

## CONSEQUENCES OF UKRAINE'S PARTICIPATION IN THE WTO FOR CORPORATIVE COMPANIES

Iryna Zhmudska

Taras Shevchenko National University of Kyiv

**Abstract.** Contemporary processes of globalization are forcing each country to actively enter the world's economy. This demands the formation of foreign policy of the relevant multilateral rules that are installed and used as part of membership in the World Trade Organization. Ukraine needs to set a worthy place in the world economy in the first place and to justify the need for a coherent policy that is focused on the fact that Ukraine is a full member WTO.

**Key words:** globalization, World Trade Organization, corporation

### INTRODUCTION

A foreign economic policy has to be considered as an indissoluble unity of social and economic processes taking place in the country. It refers as to a definition of direct influence of foreign economic trends on the national economy so to coordination of foreign economic policy with a set of tasks of an economic strategy of the state.

### RESEARCH METHODS

Modern stage of development is characterized in Ukraine by the following aspects:

- openness of the national economy has been constantly increasing that is reflected in the increased share of exports and imports in GDP,
- at the same time the situation in the traditional markets for Ukrainian exports (metallurgy and chemistry products) is uncertain, a significant part of experts predicts deterioration of its economic situation,

- because of the extremely slow processes of the economic structure modernization and fixed assets renewal, a competitive ability of the most part of economic sectors remains at a very low level,
- a vital task is refocusing on the economic growth factors, which are based on the domestic consumer and investment demand,
- a task facing the government is all-round encouragement of investment processes and providing them with the innovative orientation.

It seems to be obvious that above mentioned aspects are to be taken into consideration when constructing a foreign economic policy of Ukraine. The entry of Ukraine into the WTO and the following strengthening of integration into the global economic processes will contribute to solving problems facing Ukraine on the modern stage of its economic development.

The basis of the WTO rules is to create equal trade rules for all agents of economic relations. In the meantime, the equity of partners in the WTO is rather arbitrary. Even according to formal logic, a level playing ground is just a reason to identify stronger and weaker players, each of whom obtains a result, equal to a detected by them ability to compete. Turning to global economic processes, it is possible to say that equal rules of trade relations also contribute to sorting out, in the course of competition, companies-winners and losers. According to a study carried out by the International Monetary Fund specialists, implementing free trade rules influences positively only on the economy of countries with approximately the same level of development.

It is of great importance also to take into account a social impact of Ukraine's entry into the WTO. According to the prevailing official opinion, trade liberalization has a positive social impact because reducing a level of prices as a result of strengthening a competitive pressure, increases purchasing power of the population. Meanwhile, it should be taken into account that purchasing power is derivative of the level of income of the population. Therefore it would be more correct in determining a social impact of membership in the WTO to determine its influence on employment and income [Hughes 2008].

## RESULTS

The World Trade Organization, which has been formed in the course of further development of the General Agreement on Tariffs and Trade (GATT), now unites 159 countries, which accounts for about 97% of the world trade, and defines main framework conditions of trading operations in the world markets. According to the policies of the GATT/WTO, trading system should be:

- devoid of any discrimination – a country should not discriminate against certain trading partners, providing all of them equal conditions (Most Favored



Nation treatment) and there should not be any difference in the policy as for domestic and foreign producers of goods and services (National Treatment Principle),

- predictable – foreign companies, investors and governments should be confident that trade barriers are not applied without coordination with trading partners,
- open to fair competition – by preventing the use of ‘unfair’ methods as, for example, export subsidies and goods selling at dumping prices to gain market outlets,
- friendly to underdeveloped countries – providing a transitional period to adapt in the new environment, allowing special preferences to soften the transition (over three quarters of the WTO member country are among the developing countries or countries in transition).

The GATT trading system is based on four basic rules:

- domestic industry protection of via tariffs only,
- tariff rates reduction and binding against further increases,
- trade on the basis of the Most Favored Nation treatment principles,
- applying rules of the National Treatment Principle.

