rates.

3.2 Ethiopia’s WTO-Accession Preparations to Date

Ethiopia has been accorded an observer status in the WTO since 1997. Ethiopia’s request for accession was circulated on January 13, 2003. A month later, on February 10, 2003, the WTO General Council established a Working Party under the chairmanship of N. MacMilian of the United Kingdom (UK). The Working Party has not, however, met because Ethiopia submitted its Memorandum on its Foreign-Trade Regime (MFTR) to the WTO Secretariat only recently (December 2006), following approval by the Council of Ministers. The MFTR was prepared by a technical committee whose members were drawn from the various public institutions.

Prior to the official request for membership to the WTO, a study was conducted in June 2000 to identify the pros and cons of joining the WTO. The study was undertaken by a committee made up of representatives of government Ministries, civil society, and academics. It analyzed WTO Agreements vis-à-vis the economic policies of the country and came up with a conclusion that the benefits of joining outweigh the costs and, hence, recommended that Ethiopia join the WTO. The major activities undertaken so far are discussed herein below.

3.2.1 Preparation and Submission of the Memorandum on the Foreign-Trade Regime of Ethiopia

Since accession to and membership in the World Trade Organization is a delicate, complex, and cumbersome procedure, it was felt that there should be an intra-governmental system of domestic-policy preparation and coordination adapted to Ethiopia’s particular circumstances and needs. To that end, a WTO Inter-Ministerial Steering Committee, chaired by the Minister of Trade and Industry and composed of the representatives of key line Ministries and agencies, was formed. This Committee is in charge of developing, maintaining, and defending a common line of national negotiation position. A Technical Committee (TC) comprising as its members experts drawn from these same Ministries and agencies has also been set up to accomplish the technical aspect of the accession process.

The Technical Committee has since prepared the draft Memorandum on the Foreign-Trade Regime (MFTR) of Ethiopia, and the document has been endorsed by the Inter-Ministerial Steering Committee. Following the incorporation into it of valuable comments from the UN’s Center for Trade and Development (UNCTAD) and leading Ethiopian experts in the field, the MFTR was submitted to the Council of Ministers and subsequently approved.
The Memorandum on the Foreign-Trade Regime of Ethiopia describes the country's foreign-trade system, including its economy, economic policies, domestic and international trade regulations, and intellectual-property-rights policies.

3.2.2 A Roadmap for Ethiopia's WTO Accession

As stated earlier, the accession process to the WTO is a cumbersome, protracted, and costly exercise, particularly for least-developed countries like Ethiopia. Countries seeking accession are required to accept disciplines that imply economic, legislative, and judicial reforms and to reorganize their administration in such a way that it will help them to effectively participate in the accession negotiations.

The terms accepted by an acceding country can have a major impact on the course of its future economic and social development. Preparation for and participation in accession negotiations, therefore, require considerable financial and human resources, which many LDCs lack. Besides, all the technical phases of the accession process need to be clearly spelt out from the outset. It is against this background that the Ministry of Trade and Industry, with financial assistance from the Japanese government, through the World Bank, commissioned a study titled, "A Roadmap for Ethiopia's WTO Accession," which shows the path Ethiopia has to take during the accession negotiations with the WTO. The study was thoroughly commented upon during a validation workshop conducted in July of 2004 and was finalized in October of 2004. The study assumes that the timeframe for accession will be five years, starting from the fourth quarter of 2004 and ending in the second quarter of 2009. Given the fact that the Memorandum was approved by the Council of Ministers only recently, the timeframe envisaged in the roadmap may, nevertheless, need to be adjusted accordingly.

3.2.3 The Diagnostic Trade Integration Study (DTIS)

The Integrated Framework (IF) was established in 1997 by a high-level meeting of the WTO in order to facilitate the coordination of trade-related technical assistance (TRTA) to LDCs and to promote an integrated approach to such assistance and thereby ensure the integration of trade with national development strategies. There are six agencies participating in IF: WTO, UNCTAD, ITC, IMF, WB, and UNDP.

A revamped IF was launched in July of 2001 with a pilot scheme, defining the principles of coordinating TRTA, the funding, and management of the process. This scheme introduced what is called the Diagnostic Trade Integration Study (DTIS) as a means of integrating trade issues with the development strategies of countries.

In the case of Ethiopia, the DTIS was conducted on the basis of the terms of reference presented in the concept paper that was discussed and enriched at the workshop held in late November of 2002. The DTIS conducted identified key issues related to Ethiopia's assimilation into the multilateral trading
system and the global economy. It examined both the supply and demand factors that influence the present level of trade with the rest of the world as well as the key constraints to the country's assimilation into the multilateral trading system. The study also proposes a program of technical assistance, with a view to removing these constraints and thereby enhancing Ethiopia's participation in international trade by improving its competitiveness. The study is further intended to help in the country's accession to the WTO by presenting a detailed and well-documented picture of the foreign-trade regime, the legal and institutional features, and to enlist the donor community's support in the process. Two Committees—the National Steering Committee and the National Technical Committee—have been established to oversee and provide continuous support and advice during the IF/DTIS process.

3.2.4 Capacity-Building Activities

It has been felt that the institutions involved in WTO issues, including the Ministry of Trade and Industry, lack rich experience in trade negotiations. In fact, they even lack familiarity with the WTO Agreements as well as with the operation of the multilateral trading system and its peculiar process of negotiations. In order to bridge this gap, various capacity-building activities are underway, of which the establishment of a separate and appropriate unit that closely follows up on the whole accession process is the most crucial.

To that effect, the Ministry of Trade and Industry had instituted a new organizational structure, and a WTO Affairs Department has been set up. The Department's mandate covers all matters associated with the WTO on both the domestic and international fronts. Constituted by three teams (Trade in Goods, Trade in Services, and Trade-Related Aspects of Intellectual Property Rights), the Department has the onerous task of coordinating all issues pertaining to Ethiopia's accession to the WTO and beyond. More specifically, the Department has the following three core coordination functions: internal dissemination of information, preparation of and packaging for negotiations, and facilitation of a meaningful allocation of technical assistance.

A number of capacity-building and awareness-creation activities have been undertaken since the establishment of this Department within the Ministry. These include national seminars on the WTO Agreements, the formulation of a Competition Policy, the Agreement on Agriculture, the General Agreement on Trade in Services, WTO Rules governing trade remedies (Anti-Dumping, Subsidies and Countervailing Measures and Safeguards), Customs Valuation, TRIPS, and similar activities.

3.2.5 Impact-Assessment Studies

In consideration of the importance of impact studies in the various sectors of concern for WTO-accession negotiations, the Government has commissioned impact-assessment studies on agriculture, market access for non-agricultural products, services sub-sectors (business, distribution, construction, tourism and energy), SPS, TBT, TRIMS and Customs Valuation. And these studies have
been completed. Studies on financial and telecommunication services sectors will commence soon. Such studies are, of course, crucially important to providing sound economic justifications for preparing a national negotiations position based on the country’s development objectives. Furthermore, it is based on the findings of these impact-assessment studies that initial offers on both goods and services will be prepared.

The tasks of identifying and reviewing all trade-related Ethiopian laws and regulations for the sole purpose of clarifying their compatibility with WTO Agreements are further areas of concern in the preparation of Ethiopia’s accession to the WTO. To this effect, an international lawyer and two domestic lawyers have been recruited with financial support from the USAID. The Ministry of Trade and Industry has provided the Project Team with office space. Over the past year, the Legal Team was able to review such areas as the Import-Licensing Regime, the Investment Regime, the Foreign Exchange Regime, Trading Rights, the Customs Law, Intellectual Property Rights, the Ban on the Export of Raw Hides and Skins, the Ban on the Import of Used Clothing and Seed Technology.
ANNEX TO CHAPTER 3

THE COMPETITIVENESS OF THE ETHIOPIAN MANUFACTURING INDUSTRY

Indicators of the competitiveness of the Ethiopian manufacturing industry have been computed using own survey and CSA data. In respect of CSA data, the most recent three years (1991, 1992 and 1993 E.C.) at the time of the computations have been considered for the purpose. Based on a four-digit ISIC grouping, about 45 manufacturing activities have been identified for analysis. For each of the manufacturing activities identified, an indicator of domestic competitiveness has been computed using three cases: without the cost of capital, namely depreciation and the opportunity cost; without the opportunity cost of capital; and all costs of capital included. The first two cases are short-run scenarios in which fixed assets could possibly be considered as sunk costs. In the short run, it could be managerially admissible to allow production to continue, even if all the costs of capital are not recovered. The third case is the long-run scenario in which it is not advisable to continue production, if all costs are not to be recovered. In this case, shifting to other activities needs to be considered. The result is summarized in Annex Table 3.1 below.

In the analysis, a value greater than one indicates that the particular sectors are financially unprofitable at domestic, protected, and distorted prices, implying that these sectors sell their products below their unit costs of production. As shown in Table 3.1, there are sectors that are not financially profitable even with the current tariff barriers Ethiopia imposes on imported products. As per the computations done, about half of the four-digit manufacturing activities were unable to cover all their costs of production in 1999/00, including the cost of capital. This implies that about half of the Ethiopian manufacturing sector is not competitive even on the current protected and distorted domestic market. What is more surprising is that the majority of these belong to sub-sectors in which one would expect Ethiopia to have a clear competitive edge on the global market—namely, the food, beverages, textiles and leather sub-sectors. Alarmingly, nevertheless, all the four-digit manufacturing activities under the textiles and leather sub-sectors have been uncompetitive on the domestic market. But all, except the manufacture of wearing apparels, could become domestically competitive should the cost of capital be ignored. The manufacture of wearing apparels is not competitive even excluding the cost of capital for the whole period under investigation. It is interesting to note here that the number of four-digit manufacturing activities that are domestically uncompetitive even without considering the cost of capital has dropped from three in 1997/98 to only one in 1999/00. The significance of contraband trade, dumping, and under-invoicing (see the next section) could be the reason behind such a situation, for this would nullify any advantage the protection of these sub-sectors would otherwise provide.
### Annex Table 3.1: Indicators of Domestic Competitiveness

<table>
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<tr>
<th>INDUSTRIAL GROUP</th>
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<th>2001</th>
<th>2002</th>
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</thead>
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<td></td>
<td>Woocc</td>
<td>Woocc</td>
<td>Wac</td>
</tr>
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<td>3 Manufacture of dairy products</td>
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<td>0.896</td>
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<tr>
<td>6 Manufacture of bakery products</td>
<td>0.824</td>
<td>0.856</td>
<td>0.891</td>
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<tr>
<td>7 Manufacture of sugar and sugar confectionery</td>
<td>0.479</td>
<td>0.521</td>
<td>0.564</td>
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<tr>
<td>8 Manufacture of macaroni and spaghetti</td>
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<td>9 Manufacture of food products n.e.c</td>
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<td>0.904</td>
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<tr>
<td>10 Distilling, rectifying and blending of spirits</td>
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<td>0.717</td>
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<tr>
<td>11 Manufacture of wines</td>
<td>0.859</td>
<td>0.871</td>
<td>0.878</td>
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<td>12 Manufacture of malt liquors and malt</td>
<td>0.914</td>
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<td>13 Soft drinks and production of mineral waters</td>
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<td>0.993</td>
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<td>17 Knitting mills</td>
<td>0.814</td>
<td>0.915</td>
<td>1.041</td>
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<td>18 Manufacture of wearing apparels except fur apparels</td>
<td>1.040</td>
<td>1.116</td>
<td>1.221</td>
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<tr>
<td>19 Tanning and dressing of leather, luggage and handbags</td>
<td>0.833</td>
<td>0.868</td>
<td>0.909</td>
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<td>20 Manufacture of footwear</td>
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<td>0.922</td>
<td>0.986</td>
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<td>21 Wood and cork, except furniture</td>
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<td>0.838</td>
<td>0.855</td>
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<td>0.876</td>
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<td>0.975</td>
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<td>23 Publishing and printing services</td>
<td>0.717</td>
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<td>0.797</td>
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<td>24 Basic chemicals</td>
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<td>0.825</td>
<td>0.861</td>
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<td>26 Pharmaceuticals</td>
<td>0.861</td>
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<td>0.951</td>
<td>1.004</td>
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<td>0.891</td>
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<tr>
<td>29 Manufacture of rubber products</td>
<td>0.770</td>
<td>0.855</td>
<td>0.953</td>
</tr>
<tr>
<td>30 Manufacture of plastic products</td>
<td>0.793</td>
<td>0.853</td>
<td>0.924</td>
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### Table: Competitiveness of Industrial Groups

<table>
<thead>
<tr>
<th>INDUSTRIAL GROUP</th>
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<th>2001</th>
<th>2002</th>
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<tbody>
<tr>
<td></td>
<td>Wooc</td>
<td>Woocc</td>
<td>Wac</td>
</tr>
<tr>
<td>31 Manufacture of glass and glass products</td>
<td>0.624</td>
<td>0.691</td>
<td>0.765</td>
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<tr>
<td>32 Manufacture of cement, lime and plaster</td>
<td>0.749</td>
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<td>33 Manufacture of articles of concrete, cement and plaster</td>
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<td>34 Manufacture of non-metallic mineral products n.e.c.</td>
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<td>35 Manufacture of basic iron and steel</td>
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<td>0.903</td>
<td>0.922</td>
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<tr>
<td>36 Structural metal products, tanks and containers</td>
<td>0.907</td>
<td>1.014</td>
<td>1.139</td>
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<tr>
<td>37 Manufacture of cutlery, hand tools and hardware</td>
<td>0.920</td>
<td>0.966</td>
<td>1.022</td>
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<tr>
<td>38 Manufacture of other fabricated metal products</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>39 Manufacture of ovens, furnaces and furnace burners</td>
<td>0.887</td>
<td>0.910</td>
<td>0.934</td>
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<tr>
<td>40 Manufacture of other general purpose machinery</td>
<td>0.918</td>
<td>-</td>
<td>-</td>
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<tr>
<td>41 Machinery for food and beverage processing</td>
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<tr>
<td>42 Accumulators, primary cells and batteries</td>
<td>1.513</td>
<td>1.544</td>
<td>1.594</td>
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<tr>
<td>43 Manufacture of bodies for motor vehicles</td>
<td>0.903</td>
<td>0.911</td>
<td>0.920</td>
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<tr>
<td>44 Parts and accessories for motor vehicles</td>
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<td>45 Manufacture of furniture; manufacturing n.e.c.</td>
<td>0.859</td>
<td>0.925</td>
<td>1.008</td>
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</tbody>
</table>

**Source:** computed, based on NBE's data

**Note:**
- Wooc: competitiveness without considering all costs of capital.
- Woocc: competitiveness without taking into consideration the opportunity cost of capital.
- Wac: competitiveness considering all costs of capital, i.e., depreciation and the opportunity cost of capital, which is about 10 percent of the net fixed asset.
### Annex Table 3.2.: Indicators of International Competitiveness

<table>
<thead>
<tr>
<th>INDUSTRIAL GROUP</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
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<tr>
<td>Processing and preserving of meat, fruit and vegetables</td>
<td>1.975</td>
<td>1.716</td>
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<td>Manufacture of vegetables, animal oils and fats</td>
<td>1.050</td>
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<td>Manufacture of dairy products</td>
<td>1.061</td>
<td>1.089</td>
<td>1.069</td>
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<tr>
<td>Manufacture of grain mill products</td>
<td>1.127</td>
<td>1.146</td>
<td>1.169</td>
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<tr>
<td>Manufacture of prepared animal feeds</td>
<td>1.491</td>
<td>1.522</td>
<td>1.499</td>
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<td>Manufacture of bakery products</td>
<td>0.531</td>
<td>0.574</td>
<td>0.597</td>
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<td>Manufacture of sugar and sugar confectionery</td>
<td>1.491</td>
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<td>Manufacture of macaroni and spaghetti</td>
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<td>1.547</td>
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<td>Manufacture of wines</td>
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<td>Soft drinks and production of mineral waters</td>
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<td>Manufacture of tobacco products</td>
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<td>Knitting mills</td>
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<td>Tanning and dressing of leather, luggage and handbags</td>
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<td>Manufacture of footwear</td>
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<td>Manufacture of paper and paper products</td>
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<td>Publishing and printing services</td>
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<td>Pharmaceuticals</td>
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<td>Manufacture of plastic products</td>
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<td>Annex Table 3.2.: Indicators of International Competitiveness</td>
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<th>2002</th>
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<tr>
<td>31 Manufacture of glass and glass products</td>
<td>0.874</td>
<td>0.941</td>
<td>0.957</td>
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<tr>
<td>32 Manufacture of cement, lime and plaster</td>
<td>1.416</td>
<td>1.456</td>
<td>1.386</td>
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<tr>
<td>33 Manufacture of articles of concrete, cement and plaster</td>
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<td>1.549</td>
<td>1.553</td>
</tr>
<tr>
<td>34 Manufacture of non-metallic mineral products n.e.c.</td>
<td>1.545</td>
<td>1.786</td>
<td>2.319</td>
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<tr>
<td>35 Manufacture of basic iron and steel</td>
<td>0.938</td>
<td>0.956</td>
<td>0.971</td>
</tr>
<tr>
<td>36 Structural metal products, tanks and containers</td>
<td>1.019</td>
<td>1.125</td>
<td>1.265</td>
</tr>
<tr>
<td>37 Manufacture of cutlery, hand tools and hardware</td>
<td>1.348</td>
<td>1.395</td>
<td>1.460</td>
</tr>
<tr>
<td>38 Manufacture of other fabricated metal products</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>39 Manufacture of ovens, furnaces and burners</td>
<td>1.137</td>
<td>1.160</td>
<td>1.167</td>
</tr>
<tr>
<td>40 Manufacture of other general purpose machinery</td>
<td>0.971</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>41 Machinery for food and beverage processing</td>
<td>0.897</td>
<td>0.981</td>
<td>1.090</td>
</tr>
<tr>
<td>42 Accumulators, primary cells and batteries</td>
<td>1.763</td>
<td>1.794</td>
<td>1.992</td>
</tr>
<tr>
<td>43 Manufacture of bodies for motor vehicles</td>
<td>1.332</td>
<td>1.339</td>
<td>1.314</td>
</tr>
<tr>
<td>44 Parts and accessories for motor vehicles</td>
<td>0.512</td>
<td>0.646</td>
<td>0.648</td>
</tr>
<tr>
<td>45 Manufacture of furniture; manufacturing n.e.c</td>
<td>1.288</td>
<td>1.353</td>
<td>1.440</td>
</tr>
</tbody>
</table>

**Source:** computed, based on NBE's data

**Note:**
- **Wooc:** competitiveness without considering all costs of capital.
- **Woocc:** competitiveness without taking into consideration the opportunity cost of capital.
- **Wac:** competitiveness considering all costs of capital that is depreciation and the opportunity cost of capital, which is about 10 percent of the net fixed asset.
Likewise, indicators of international competitiveness have been computed using the above three cases. The result is summarized in Annex Table 3.2. Here, too, a figure below one indicates that the particular sub-sector in question will have a cost advantage under free-trade prices, making it competitive on the world market. Based on the calculations made, the sub-sectors with such a cost advantage at free-trade prices were only four in 1999/00. These were the manufactures of sugar, wood and cork, publishing and printing services, and plastics. In 1988/89, the number of manufacturing activities with a cost advantage at border prices was eight, or double that of 1999/00. As shown in Annex Table 3.2, these manufacturing activities were sugar, tobacco products, publishing and printing services, other chemical products, plastic, glass, basic iron and steel and parts, and accessories of motor vehicles.

Annex Table 3.2 discloses three facts. First, local-resource-based manufacturing activities did not show any tendency of being internationally competitive, with the exception of the manufacture of sugar, although it is easier to expect a cost advantage to stem from the low cost of labor or the abundance and low prices of material inputs and utilities, as long as they are not imported, leading to a competitive advantage. Interestingly, import-based manufacturing activities—such as the manufacture of plastics—disclosed consistent cost advantage at border prices. Second, the four-digit manufacturing activities that had begun to show signs of being internationally competitive have dwindled in number since 1997/98—from eight in 1997/98 to five in 1998/99, and four in 1999/00. This indicates that the competitiveness of the Ethiopian manufacturing sector has been on a steady decline. Third, the likelihood that Ethiopian manufactured products would be internationally competitive, even considering the cost of capital as sunk, is low. The cost of capital did not significantly influence the competitiveness of manufacturing activities, though it is an important factor in the production process.

The estimation results of the indicators of domestic and international competitiveness based on a survey conducted on some 50 enterprises covering 19 industrial branches reinforce the above estimation results. As shown in Annex Table 3.3, the differences in the estimation results based on CSA and survey data are minimal. Where the differences are high, the quality of the data and the sample size could be considered the main reasons behind the variation—the indicators of domestic and international competitiveness, in any case, remaining within a reasonable range.
**Annex Table 3.3. Indicators of Domestic and International competitiveness**

<table>
<thead>
<tr>
<th>#</th>
<th>Category</th>
<th>Domestic Competitiveness</th>
<th>Domestic Competitiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Processing and Preserving of Meat</td>
<td>0.917</td>
<td>1.146</td>
</tr>
<tr>
<td>2.</td>
<td>Sugar and Sugar Confectionery</td>
<td>0.587</td>
<td>0.618</td>
</tr>
<tr>
<td>3.</td>
<td>Manufacture of Malt Liquors and Malt</td>
<td>0.864</td>
<td>1.440</td>
</tr>
<tr>
<td>4.</td>
<td>Manufacture of Wines</td>
<td>1.028</td>
<td>1.713</td>
</tr>
<tr>
<td>5.</td>
<td>Soft Drinks and Mineral Water</td>
<td>1.025</td>
<td>1.708</td>
</tr>
<tr>
<td>6.</td>
<td>Manufacture of Tobacco Products</td>
<td>0.831</td>
<td>1.187</td>
</tr>
<tr>
<td>7.</td>
<td>Manufacture of Wearing Apparels</td>
<td>1.208</td>
<td>2.013</td>
</tr>
<tr>
<td>8.</td>
<td>Spinning, Weaving, Finishing of Textiles</td>
<td>1.197</td>
<td>1.330</td>
</tr>
<tr>
<td>9.</td>
<td>Leather, Footwear, Hand Bags</td>
<td>1.039</td>
<td>1.485</td>
</tr>
<tr>
<td>10.</td>
<td>Manufacture of Paper and Paper Products</td>
<td>0.903</td>
<td>1.062</td>
</tr>
<tr>
<td>11.</td>
<td>Basic Chemicals</td>
<td>1.182</td>
<td>1.313</td>
</tr>
<tr>
<td>12.</td>
<td>Pharmaceuticals, Medicinal Chemicals</td>
<td>1.181</td>
<td>1.243</td>
</tr>
<tr>
<td>13.</td>
<td>Manufacture of Rubber Products</td>
<td>0.845</td>
<td>1.207</td>
</tr>
<tr>
<td>14.</td>
<td>Manufacture of Plastic Products</td>
<td>0.925</td>
<td>0.974</td>
</tr>
<tr>
<td>15.</td>
<td>Manufacture of Iron and Steel</td>
<td>0.973</td>
<td>1.024</td>
</tr>
<tr>
<td>16.</td>
<td>Manufacture of Fabricated Metal Products</td>
<td>1.147</td>
<td>1.434</td>
</tr>
<tr>
<td>17.</td>
<td>Manufacture of Machinery and Equipment</td>
<td>0.851</td>
<td>0.896</td>
</tr>
<tr>
<td>18.</td>
<td>Manufacture of Furniture</td>
<td>1.013</td>
<td>1.447</td>
</tr>
<tr>
<td>19.</td>
<td>Manufacture of Motor Vehicles</td>
<td>0.881</td>
<td>1.346</td>
</tr>
</tbody>
</table>

**Source:** Computed from own survey results
1: Measuring Concentration Indices

A) Commodity Concentration Index

The degree of commodity concentration is measured by the Gini-Hirschman coefficient given by:

\[ C_x = 100 \sqrt{\sum_{i=1}^{k} \left( \frac{X_i}{X} \right)^2} \]

Where \( C_x = \text{Commodity Concentration Index} \)

- \( X_i = \) The value of exports of commodity \( i \) to the rest of the world in the reference period
- \( X = \) The total value of the country's exports to the rest of the world in the same period.
- \( k = \) The total number of the commodities exported.

The value of \( C_x \) depends on the commodity classification scheme, as different classifications are expected to produce varied results. Massell (1964) has argued that the value of \( C_x \) will be higher, the greater the level of aggregation and the higher the number of commodities within a single large group.

As indicated by Michaely (1967), the other serious shortcoming of the method is the consideration of commodities as different from one another, disregarding their close substitutability. The more close substitutes are defined in different commodity groups and the more evenly distributed the country's exports are, the lesser will the coefficient of concentration be. Thus it is important to have an appropriate commodity classification scheme and a higher level of disaggregation in measuring commodity concentration.

In Ethiopia, the Harmonized System (HS) coding method is being used by the Customs Authority to classify export commodities. And export commodities are being reclassified by the NBE under major commodity groups for publication in its quarterly and annual bulletins.

In this study, the commodity concentration index is calculated using the above formula by employing the NBE data on exports by major commodity groups.

B) Geographic Concentration Index

The coefficient of the geographic concentration of exports is equally important in the analysis of the extent of the export concentration and the prospects for diversification. This is because of the maintained hypothesis that commodity
concentration and geographic concentration are closely correlated. However, the sign of the correlation and the order of causation have been empirical issues.

While some researchers argue that a negative correlation exists between the two, others say that their correlation is positive, with a variation in the order of causation (commodity concentration causing geographic concentration, or vice versa). For Michaely (1967), for instance, there exists a positive correlation between the two forms of concentration, the causation coming from the geographic concentration of exports. In other words, the stronger the geographic concentration of exports, the higher will the commodity concentration be.

Customarily, the geographic concentration of exports is represented by Gx and computed using the following formula:

\[
Gx = 100 \times \sqrt{\sum_{s=1}^{m} \left( \frac{X_s}{X} \right)^2}
\]

Where \(X_s\) stands for the total value of exports to country \(S\)

\(X\) is the total value of the country's exports to the rest of the world.
<table>
<thead>
<tr>
<th>Year</th>
<th>Commodity</th>
<th>Geographic</th>
<th>Geographic Index of Imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984/85</td>
<td>65</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>1985/86</td>
<td>73</td>
<td>39.11</td>
<td>37</td>
</tr>
<tr>
<td>1986/87</td>
<td>68</td>
<td>37.46</td>
<td>37</td>
</tr>
<tr>
<td>1987/88</td>
<td>60</td>
<td>36.37</td>
<td>37</td>
</tr>
<tr>
<td>1988/89</td>
<td>71</td>
<td>36.07</td>
<td>37</td>
</tr>
<tr>
<td>1989/90</td>
<td>59</td>
<td>34.09</td>
<td>38</td>
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<tr>
<td>1990/91</td>
<td>50</td>
<td>36.99</td>
<td>37</td>
</tr>
<tr>
<td>1991/92</td>
<td>58</td>
<td>39.60</td>
<td>61</td>
</tr>
<tr>
<td>1992/93</td>
<td>61</td>
<td>35.64</td>
<td>40</td>
</tr>
<tr>
<td>1993/94</td>
<td>55</td>
<td>39.02</td>
<td>37</td>
</tr>
<tr>
<td>1994/95</td>
<td>66</td>
<td>42.21</td>
<td>37</td>
</tr>
<tr>
<td>1995/96</td>
<td>68</td>
<td>41.63</td>
<td>40</td>
</tr>
<tr>
<td>1996/97</td>
<td>62</td>
<td>39.80</td>
<td>46</td>
</tr>
<tr>
<td>1997/98</td>
<td>71</td>
<td>38.78</td>
<td>44</td>
</tr>
<tr>
<td>1998/99</td>
<td>61</td>
<td>38.66</td>
<td>49</td>
</tr>
<tr>
<td>1999/00</td>
<td>58</td>
<td>41.83</td>
<td>56</td>
</tr>
<tr>
<td>2000/01</td>
<td>47</td>
<td>44.11</td>
<td>54</td>
</tr>
<tr>
<td>2001/02</td>
<td>44</td>
<td>47.45</td>
<td>43</td>
</tr>
<tr>
<td>2002/03</td>
<td>43</td>
<td>47.35</td>
<td>42</td>
</tr>
<tr>
<td>2003/04</td>
<td>45</td>
<td>44.75</td>
<td>43</td>
</tr>
<tr>
<td>2004/05</td>
<td>46</td>
<td>42.60</td>
<td>41</td>
</tr>
<tr>
<td>Average</td>
<td>59</td>
<td>40.18</td>
<td>42</td>
</tr>
</tbody>
</table>

**Source:** Own computations
4. THE PROCESS AND TERMS OF ACCESSION TO THE WTO

4.1 The Accession Process

Most WTO members were contracting parties of the old GATT system. They thus automatically became founding members of the WTO when it was established on January 1, 1995, because they had already signed the Uruguay Round Agreement in Marrakesh in April 1994 (or because they joined the GATT after April 1994, but before the establishment of the WTO). These members are referred to as "original" WTO members. The Marrakesh Agreement, which formally established the WTO, permits new members to join the organization. These provisions are found in Article XII of the Marrakesh Agreement, which states that accession to the WTO will be "on terms to be agreed" between the applicant and the WTO members.

Membership in the WTO is very much different from membership in other international organizations such as the United Nations, the World Bank, and the International Monetary Fund (IMF). The process of WTO accession is a one-sided affair, in that all of the requests coming from existing members and the full burden of adjustment fall on the applicant. While any state or customs territory having full autonomy in the conduct of its trade policies may become a member ("accede to") of the WTO, members must agree on the terms of accession. This is done through the establishment of a working party of WTO members and through a process of negotiations. Article XII of the Marrakesh Agreement deals with accession, and 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."

The most striking thing about WTO Article XII is perhaps its brevity. It gives no guidance on the "terms to be agreed," these being left to negotiations between 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.

Broadly speaking, WTO accession is a complex and lengthy technical process with four phases briefly discussed below.
4.1.1 Phase I: Application and Establishment of the Working Party Phase

The WTO accession process starts with the filing of an application by the acceding country and the establishment of a working party to examine the case. Governments, or separate customs territories, wishing to accede to the WTO must submit an application to the Director-General of the WTO, indicating their desire to be a member of the WTO under Article XII of the Marakesh Agreement. Should a customs territory wish to accede to the WTO, it needs to have, in the wording of Article XII (1), full autonomy in the conduct of its external commercial relations. However, any state, regardless of its size and world-trade share, can apply to join the WTO.17

After submission of the application, the General-Director examines the request and transmits it to the General Council, which normally considers it at its next meeting. At this stage, discussion in the General Council is usually general in nature. Normally, the acceding country presents its application; members welcome this; and the General Council establishes a Working Party with standard terms of reference.

When the Working Party is established, it is normal practice for the Chairperson of the General Council to be given the authority to nominate its Chairperson after consulting with the applicant and the members of the Working Party. This is to ensure that the multilateral track of the accession process is conducted in a transparent manner. The number of Working Party members varies from accession to accession. The UN, UNCTAD, IMF and the World Bank have observer status in any accession Working Party by virtue of their agreements with the WTO.

4.1.2 Phase II: The Fact-Finding Phase

This second phase of WTO accession is designed to give WTO members an idea of the applicant country's economy in general and its foreign-trade regime in particular. Also called “multilateral track,” it involves an examination of the foreign-trade regime and the economic system of the acceding country. It identifies the required changes that the acceding country commits itself to implement. The examination is made on the basis of the Memorandum on the Foreign-Trade Regime (MFTR) submitted by the acceding country. Preparation and submission of its MFTR are parts of the obligations of an acceding country. The experiences of some recently acceded countries have shown that preparation of the MFTR takes considerable time and resources. Its accuracy and comprehensiveness greatly helps in facilitating the subsequent phases of the accession process.

Working Party members will assess the MFTR to determine whether it conforms to the various requirements of the WTO rules. Discussions on the

terms of accession do not officially begin, but evolve from the earlier fact-finding meetings of the Working Party. The main aim of the discussions is to establish whether or not the acceding country’s foreign-trade regime conforms to WTO rules and, in particular, how it is to be brought into conformity thereto where necessary.

In addition to its Memorandum, an acceding country is obliged to submit other relevant supporting documents for the subsequent accession negotiations. These include copies of pertinent pieces of legislation, data on applied tariff rates, data on agricultural domestic support and export subsidies, data on services, TRIPS, replies for questions raised by Working Party members. Each of them is discussed briefly herein below.

4.1.2.1 Copies of Pertinent Legislation

An acceding country should submit full copies of pertinent pieces of national legislation and regulations in one of the three official languages of the WTO: English, French and Spanish. The customary practice in this respect has been that the acceding country sends a complete and comprehensive copy of the relevant laws and regulations to the WTO Secretariat. If the textual material is short, the applicant country will have to have it translated into one of the official languages. If it is long, nonetheless, the applicant country must provide a detailed summary thereof in one of the official languages. In practice, however, summaries of laws and of regulations are of limited value, as most existing members insist on having the full text of laws and regulations. It has now become standard practice for acceding countries to submit what is called a “Legislative Action Plan” specifying the legislative work program underway with target dates for completion.

4.1.2.2 Data on Applied Tariff Rates

Copies of the acceding country’s currently applicable tariff rates, or schedules, as indicated in the Harmonized System (HS) nomenclature, must be made available to members of the Working Party at the time of submission of the Memorandum. The expectation of WTO members is that the applied rates will be taken as the base rates in the negotiations on the tariff concessions to be included in the goods schedule of the applicant. The timing for submission of initial offers is not regulated. But, normally, this is done when the foreign-trade regime of the applicant becomes more or less clear to the WTO members.

4.1.2.3 Data on Agricultural Domestic Support and Export Subsidies

The preparation of data on agricultural domestic support and export subsidies and the supporting tables that form the basis for
negotiations involve a complete understanding of complex WTO requirements. To assist acceding countries in the preparation and submission of this factual information about their agricultural domestic support and export subsidy measures actually in place, which are consistent with the Agreement on Agriculture, a Technical Note has been circulated by the WTO Secretariat. Data on these measures and accompanying tables are often presented at a fairly advanced stage of the accession process. These tables are revised several times before they are acceptable to members of the Working Party. In WTO jargon, this document is called WT/ACC/4.

4.1.2.4 Data on Services and TRIPS

Two documents known as WT/ACC/5 and WT/ACC/9 are the basic supporting tables to be provided to the Working Party, in addition to the information contained in the Memorandum regarding these two areas of WTO.

4.1.2.5 Questions and Answers

Following the circulation of the MFTR, members of the Working Party are invited to submit questions in writing with a view to clarifying the operation of the acceding country’s foreign-trade regime. Replies to the questions must be provided in writing by the applicant country to the WTO Secretariat, which consolidates these by topic under the headings of the Memorandum. The experiences of countries that recently acceded show that more than one round of questions and answers are required before the first meeting of the Working Party takes place. Of course, the number, diversity, and rounds of the questions vary from one accession to another.

4.1.2.6 Examination of the Memorandum

At the first meeting of the working party, representatives from the acceding country and members of the Working Party examine the Memorandum and the questions and answers provided with a view to seeking further clarifications that may be required in light of the various provisions of the WTO rules. The aim is to determine whether or not the acceding country’s foreign-trade regime is consistent with WTO Agreements and how it is to be brought into conformity, if there is a need to do so. It means that once a country decides to join the WTO, its government is under pressure to meet deadlines in introducing the required changes and to continue with its reform program. The introduction of pertinent laws and regulations are among the conditions necessary to expedite the accession process.

Regarding the main economic activities relevant to the WTO Agreements, acceding countries must submit a legislation action plan, or a timetable, showing what steps they have taken toward conformity with
the WTO rules, what remains to be done, how and when they expect to complete the reform process. Thus, when the process of accession is completed, its conclusion signifies a certain threshold of economic transformation by the acceding country. Further fact-finding meetings may be held as necessary before starting the next negotiation phase of the accession process. In practice, however, the fact-finding exercises on the foreign-trade regime and the negotiation phase could overlap and proceed in parallel. Depending on such factors as the interests of existing members in the acceding country, the complexity of the policies examined, the adequacy of the information supplied, the numbers of fact-finding meetings held by each Working Party vary considerably.19

4.1.3 The Negotiation Phase

The third phase of the accession process is negotiation. This phase involves both multilateral as well as bilateral negotiations. Regarding the multilateral track, while the foreign-trade regime is being examined in the Working Party, Working-Party members will be assessing whether it conforms to the various requirements of the WTO Agreements. Usually, Working-Party members limit their concerns to specific terms of accession, such as commitments to rules, because these issues are a matter of common concern. The discussion at the multilateral level aims mainly at establishing whether or not the acceding country’s foreign-trade regime conforms to the WTO rules and, in particular, how it is to be brought into conformity thereto where necessary.

On the other hand, the bilateral negotiations relate to market access concessions in goods and commitments in services. These are discussed here below:

4.1.3.1 Market Access in Goods

This covers negotiations for concessions in the area of trade in goods, mainly in the form of reductions and bindings of import tariffs. These negotiations are carried out bilaterally with the main trading partners that are principal and substantive suppliers to an acceding country. However, following the conclusion of the bilateral negotiations, the draft schedules of goods will be circulated to all members of the Working Party and reviewed multilaterally. In the case of goods, negotiations start when interested members submit their respective requests. The acceding country then tables initial offers. Alternatively, as a means of expediting the process, the acceding country tables its draft schedule of concessions to provide the basis for negotiations. The outcome of the negotiations will be summarized in a WTO format called “Goods Schedule” and form an integral part of the Protocol of Accession.

4.1.3.2 Market Access in Services

Bilateral negotiations in services are usually conducted after members of the Working Party have undertaken some form of examination of the services regime as indicated in the acceding country’s Memorandum. Like that of the goods negotiations, negotiations in services could start based on the applicant’s initial offer or the other way round, when interested members submit their respective requests and the applicant tables a draft schedule of specific commitments. At the conclusion of the negotiations, the schedule of specific commitments of the acceding country, which is the agreed term of accession in the services area, will be attached to the Protocol of Accession.

4.1.4 The Protocol of the Accession Phase

Once the negotiations are concluded and the Working Party has completed its mandate, it finalizes its report together with the draft Decision and Protocol of Accession (containing commitments listed down in the Working Party Report and in the goods and services schedules). The Working Party submits its report to the General Council or to the Ministerial Conference. After approval by a two-thirds majority of WTO members, the Protocol of Accession comes into force. The applicant notifies the WTO Secretariat of its formal acceptance. Thirty days later the applicant becomes a WTO member. The Protocol binds the new member to observe specified commitments. In addition, the Protocols of Accession provide that all new members are prepared to observe all the rules included in the legal texts of the Uruguay Round Agreements as a Single Undertaking.

4.2 Issues in the Terms of Accession

The core of the accession negotiations lies in the determination of the terms of accession. The terms of accession of an acceding country could, in fact, be said to contain the real price that an acceding country will have to pay for WTO membership. Article XII of the Marrakesh Agreement requires that the terms of accession should be agreed between the acceding country and the existing WTO members. However, no guidance is given in the Marrakesh Agreement on the terms to be agreed upon, these being left to negotiations between the acceding country and the WTO members. Neither is there any guidance on the procedures to be used for negotiating these terms.

The accession process is a negotiation in which applicants should have no expectations. There is nothing in the WTO Agreements that entitles new members to comparable terms. In fact, new members are expected to make individual agreements and to demonstrate their willingness to comply thereto fully. Willingness has been assessed against what is commercially viable, meaningful in trade terms, fair or appropriate to the level of the economic development of the acceding country.
In practice, acceding countries are made subject to more stringent commitments in several areas than existing members are. Because these obligations exceed the existing requirements of the WTO Agreements, they are often referred to as "WTO-Plus Obligations." The reason is that Article XII, which governs the accession process, is limited in scope and lacks precision in terms of setting the specific operational procedures. On the other hand, recently acceded members are not afforded the same rights as existing members. The rights of the new members are, therefore, referred to as "WTO-Minus Rights." For example, acceding countries are told to make their legislation consistent with WTO rules, without any access to the transitional period contained in the Agreements.

Critics say that this practice is tantamount to an abuse of power, especially when applied to LDCs, which should automatically be accorded leniency and Special and Differential (S&D) treatment. Given the nature of the accession and the decision-making process in the WTO, which requires a general consensus by members, acceding countries end up committing themselves to a package that suits every member, including the most exacting ones.\(^\text{20}\)

In newly acceded big economies like China, these rules manifest themselves primarily in trade remedies in the form of special anti-dumping, anti-subsidy, and safeguard measures. As regards developing and LDCs, however, WTO-Minus disciplines concern the non-application of provisions on S&D treatment in WTO Agreements. On the other hand, WTO-Plus obligations are commitments that are undertaken by acceding countries beyond the requirements of the WTO Agreements. These obligations cover wide-ranging issues, from concerns about the administration of the foreign-trade regime to new WTO disciplines on investment.

LDCs adopted the Brussels Declaration and Program of Action (LDC-III) that calls for their accelerated WTO accession. They also called for WTO members to restrain themselves from seeking concessions on market access in goods and services, and, at the accession stage, to seek only commitments commensurate with the LDCs' development levels. The Quad countries also agreed to LDC-III on the possibility of extending transitional periods for implementing WTO rules to acceding LDCs upon request and the presentation of a detailed plan of action to that end. At Doha, WTO members reiterated their position that LDCs' accession remained a priority and agreed to work to facilitate and accelerate negotiations with acceding LDCs. Since acceding countries have little or no leverage over existing WTO members, nevertheless, there is not much that they can do to make sure that all these promises are fulfilled.

When it comes to the experiences of LDCs in this matter, Cambodia and Nepal—the first two LDCs to complete their accession since the establishment of the WTO in 1995—are the only cases to look at. It took Cambodia almost nine years, and Nepal 14 years, to be WTO members.

As stated in its Working Party Report, Cambodia was given longer implementation periods in the form of S&D treatment for TBT (2008), SPS (2008), and Customs Valuation (2009). The transition period is counted from the date of accession.

Although existing members are accorded longer periods for implementation of most of these agreements, the majority of these periods have now expired. In view of the expiry of the transition period for existing members, the S&D treatment for Cambodia, albeit short, seems to be a step in the right direction. This is not to say that the implementation of these agreements would not be burdensome for a country like Cambodia. As regards TRIPS, a 2007 deadline constitutes a "WTO-Minus Right". Under WTO, all LDC members have the right to delay the implementation of Sections 5 and 7 of Part II of TRIPS in relation to pharmaceutical patents until 2016. However, Cambodia was made to accept a commitment that is far shorter than the implementation period provided for incumbent members.

Even though LDCs are not under any obligation to eliminate export subsidies, Cambodia was required to bind its export subsidies at zero. It has also agreed not to maintain any measure inconsistent with the TRIMS Agreement and to apply the TRIMS effective from the date of accession. The TRIMS Agreement provided, though it is now extended, seven years to LDCs for implementation of TRIMS and elimination of measures that are inconsistent with TRIMS. It would have been a fair deal if Cambodia were accorded at least the same treatment counting from the date of accession, given the cost and difficulty of implementation.

As part of its "WTO-Plus" obligation, Cambodia had to commit itself to reporting periodically to the WTO on the progress of its privatization programs and on the status of its economic reform programs, despite the fact that the WTO Agreements say nothing whatsoever about the need for providing such information. Cambodia's accession serves as an important lesson to LDC applicants in terms of the precedent it sets. Above all, there is widespread fear that Cambodia's accession may be taken as a template for the accession of other LDCs.

The other LDC, Nepal, which joined the WTO on April 23, 2004, is the first LDC to join the WTO through the full-working-party-negotiation process. Nepal had to go through a long gestation period of 14 years to be able to get into the mainstream multilateral trading regime. How to reap the benefits and not be overcome by the open trading that is to follow accession was the major challenge before Nepalese policymakers and businessmen. Nepal has relatively good and favorable terms of accession in the various areas of the WTO Agreements, compared with Cambodia. For example, the average tariff rates for agricultural and industrial products were bound at 44% and 23.1%, respectively, whereas tariff peaks for agricultural and industrial products were bound at 200% and 130%, respectively.
5. THE LEGAL AND ECONOMIC PERSPECTIVES OF ACCESSION TO THE WTO

5.1 Principal Legal Obligations of Accession: A Recapitulation

As noted earlier, the Marrakesh Agreement, which formally established the WTO, provides for the admission of new members to the organization on “terms to be agreed” between the applicant and the WTO, without any guidance as to what the “terms to be agreed” refer to and on the procedures to be followed in negotiating the said terms. There are, however, a set of procedures for accession, which were prepared by the WTO Secretariat, based on those followed by the contracting parties of GATT and supplemented and elucidated by other relevant provisions, documents and other decisions of the organization.

These procedures (see table below) involve some 20 steps, starting with an applicant’s communication to the Director-General of the WTO, indicating its desire to accede to the WTO under Article XII. This communication is then circulated to all WTO members and a decision is made on whether or not to approve the establishment of a Working Party. Once a Working Party has been established and a Chairperson appointed, the applicant submits a Memorandum and provides further information and answers to the questions posed to it. A Working Party Report is then prepared while bilateral negotiations are conducted on concessions and commitments on market access for goods and services (as well as other specific terms of accession), after which goods and services schedules are prepared and a draft Decision and a draft Protocol of Accession (containing the commitments listed down in the Working Party Report and in the goods and services schedule) are compiled. This accession package is formally accepted by the Working Party, the General Council, or the Ministerial Conference, and, finally, by the applicant. Once the applicant notifies the WTO Secretariat of its formal acceptance, it (the applicant) becomes a member of the WTO 30 days later.
## A Summary of WTO Accession Procedures

<table>
<thead>
<tr>
<th>Step</th>
<th>Procedure</th>
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<tbody>
<tr>
<td>1.</td>
<td>The applicant sends a communication to the Director-General of the WTO, indicating its desire to accede to the WTO under Article XII.</td>
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<tr>
<td>2.</td>
<td>The Communication is circulated to all WTO members.</td>
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<tr>
<td>3.</td>
<td>A Working Party is established and a Chairperson is appointed.</td>
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<td>4.</td>
<td>The WTO Secretariat informs the applicant about the procedures to be followed.</td>
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<tr>
<td>5.</td>
<td>The applicant submits a Memorandum on its foreign-trade regime for circulation to all WTO members.</td>
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<tr>
<td>6.</td>
<td>The WTO Secretariat checks the consistency of the Memorandum with the outline format (Annex I) and informs the applicant and the members of the Working Party of its views thereon.</td>
</tr>
<tr>
<td>7.</td>
<td>Working Party members submit questions on the Memorandum and the applicant provides answers thereto (Repeat 7 if necessary).</td>
</tr>
<tr>
<td>9.</td>
<td>Working Party members submit more questions on the Memorandum. Bilateral negotiations between the applicant and interested Working Party members on concessions and commitments on market access for goods and services (as well as on the other specific terms of accession) are undertaken.</td>
</tr>
<tr>
<td>10.</td>
<td>The applicant answers them.</td>
</tr>
<tr>
<td>12.</td>
<td>Repeat steps 9 and 10 above, until 12. The examination of the Memorandum is complete.</td>
</tr>
<tr>
<td>13.</td>
<td>Terms and conditions (including commitments to observe WTO rules and disciplines upon accession and the transitional period required to make any legislative or structural changes where necessary to implement these commitments) are agreed. Concessions and commitments on market access for goods and services (as well as on the other specific terms of accession) are agreed.</td>
</tr>
<tr>
<td>15.</td>
<td>A draft Decision and a draft Protocol of Accession (containing the commitments listed down in the Working Party Report and the Schedule of Concessions and Commitments to GATT 1994 and Schedule of Specific Commitments to the GATS) are prepared.</td>
</tr>
<tr>
<td>17.</td>
<td>The General Council/Ministerial Conference approves the “accession package.”</td>
</tr>
<tr>
<td>18.</td>
<td>The applicant formally accepts the “accession package.”</td>
</tr>
<tr>
<td>19.</td>
<td>The applicant notifies the WTO Secretariat of its formal acceptance.</td>
</tr>
<tr>
<td>20.</td>
<td>Thirty days after step 19 (above) has been taken, the applicant becomes a member of the WTO.</td>
</tr>
</tbody>
</table>
The accession process is a negotiation in which new members are not entitled to terms comparable to those of existing members. New members are, in truth, expected to make individual agreements and to "demonstrate their willingness to comply fully" and to provide "meaningful market-access commitments," making the negotiations clearly a one-sided affair. Simply put, the accession process is more about new members fulfilling existing WTO members' needs and interests and less about the applicant's interests.

While some members pressure applicants into subjecting themselves to more stringent commitments than those to which existing members ("WTO-Plus Obligations") are committed and see to it that they are not granted the same rights as existing members ("WTO-Minus Rights"), others consider this to be an egregious abuse of power. This is true especially about small island developing countries and LDCs. When the applicant is one of these countries, many WTO members advocate automatic leniency and special and differential treatment. The accession of LDCs was accorded special attention at the Third United Nations Meeting on Least-Developed Countries (LDC III) in 2001. Accordingly, the WTO Secretariat and members have since introduced guidelines for simplified and streamlined procedures for LDCs' accession, thanks to a non-binding decision adopted by the General Council in 2002 (see the Annex at the end of the chapter).

While very little is known about bilateral negotiations between applicants and existing WTO members, experience suggests that market-access commitments in goods and services that suit every member, including the most demanding ones, carry the day. Over all, commitments by an applicant are generally classified by the WTO Secretariat as covering the following:21

- Statement of fact;
- Obligations to abide by existing WTO rules;
- Obligations to abide by the rules created by the commitment paragraph and not contained in WTO Multilateral Agreements (WTO-Plus Commitments);
- Obligations not to have recourse to specific WTO provisions (WTO-Minus Rights);
- Specific identification of transitional periods that may be used; and
- Authorization to depart temporarily from WTO rules or from the commitments that appear in the schedules submitted.

### 5.2 Legal Instruments and Benefits of Membership

The multilateral trading system has been in existence for nearly 60 years now. Among the latest outcomes of the several rounds of negotiations is the

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establishment of the WTO. This organization is now responsible for overseeing the implementation of the various multilateral trade agreements and their dispute-settlement mechanisms. In today's globalization, joining this rules-based multilateral trading system is considered by many to be an effective lever to promote trade liberalization and substantive regulatory reform. There, nonetheless, is a general concern that the process is too cumbersome and onerous for acceding countries, whereas the price of accession, expressed in terms of the extent of market-access concessions made by acceding countries, has been growing over time. Notwithstanding these concerns, the demand for WTO accession remains strong.

This arises from a range of economic, legal, and political issues that the policymakers of countries aspiring to join the WTO seek to promote. One is the rationale to further integrate their countries with the world economy—with the expectation that membership in the WTO will result in a more predictable access to the world market for their export products. Another economic rationale is the desire to attract more FDI using, as it were, WTO membership as a seal of approval, which is recognized by the international business community. In the legal context, accession to the WTO accords the legal advantages of accessing a rules-based system and benefiting from the WTO's dispute-settlement process. In sum, WTO membership is considered instrumental in facilitating political and economic reform measures in the acceding countries.

A closer examination, provided below, of the WTO Agreements is vital in understanding the benefits of membership and the challenges thereof.

5.2.1 Trade in Goods

Without any need for historical support, one may make a valid assertion that trade in goods is a classical form of business that countries have maintained since time immemorial. The ancestral origin of the WTO lends support to this, in that it made available an international legal regime that regulated trade in goods for almost a half century.22 With the establishment of the WTO, a more streamlined legal basis emerged for trading activities pertaining to, inter alia, trade in goods.

Ethiopia was not signatory to GATT, and obtained WTO observer status only in October of 1997. Ethiopia applied for WTO membership, as already noted, in January of 2003.23

Among the trade agreements negotiated by WTO members is the General Agreement on Tariffs and Trade. Any benefit that Ethiopia may enjoy if it accedes to the WTO in relation to trade in goods is attached to this instrument.

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22 The 1947 General Agreement on Trade and Goods, also referred to as WTO's ancestor, regulated trade in goods until it was succeeded by the WTO.

Indeed, a country aspiring to become a WTO member is required to reform its foreign-trade regime in such a way as to make it more conducive for it to fully integrate with the world economy. GATT requires that trade policies and their implementation be non-discriminatory. The non-discrimination standard is one of the linchpin principles incorporated into GATT. This principle of non-discrimination has two major components: the most-favored-nation (MFN) rule and the national treatment principle. The MFN rule requires that a product made in one member country be treated no less favorably than a “like” product that originates in any other country.

The economic significance of this rule is based on the principle that a policy that does not discriminate against any foreign suppliers, importers, and consumers enhances competitiveness. The principle also guarantees that countries will not use their market power by raising tariffs against others, or by providing specific countries with preferential treatment for reasons that have to do more with politics than trade. The MFN principle further helps reduce negotiating costs, in that once negotiations with a given country have been concluded, the results also extend to all without the need for negotiating with them to obtain similar treatment. Instead, acceding countries have much to gain from the high bargaining powers of other states.

While it might be argued that goods leaving Ethiopia already enjoy equal treatments from existing arrangements with trading partners, even without there being any need for the country to become a member of the WTO, one needs to recognize that more stringent multilateral trading disciplines greatly help ensure a more secure and predictable trading environment and lessen the uncertainty in trade relations. On the other hand, treatments currently favoring Ethiopia remain uncertain and unpredictable, as they could be withheld by any of the states granting such a treatment, without fear of any subsequent sanctions. Securing WTO membership will thus stabilize Ethiopia’s trade relations with its major trading partners through the unconditional most-favored-nation treatment, without being subjected to the annual reviews required by the national laws of these countries. This, in fact, appears to have motivated most acceding countries, including Ethiopia, into deciding to start the accession process. The disadvantage of the unfavorable image (particularly from the perspective of potential investors) of remaining outside the system—that is, of not being a WTO member—also weighs heavily on the decision to accede. WTO membership is, therefore, believed to give rise to trade creation, enabling importers and exporters in acceding countries to operate on a competitive market. Consumer goods, material inputs, and capital goods would also be cheaper, and the choice of varieties greater.

Likewise, the national-treatment principle requires that foreign goods, once they have satisfied whatever border measures are applied, be treated no less favorably than domestically produced goods, in terms of internal taxation.

24 Hoekman Ibid.
In other words, goods of foreign origin circulating in the country must not be subject to taxes, charges, and regulations that are less favorable “than those that apply to similar goods of domestic origin.” This principle ensures that liberalization commitments are not offset through the imposition of domestic taxes and similar measures. The requirement that foreign products be treated no less favorably than domestically produced products gives foreign suppliers greater certainty regarding the regulatory environment in which they must operate.

In this context, these two principles within GATT will provide Ethiopian exports with more security and predictability in accessing the world market. Providing a secure and predictable environment also has the added advantage of ultimately attracting FDI into the country. Why? Because ensuring that laws and regulations are consistent with WTO requirements will help governments adopt good practices, policies, and institutions that are consistent with those found in countries that have successfully integrated themselves with the world economy, thereby facilitating trade and fostering sustained economic growth. Indeed, the ultimate beneficiary of the attendant steps to joining WTO—that is, adopting good practices, policies, and institutions, will be the business community—as it will significantly benefit from the stable and secure business environment that will be created as a direct result of its country’s accession to the WTO. Membership in the WTO will further improve the transparency of the trade policies and practices of the trading partners, which will in turn enhance the security of trade relations as well.

Indeed, the indirect benefits that could accrue could be as substantial as the expected direct benefits. For instance, investment, whether domestic or foreign, is stimulated by a stable and open policy environment under which the rules of the game are transparent and any uncertainty regarding possible future policy changes is reduced as much as possible. To the extent that such investment involves production for export, or relies upon access to international markets for imports of intermediate inputs and capital equipment, WTO rules and dispute-settlement mechanisms provide a surety to potential investors that the policy regime in a member country will remain open. Such sureties are of particular importance in countries where the credibility of the policy regime is limited, even if governments pursue open trade and investment policies. Besides, the multilateral surveillance of national policies, as required by the trade policy review mechanism enshrined within the multilateral trading system of the WTO, would consistently help move reforms forward and keep them on track. The significance of WTO’s trade policy review mechanism is succinctly put as follows by a writer:

26 Art. III GATT
27 Hoekman, cited above at footnote 4
28 Anderson Kym Economy—Wide Dimensions of Trade Policy and Reform, 2002, p. 15
29 Ibid. Anderson
Transparency and credibility are also bolstered through the careful scrutiny countries undergo when acceding and periodically thereafter through what is called a Trade Policy Review. The "cleaner" a country's report card that emerges from a Trade Policy Review process, the more valuable the report as a potential marketing tool for the government in attracting FDI. And the more "problems" that are identified, the more useful the report may be to reform-minded interest groups in mobilizing support for changes in the status quo.30

The fact that members have access to the WTO dispute-settlement mechanism to safeguard their trade rights and interests goes to explain the whole efficiency of the system. As a result of that, acceding countries will no longer be subject to threats, if any, of unilateral sanctions and retaliation coming from their major trading partners. This is of paramount importance, in that it wards off the chilling effect that such an unhealthy environment could have on trade expansion. The dispute-settlement mechanism is the best safeguard of the interests of domestic producers against any discrimination of their goods by another member state, or from dumped imports.

The other benefit, which is of particular importance to Ethiopia, relates to what its development status would entitle it, following its WTO membership. As an LDC, Ethiopia will be a beneficiary of the special and differential treatment scheme, in terms of more technical and adjustment assistance that is extended by GATT to such countries. Trade-related technical and adjustment assistance is an essential feature of LDCs' compliance with their WTO obligations. It is also the key to special and differential treatment in many WTO Agreements in respect of the requirements relating to the following:

- Building up the foreign-trade policy regime, institutions, and operators to develop best practices in policies and strategies;
- Enhancing competitiveness, *inter alia*, through technological innovation; and
- Strengthening and expanding production units and capacities for them to make the most of their participation in regional and multilateral trade negotiations.

To that end, an integrated framework for trade-related technical assistance, including human and institutional capacity-building to support LDCs in their trade and trade-related activities, has been developed by the WTO.31

Accordingly, should it be a WTO member, Ethiopia would also benefit from the substantial trade-related technical assistance that it would be provided with to facilitate its adjustment to WTO obligations and to stimulate its
competitiveness. In addition to the special and differential treatment that Ethiopia may receive, there is an enabling legislation that warrants a general preferential treatment to be accorded to developing-country members and LDCs. While Ethiopian products may already benefit from these special and differential treatments, accession to the WTO will give it legal assurance, and no country may withhold it at will. This will further stimulate the national and foreign investment necessary to take advantage of the opportunity created.

Finally, WTO membership enables members to advance their trade and economic interests through an effective participation in WTO's multilateral trade negotiations. It also ensures that any new rules or amendments thereof are compatible with members' interests. In the multilateral trade negotiations, members will have equal rights to lodge their requests for market-access concessions from other WTO members and claim their legitimate rights in a spirit of "give and take." In the process of accession, Ethiopia may negotiate a major reduction in what may be excessive tariffs and other trade barriers hampering the access of Ethiopian products to markets of WTO-member countries.

Membership in the WTO ensures equal participation in the rules-making process that is shaping the future multilateral trading system and the world economic governance. Since the conclusion of the Uruguay Round, dramatic changes have been taking place in the multilateral trading system. These changes reflect rapid changes in the world economy as a result of globalization and represent the interests of different countries and economies. Accession to the WTO will empower Ethiopia to have its trade interests reflected in future rules-making.

5.2.2 Trade in Services

Within the global economy, the significance of trade in services could not be overstated. The growing volume of trade in services has entailed developments in information and communications technology as well as a greater market access resulting from the widespread deregulation of public utilities. The term "services" covers a broad range of industries that typically dominate absolute output and employment in most countries. It encompasses both intermediate services (communications, transport, financial intermediation, electricity and gas, distribution, construction, and business services) and final demand services (tourism and travel, recreation, education, health and environmental services). Services were added to the agenda of multilateral trade talks only recently. And the first agreement concerning services, the General Agreement on Trade in Services (GATS), was concluded in the Uruguay Round. This negotiation resulted in improved rules and market access for international trade in services. GATS is, therefore, a multilateral comprehensive framework of rules governing trade in services. It applies to

32 Hodge, James. Liberalization of Trade in Services in Developing Countries, p221
all service sectors and all forms of trade in services, including investment. As such, it has the following three parts:

- The general framework of rules and obligations;
- Individual schedules of commitments for each WTO member, which specify, on a sector-by-sector basis, the conditions under which foreigners may supply services; and
- Annexes and ministerial declarations.

GATS covers virtually every aspect of trade in services, including the following:

- The majority of services;
- The different means by which a service can be supplied to a foreign-market customer;
- The establishment of commercial operations in foreign markets; and
- Measures applied by all levels of government and non-governmental bodies (under a governmental authority).

The most important obligations of GATS are the ones discussed here below.

**Most-Favored-Nation (MFN) Treatment**

A WTO-member country may not discriminate among foreign-services providers by offering more favorable treatment to service providers of any one country. Members are permitted to maintain the existing measures that contravene MFN obligations, but any exceptions must be clearly stated on a member's MFN exemption list.

**National Treatment**

In the services sub-sectors listed down in a member's schedule of commitments, a member may not take measures aimed at discriminating against foreign services providers, with intent to favor the domestic suppliers of the same types of services. In other words, foreign companies must be treated as favorably as domestic providers are. Any measures that violate the national treatment obligation must be clearly inscribed in a member's schedule of commitments.

**Market Access**

In the services sub-sectors listed down in a member's schedule of commitments, a member may not take measures which are defined in GATS as restricting market access. Examples of measures considered as restricting market access include quotas, economic needs tests, requirements for certain types of legal entities, and maximum foreign-shareholding limits. Any measures that violate the market-access obligation must be clearly inscribed in a member's schedule of commitments.
Domestic Regulations

Members' regulations must be administered in a reasonable, objective and impartial manner. Qualifications and licensing requirements and technical standards must be based on objective and transparent criteria, and should not be more burdensome than necessary to ensure the quality of the service.

Transparency

Each member shall make public all measures which pertain to the GATS Agreement. The WTO must be notified of any relevant changes to government policies, regulations or administrative guidelines that significantly affect trade in services covered by the specific commitments under this Agreement. Members must also establish inquiry points and respond promptly to requests for information on their regulatory regimes.

In the event that a member fails to carry out its obligations or specific commitments under GATS, other members will have recourse to the WTO dispute-settlement mechanism.

It is clear from the foregoing discussion that GATS is one of the key reference texts that should be used by corporate planners in member countries seeking to take full advantage of foreign opportunities. GATS covers all the major ways in which service suppliers serve their clientele, based on the so-called modes of supply. That means, for the day-to-day business of rendering a service, countries have to declare whether or not they allow the following:

- Foreign companies to deal with clients in their market from across the border (i.e., electronically);
- Their citizens to travel abroad to where the supplier is located in order to consume a service;
- Foreign-service suppliers to establish companies on their market; or
- Suppliers to enter the country in person to do business.

As a result, companies know where they stand on foreign markets and in their dealings with foreign clients. WTO membership would, as such, provide an environment where there is a comprehensive and flexible agreement that in turn provides guidance and enforceable guarantees to services suppliers who seek to supply services to foreign customers. Whatever the services sub-sector, the means of supplying the services, and the target markets within WTO-member countries, the provisions of GATS provide guidance. When services suppliers are in doubt about their rights on a foreign market, or when they seek clarification on the opportunities open to them, GATS is the first point of reference for them. In short, while GATS is a government-to-government agreement, it is of direct relevance to individual firms, too, because it lays down the framework for international rules within which firms operate around the globe. GATS establishes a basic set of rules for the member countries to abide by when they undertake international trade in services, as well as a clear set of obligations.
for them and a legal structure for ensuring that those obligations are observed. This enables companies to identify the markets that are open to foreign-services providers and to be sure that these markets will remain open in the future.

If companies encounter barriers related to any of the modes of supply, they could easily verify whether the GATS member in question has legally committed itself in the specific area of concern and solicit assistance from its government in resolving the issue. Members further have recourse to a dispute-settlement process, in the event that another member breaks its obligations. Clearly, accession to the WTO will also present Ethiopian firms engaged in trade in services with an opportunity to benefit from GATS provisions.

The tradability of services has conventionally been relatively low. As such, it may create the impression that the gains from services-trade liberalization are small. Because services have a strong intermediate role, however, the gains from trade in services include both the direct effect on the sector itself and the indirect effect on all the other sectors in the economy that make use of the services. Many developing countries are concerned that most of the gains from the liberalization of trade in services will accrue to industrial countries. This concern is based on the observation that many services sectors are human-capital-intensive, physical-capital-intensive, or both, which means that industrial countries will have a comparative advantage and will dominate any trade in services after liberalization. This argument, however, overlooks the fact that all countries have a comparative advantage in some area; that services have a key intermediate role in the economy; and that they (services) are largely traded through FDI. The gains obtained from financial liberalization in countries like Argentina, Colombia, and Turkey are living proofs to all that. Ethiopia's comparative advantage in such areas as tourism and in other natural-resources-based exports, like electric power, are certainly worth-considering in this regard.

The role of the services providers in this sector is to ensure that a wide range of goods and services are available to consumers at lower prices. Price levels and a greater variety of products are closely related to the degree of efficiency and competition in that sector. In this regard, WTO membership serves as a stimulus to enhance the competitiveness of firms engaged in the services sector. Although GATS is helpful primarily to services exporters, the benefit extends to all citizens as well. As a result of facilitating increased trade and competition in services, businesses and consumers of services will have access to a broad spectrum of services at more competitive prices. Most citizens will also stand to benefit from the new job opportunities and growth that are bound to result from increased trade in services.

33 Hodge, James. Liberalization of Trade in Services in Developing Countries, pp. 222, 223
The WTO has, as its ultimate goal, the liberalization of trade in every sector. Trade liberalization involves providing greater market access to foreign firms by lowering the barriers to trade. Liberalization of trade in services, therefore, involves the reduction of regulatory barriers to market access and discriminatory national treatment across all four modes of supply. With accession to the WTO, the private sector in Ethiopia will enjoy the benefits of such liberalizations in an environment where there are no regulatory barriers on a large scale. In sum, the benefits of WTO membership in the area of trade in services are the following:

- Securing improved access for intra-corporate transferees;
- Improving transparency requirements and due process of domestic regulations to facilitate foreign entry;
- Achieving higher levels of liberalization in a variety of other services sectors (telecommunications services, financial services, etc.);
- Benefiting much from the mode-four presence of natural persons through the temporary movement of producers—to provide such services as business consultations and construction.

5.2.3 Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Knowledge is considered key to human development, so much so that globalization rules have set off a race to lay claim on knowledge. Studies indicate that countries and organizations in a position to leverage their knowledge more effectively and efficiently are poised to continue to dominate world trade and to derive massive benefits from human development. The international trading system protects such knowledge under the mechanism of Intellectual Property Rights [IPRs]. Indeed, there is more vociferous lobbying and a global call for the protection of IPRs today than ever before. This stems from, *inter alia*, "... [the] growing recognition that IP is now known to be an important and effective policy instrument that advances various socio-economic, technological, and political agendas." Globalization, in particular, seems to have laid the ground for the protection of IPRs in a relatively effective manner. In fact, the increase in the number of trade and investment instruments has been considered a principal feature of globalization. TRIPS is considered to be one outcome of globalization.

With the fast-growing pace of globalization, there are few issues as hotly debated as intellectual property protection [IPP]. Indeed, IPP lies today at the heart of a highly polarized debate on technology and development.

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34 The preamble of the Agreement Establishing the WTO
35 Kwakwa 2002:55 from my thesis
36 Sonarajah 2002:63 from my thesis
Ethiopia’s future membership in the WTO will bring this hotly debated instrument for enforcement at home. Through TRIPS, countries at different levels of development are committed to extending minimum protection to intellectual properties (IPs) that satisfy the necessary requirements as laid down in the legal instrument.

5.2.4 Freedom of Access

After several years of exploratory work, WTO members formally agreed, in July 2004, to launch negotiations on Trade Facilitation on the basis of the modalities contained in Annex D of the so-called “July Package.” Under this mandate, members are directed, among other things, to clarify and improve GATT’s Article V—namely, Freedom of Transit. While not a substitute for good neighborliness, the freedom of access provided in Article V of the GATT is of particular importance to landlocked countries like Ethiopia, for it provides for the freedom of transit to the sea.

The benefits of accession to the WTO may be summarized as follows:

**Market Access**

WTO membership confers a stable and predictable access to the markets of other member countries, based on the principles of reciprocity and non-discrimination. The principle of non-discrimination, or the requirement not to discriminate among the exporters of all “like” products, irrespective of their origin or whether they are imported or domestically produced, is the cornerstone of the WTO multilateral trading system. The principle of non-discrimination in international trade is two-faceted: it consists of the most-favored-nation treatment obligation and the national treatment obligation. The non-discrimination obligation ensures fair and predictable international trade relations for LDCs like Ethiopia.

**Economic Reforms**

The GATT-WTO system, which evolved in the second half of the 20th century, helps governments take a more balanced view of their respective trade policies. Governments are better placed to defend themselves against lobbying from narrow interest groups by focusing on trade-offs that are made in the best interest of everyone in the economy. In other words, the system shields governments from narrow interests.

Accession to the WTO brings with it binding commitments to pursue economic reforms and thereby ensure that the laws, regulations and policies of the acceding country are non-discriminatory, transparent and WTO-consistent. Such commitments help overcome domestic anti-reform coalitions, as membership to the WTO does not permit discriminatory and non-market-based policies.
Bridging the Credibility Gap

The multilateral trading system is an attempt by governments to make the business environment stable and predictable. With stability and predictability, investment is encouraged, new jobs are created, and consumers can fully enjoy the benefits of competition: choice and lower prices. Foreign companies, investors and governments will be confident that trade barriers will not be raised arbitrarily and that tariff rates and market-opening commitments are “bound” by the WTO.

WTO membership provides a powerful guarantee to the Government’s policy direction. Consequently, the economic reforms to be pursued and the institutions to be established, with a view to meeting WTO obligations, help overcome the credibility gap that would otherwise be an impediment to attracting FDI.

The Dispute-Settlement Mechanism

As trade expands in volume, in the number of products traded, and in the number of countries and companies trading, there is a high probability that disputes will arise. The WTO system helps resolve these disputes amicably and constructively. The fact that the disputes are based on WTO Agreements means that there is a clear basis for judging who is right and who is wrong. Once the judgment has been made, the WTO Agreements provide the focus for any further actions that need to be taken.

This brings to the fore the WTO dispute-settlement mechanism (DSM), which provides equal voice and the right to challenge any member state that has adopted measures that are not consistent with the provisions of the WTO Agreements, regardless of its size or stage of development.

Shaping the Future of Trade

In a clear departure from the Breton Woods institutions, where the votes of members are weighted according to their respective contributions, and thus richer countries are given more power, WTO membership provides equal voice through a one-country-one-vote system. This provides each member state with an equal opportunity to shape the future direction of international trade.

Decisions in the WTO are made by an explicit consensus. For example, the WTO Agreements were negotiated by all members, approved by a consensus, and ratified by all members’ parliaments. The agreements, of course, apply to everyone. Rich and poor countries alike have an equal right to challenge each other through WTO’s dispute-settlement procedures. By joining the WTO and by forming alliances with other countries that share their interests, small countries can also increase their bargaining power.

Freedom of Access

Freedom of access is of particular importance to land-locked countries like Ethiopia, as it provides them with an unimpeded access to the sea. Under the
mandate of Freedom of Transit, members are directed, among other things, to improve their freedom of access to member countries as provided in Article V of the GATT.

**Special and Differential Treatment**

The WTO provides special and differential treatment (S and D) to developing and LDC members. Under these provisions, there are several provisions covering a wide range of developing-country concerns, such as greater market access in agriculture and manufacturing, flexibility in meeting WTO commitments—including longer periods, and greater opportunities to resort to measures aimed at safeguarding their economies and access to technical assistance. An early accession should enable Ethiopia to benefit from these provisions as an LDC.

**Technical Assistance**

WTO Agreements require high skills and capacity to undertake complex negotiations in trade diplomacy, for which technical assistance is provided by the WTO itself as well as by multilateral institutions and bilateral donors. It goes without saying that developing countries like Ethiopia lack skilled personnel who can adequately understand the legal, political and economic aspects of WTO membership as well as its obligations and rights. They are not, therefore, well positioned to make the most of the provisions.

5.3 **Accession Issues and Developing-Country Concerns**

The WTO is composed of a diverse membership of 150 nations gathered around their common mission of promoting free trade. Only about 30 of these are developed countries. Their impact on world trade is, nonetheless, far greater than that of the approximately 100 or so developing and transition economies that are, like them, members of the WTO. Two of the world’s largest traders—the European Union and the United States—alone account for 35 percent of the world’s exports. In stark contrast to that, the total exports of all the LDCs account for only a half percent of the world’s trade, reflecting huge social, political, and economic differences between developing and developed nations as well as huge gaps between their resources.

The term “developing countries” refers to a diverse group of nations that are found at varying levels of industrialization. These countries have widely differing internal economic concerns that center on the exports of primary products and textile goods as well as a great desire for industrialization and export of manufactured goods. They are, in general, beset by insufficient resources. As such, their effort to build their institutional capacities, develop their infrastructure, improve their
policymaking and macroeconomic management, boost training and attaining political stability is an uphill struggle for them. Having drawn valuable lessons from the upheavals and failures of the past, their political leaders and economists have, nonetheless, turned to economic liberalization schemes since the 1990s in ways that conform to the standards of the developed world. Their clamor to adopt free-trade reforms and join the WTO over the past several years bears testimony to their desire to deal with internal economic and related issues, as well as to their awareness that failure to participate in an increasingly globalizing world will lead to marginalization and isolation.

Though most developing countries desire to deal with their internal economic and related issues by joining the community of nations, they have reservations, too. For instance, they are not sure that free trade will truly be free and that the WTO will be as fair as it claims it would be, especially when it comes to international trade. Put differently, they also desire to be given assurances that the WTO will operate in such a way that it will be willing to address their vulnerability and special needs, for they know that that is the only way that they will be able to make the most of their membership in the WTO. Currently, developing countries’ concerns in trade are jointly handled by the Committee on Trade and Development and the WTO Secretariat. These two bodies provide technical assistance to WTO-member nations that need it. There are also special provisions that require WTO members to take developing countries into account when adopting legislation, to increase their access to markets, to allow extra time for the fulfillment of commitments in most agreements, and to help these countries meet those commitments.

Important as the existence of these bodies and of the special provisions are, many countries remain apprehensive about any possible negative economic impacts of accession to the WTO. The areas of concern in this regard relate, for instance, to tariff peaks and escalation, and the erosion of special preferences to LDCs. Tariff peaks are, of course, exceptionally high tariffs imposed on certain products with intent to protect an importing country’s industry. Fears arise, in this case, because such tariffs on a country’s vital exports could negatively impact that country’s international trade. Tariff escalation is a situation where a country levies low duties on materials imported for use by a domestic industry, and high duties on imports equivalent to that industry’s finished (manufactured) products. Many developing countries believe that this could undermine the exportation of manufactured goods from developing countries and would, as such, compel them to continue to heavily depend on primary goods.

The erosion of special preferences to LDCs is a further concern to these countries. A case in point is the EU’s action regarding the modification of the MFN tariff for bananas in July 2004 to a single tariff for imports from most favored nations. Virtually all ACP banana exports are destined for the EU market. While no longer limited by quota under the current arrangement, Latin American suppliers, in particular, are afraid that increased EU import tariff will erode their competitiveness in relation to ACP suppliers. On the other hand, ACP countries whose bananas enjoy duty-free status under the Cotonou Agreement are concerned that
the prices they would fetch under the changed trade regime would not allow them to continue producing bananas. EU producers, too, are concerned that a fall in EU domestic prices under the new regime would require an increase in subsidy to levels unacceptable to both the WTO and the EU.

These LDCs are also concerned that their lack of resources will constrain their ability to fully participate in the WTO. This relates not only to shortage of skilled human resources that could serve on such committees as the Committee on Trade and Environment (CTE), but also to their lack of economic, political, and diplomatic influence to bear on the Secretariat's rulings. A good example, in this regard, is Sierra Leone's first experience in attending its first CTE meeting. The government of Sierra Leone sent a delegation, including the representative of a not-for-profit organization that was hired to provide much needed technical assistance to the CTE meeting in September of 1995. The WTO Secretariat, however, right away rejected the composition of Sierra Leone's delegation because of the presence of the representative of the not-for-profit organization. True, the situation was eventually resolved. Still, it illustrates the disadvantage that less developed countries face in the workings of the WTO. It further underlines that lack of resources impact much on the extent to which a nation is equipped with the knowledge needed to fully participate in the WTO. Such a state of affairs and the experience of many countries have, understandably, created a feeling of being left out of WTO meetings and decisions, particularly from its dispute-resolution process.

The majority of developing countries are cognizant of the importance and potential benefits of more liberalized trade. In view of their concerns, however, they seek accommodation through an increased flexibility, with regard to their compliance to the agreed rules. In fact, these countries believe that they will not be able to advance their development, or ensure food security and rural development in the absence of such an accommodation.

5.4 Accession Challenges to Developing Countries

Although the benefits that could accrue from WTO accession are alluring, the experiences of many developing countries have shown that meeting WTO obligations is no cake walk and that it is fraught with a number of challenges. Why? Because developing countries, by and large, have limited financial and human resources.

In a way, market access, in and of itself, is of no value, unless it is supported by competitiveness, which is the key to benefiting commercially from a market entry. Such developing economies like Ethiopia are also beset by supply-side constraints that limit their ability to fully benefit from the market access created by WTO accession. On the other hand, the reciprocal nature of WTO Agreements implies that these countries are obliged to open their markets to other WTO-member countries by reducing tariffs progressively. This is likely to lead to an increase in imports. That in turn entails short-term current-account deficits and exacerbates the external vulnerability of developing countries—unless they enhance their exports proportionate to the increase in their imports.
One of the primary obligations of WTO membership is for the acceding country to harmonize its national laws, regulations, and administrative procedures with WTO Agreements. This requires tariff-binding commitments and progressively liberalizing the services sector as per GATS commitments. Acceding countries need to further ensure, in accordance with TRIPs, that domestic laws guarantee the minimum protection of intellectual property rights (IPRs) by enacting adequate legislation. The acceding country must also put in place appropriate institutions that will help it meet WTO requirements for sanitary and phytosanitary measures as well as technical standards and customs procedures. The total cost for developing countries to meet these obligations has been estimated by a World Bank study at USD 130 million.38

A crucially important aspect of membership in the WTO is credibility. Once established, it helps make a member country attractive to FDI. In and of itself, however, credibility is not sufficient to attract investment. A country that wants to attract FDI has to also create an environment that is equally attractive in terms of high investment returns in the areas that an acceding country offers comparative advantage, access to cheap production inputs, flexible labor markets, and sizable local markets.

The WTO’s Dispute-Settlement Mechanism (DSM) is, purportedly, a beneficial tool for developing countries to bolster their bargaining power. In practice, nevertheless, DSM is of limited use to developing countries, particularly to LDCs, as the ultimate tool of enforcement of rights and obligations is trade retaliation. The costs of retaliation to these countries are bound to be proportionately higher than they could possibly be to the developed countries. Why? Because they could entail losing a large export market. In the case of the developed economies, whose exports to these economies are negligible in relative terms, however, such a loss is very unlikely to leave any visible dent. Furthermore, the costs are prohibitively high for developing countries to be engaged in dispute-settlement, as they have to hire trade lawyers from private firms, which happen to be expensive. The minimum cost of hiring the services of such trade lawyers is estimated at USD 300,000.39

The WTO does not have a standard procedure for accession, even though Article XII of the WTO Agreements provides a broad outline of the rules of accession. Thus, the specific terms of accession are negotiated between the applicant and the incumbent member countries. Although this provides a degree of flexibility, the lack of a clear accession procedure has proven problematic for many countries. For example, some acceding developing countries have been asked to bind all tariffs, whereas the incumbents have a relatively high share of their non-agriculture tariff lines unbound. The stalled accession of Vanuatu is a case in point.40

The above discussion presents a clash between the expected benefits and the challenges facing developing countries in taking full advantage of the provisions of

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WTO legal instruments and the WTO system as a whole. Whereas any breach of
the obligations of membership is bound to be followed by heavy financial and so­
cial costs, the rights and benefits of WTO membership are vague, long-term, and
contingent on competitiveness. The power to exercise the rights of WTO member­
ship is also contingent upon the availability of financial and human resources and
the economic influence of a country.

5.5 Managing the Challenges of Accession and Participation: Case Studies

Accession of developing and LDCs to the WTO has become an important issue, as
many developing countries perceive accession as a means of integrating them­selves with the multilateral trading system. Accession has also become a develop­ment issue because only developing countries, in the main, remain outside the
WTO. Despite the generally positive outlook for greater flexibility from developed
members to facilitate the accession of these countries, including tailoring the
process to their economic circumstances, Cambodia and Nepal are the only LDCs
that have been able to accede to the WTO since its establishment in 1995. This is
in spite of the continued interest among these countries to join the WTO, eight of
which are currently in the process of accession. Viet Nam was invited to join the
WTO early in November 2006, mainly because it had received a positive review
from the Working Party, after negotiations that took over a decade.

LDCs generally perceive the lack of progress in WTO's accession process as a tes­
tament that facilitating LDCs' accession by the developed countries is inimical to
the best interests of LDCs. These LDCs rhetorically ask, "What other reason could
there be behind the fact that the longest ongoing accession cases involve LDCs?"
This emanates from the fact that many developing and transitional economies
have managed to accede to the WTO in comparably short periods of time. While
some of these countries acceded much faster than others, (for example, Kyrgyzstan's accession was completed in less than three years, Georgia's in about
four years, and Oman's in five years), the case with LDCs, in general, is much
drawn out. For example, it took Cambodia and Viet Nam more than a decade to
accede.

In what follows, the experiences of selected countries—those of LDCs, in particu­
lar—are examined with a view to managing the challenges of accession and par­
ticipation, based on the individual experiences of these countries while undergo­
ing the process of WTO accession. True, no two countries may have an identical
experience, given the differences in the structural, technical, and institutional
strengths and weaknesses inherent in their economies. Still, valuable lessons
could be drawn in the understanding of some of the major national and interna­
tional obstacles to WTO membership for possible improvements in the efficiency of
the accession process of similar acceding countries, by assessing their relevance
to the accession of the specific country to be considered.
5.5.1 Case I: Cambodia

Cambodia applied for membership in the WTO in 1994. Following the Doha Declaration of 2001 that eased membership conditions for least-developed counties, Cambodia’s membership was finally approved in September 2003 at the Cancún Ministerial Conference. A year later, in October 2004, it was able to be a full member. Cambodia’s approach to the accession process and the manner in which its policymakers, the private sector, and civil society perceived, and dealt with, the issues of WTO membership are briefly presented here below.

5.5.1.1 The Roles of Stakeholders in the Accession Process

5.5.1.1.1 Application for Membership

Its intent endorsed by the Council of Ministers, the government of Cambodia filed an official WTO application on December 08, 1994. And a Working Party was established two weeks later to consider the application. Then work started on a number of issues that must be resolved to enable Cambodia to join the WTO. These included the lowering of tariff rates, the adoption of an accounting system based on the Anglo-Saxon model, and the adoption of a legal system that complies with the WTO multilateral trading system.

Membership was delayed due to the political instability in the county and because the state institutions were not ready for the job. There were also other causes of delay, including the judicial system, administrative reform, and trade policy—all of which required serious consideration to comply with WTO standards.

Cambodia’s memorandum on its foreign-trade regime was submitted to the WTO in June 1999. The memorandum consisted of more than 100 pages and tried to answer the 179 questions posed to it by the organization. In January 2001, questions and answers relating to the memorandum and conditions for accession were circulated. Cambodia
organized five sets of multilateral negotiations through the Working Party from June 2001 to July 2003, and nine bilateral agreements from August 2001 to August 2003. The first public forum on Cambodia’s accession effort, which brought together experts, government officials, and representatives of the civil society, was held in August 2002.

5.5.1.1.2 The Negotiation Process and the Ratification of WTO Membership

The Working Party held its first meeting on April 16, 2003 to consider the memorandum. About three months later, it decided that Cambodia could become a member of the WTO in September 2003. Subsequent to that, WTO Ministers approved Cambodia’s membership agreements at their Cancún meeting in Mexico, on September 11, 2003. Then they formally extended an invitation to the country to become the 147th member of the WTO. In early September 2004, Cambodia accepted the invitation for accession, when the Cambodian parliament unanimously ratified accession to the WTO, having successfully resolved the political impasse that had caused the delay.

It is, however, interesting to note that not many Cambodians—not even its lawyers—had known about the accession process before the protocol of accession was approved. A survey carried out immediately following the approval of the protocol of accession by the WTO in September 2003 by the Economic Institute of Cambodia (EIC) in Phnom Penh disclosed that only 40 percent of workers and 50 percent of small- and medium-sized businesses had any knowledge about the WTO. Nonetheless, while many members of the civil society voiced their concerns about the negative impacts that WTO accession could possibly have, particularly on the poor, they still felt confident that Cambodia could overcome the challenges, once it was invited to join the WTO. Some in the civil society felt that the inspiration to join the WTO started at the filing of an
application for accession in 1994. But information relating to the process of accession was not disseminated, particularly to the private sector. The main reason behind that was that only the Ministry of Commerce and a few line Ministries actively participated in the accession process, and negotiations were conducted in secrecy, with no debate at the National Assembly or in the press.

5.5.1.2 The Challenges Ahead

Cambodia's primary objective in becoming a member of the WTO was considered by many to be a reaction to the removal of export quotas at the end of 2004 under the Multi-Fiber Agreement (MFA) arrangements. As this Agreement was to be applicable to all members of the WTO, and Cambodia's fledgling garment industry had become a significant contributor to its economy, accounting for about 80 percent of exports and generating more than 10 percent of the country's GDP, it (the Agreement) had become a real cause for concern.

The WTO accession process further became an overarching national framework to institute broader political and economic reforms that will open the economy and better integrate trade with development and poverty alleviation and to leave behind Cambodia's legacy of civil war and economic isolation. Among the many challenges ahead for Cambodia to benefit from its accession are legislation and reform implementation, increasing the supply capacity for exports, agriculture, and competitiveness.

5.5.1.2.1 Legislation and Reform Implementation

Cambodia had to enact and implement all pieces of reform legislation necessary for membership in a timely manner as part of its accession to the WTO. In this regard, Cambodia has entered into several commitments to reform its legal and judicial system, including the enforcement of the rule of law and the establishment of a specialized
commercial court. Government sources indicate that a total of 47 laws and regulations are needed to fulfill WTO membership requirements. Fourteen laws and regulations have already been enacted on accession. The remaining 33 are expected to take two more years.

Once enacted and implemented properly, these commitments are expected to stimulate other related economic reforms that will be conducive to improving investor confidence. Under the Doha Agreement on least-developed-country accession, Cambodia is committed to major institutional reforms that are to be implemented during a transitional period of five years. It is believed that these reforms can be achieved only through a genuinely strong political will, given the current weak administration and institutions.

5.5.1.2.2 Increasing the Supply Capacity for Exports

Foremost in trade liberalization is the issue of the reciprocity of benefits, which requires sufficient supply capacity to benefit from the larger market opportunities created as a result of accession to the WTO. As an import-based country with limited production capacity, the challenge facing Cambodia is to increase its domestic production capacity, if it is to fully benefit from its accession to the WTO.

Improving the competitiveness of the private sector is a further challenge facing Cambodia. A much talked-about advantage of WTO membership is access to foreign markets for the acceding country’s exports, while opening its local market to imports. To meet the challenge, Cambodian firms will need to be competitive both domestically and internationally. Domestic competitiveness relates to the ability of domestic firms to withstand competition from imports, whereas international competitiveness denotes the ability of domestic firms to compete on the world market. Current conditions indicate that domestic production
may have difficulties in competing with foreign producers because of constraints that hamper competitiveness and attractiveness to appropriate long-term investments. While many agree that WTO membership will open up market possibilities for domestic producers, the question remains as to whether or not Cambodia can take advantage of such possibilities. The issue at hand, hence, becomes the rationale for increased production and competitiveness in the absence of market possibilities, indicating that joining the WTO may be a necessary condition, but not sufficient, in and of itself, to take full advantage of the new opportunities that may come with it. This means that the decision to join the WTO must be made with adequate preparation and analysis of its advantages and disadvantages, besides building one’s capacity and making the necessary changes.

Under the circumstances, there is concern that the benefit of WTO membership may be limited because of Cambodia’s weak productive capacity, hence amplifying the disadvantageous aspect of its accession to the WTO. With the opening up of the domestic market to foreign goods, it is feared that Cambodia’s current-account deficit, which is more than 10 percent, may increase, and thereby exacerbate the balance-of-payments difficulties. It is further feared that liberalizing trade in services will open the market to foreign competition that may suffocate local suppliers, including small- and medium-sized enterprises. Where foreign competitors are more efficient than domestic producers and import barriers are lowered, domestic consumers will be attracted to products with lower prices and high quality. Domestic firms competing on such markets are faced with downward pressure on sales and profit. That in turn leads to lower wages, job losses, and shutdowns.
5.5.1.2.3 Agriculture

In acceding to the WTO, Cambodia has committed itself not to using high tariffs and farm subsidies in agriculture, going far beyond what original members, particularly the United States and the European Union, have been willing to commit themselves to in the present round of negotiations. In this regard, Cambodia is committed to limiting its tariff to an average rate of about 30 percent for agricultural produce, and 20 percent for industrial products.

Market access commitments undertaken in relation to the EU envisage the binding of all tariff lines at an average level of close to 40 percent for agricultural products, and 21 percent for non-agricultural products. Cambodia has further committed itself to opening up almost all sub-sectors in services, including telecommunications services, distribution, financial and transport services. Overall, these commitments are believed to set Cambodia on a path benefiting its economic development.

Cambodia has also committed itself to not subsidizing agricultural exports, although other LDCs are not required to undertake such a commitment under the Agreement on Agriculture. While critics argue that this provision will abrogate Cambodia’s right under the AoA to introduce export subsidies on any agricultural product in the future, the government suggests that it is fully committed to a free-trade environment and that it can always increase its import tariffs on agricultural products to protect local producers. It further argues that subsidy is not a good strategy for ensuring the sustainable development of the agricultural sector, given the current international trend for the elimination of all forms of subsidy.

Accounting for greater than 70 percent of the revenue from tax collection, tariffs still remain the main source of government revenue, so far as Cambodia is concerned.
WTO membership, however, requires Cambodia to maintain a very low or a zero-tariff regime. Thanks to a succession of IMF programs, as a result of which Cambodia was able to embark on a rapid trade liberalization exercise, average tariff rates have been halved since 1996. At an average of 29 percent, Cambodian tariff rates are actually already low—compared with those of other LDCs—and do not, therefore, need to get any lower.

5.5.1.2.4 Competitiveness

As noted earlier, one of the most daunting challenges facing Cambodia is making its local industries competitive. The current conditions of high production costs arising from poor infrastructure, high energy prices, among other things, undermine the competitiveness of Cambodian products.

Cambodian agricultural products are not competitive, compared with those of the neighboring countries. That, nonetheless, has nothing to do with its production costs, contrary to normal expectations, but because its trade costs are huge, for its trade involves some unregulated practices in the exporting process.

In conclusion, Cambodia has entered into a large number of commitments relating to institutional reforms as part of its terms of accession to the WTO. The legal and judicial system reforms that have been undertaken are expected to improve the country’s own governance and credibility. If carried out properly and in a timely manner, these commitments would help further stimulate other related economic reforms to inspire investor confidence.

Cambodia’s resolve to be a WTO-member country will be put to the test by the many crucial challenges that await it. In addition to the legislation that needs to be put in place and, more significantly, to be implemented, the production base of the country needs to be expanded so as to make the most of the new market opportunities that will be created for it. The catch, however, is that domestic industries and agriculture must be competitive both domestically and internationally—under the stringent conditions that require a very low, or a zero-tariff, regime and no subsidy.
5.5.2 Case II: Vietnam

In July 1995, Vietnam became a full member of ASEAN. This move toward regional integration, under which Vietnam is committed to tariff reduction to a level of 0-5 percent over a period of 10 years as well as removing all non-tariff barriers by January 01, 2006, was considered to be a precursor to its WTO accession. It is believed that the full implementation of its commitments to ASEAN has been a critical step in advancing Viet Nam’s accession to the WTO. The same is true about the Bilateral Trade Agreement it had reached with the US, which came into effect on December 10, 2001.

Vietnam officially applied for WTO membership in December 1994, following the positive progress it had achieved in its national economic development, which had resulted from its regional and international economic integration. Viet Nam is now among the fastest growing nations, next to China, with an expected annual rate of growth of 7.8 percent in 2006. The move is further based on Viet Nam’s desire to advance its industrialization and modernization by building an autonomous economy in tandem with a global economic integration as well as on mobilizing its internal resources and enlisting external support for its national development effort.

The Working Party on the accession of Viet Nam was established on January 31, 1995. The latest revision of the draft Report of the Working Party was circulated in October of 2006. Draft Goods and Services Schedules, which contain the results of Viet Nam’s market-access negotiations, were also circulated in October 2006. WTO-member countries negotiating the terms of Viet Nam’s membership completed their task on October 26, 2006 by accepting the documents spelling out Viet Nam’s commitments and rights. As the documents were accepted by the General Council, too, on November 07, 2006, Viet Nam was invited to be the 150th member of the WTO. The final step for full membership would be ratification by the parliament within 30 days.

In the course of the negotiations for accession to the WTO, Viet Nam, like other acceding countries, had to be engaged in bilateral negotiations, apart from the multilateral ones, with interested members. The negotiations, of course, centered on its commitment to observing WTO rules and to fulfilling the specific requirements of each member. The commitments that Viet Nam has agreed to be bound by include a combination of requirements set forth in the bilateral and multilateral negotiations. And the requirements set for industrial goods were the following:

- Be committed to a 100-percent reduction of industrial tariffs as per the provisions of the Harmonized System Code HS 2002, at an eight-digit level (more than 7,000 items of industrial goods);*

* Currently the simple-average rate of tariff on imported goods is about 19%, the average tariff rate on agricultural products and industrial goods being about 25% and 15%, respectively. In addition, some import surcharges are levied on some industrial product groups.
- The simple average-bound rates on industrial goods should not exceed the low-bound rate, depending on each interested member;
- Any tariff above the required rates should be reduced by 50%;
- Remove all non-tariff barriers immediately after joining the WTO; and
- Enter into agreements on sector-by-sector tariff reduction (all tariff lines of the committed sector should be reduced to 0% or in accordance with the agreed schedule) such as the Agreement on Information Technology (AIT), the Agreement on Tariff Harmonization in Chemicals.
5.5.3 Case III: Mongolia—An Ill-Prepared Accession

5.5.3.1 Background

With the collapse of the Soviet Union, the quest for independent political and economic moves among the countries that were former members of the Council for Mutual Economic Assistance (COMECON) took center stage, particularly with a view to gaining acceptance in the multilateral arena.

Mongolia's initiative for accession to the WTO was one such move. Not surprisingly, decades of COMECON membership meant that Mongolia had to learn a great deal about the market-driven multilateral trading system with which its citizens, including the negotiators, were not familiar at the time that its accession process was launched. Lack of knowledge and of understanding of the multilateral trading system heavily impacted on the political will to mobilize resources and initiate a broad-based national debate at all levels, including the fledgling private sector, on accession and the benefits of accession. Little attention was given to doing an analysis of the benefits and drawbacks of accession. Why? Because Mongolia's primary objective was political—that is, acceding to the WTO before its two big neighbors, Russia and China, did so and demonstrating to the rest of the world its seriousness about embracing a free-market economy.

This fixation on political objectives compromised Mongolia's accession negotiations. Thus it ignored the need for reserving sufficient transition-period rights and exceptions, which developing WTO-member countries invariably try to secure. This left Mongolia unprepared and helpless to withstand the pressure for accepting far-reaching concessions that confronted it during the accession negotiations. Paradoxically, the benefits Mongolia received in return for its concessions were in areas it could not make much use of immediately. This was particularly so because the negotiations were carried out with such countries as the United States, Canada, and Mexico, with which, at the time that it launched the negotiations, Mongolia had no trade relations at all. Under the circumstances, Mongolia was not even in a position to take full advantage of the concessions made by those countries. So one wonders why it went into the trouble of undergoing difficult economic reforms in addition to the self-induced liberalization undertaken during the six-year accession process, making Mongolia's economy freer and more open to any country, whether it was a member of the WTO or not.
5.5.3.2 Post-Accession Implementation

With accession attained, albeit with all its attendant problems, drawing up an appropriate strategy was of paramount importance for Mongolia to benefit from its WTO membership. Nonetheless, the lack of understanding and of knowledge of the WTO, which was observed during the accession period, persevered in the post-accession period as well. That and its lack of political will to make the most of whatever benefits accession to the WTO might have brought with it further complicated things for it. Worse yet, the domestic industry remained too weak to reverse the flawed attitude of the government. The government paid little attention to remediying the problems faced by the domestic industry. Instead, it was preoccupied with bringing national trade regulations into compliance with the WTO regime, without any regard to whether other countries were doing the same. While this was surely praiseworthy from the WTO perspective, it should have been balanced by attending to the problems confronting the domestic industries. Little was done to strike a balance between WTO-compliance efforts and support to the domestic industry, with a view to increasing the country's market access. Such a state of affairs provided immediate and unconditional advantage to imported goods, while there was no parallel gain in return as a result of the increased market access for Mongolian exports. While measures adopted to meet WTO obligations may have indeed prepared the Mongolian economy to become more modern and competitive, the one-sided and unbalanced nature of the approach did not advance the full use of WTO membership.

Among the first actions taken by the Mongolian government after accession to the WTO was an ambitious attempt to introduce comprehensive changes at one sweep into the trading regime of Mongolia, modifying and amending existing laws and regulations in order to conform to WTO requirements. These included, among other things, the development of a double-column (MFN and non-MFN) customs tariff system, a review of the customs valuation rules, a reform of the internal taxation system, a simplification of export and import procedures, an elimination of bans on certain products, and a modification of the intellectual property protection regime.

In implementing the decree, nevertheless, it became evident that instituting a WTO-consistent trade regime was a laborious, continuous exercise. Still, many of the objectives sought in introducing comprehensive changes into the trading regime were, despite hardships and obscurities, achieved. Some of the changes were secured at a time when successive governments persistently pursued a policy of liberalizing the Mongolian
economy in a bid to transform the country into a free-market economy. Indeed, most of the measures taken in pursuit of such policies complemented or surpassed WTO commitments.

All said, the manner in which Mongolia's WTO accession and participation took place resulted in a perception among Mongolians that it was just another international organization with which countries like Mongolia had to contend with per force. To Mongolia's business community, in particular, the WTO was an organization that had complex rules, with little or no relevance to the needs of the domestic industries. In short, it saw little use for WTO membership.

5.5.3.3 Local and External Players: their Roles

A unified and coordinated interplay among all stakeholders is of paramount importance in the quest to benefit fully from the WTO system. Ideally, this is best done by involving players at the grassroots level, particularly the domestic industries. The pattern of interaction in Mongolia from the outset was that the government set forth the objectives of membership of GATT/WTO with little consultation with the emerging business community and with limited debate, if any, with civil society at the beginning of the negotiations. This was the case throughout the accession negotiations, although the private sector had grown to account for almost 60 percent of Mongolia's GDP during the six years of negotiations.

Government monopoly over WTO issues still pervades Mongolia. Far from responding to the legitimate concerns of the business community, which currently accounts for almost 80 percent of the GDP, the government prefers to use the pro-compliance drive as a scapegoat to quell calls for support as “WTO-inconsistent.” Unfortunately, the apparent use of WTO by the government to discipline the business community, as opposed to encouraging it, has led domestic producers to alienate themselves from WTO affairs.

Most of the WTO-related practical debates with the government were raised by the representatives of international investors, whose position as investors has always been very strong in influencing WTO-related policy-making, unlike the domestic business community. By its nature, foreign investment brings along thorough knowledge and awareness about the WTO system. Hence, foreign investors tend to raise WTO issues with the government more frequently than the domestic business community does.
The current WTO-related interaction between the government of Mongolia and the business community cannot be said to be warm. On the contrary, it seems to be a one-way street. The government dominates WTO affairs, whereas the business community is nothing more than a passive onlooker, lacking confidence in the use of the multilateral trading system.

5.5.3.4 The Challenges Faced

At the forefront of the post-accession challenge is the readiness and capacity to participate effectively in the WTO system. Clearly, this requires overcoming the knowledge gap both on the part of the government and the stakeholders. The lack of WTO expertise and the political will to master WTO disciplines has, as already noted, caused problems with Mongolia’s accession and post-accession policies, hence affecting the mode of the application of WTO rules.

One of the major challenges facing Mongolia today is the voluntarism in the interpretation of WTO rules. This relates to the dispute between domestic producers—in this case, cashmere producers—and the customs authority about the application of WTO customs valuation rules, where trade is hindered on account of voluntary misinterpretation of WTO rules. More specifically, the dispute relates to the complaint by cashmere producers to the General Customs Department of Mongolia that customs inspectors responsible for applying the export tax on cashmere had been systematically rejecting the prices declared by the exporters and had instead been applying prices close to the highest registered with the customs authority in the particular year, although they were aware of the fact that cashmere prices were subject to substantial fluctuations on the world market. The Department, however, told them that the approach was consistent with the WTO Customs Valuation Agreement.

The protest filed by the cashmere industry argues against the practice on the grounds that (i) the customs authority could not invoke the Customs Valuation Agreement in its defense, for the Agreement did not apply to the calculation of export taxes; and (ii) even if one assumes that the customs authority can apply the import valuation methods to export valuations with appropriate changes, it cannot use the “higher of two alternative values.”

Even though the two parties had held intensive consultations, the customs authority never fully accepted the exporters’ argument, albeit the consultations resulted in the customs authority “conceding” to use its up-to-date database for determining the export value but maintaining the option for a higher alternative price.
A further challenge that faced post-accession Mongolia is reconciling its interest in bilateralism, stemming from IMF-World Bank economic policy guidelines, and its legal rights and WTO commitments. Once again, the bone of contention related to tariffing the pre-accession ban of cashmere export by introducing, without consulting the industry, a 30-percent rate, which is far less than cashmere producers had expected.

To complicate matters, Mongolian authorities decided to impose a specific rate, instead of the agreed *ad valorem* rate which was roughly equal to 30 percent of the export value of raw cashmere at the time of its introduction. With a steep rise in the price of cashmere on the world market, the specific rate often slumped way below 10 percent of its value. Consequently, cashmere producers started pressing the government to revise the specific rate at least to the level of 30 percent *ad valorem* and to thereby discourage the virtually unrestricted export of raw cashmere, which subjected the local industry to a serious shortage of raw material. While the introduction of the *ad valorem* rate was consistent with Mongolia's WTO commitment, the IMF, a highly regarded financial institution in Mongolia as elsewhere, opposed any change.

Subsequent to that, Mongolia requested the WTO Secretariat for support in the resolution of this conflict. The WTO Secretariat was, nonetheless, nonchalant about that request, suggesting that the issue must be resolved in consultation with the Breton Woods institutions, thus distancing itself from the debate and leaving Mongolia to face the IMF on its own. As expected, the stand-off ended with IMF's position prevailing. That is to say that the specific rate remained, despite Mongolia's objection.

Another area of post-accession concern is the lack of progress on substantiating the GATT provision on freedom of transit transportation, a serious snag for land-locked countries like Mongolia that erodes enthusiasm for, and confidence in, the WTO.

Other challenges are looming to press the government in the future, particularly with regard to the growth of the economy and the strengthening of national industries. These relate to the pressure to increase tariffs. While the government may initially have little difficulty in withstanding such pressure, given the sufficient gap between its ceiling binding rate (20%) and the applied rate (5%), there is widespread fear that problems could arise once the gap is closed. The concern among the business
community, which is based on the behavior that the government has hitherto manifested, is that it (the government) may not go beyond its WTO commitments and try to ensure Mongolia’s long-term economic growth.

5.5.3.5 The Lessons to be Drawn

Clearly, Mongolia’s accession to the WTO was fraught with flaws. The problems encountered do not, nonetheless, constitute a sufficient ground for recanting its accession to the WTO. After all, in view of the ever-globalizing world, seclusion from, rather than inclusion in, the multilateral trading system would have a more devastating effect. In other words, without WTO’s rules-based system, which could open up for them new possibilities, developing countries would be consigned to limited markets.

The problems faced by Mongolia emanated not from its decision to become a member of the WTO, but from its flawed approach to accession to the WTO. Indeed, once Mongolia rectifies the problems that are hindering its efficient participation in the global organization, the benefits of accession will become more glaring. This would, however, require understanding the WTO fully and building its (Mongolia’s) capacity to master WTO disciplines.

It is also imperative that stakeholders at all levels get involved in the workings of the WTO, with a view to mustering support for their efforts toward improving Mongolia’s market access for its national products and services. This requires regular consultations with the business community on the formulation of optimum policy positions on WTO matters. Such an alignment and a unified position between the government and the business community will stimulate an improved participation in the WTO.
5.5.4 Case IV: Vanuatu: Its Aborted Accession

5.5.4.1 Background

Vanuatu’s WTO accession process began in July 1995, and was expedited with the advent in 1997 of the World Bank’s structural adjustment package known as the Comprehensive Reform Program (CRP). The set of reforms included in the CRP aimed at improving governance, enhancing the role of the private sector, increasing economic growth, and further liberalizing the economy by reducing trade barriers within the context of WTO membership. With the economy generally closed and an import-substitution policy in place ever since the country gained its independence in the 1980s, some policymakers and politicians were convinced that the time had come for Vanuatu to integrate itself with the global economy.

A push toward accession was further prompted by the fact that all of Vanuatu’s neighbors and principal trading partners—Fiji, the Solomon Islands, Papua New Guinea, Australia, and New Zealand—were members of the WTO. It was believed that trade relations with these countries would be further enhanced under the WTO framework.

The positive disposition toward accession was not, nonetheless, helped by the economic conditions on the ground, as the CRP became a source of frustration to the country. In other words, it simply could not achieve most of its objectives. While growth in the GDP declined in the successive years following the CRP, exports fell drastically, and FDI was far below expectations. Such a failure in the economic performance provoked strong criticism, undermining public support for WTO accession. The business community and many in the general public, in particular, associated accession to the WTO with the failures and the decline in the economic performance, which they attributed to the CRP, thereby reinforcing protectionist attitudes.
5.5.4.2 Suspension of Accession

Following the misgivings and frustrations that entailed the failures of the CRP, Vanuatu withdrew its finalized report, which it had submitted to the Working Party in 2001, just before the Doha Ministerial Conference was to take place, citing “technical reasons.” Little progress was made toward accession during the following two years, although another attempt at accession started in 2004.

Yet another factor for the suspension of the accession process, apart from the general economic downturn and the failure of the CRP, was reportedly the political instability in the country. More specifically, it was said that there were differing views among the country’s Ministers with regard to the WTO as well as insufficient consultations with the Ministries, and line Departments.

Many also believe that a further reason for suspension was that the accession process was too burdensome for a small LDC like Vanuatu. Vanuatu, they said, had an acute shortage of skilled human resources, especially in the Departments of Trade and Customs, and that even the few it had lacked prior knowledge of, and experience in, GATT or the WTO to deal with accession to the WTO. Also, it had scarce funding to undertake studies on the social or economic impacts of accession, which were necessary to gauge the challenges and costs of accession. Furthermore, as Vanuatu had no mission in Geneva, numerous trips had to be made to Geneva, to accede to the WTO. Yet it did not have sufficient funds to cover the cost of these trips.

Another source of discouragement was the particular pressure on capacity-constrained Vanuatu by the members of the Working Party—in particular, the United States—to extract from it the maximum possible, also known as “WTO-Plus Concessions” in favor of incumbents as a test case for what would have been the first LDC to join the WTO. Vanuatu had to make major commitments on goods and services in compensation for its inability to fully meet demands on issues such as land ownership. For customary and traditional reasons, the Vanuatu constitution prohibits the freehold ownership of land. Leasehold lasting 75 years is allowed in some, mostly urban, areas. Yet the United
States requested for the revision of land laws. Negotiators could not compromise on this issue. As to allow freehold was considered to be politically suicidal and culturally unacceptable, significant concessions had to, therefore, be made in other areas.

Although no single concession was responsible for the decision to suspend accession, commitments in services, particularly the liberalization of wholesale and retail trade, were among the most important. Vanuatu's accession process to the WTO was too burdensome and power-based for the small, capacity-constrained country. It was burdened with concessions that it was not prepared to sustain in the long run and that were in excess of what many developed and developing WTO-member countries were committed to.

This signified that small countries like Vanuatu and many LDCs have to take an arduous path to negotiate effectively with big players and incumbents, regardless of the degree of training and capacity-building assistance provided and however high the quality of their human resources.

In short, it was felt that Vanuatu did not have sufficient control over the outcome of the negotiations. And in the absence of consultations and information, skeptics found a pretext to oppose the entire WTO process.

All said and done, however, Vanuatu lodged another attempt in 2004 at starting the process of joining the WTO in the belief that only through the protection of a rules-based system and access to the dispute-settlement mechanism could the country operate successfully in the global economy. With globalization ever-growing, many came to believe that it is important to be part of the multilateral trading system rather than remain outside it.
5.5.5 Case V: Kenya

5.5.5.1 Context

Kenya was among the founding members of the WTO when the Marrakesh Agreement was signed in Morocco on April 15, 1994. The notification process was concluded by December 31, 1994, when accession to the WTO was completed. As a member, Kenya is signatory to all WTO Agreements, including the General Agreement on Tariffs and Trade (GATT), the Agreement on Agriculture (AoA), the General Agreement on Trade in Services (GATS), the Agreement on Textiles and Clothing (ATC), and the Agreement on Trade-Related Intellectual Property Rights (TRIPS).

5.5.5.2 The Stakeholders

As in many other countries, trade issues, including WTO trade-related matters, in Kenya involve a large number of stakeholders with diverse interests. These include the government, the private sector, and civil society organizations (CSOs). These stakeholders not only have varied interests, but also varying capacities for them to be engaged in WTO matters.

In the interest of effective policy formulation, it is important that all the stakeholders are proactively involved in the decision-making process. Trade matters, particularly those relating to the WTO, are, after all, very complex and have wide-ranging consequences. Still, despite a few bold attempts made in Kenya to ensure the active participation of all the stakeholders in the decision-making process, lack of an effective mechanism for coordination and consultation still undermines the participation of some stakeholders. Like other developing countries, Kenya lacks capacity in the formulation of trade policy. The roles that the various stakeholders play in a gamut of trade matters in Kenya are highlighted here below.
5.5.5.2.1 The Government

Needless to say, the government is one of the main stakeholders in trade matters. The overall responsibility for Kenya's trade matters rests with the Ministry of Trade and Industry (MTI), though other Ministries, too, are responsible for some trade-related matters. In this regard, the MTI is responsible for WTO and COMESA (the Common Market for Eastern and Southern Africa) matters, whereas the Ministry of Planning and the Ministry of Foreign Affairs are, for instance, respectively responsible for ACP-EU Cotonou and East African Community (EAC) matters. The fragmentation of responsibility on trade matters in this manner has, however, undermined the development of synergy in tackling WTO and other trade arrangement matters in Kenya.

The WTO Division in the Department of the External Trade of the MTI is responsible for coordinating activities in respect of the Doha Round of trade negotiations, in addition to all the other WTO matters within the government. Although the Division has a number of professional staffs both within Kenya and at the Kenya Mission in Geneva, the latter dealing exclusively with WTO matters, it lacks the requisite capacity to do an analysis of trade-policy issues and the implications of tariff reduction. That in turn has limited the country's capacity to negotiate effectively at the WTO.

5.5.5.2.2 The Private Sector

Keen to engage the government on trade-policy issues, the private sector in Kenya is becoming an increasingly important and vociferous actor on trade matters, including WTO issues. For a long time, the private sector in Kenya was not organized. It was, therefore, rarely represented in important policy-formulation processes. Thanks to a
number of private-sector organizations that have recently emerged to articulate the views of the private sector, the sector has of late been active in WTO matters. These include labor unions, trade associations, the Kenya National Chamber of Commerce and Industry (KNCCI), and a number of producers' associations.

The capacity of the private sector to participate in WTO matters varies. Most private-sector organizations lack the analytical capacity to comprehend the implications of trade measures. They also lack information on trade issues. Consequently, they lack a full understanding of trade agreements and measures. Private-sector organizations are also beset by varied and narrow interests that, in most cases, impede the forging of a common position on economic and trade issues.

5.5.5.2.3 Civil Society Organizations (CSOs)

CSOs have succeeded in securing an important role for themselves in the trade-policy-formulation process in Kenya. In most cases, CSOs have sought to represent the poor on WTO issues. Active among these include the Kenya National Federation of Agricultural Producers (KENFAP), ActionAid (Kenya), Oxfam, EcoNews, Consumer Information Network, RODI, SEATINI, the Institute for Economic Affairs, the Heinrich Böll Foundation and the Kenya Human Rights Commission. Like the private-sector organizations, CSOs, too, are constrained by limited capacities to undertake analytical studies on trade issues. Since they are more organized, nevertheless, CSOs generally seem to do better than the private sector at finding a common ground on which to engage the government. Lack of financial resources is a limiting factor in the participation of some CSOs, particularly the community-based organizations (CBOs).
5.5.5.2.4 Academic and Research Institutions

Academic and research institutions have been the main organizations carrying out research on trade issues in Kenya. As such, they are an important resource for the government, the private sector, and the civil society. Important as they are, nevertheless, they face a number of challenges, including lack of resources for research.

5.5.5.3 Structure and Coordination of WTO Matters

Kenya established the Permanent Inter-Ministerial Committee (PIMC) in May 1995 upon accession to the Marrakech Agreement to advice the government on all matters relating to the WTO. Initially, the PIMC excluded some key stakeholders, particularly those in the private sector and civil society. That, however, was later improved as the government restructured the PIMC with a new designation—the National Committee on WTO (NCWTO)—and thereby included the private sector and civil society in recognition of the important roles these could play in trade. The NCWTO is now the body through which the government holds consultations with the private sector and civil society on WTO matters, besides being the main trade coordinating body (see Appendix at the end of the chapter for Kenya’s structure of WTO participation).

The NCWTO has the following mandates:

- Study and analyze the provisions of WTO Agreements and their likely effects on the Kenyan economy;

- Monitor other members’ implementation of WTO Agreements and recommend the appropriate actions that Kenya should take;

- Provide modalities for the implementation of WTO Agreements in such a way that the maximum possible gains will accrue to Kenya from the multilateral trading system;
• Provide the government and the private sector with the necessary review and analysis of new market-access conditions in order to facilitate the identification of immediate and potential trading opportunities created within the multilateral trading system;

• Provide the government with adequate information on the sectoral impacts of various agreements with a view to enabling it to properly review current and future trade policies;

• Increase the government's level of awareness in respect of the institutional and legislative measures that would help safeguard its rights within the multilateral trading system;

• Raise the awareness of the various stakeholders about the WTO through consultations and training; and

• Promote a dialogue between the public and private sectors and build a consensus on WTO issues as they relate to Kenya.

The NCWTO serves as a forum whereby representatives of the government, of the private sector, and of civil society can come together and discuss WTO matters. Each of the stakeholders is organized in such a way that it will be able to contribute the best that it can to the effectiveness of the NCWTO.

From among the Ministries and other government agencies, the Attorney General, the Office of the President, and the Ministries of Trade and Industry, Finance, Planning and National Development, Health, Agriculture, Foreign Affairs, Labor and Human Resources, Environment and Natural Resources, Information and Communications, and Transport are also required to actively participate in the work of the NCWTO. The Ministries act as focal points for the subcommittees responsible for those WTO issues that are of specific concern to them (the Ministries.) For instance, the Ministry of Health becomes the focal point for all health-related issues, and the Ministry of Agriculture the focal point for all agriculture-related issues, and so forth.
State-owned enterprises (SOEs) and parastatal organizations such as the Kenya Revenue Authority (KRA), the Kenya Bureau of Standards (KEBS), the Kenya Plant Health Inspectorate Services (KEPHIS) and the Kenya Sugar Board (KSB), too, are members of the NCWTO. Its other members include the Central Bank of Kenya (CBK), the Export Promotion Council (EPC), the National Environment Management Authority (NEMA), the Kenya Industrial Property Institute (KIPI) and the Capital Market Authority (CMA).

NCWTO membership is by invitation only. As the national coordinator of all WTO matters, the Ministry of Trade and Industry identifies the relevant stakeholders. Then it invites them to become members of the NCWTO. In a few instances, members of the sub-committees can identify other relevant stakeholders that could be nominated, including organizations or individuals that have expressed their interest in joining. While individuals, rather than organizations, are preferred, there is no limit to the number of stakeholders that can be members of the NCWTO. Currently, NCWTO members number 45 or thereabouts. And they are drawn from different umbrella organizations and institutions. Of these, about 25 represent CSOs—though not all of them are active.

CSOs have organized themselves into a loose network coordinated by EcoNews—a Kenyan NGO. This network of NGOs provides a forum whereby CSOs can consolidate their deliberations for submission to the government. Actually, Kenyan CSOs play a pivotal role both in developing the country’s position and in facilitating attendance for some delegates. Furthermore, the research projects that they had commissioned on various trade-related issues are known to have provided positive inputs to strengthening the deliberations of the Kenyan trade position in the Cancún, Mexico, meeting. CSOs have also sponsored some of NCWTO’s activities, including the participation of a substantial number of delegates, a few of whom were MPs, to Cancún.

As an advisory body to the government on WTO issues, the NCWTO fulfills its duties through deliberations and consultations with its members. Its technical functions are carried out by sub-committees whose members have the
specific expertise required by the various issues that are particular to each one of them (the sub-committees.) At the moment, there are around 10 sub-committees dealing with diverse WTO issues. A few of them are the following:

- The Agriculture sub-Committee, which is chaired by the Ministry of Agriculture;
- The Services sub-Committee, whose Chairperson is the Minister of Transport and Communications;
- The Market Access sub-Committee, which is chaired by the Department of Industry;
- The Trade and Environment sub-Committee, which is chaired by the National Environmental Management Authority (NEMA);
- The Trade Facilitation sub-Committee, which is chaired by the Department of Internal Trade;
- The Trade and Competition sub-Committee, which is chaired by the Monopoly and Price Commission;
- The Trade and Investment sub-Committee, which is jointly chaired by the Investment Promotion Council (IPC) and the Ministry of Finance;
- The Transparency and Government Procurement sub-Committee, whose Chairperson is the Minister of Finance;
- The E-Commerce sub-Committee, which is jointly chaired by the Ministry of Transport and Communications and the ULI; and
- The Trade-Related Intellectual Property Rights sub-Committee, which is jointly chaired by the KIPI and the MTI.

Membership in the sub-committees depends on the issues at hand and the stakeholders’ interests. And it is more open
than membership in the NCWTO. Whenever there is an issue that needs to be discussed and subsequently resolved, the pertinent sub-committee meets to deliberate it. And, after deliberations, it forwards the minutes of its meeting to the NCWTO. The sub-committees are provided with technical assistance by their respective focal points, which have the expertise on the technical issues of concern. Upon submission of the necessary recommendation by the sub-committees, the NCWTO calls a meeting of all its members. At that meeting, the recommendation is further deliberated. The NCWTO then mandates the Secretariat (Department of External Trade—MTI) to submit the outcome of its deliberations to the Kenyan Mission in Geneva. Where immediate responses are required, nonetheless, the sub-committees communicate their recommendations directly to the team in Geneva, as this is provided for by NCWTO rules.

Decision-making within the NCWTO is by a consensus. When this is not possible, members are asked to cast their votes on the issue they have just discussed. The decision-making process at the sub-committee level, on the other hand, starts with the focal point, which presents its proposals on the WTO issues originating from Geneva. The proposals are, however, presented to the sub-committee only after they have been ratified either by the Ministry or the organization, which is its focal point. Members of the sub-committee consider the position taken by the focal point at a meeting to be held for further deliberations. The sub-committee's decision is then forwarded to the NCWTO, where all members deliberate the position and adopt or amend it. At this level, decisions are made by a consensus. There are, nonetheless, cases where the national committee can veto a position taken at the sub-committee level and adopt a completely different position. Once the national committee has ratified a position, however, it is passed over to the MTI, which then forwards it to the negotiating team in Geneva, through the Permanent Secretary (PS).

To ensure the proper and full implementation of all WTO Agreements, particularly the Sanitary and Phytosanitary Standards (SPS) and the Technical Barriers to Trade (TBT) agreements, a number of focal points are designated.
As stated earlier, these are organizations with expertise and competence in the particular WTO issues. As such, they serve as nerve centers by providing technical input to the resolution of the specific issues that concern the pertinent sub-committee.

There are also national inquiry points (NEPs) that were established to help disseminate crucial information on trade-related issues. For instance, the Kenya Bureau of Standards (KEBS) serves as both the focal point and the NEP on matters related to standards or technical barriers to trade. Likewise, the Kenya Plant Health Inspectorate Services (KEPHIS) and the Kenya Intellectual Property Institute (KIPI) are the inquiry points with regard to issues related to the SPS and Intellectual Property Rights, respectively. There are also a number of reference points that store and disseminate WTO-related reference materials. These include the Department of External Trade within the MTI, which is the reference point for the public sector; the Center for Business Information in Kenya (CIBK), within the Export Promotion Council, for the business community; and the Kenya Institute for Business Training for academics. Furthermore, the National Assembly has recently been designated as a reference point for MPs.

5.5.5.4 Some Insights into Kenya’s WTO Participation: Negotiations in Agriculture

Because it has some relevance for Ethiopia, Kenya’s experience in agricultural-trade negotiations is presented herein below so as to give some insight into the country’s WTO participation. As in Ethiopia, agriculture is the backbone of the Kenyan economy, for agricultural products constitute the country’s major exports. Kenya’s participation in the WTO, therefore, significantly concerns its agriculture. Of course, that does not mean that the other issues are less important to it. In fact, Kenya has also been very active in issues related to trade in services and intellectual property rights.

Agriculture-related issues are negotiated on two main fronts. The first front relates to the regular responses to the inquiries that come from Geneva on which members
are expected to take positions. Members’ positions on such issues are forwarded in the form of proposals and then defended in Geneva. The second front relates to the issues that arise during inter-ministerial meetings and on which positions have been taken—at least on the ones that pertain to trade within the WTO framework. One recent example is the inter-Ministerial meeting held in Cancún, Mexico, during which members formed three main groups around specific interests and took common positions. The groups were G20, G90, and the EU/US Groups. Kenya joined G90. That illustrates the fact that a position taken by a country is influenced, to a large extent, by the position of the other countries belonging to its group.

With regard to the first front—that is, the regular responses to the inquiries that come from Geneva—on which members are expected to take a stand, positions are, in the main, taken internally. The process, the actors, and outcomes are outlined herein below.

The negotiating team in Geneva forwards Kenya’s positions on various issues. In addition, it monitors and dispatches WTO-related information on a daily basis. In respect of the issues that require response, the Geneva team conveys the information to the Ministry of Trade and Industry, which is also the NCWTO Secretariat. The Ministry then contacts the pertinent sub-committee—in this case, the sub-Committee on Agriculture—which is headed by the Ministry of Agriculture. The information is also passed on to the other stakeholders, awaiting deliberations in the sub-Committee.

Normally, the focal person at the Ministry of Agriculture is the WTO Desk Officer. Currently, there is only one such Officer in the Ministry who is handling WTO issues. The Desk Officer’s main role is providing technical inputs to the issues of current concern to the team in Geneva and formulating a position to be presented to the Head of the Division for further steps. The Head of the Division then presents the proposed position to the Director of Agriculture, who is in charge of all technical matters within the Ministry. Having studied the proposal, the Director of Agriculture then briefs the Permanent Secretary
thereon. Once the Permanent Secretary accepts the position, it becomes the position of the Ministry of Agriculture. The Minister of Agriculture would not, however, be involved unless he or she considered the issues to be of crucial importance to Kenya.

As the focal point, the Ministry of Agriculture then instructs the sub-Committee on Agriculture to solicit the views of the other stakeholders and to explain to them the issues by presenting the position of the Ministry. The members of the sub-Committee are free to deliberate the position taken and reach a consensus. The position taken is often a “negotiated” one. But whenever there is a tie-up among the members of the sub-Committee, the position of the Ministry of Agriculture prevails. Once a position is taken on an issue, it is presented to the NCWTO. At the NCWTO, the issue is open for further discussions by all WTO stakeholders. Subsequent to that, a position is taken through a consensus. The position taken is then passed on to the Ministry of Trade and Industry, which forwards it to the negotiating team in Geneva—either as it is, or with some amendments to it, depending on the government’s position.

5.5.5.5 The Challenges Faced

As a founding member of the WTO, Kenya has made much progress on WTO matters, by building the structures necessary for the proper implementation of the WTO Agreements. This is signified by Kenya’s participation in all major WTO trade talks and by its strong negotiating team in Geneva. Consequently, Kenya has been able to prepare position papers on a number of issues—so much so that there were times that it even took the lead at the regional level in this regard. Kenya, nevertheless, still faces a number of challenges related to its WTO participation. Some of the challenges and outcomes are discussed herein below.
5.5.5.5.1 The Effectiveness of the National Committee on the WTO

As already noted, the NCWTO is the body through which the government consults both the private sector and civil society. A number of factors, nonetheless, limit its effectiveness. One of these is the fact that the NCWTO is not a legal entity but only an informal advisory body. This has compromised its autonomy. As it is not legally constituted, it does not, for instance, have a CEO or a Board of Management. Nor does the government allocate for it an annual budget, since it is not a government agency. As the Treasury is not obligated to allocate to it any funds, the NCWTO relies on donors and well-wishers. In fact, it is only through the financial support of a few CSOs that it has been able to undertake the few activities that it has been able to undertake thus far. This, naturally, has brought with it a number of problems—including inquorate meetings, poor information flow, and poor coordination among members. Lack of human resources, too, has made the NCWTO heavily dependent on the staffs of the MTI, who are required to fulfill other ministerial duties as well.

True, a while back, an effort was made to make the NCWTO a legal entity. But it was not successful. As things stand now, the Department of External Trade within the MTI is serving the NCWTO as its de facto Secretariat—besides the fact that its Permanent Secretary is also its Chairperson.

The ramifications of such a state of affairs are clear. That the NCWTO has no legal mandate has meant that the government is under no obligation to adopt its advice and recommendations. This has been noted to have, in fact, led the MTI to downplay the proposals presented to it by the NCWTO on agriculture because it is not legally obligated to accept them. The Minister of Trade and
Industry is further able to overturn positions adopted by the NCWTO during negotiations. Obviously, this situation, too, has crimped the NCWTO's effectiveness.

NCWTO's effectiveness has further been impaired by the fact that trade issues are addressed by different Ministries. For instance, EAC affairs are handled by the Ministry of Foreign Affairs, COMESA by the Ministry of Trade and Industry, and ACP-EU by the Ministry of Planning and National Development. As there is little or no linkage between these Ministries, they do not go about fulfilling their respective commitments to the different trade initiatives in a concerted manner. A case in point is the tariff commitment under EAC, which is different from the WTO commitment on tariffs. The end result is that the implementation of such agreements becomes both difficult and expensive for the country.

5.5.5.5.2 Participation of Stakeholders in NCWTO Meetings

Attendance of NCWTO meetings is, in general, poor. Why? Because members are not obligated to attend. Attendance among government officials is, however, better than that among the members of the private sector or of civil society. Of course, the relatively high participation among government officials stems from their role as facilitators. There is, nevertheless, no denying the fact that the participation of private and civil society organizations is driven by self-interest.

A survey undertaken in this regard has disclosed that private-sector organizations in Kenya are more interested in the East African Community (EAC) and the Market for Eastern and Southern Africa (COMESA), since they are their major markets, than they are in the WTO and WTO matters.
One of NCWTO's functions is holding regular meetings. This is important in ensuring the active participation of stakeholders. Another element that fosters the active participation of stakeholders is capacity development. Many, nonetheless, complain that this focuses on government officials, instead of being impartially extended to all members.

5.5.5.3 Inclusiveness and Awareness

Although the main objective of bringing together all stakeholders has, by and large, been achieved, a number of actors still remain out of the loop. A case in point is the Kenya Fish Processors and Exporters Association (AFIPEK), which is not a member of the NCWTO, despite the fact that the export of fish has been given due focus by WTO regulations. Also, textiles have great significance to Kenya's external trade. Yet the Kenya Textile Manufacturers and Exporters Association has no representative in the NCWTO. It goes without saying that such egregious exclusion of important players does not bode well for the country's exports, for it not only makes them resentful of WTO matters but also ignorant about them.

As the supreme body for the formulation of laws in the country, Parliament has an important role to play in the formulation of trade policies. But it is not represented in the NCWTO. Nor does it have any direct links with it. Consequently, Parliament's involvement in WTO issues has generally been weak. One can even say that there is a lack of interest among Kenyan MPs in the WTO. In a bid to redress this situation by raising the awareness of the MPs about the WTO, the National Assembly has of late been designated a reference point. Furthermore, MPs were included in the Kenyan delegation to the Cancun Ministerial meeting that was held in 2003. Some CSOs are
also closely working with the Parliamentary Trade and Finance Select Committee.

Public awareness about WTO issues is dismally low in Kenya. Even though much effort is being exerted to raise public awareness, it is still low especially in the rural areas. One cannot, therefore, help but surmise that NCWTO’s public awareness program is far short of being successful.

5.5.5.4 Notifications

Kenya has been unable to effectively respond to notifications through the NCWTO, using NIPs and focal points to issue the notifications. This is because NIPs are not interlinked and work, by and large, independently of each other. For instance, the government, through the Ministry of Transport and Communications, has recently introduced measures for speed governors and safety belts to be fitted in all public-transport vehicles. As a rule, Kenya should have issued the notification through the NCWTO to all WTO members who may have an interest in undertaking such activity in Kenya. While the mechanism to issue the notification is in place, this was not done because the channel of notification was clogged reportedly by the ineffectiveness of the NCWTO. Above all, Kenya has no formal structures to handle notifications.

5.5.6 The Lessons to be Drawn

Important lessons could be learned from Kenya’s WTO participation—including the following:

5.5.6.1 The Need for an Effective Coordination and Consultation Mechanism

The benefits accruing to countries from the multilateral trading system depend on, among other things, the extent to which trade-policy issues are coordinated at the national level and the capacity to negotiate in Geneva. Kenya’s experience has, however, shown that the coordination of WTO
matters has been weak, perhaps undermining the country's position. Coordination at the international level requires adequate legal and resource backing. This has been lacking in Kenya's case. Lack of financial and human capacity, too, has been a serious obstacle to Kenya's capacity to participate effectively in trade negotiations. Lack of skills both at the NCWTO and the sub-committee levels is a further impediment seriously affecting deliberations of WTO issues.

5.5.5.6.2 The Need for an Analytical Capacity

The Kenyan experience indicates that lack of analytical capacity pervades throughout the government agencies, the private sector, and civil society. While some of the key institutions have capable personnel to carry out impact assessments, their capacities remain largely inadequate. The same cannot, however, be said of CSOs that are involved in trade matters and of Ministries. Hence the need for strengthening their analytical skills. Training in policy analysis is a necessary condition for effective policymaking, for it goes a long way to enabling policymakers to understand the full implications of various trade proposals and agreements.

5.5.5.6.3 Fragmentation of Responsibilities on Trade Matters

As already noted, Kenya is a member of such regional trading arrangements as EAC and COMESA—in addition to being a member of the WTO. The responsibility for coordinating these trade arrangements is, nonetheless, spread across various Ministries and Departments, undermining unity in decision-making. This has also prevented Kenya from taking advantage of the synergy that joint and simultaneous implementation of WTO Agreements and regional trade arrangements could bring.
To sum up, the lessons to be drawn from the above country experiences and from the majority of the countries that have recently gone through this process underline that a well-designed coordination structure that allows all stakeholders to participate in the accession negotiations is crucially important. Accession requires a profound consideration and work in the areas of trade-related legislation and law enforcement, economic and trade policies, development of institutional framework and human resources. To accomplish this extensive preparation in a concerted manner, the Government and the private sector need to grasp the need for forging a productive relationship between them. That, of course, will necessitate an increasingly transparent and robust set of communication channels.
ANNEX TO CHAPTER 5
ACCESSION OF LEAST-DEVELOPED COUNTRIES

The Decision of 10 December 2002

The General Council,

Having regard to paragraph 2 of Article IV and paragraph 1 of Article XII of the Marrakech Agreement Establishing the World Trade Organization (the "WTO Agreement"), the commitment made by Ministers, in paragraph 42 of the Doha Ministerial Declaration of 14 November 2001, to facilitate and accelerate the accession negotiations with acceding least-developed countries (LDCs), and the Decision-Making Procedures under IX and XII of the WTO Agreement agreed by the General Council (WT/L/93);

Considering the relevant provisions of the WTO Multilateral Trade Agreements, as well as Ministerial Decisions, and WTO legal instruments, on special and differential treatment for developing and least-developed countries;

Conducting the function of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Recalling that the Director-General shall submit a status report to the Fifth Ministerial Conference on the "Implementation of the commitment by Ministers to facilitate and accelerate the accession of LDCs";

Noting with concern that no LDC has acceded to the Organization in accordance with Article XII of the WTO Agreement since 1995;

Recognizing the need to build on recent progress and for further positive efforts designed to assist LDCs to participate in the rules-based multilateral trading system, as embodied by the WTO and its Agreements;

Taking into account the commitments undertaken by LDC WTO Members at similar levels of development;

Also taking into account of the statements made on the accession of LDCs to the WTO:

• By Ministers in the Integrated WTO Plan of Action for the LDCs adopted at the Singapore Ministerial Conference on 13 December 1996;

• By WTO Members at the High Level Meeting on Integrated Initiatives for LDCs' Trade Development on 27-28 October 1997; and

• By the third United Nations Conference on Least-Developed Countries (LDC-III) in the Brussels Declaration and Program of Action;
• By LDC Ministers in their Zanzibar Declaration of 24 July 2001; and Pursuant to the follow-up work undertaken by Members with the adoption of the WTO Work Program for LDCs on 12 February 2002 (WT/COMTD/LDC/11);

Decides that:

Negotiation for the accession of LDCs to the WTO be facilitated and accelerated through simplified and streamlined accession procedures, with a view to concluding these negotiations as quickly as possible, in accordance with the guidelines set out hereunder:

**Market access**

WTO Members shall exercise restraint in seeking concessions and commitments on trade in goods and services from acceding LDCs, taking into account the levels of concessions and commitments undertaken by existing WTO LDC Members;

Acceding LDCs shall offer access through reasonable concessions and commitments on trade in goods and services commensurate with their individual development, financial and trade needs, in line with Article XXXVI.8 GATT 1994, article 15 of the Agreement on Agriculture, and Articles IV and XIX of the General Agreement on Trade in Services.

**WTO Rules**

Special and Differential Treatment, as set out in the Multilateral Trade Agreements, Ministerial Decisions, and other relevant WTO legal instruments, shall be applicable to all acceding LDCs, from the date of entry into force of their respective Protocols of Accession;

Transitional periods/transitional arrangements foreseen under specific WTO Agreements, to enable acceding LDCs to effectively implement commitments and obligations, shall be granted in accession negotiations taking into account individual development, financial and trade needs;

Transitional periods/arrangements shall be accompanied by Action Plans for compliance with WTO rules. The implementation of the Action Plans shall be supported by Technical Assistance and Capacity-Building Measures for the acceding LDCs. Upon the request of an acceding LDC, WTO Members may coordinate efforts to guide that LDC through the implementation process;

Commitments to accede to any of the Plurilateral Trade Agreements or to participate in other optional sectoral market access initiatives shall not be a precondition for accession to the Multilateral Trade Agreements of the WTO. As provided in paragraph 5 of Article IX and paragraph 3 of Article XII of the WTO Agreement, decisions on the Plurilateral Trade Agreements shall be adopted by the Members of, and governed by the provision in, those Agreements. WTO Members may seek to ascertain acceding LDCs' interests in the Plurilateral Trade Agreements.
**Process**

The good office of the Director-General shall be available to assist acceding LDCs and Chairpersons of the LDCs’ Accession Working Parties in implementing this decision;

Efforts shall continue to be made, in line with information technology means and developments including therein LDCs themselves, to expedite documentation exchange and streamline accession procedures for LDCs to make them more effective and efficient, and less onerous. The Secretariat will assist in this regard. Such efforts will, *inter-alia*, be based upon the WTO Reference Centers that are already operational in acceding LDCs;

WTO Members may adopt additional measures in their bilateral negotiations to streamline and facilitate the process, *e.g.*, by holding bilateral negotiations in the acceding LDC if so requested; and

Upon request, WTO Members may, through coordinated, concentrated, and targeted technical assistance from an early stage facilitate the accession of an acceding LDC.

**Trade-related technical assistance and capacity building**

Targeted and coordinated technical assistance and capacity building by WTO and other relevant multilateral, regional, and bilateral development partners, including, *inter-alia*, under the Integrated Framework (IF), shall be provided, on a priority basis, to assist acceding LDCs. Assistance shall be accorded with the objective of effectively integrating the acceding LDC with the multilateral trading system;

Effective and broad-based technical cooperation and capacity building measures shall be provided, on a priority basis, to cover all stages of the accession process, *i.e.*, from the preparation of documentation to the setting up of the legislative infrastructure and enforcement mechanisms, considering the high costs involved and in order to enable the acceding LDC to benefit from and comply with WTO rights and obligations.

The implementation of these guidelines shall be reviewed regularly on the agenda of the sub-Committee on LDCs. The results of this review shall be included in the Annual Report of the Committee on Trade and Development to the General Council. In pursuance of their commitments on LDCs’ accessions in the Doha Ministerial Declaration, Ministers will take stock of the situation at the Fifth Ministerial Conference and, as appropriate, at subsequent Ministerial Conferences.
6. CONCLUSIONS AND RECOMMENDATIONS

Accession to the WTO is a formal, legal commitment by an acceding country to fully comply with the multilateral trade rules and thereby benefit from the multilateral trade relations established by previous rounds of multilateral trade negotiations. It is a first step in the long, challenging and costly process of a country's integration with the multilateral trading system. In fact, even the end of the accession process marks only the beginning of the enforcement of commitments and concessions as well as compliance with WTO rules. Upon accession, the challenges of accession will also continue to severely constrain the acceding country's capacity to fully implement the commitments and concessions it has made. This is true especially in the case of LDCs like Ethiopia, because they lack the national institutions as well as the human and financial resources to leverage the outcome of trade negotiations and to properly implement their commitments and concessions. As a result, they are not always able to effectively translate trade opportunities arising from multilateral trade negotiations into concrete trade advantages.

The structural complexity of the WTO itself is believed to be a contributing factor to the weak integration of LDCs with the multilateral trading system. A multitude of councils, standing committees, and ad hoc working groups and working parties responsible for overseeing trade-policy-related issues that will have a direct bearing on all member countries pose serious pre- and post-accession challenges, particularly to LDCs. Why? Because, as stated earlier, LDCs lack strong domestic and external institutions to support their trade negotiations at the technical and policy levels. This further inhibits the meaningful participation of these countries in the rules-making processes of the WTO.

Such a state of affairs underlines that accession to the WTO guarantees neither automatic economic benefits nor immediate integration with the multilateral trading system—that is, with the global economy. For WTO accession to be beneficial and participation in the system meaningful, it is essential, as already noted, that the following be done:

- A careful assessment of WTO rules, regulations, and standards should be done, with due focus on their short- and long-term implications for the acceding country's economy;

- The institutions that are necessary to implement the rules must be put in place, consistent with WTO obligations and in a manner that will protect and foster trade and development interests, taking into consideration the circumstances that are particular to the acceding country;
• The human and institutional capabilities necessary for making the most of the existing WTO instruments and mechanisms as well as for ensuring effective participation in the decision-making process, including in the design and development of new rules, so as to strike a balance between one’s rights and obligations, ought to be put in place;

• The political realities of domestic constituents and stakeholder groups that can play important roles in assisting in the accession process and in the eventual implementation of commitments must be taken into account so that there is a realistic expectation of the economic benefits of membership; and

• Short-, medium-, and long-term measures should be taken to improve and transform productive and supply capacities, with a view to taking full advantage of the market access and the trading opportunities that the multilateral trading system offers.

There is no denying the fact that WTO-accession negotiations and post-accession challenges, particularly for LDCs, are strenuous, costly, and complex. It must, however, be noted that the alternative venues to the multilateral trading system—namely, bilateral or plurilateral trading arrangements—could be more costly, demanding, and unpredictable in the long run. What is required is to create the conditions that would help strike a balance between a country’s rights and obligations in the multilateral trading system and thereby enable it to fully benefit from the system through an effective participation.

Despite the rigors of accession and the post-accession challenges, many countries have shown an incessant eagerness to join the WTO. And none of those that have joined have tried to withdraw from the organization so far. It is also interesting to note that 40 of the 120 original WTO members are African states. At the moment, WTO membership has reached 150, including the just-admitted Vietnam, whereas some 24 countries are awaiting admission. Of the 50 least-developed countries designated as such by the United Nations, 32
have already become members. And the applications for membership of eight LDCs, including Ethiopia, are under consideration. All of that is a clear indication that, though there are challenges associated with accession and not everyone may benefit from it, accession to the WTO sets the stage for a sufficient number of countries to be better-off, hence making the whole effort worth the while. While the post-WTO environment is bound to reward competitive firms and penalize the uncompetitive ones, it further catalyzes reform, as it brings to the fore the urgency on the part of a government to remove impediments to the private sector and the business community at large. As already noted, while trade is beneficial to sectors that are efficient, competitive and able to adjust to new market situations, the reverse is true about the sectors that are devoid of the capacity to adjust to the new competitive environment. Likewise, the impact of Ethiopia's WTO membership is dependent on its ability to take full advantage of the opportunities trade liberalization offers and to properly manage the changes that WTO membership would inevitably induce.

In the past several years, Ethiopia has moved a great deal in the implementation of its Economic Policy Reform Program. That in turn has brought it very close to integrating itself with the world economy. The introduction of a free-market-oriented Economic Policy in 1992 and the policy reforms subsequently undertaken, as part and parcel of the Economic Liberalization Program, have contributed to the opening up of the economy and resulted in a significant increase in private-sector involvement. Major among the reform measures taken so far are the following:

- The devaluation of the national currency and the liberalization of foreign-exchange transactions;
- The lifting of all export taxes and subsidies;
- The liberalization of foreign trade;
- The deregulation of domestic prices;
- The privatization of public enterprises;
- The opening up of the banking and insurance businesses to the private sector; and
- The enactment of new investment laws with a range of incentives for investors.

In assessing the impact of the policy reforms, a quantitative indicator undertaken to gauge the competitiveness of the country's export sector vis-à-vis the rest of the world, using the REER constructed by the National Bank of Ethiopia has, as already noted, disclosed that the country's external sector has witnessed a gain in competitiveness.
The improvement gained in the internal competitiveness, captured by the profitabili-
ty of domestic manufacturing in contrast with domestic non-tradable activities, has not, nevertheless, been significant. On the other hand, though the relative profit-
ability in agriculture has improved, compared with its performance during the pre-
reform period, the degree of its improvement is much lower than the improvement
recorded in the general profitability of traded goods, compared with non-traded
goods, or with the international competitiveness of manufacturing.

In respect of the degree of openness, usually captured by the simple ratio of the
value of the country's foreign trade (composite) to its total domestic production
(GDP), a general improvement has been witnessed—at least, in the trend thereof—
compared with that of the post-reform period. That, of course, suggests that Ethio-
pia could be considered to be an open economy.

Ethiopia's strong desire to accede to the WTO signals its willingness to ensure that
its domestic laws, regulations and administrative procedures—particularly those
pertaining to trade—conform to WTO Agreements. Although much still remains to
be done, the policy measures already taken make most of Ethiopia's current policies
not only compatible with GATT's rules but also more than what is actually required
of a least-developed country. As such, GATT/WTO rules with regard to trade in
goods are not at all expected to be a stumbling block for its WTO-accession effort.

The relative success of openness as a policy, compared with protection, has spurred
a global movement toward unilateral trade liberalization. Many developing coun-
tries have unilaterally lowered their trade barriers to trade. Failure to achieve the
expected results by shunning foreign capital and by protecting and subsidizing in-
fant industries has been the main impetus for globalization.

Cognizant of the benefits that could accrue from openness, the Government of
Ethiopia has, therefore, embarked upon trade-policy reforms. The reform measures
have reduced the extent of protection to most firms and inter-firm variations. And
the rates of protection have decreased. Furthermore, private investment is encour-
gaged, and trade has been liberalized. Consequently, most Ethiopian enterprises are
now exposed to stiff competition both from domestic products and imports. Import
tariffs have been progressively reduced. The maximum rate today stands at 35 per-
cent, whereas the average is about 19.5 percent. The tariff band, excluding the
zero-duty band, has been reduced down to six. Non-tariff barriers have been lifted
almost entirely. Deepening the process further, the Government of Ethiopia has
ventured to join the COMESA Free Trade Area arrangement, which requires the
elimination of tariff and non-tariff barriers.
Ethiopia has also taken various steps in preparation for accession negotiations, following its application for WTO membership. Major among these steps are the following:

- A National Steering Committee (NSC) and a National Technical Committee (NTC) have been established to oversee the accession process. The NSC is chaired by the Ministry of Trade and Industry, which is the national focal point for WTO matters;

- The Memorandum on the Foreign-Trade Regime (MFTR) of Ethiopia has been approved by the Council of Ministers, even though that happened more than two years after it was submitted;

- Impact-Assessment Studies on major WTO issues such as Agriculture, NAMA, GATS in relation to specific sectors, SPS, TBT, TRIMS, and Customs Valuation have been conducted and validated by the pertinent stakeholders through workshops;

- Trade-related laws and regulations are also under review by international and local consultants; and

- Capacity-building and awareness-raising activities, national seminars on WTO Agreements, competition policy, Agreement on Agriculture, General Agreement on Trade in Services, WTO rules governing trade remedies (Anti-Dumping, Subsidies and Countervailing Measures and Safeguards), customs valuation, TRIPS, SPS, and the like have been undertaken since the establishment of a WTO Unit within the Ministry of Trade and Industry.

The key participants in these events were members of the WTO Technical Committee. Other agenda-driven stakeholders from the public and private sectors, academia, and civil society have also taken part. The staffs of the WTO national focal point—the Ministry of Trade and Industry—and the members of the WTO Technical Committee have attended several WTO workshops that were held both here in Ethiopia and abroad.

All said, however, there is a question that needs to be answered: Has there ever been a meaningful and active participation by the various stakeholders?

One thing is certain: the business community has never been consulted on the process. As a matter of fact, most members of the business community have no idea of what the WTO is all about. The underlying cause of this lack of awareness is, of course, the deficiency of the information they have been provided with by the Government. Private-sector groups are yet to be represented both on the National Steering Committee and the Technical Committee. Actually, even the involvement of the most pertinent public institutions leaves much to be desired for lack of coordination.
Having recognized the shortcomings of past practices, particularly as they relate to inclusiveness, the Ethiopian Government has, of course, put in place new directives which, if implemented, would help change things for the better. According to the new directive prepared to effectively coordinate WTO-Accession Negotiations, a high-level National Steering Committee that will oversee the overall process of WTO accession and a National Technical Committee mandated to perform all the technical works of the WTO-accession process have been formed. The Technical Committee is organized in such a way that all stakeholders, including the private sector, academia, research institutions, and individuals who have the expertise in WTO-related areas will be represented. The private sector is, nonetheless, conspicuously absent from this new arrangement, too. In other words, it is still left out of the loop, so far as policy formulation on WTO matters is concerned.

A country’s effectiveness in ensuring that its national interests are protected during negotiations hinges on the negotiation power of the parties involved. Experience has shown that the starting point for a potent negotiation power is to form teams by making sure that their members have the qualification and knowledge that is necessary to cogently argue and defend their various positions on key sectors and issues. Such teams are best composed of representatives of government agencies and institutions, lawyers, academics, and the private sector. This done, the preoccupation of all parties, when the documents are finally signed and thereafter, would be to reflect on how to implement the WTO Agreements. Representatives of the sectors that have not fared well, as there is a high likelihood that not all will fare well, will brace themselves to face the hard choices confronting them.

It goes without saying that transparency and acceptability by the majority always make it easier to defend positions taken during public discussions. If negotiations are shrouded in total secrecy and potential gainers and/or losers from the private sector are not involved at the outset in the accession process and in the negotiating team, however, all the issues concerning WTO accession are bound to be viewed with suspicion and to trigger emotionally-charged debates. The whole process will thus be jeopardized, as the Agreements entered into would lack ownership—in the absence of which proper implementation thereof is unthinkable. The adoption of accession-preparation and negotiation styles that are as inclusive as possible, representing diverse points of view, will further make consequent public-awareness campaigns better managed. Unfortunately, for Ethiopia, nonetheless, what has been customary so far is to hold discussions with the private sector/stakeholders long after decisions have been made at what are called “Validation Workshops.” That, needless to say, does not at all inspire confidence in the process. Put differently, the private sector cannot help but continue to feel left out.
As stated earlier, there are huge challenges that are associated with accession to the WTO. All the same, the expected gains from WTO membership make the effort worth the while. With regard to Ethiopia, the question that needs an urgent answer is not whether it would be beneficial to proceed with the WTO accession process, but how to make it all-inclusive. In other words, how should Ethiopia go about ensuring the active participation of all stakeholders and diverse points of view in the accession process, so that national interests are safeguarded?

The answers to that question are given herein below.

6.1 Institutional Structure and Coordination of WTO Matters

As already noted, the current institutional structure excludes some key stakeholders, particularly those in the private sector and in civil society. As a body through which the Government seeks to garner support, the National Steering Committee should have as its members representatives of all stakeholders and of diverse points of view. Why? Because that is the only way that the country can make sure that its national interests are safeguarded during the accession process. The current structure should, therefore, be broadened to include the private sector and civil society, for they could play important roles in trade. In this regard, the structure of the National Steering Committee of the WTO of Kenya is worth emulating for the following reasons:

Kenya's NSC invariably fulfills its duties through deliberations and consultations. The technical functions of the Committee are carried out by sub-committees with specific expertise in the various issues. A cursory look at Kenya's sub-committees, too, would provide a useful insight into the whole process.

Membership in the sub-committees is much more open than membership in the National Steering Committee. Besides, the sub-committees are centered on the issues at hand and on the stakeholders' interests. When addressing issues, the pertinent sub-committees meet and forward their deliberations to the NSC for action. Further down the line, the pertinent focal points make their contribution to the process on technical issues of concern, in accordance with their particular expertise. Upon submission of the necessary guidelines by the sub-committees, the NSC calls a meeting for further deliberations. Having deliberated the guidelines, the NSC then mandates the appropriate official to forward the deliberations to the mission in Geneva. In the event that an immediate response is required, sub-committees may communicate directly with the Geneva team. Anyway, so say the NSC rules.

As a rule, the NSC makes decisions by a consensus. In the event that the Committee finds it difficult to reach a consensus, nevertheless, decisions are made by having the members cast their votes. The decision-making process at the sub-committee level starts with the focal point, which presents its proposals on the WTO issues originating from Geneva. The proposals relating to the issues presented arc forwarded to the sub-committee only after they have been approved either by the Ministry or the organization where the focal point is based. Members
of the sub-committee review the position taken by the focal point at a meeting to be held for further deliberations. The sub-committee's decision is then forwarded to the NSC, where all members deliberate the position and adopt or amend it. At this level, decisions are made only by a consensus. At times, the NSC takes a stand that is completely different from the position taken at the sub-committee level. Once the NSC has ratified a position, it is passed on to the negotiating team in Geneva, or to a designated official at the Ministry of Trade and Industry.

In respect of ensuring the full implementation of all WTO Agreements, particularly the Sanitary and Phytosanitary Standards (SPS) and Technical Barriers to Trade (TBT) Agreements, a number of organizations with expertise and competence in particular WTO issues are designated as focal points. These focal points serve as interlocutors for providing technical input on specific issues relating to the pertinent sub-committee.

Furthermore, national inquiry points (NIPs) would be established to help disseminate crucial information relating to trade issues. In this regard, the Ethiopian Quality and Standards Authority (EQSA) may be designated to serve as both the focal point and NIP on matters relating to standards or technical barriers to trade. Likewise, other specialized agencies, such as the Plant Health Inspectorate Services within the Ministry of Agriculture and Rural Development and the Ethiopian Intellectual Property Office (EIPO), could be designated as inquiry points on issues related to the SPS and Intellectual Property Rights, respectively.

As already noted, the coordination of WTO matters requires a proactive participation that cuts across all hierarchies and operational levels in the Government, the business community, and civil society. With regard to government Ministries and organizations, it would be appropriate to include all functional Ministries that have some bearing on the production of goods and services and trade. These Ministries and organizations will act as focal points to the sub-committees responsible for WTO issues of specific concern to them (the Ministries and organizations). The chambers of commerce and sectoral associations could serve as umbrella groups that represent the business community. In much the same way as the government Ministries and organizations, the chambers of commerce could organize their membership under the various trades so that each category would further serve as a focal point to the sub-committees that would be established replicating those at the national level. CSOs, for their part, should be assigned to address the concerns of specific social groups, for they normally have a clear sectoral focus. These may be organized into a loose network that provides a forum whereby the representatives of CSOs can come together and consolidate their deliberations for submission to

There is no denying the fact that Ethiopia’s accession to the WTO has immense socio-economic implications for the lives of all segments of society. It is, therefore, imperative that farmers, consumers, the business community, NGOs, academia, and the like joined in the discussion and debate the benefits and costs of joining the WTO.
the Government. It must, of course, be noted that the rubric "civil society organizations" includes registered charitable organizations, non-governmental organizations (NGOs), community groups, women's organizations, faith-based organizations, professional associations, labor unions, self-help groups, social movements, business associations, coalitions and advocacy groups.

There is no denying the fact that Ethiopia's accession to the WTO has immense socio-economic implications for the lives of all segments of society. It is, therefore, imperative that farmers, consumers, the business community, NGOs, academia, and the like joined in the discussion and debate the benefits and costs of joining the WTO. As the focal Ministry on WTO matters, the Ministry of Trade and Industry should identify the pertinent stakeholders and invite them to become members of the NSC. This must be done in a manner that will ensure inclusiveness. Members of the NSC, too, may identify more pertinent stakeholders and nominate them for membership. The stakeholders to be thus nominated do not necessarily have to be organizations. Individuals, too, would do. What is important is that the number of stakeholders that can be members of the NSC is not limited.

In sum, all trade-related activities must be streamlined and undertaken in a more concerted manner than they are at the moment. Currently, the Ministry of Finance and Economic Development (MoFED) is entrusted with the responsibility of doing follow-up on COMESA matters; and commercial counseling is being undertaken by Ethiopian embassies abroad. For Ethiopia to take full advantage of its WTO membership, however, ensuring synergy in its trade-related activities is crucially important. That cannot, however, happen unless all its trade arrangements and trade matters are brought under the Ministry of Trade and Industry.

6.2 Cooperation between the Government and the Business Community

The importance of establishing a Public-Private Consultative Council in which the private sector can present its concerns, views, and problems to the pertinent public authorities is well recognized. Likewise, a forum whereby the two sides can come together and hold consultations on WTO matters must be created. There is nothing that the Government could lose by ensuring that the views of the private sector are regularly heard at every stage of policy formulation and implementation with regard to WTO matters. On the contrary, it stands to gain, since doing so would encourage the private sector to throw its weight behind the Government's effort to maximize the benefits that could accrue to Ethiopia from its WTO membership. Public-private consultations have, after all, the following advantages:

- Enhance the flow of information to and from the Government, the business community and civil society;
- Engender a sense of ownership of all reform strategies among the stakeholders;
• Contribute to an optimal utilization of resources by helping pool technical expertise and encouraging the sharing of costs;

• Generate mutual trust and social capital, which in turn lower the transaction costs of business and economic governance; and

• Facilitate the free movement of labor and capital between and among the Regions.

A mechanism whereby private-public dialogue can take place in such a way that the benefits thereof—at least, those enumerated herein above—can be obtained is, nevertheless, non-existent in Ethiopia. Consultations and proactive participation in the policymaking process are rare, if not totally absent. Consequently, the private sector's hitherto participation in policy formulation has, of necessity, been only reactive. Changes in policy or new policies that affect the performance or the very survival of the private sector are generally formulated behind closed doors, sidelining it (the private sector). Consultations, if and when they are held, are perfunctory and fail to give weight to the concerns of the business community. That is so because such platforms invariably turn into question-and-answer sessions where the concerns and issues raised are explained away.

Many public officials have expressed their belief that once an enabling environment has been created, the Government should let others shoulder the remaining responsibility. True, in and of itself, an enabling environment is not a sufficient condition for the emergence of a private sector that is capable of serving as an engine of economic growth and social transformation—as it should. It must be supported to develop its vision and entrepreneurial capacity and thereby enable it to translate its dreams into reality. Such support, alas, is lacking in Ethiopia!

If it is to be effective, any cooperation between the Government and the business community on WTO issues must be based on an internal partnership that ensures a two-way dialogue. An important task in the development of such a partnership involves the creation of a platform for raising the awareness of those in the private sector. In other words, a forum whereby importers, exporters, business and professional associations, chambers of commerce, academics, and professionals can come together and discuss ways and means of ensuring market access for their goods and services must be created. For the cooperation to be more meaningful, interaction between these parties, on the one side, and Ethiopia's trading partners, on the other, is also a must. The interaction can, of course, take various forms—including consultations and negotiations at bilateral, plurilateral, and multilateral levels on the agenda for future negotiations, modalities of negotiations, assessment of the outcomes at all phases of the negotiations, and, finally, the appraisal of a mutually beneficial agreement.

It is also imperative that the cooperation between the Government and the private sector continued at all phases of the negotiation. The phases are, of course, the following:
- **The pre-negotiation phase**: the phase at which the preparation and formulation of national positions takes place, by country and by product;

- **During the negotiations**: the phase at which alternative solutions are suggested; and

- **The post-negotiation phase**: the phase at which the Agreements signed are looked into very carefully and implementation thereof is monitored closely—that is, the phase at which the various members of the private sector could serve as contact and inquiry points.

### 6.3 Business Advocacy

The private sector and the business community at large lack the entrepreneurial skills for the development of growth-oriented and competitive private business. The capacity required for identifying and initiating viable investments and the knowledge needed for building technological and production capacity toward the accumulation of wealth can be acquired through education and training. And there are various ways that a person could be educated or trained—including learning by doing, or by interacting with others, or by going to school. The capacity of the private sector in this regard is indisputably limited. Besides, it is getting no support and extension services on technological upgrading, innovation, and in accessing information. This is true especially about micro- and small-sized enterprises.

Business-advocacy organizations are determinant to promoting growth and the interests of the business community both at the national and international levels. In the developed economies, there are two types of business-advocacy organizations: chambers of commerce and trade or sectoral associations. These organizations not only play advocacy roles, but also provide a wide range of services in promotion, information, certification, training, and technical assistance.

A similar pattern is followed in Ethiopia. There are chambers of commerce and trade associations. The Ethiopia Chamber of Commerce, which was established in 1978 under Proclamation No. 148/1978, brings together fifteen city chambers (Addis Ababa, Assela, Hawassa, Bahir Dar, Gonder, Jimma, Mekelle, Adama, Desse, Harar, Jijiga, Debrebirhan, Diredawa, Nekemte and Shashemene) that, as a whole, represent about 100,000 businesspersons—most of them from the trade and service sectors.

The Ethiopia Chamber of Commerce and Sectoral Associations has since been reconstituted under Proclamation No. 341/2003, effective from April 24, 2007. The regional Chambers of Commerce and Sectoral Associations make up the national body, which has 306 Council members.

The Addis Ababa Chamber of Commerce was established in 1947 under General Notice No. 890, and is the oldest city chamber—as well as the most active one. It has about 15,000 registered members, of whom only about 9,000 are fee-paying members.
More than 85 percent of the current members of the Addis Ababa Chamber of Commerce fall under the capital category of below Birr 50,000, whereas those who fall under the capital category of above Birr one million account for only four percent of the total membership.

Trade/sector associations are relatively new to Ethiopia. As they were marginalized by the previous regime, along with the private sector, they did not have the opportunity to emerge earlier. The present Government has, by contrast, a favorable disposition toward free associations of private entrepreneurship. As a result, there are currently around 40 business associations, with a very heterogeneous level of efficacy and representation. These include the industrial sector and other associations—some not so active, and others tailored to limited interests.

The effectiveness of business-advocacy groups greatly depends on their capacity to perform their functions to the satisfaction of their members, who, in turn, will support them (the business-advocacy groups) by getting involved in activities they perceive as effective. The business-advocacy system in Ethiopia, however, falls far short of being truly effective. That is the stark reality on the ground, even if we were to take into consideration the fact that business development in the country is still in its infancy. And the major constraints to the full development of business advocacy are found inside the private sector itself: the sector is not yet fully developed; it lacks self-awareness; it does not undertake self-promoting activities; it has no confidence in the political system, mainly due to the yawning gap between policies and their implementation, as well as the conspicuous absence of any meaningful dialogue between government and private-sector advocacy groups.

The factors that are severely undermining the ability of these institutions to undertake effective business advocacy may be summarized as follows:

- There is no formal proactive mechanism for consultation and dialogue. Policy formulation consultations with representatives of the business community hardly exist. And even when they do, it is only occasionally. There is no provision for a public-private dialogue at which such consultations can take place, either.

- There is little or no coordination among the key actors in the business advocacy system.

- There is a widespread problem of representation—so much so that neither the chambers of commerce nor the various trade associations and interest groups are adequately structured to represent their members.

- There is an acute shortage of resources, for not all members are willing to pay membership fees to chambers/associations, mainly because they do not see the benefits thereof. Of course, the main issue is not that the members are not paying their membership fees, but that their expectations and needs, in terms of the delivery of certain services, are generally unmet. On the other hand, neither the chambers nor the associations can achieve their objectives, or implement their programs, unless they have the resources necessary to do so.
• There is also fragmentation of membership. For instance, the same constituency is represented by more than one advocacy group—such as the Ethiopian Manufacturers’ Association and the Addis Ababa Private Industries Association.

• There is a lack of capacity; and incompetence is prevalent. Consequently, members’ requests are not interpreted as they should, so that an organized position on enterprise-related matters can be formulated and be brought to the attention of policymakers. This lack of capacity and of resources has also made it virtually impossible for the chambers of commerce and the sectoral associations to render appropriate services to their members.

• Membership in the chambers of commerce is voluntary—not mandatory as in the days of the Derg. That, naturally, has resulted in a large number of free riders. These types of businessmen and businesswomen have, of course, become beneficiaries of the services provided by the chambers of commerce and sectoral associations—without contributing anything in return.

If these institutions are to be in a position where they can properly and effectively play business advocacy roles, the constraints that they are plagued by need to be addressed in a comprehensive manner.

WTO issues, including the accession process, are long-term issues. As such, they require non-stop attention. The immediate task in this regard should, therefore, be to put in place a structure that would be responsive to the rigors of accession and to the post-accession environment. In the context of business advocacy, this would require the establishment of a separate unit that would be responsible for WTO matters within the chambers of commerce. The unit needs to be structured in such a way that it replicates the larger network of the WTO national committees, sub-committees and fits into them. Like them, the unit could serve as a focal point as well as an inquiry point. That means, its members should have expertise and competence in particular WTO issues and must be able to disseminate crucial information relating to trade issues.

In Ethiopia, as in many other acceding countries, the WTO is not fully understood. Consequently, a sizable section of the society seems to have chosen to take the view that accession to the WTO would adversely affect the economy. And when asked to elaborate on that, they say that domestic industries will be closed when they find it difficult to compete with their foreign counterparts. That would, of course, increase the unemployment rate—according to these people. It is, of course, obvious that they have formed these opinions without bothering to do any research on the matter, or to obtain adequate background information. In short, there is widespread apprehension among the stakeholders. Consequently, many are not strongly supportive of the accession bid, at least at this point in time.

Accession to the WTO is not merely a trade deal. It is a decision that affects all sectors of the economy. It, therefore, deserves the active participation of all stakeholders—instead of being viewed as being the exclusive domain, or business, of the Government.
As it is, however, the accession process in Ethiopia is going very quietly, without any meaningful participation by the very people who will be directly affected by Ethiopia's eventual membership in the WTO. Even the business community, which will be directly affected by the various WTO Agreements, seems to be apathetic about the whole issue.

The chambers of commerce and sectoral associations must, therefore, rise to the challenge of reversing this situation. For one thing, they should put in place viable structures that help their members understand the laws and regulations that will directly affect them upon Ethiopia's accession to the WTO. For another, they must try to raise their awareness about the benefits and challenges of accession as well as the changes in policy and in the business environment that are bound to result therefrom, or come as attendants thereof.

WTO issues being new to Ethiopia, the level of awareness is generally low even among the relatively educated segments of the society, including the business community. Hence, raising the awareness of all stakeholders should be the major task of all concerned. In this regard, the Government's commitment to enacting proactively and in a time-bound manner the process of obtaining WTO membership is crucially important.

The experiences of the recently acceded countries, especially those of the LDCs, show that the stakeholders—chambers of commerce and NGOs included—could be instrumental in conducting research on the impacts that the various WTO Agreements could have on the economy. Working closely with the Government and other stakeholders, they could also provide useful suggestions on how to respond to the pressure that may be brought to bear on the terms of accession that are "WTO-Plus" or "WTO-Minus" in nature and to the Agreements that may reduce the policy space of the acceding country—so as to protect and promote national development priorities.

6.4 Negotiation Position

In making the most of WTO accession, the overriding goal is to decide on the mix of national and international initiatives that best fit into a country's development objectives. In the case of Ethiopia, concrete steps that will help facilitate the accession process have already been taken, in a bid to make sure that the venture contributes to the national development effort.

While getting prepared for the negotiations, it is desirable to identify the activities/sectors that can further the reform, in tandem with the steps already taken, and thereby help attain national priority goals. A good example, in this regard, is Cambodia. Cambodia identified textiles, clothing and tourism as the sectors that could benefit from reform and developed its negotiating priorities for the WTO accession accordingly. The task involves the identification of goals, doing an analysis of the economic options, and the formulation of negotiation priorities and fallback positions. It is, therefore, important to recognize at the outset of the accession process that binding commitments can have a wide-ranging influence on the behavior of the various stakeholders—namely, regulators, importers, and
investors. Fully understanding the likely economic and social impacts of the various WTO commitments would, nonetheless, help determine which commitments an acceding county should consider as a priority.

An important element in preparing for the negotiations is forming realistic expectations. The experiences of many developing countries suggest that WTO accession is a process that could take anywhere from five to ten years. It, therefore, requires a broad-based support from the Government, the business community, and civil society. That in turn can happen only with extensive consultations as well as a clear grasp of the costs, benefits, challenges, and priorities of WTO accession.

Among the various steps that are particularly important to the process of accession, which Ethiopia has already taken, is the preparation of the "road map" for accession. Given the duration, complexity, and the far-reaching scope of the WTO accession process, the road map identifies the different types of assistance required at each stage of the accession process. The diagnostic tools associated with the Integrated Framework also provide a comprehensive assessment of national needs.

The complexity and the far-reaching scope of the WTO accession process require the mobilization of expertise from far and wide—in addition to local sources. It is worthwhile to note, in this regard, that many developing countries have benefited from the experiences of experts from other developing countries that acceded to the WTO only recently. This, of course, has been aptly dubbed "South-South learning." A case in point is Jordan's offer of expertise to Middle Eastern and North African states. In this regard, selecting the right expert is essential. So is making the most of the technical assistance available to acceding countries.

In sum, it is important to recognize that, in the accession process, clearly identifying reform objectives helps position an acceding country to use the process to its own advantage, leveraging the multilateral process to advance domestic reform. To that end, the acceding country needs to draw up an overall plan for determining the positions it should hold prior to the negotiations. The other measures that should be taken include developing ideal-case and worst-case scenarios with regard to the overall outcome of the accession and the individual discussions—prioritizing issues and quantifying the possible impacts that the changes would bring with them.

To ensure the domestic ownership of the final positions to be taken and a thorough understanding of the issues involved, consultations have to be held either as one-on-one discussions or as seminars and workshops. The one-on-one discussions will help find out private views, whereas the seminars and workshops should be aimed only at stimulating debate and arriving at an overall viewpoint. This would ensure commitment on the part of all the parties involved, including those who might have initially opposed accession. After all, holding consultations does not necessarily guarantee that all views will be accommodated.
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This study elaborates on the progress of Ethiopia's accession to the World Trade Organization (WTO) and analyzes the benefits and challenges of joining the organization. In doing so, it explores the realities on the ground and brings to light the experiences of Asian and African countries. The study recommends the inclusion of key stakeholders, particularly those in the private sector and civil society, into the National Steering Committee of the WTO of Ethiopia, and the establishment of a Public-Private Consultative Council, among others.