Meanwhile, the GATT/WTO agreements focus not only on trade liberalization, but also envisage a set of comprehensive measures to protect domestic markets of member countries.

Among such measures are:

- the right of applying anti-dumping and countervailing measures,
- general exceptions to the rules on trade in goods according to Art. XX of the GATT 1947,
- a list of subsidies that do not give reasons to take countervailing measures,
- a list of subsidies of which is allowed for agricultural producers using exceptions to the Agreement on the General Elimination of Quantitative Restrictions,
- emergency actions on imports of particular products,
- security exceptions,
- exceptions to the requirements on harmonization of technical regulations and standards with the international standards,
- exceptions to the Most Favored Nation treatment principles,
- introduction of temporary import restrictions for balance of payments alignment [Mutual financial... 2003].

According to the GATT requirements, all mentioned exceptions should be applied on the non-discriminatory basis which means equally towards all the countries – members of the WTO. Subsidies allowed by the agreements by no means should be targeted, which means those, access to which is limited to certain enterprises, or distribution factors of which are not objective.



A true course of trade relations in the world shows that the principles set forth by the WTO do not always find their implementation, and the violation of these principles is a quite common political practice.

Moreover, under condition of the capital transnationalization, influence of the leading world transnational companies grows significantly above the level of influence of many national governments. Taking into account the GATT/WTO agreement is of an intergovernmental nature and applies to state regulation of foreign trade, it is not obligatory to be followed by large corporations. Meanwhile, often occupying a monopolistic position in regional markets, the transnational companies are able to dictate its terms contradicting to the GATT/WTO requirements [Experiences... 2009].

Since 1992, there were debates considering the expediency of the definition of the WTO's special category of 'transition economies', in respect of which the application of the WTO rules and regulations would be taking place in a transition mode. The final decision on this matter has not yet been accepted. Partners of the post-socialistic countries that joined the WTO were not inclined to provide these countries with special conditions, explaining that performance of the WTO agreements itself is an important element of the transition to the market economy.

Meanwhile, some of the countries with economies in transition nevertheless found a way to take measures to adapt to the WTO membership and win concessions in the process of accession.

One of the important directions of such adaptation is a targeted state support for exports. An interesting example in this context is a policy that was carried out by the Polish government. They introduced a system of export support that included simplified customs procedures for exporters, who received the status of 'reliable'; partial reimbursement of expenses related to the participation of small and medium enterprises in international exhibitions and fairs; loans (governmental, of commercial banks and banking consortiums); bank guarantees for export credits, government loan guarantees for the credits, provided for the development of export production; credit and export risk insurance; surcharges for export credit interest rates; tax benefits for companies with a large share of export production; subsidies to exporters of agricultural products etc. [Experiences... 2012].

China's experience is illustratory in the application of institutional and system measures of the domestic market support. As a result of a long negotiation process, the Chinese People's Republic in the course of entry into the WTO succeeded to reserve the very strong positions of public enterprises in a foreign economic trade sector. They possess the largest share of foreign trade turnover, taking into account the share of the Chinese side in enterprises with foreign capital. The state foreign trade companies have reserved a preferential right to conduct foreign trade in grain, oil, oil products (private companies have reserved a quota, which

was supposed to grow at 15% annually), fertilizers, linen fibers, tobacco and cigarettes, sugar, certain types of vegetable oil, tungsten ores and concentrates, tea, coal and coke, silk and silver, as well as transportation and distribution of goods within the country borders. Governmental regulation of prices has been saved for a majority of enlisted positions. In return for these concessions, China has undertaken a number of liabilities that considerably exceed the liabilities of other new and the original members of the WTO. For example, it has agreed to limit its support for farmers with low incomes, refusing to give those subsidies for agricultural resources, in particular – fertilizers.

The experience of countries that have recently joined the WTO shows that the process of binding tariffs does not always provide access to the market. To protect a domestic market the WTO members actively use all possible means in this organization's system of requirements. So, Polish current customs tariff clearly defines preferences that protect the automobile and oil processing industries: rates of import duties on cars, a number of oil products from countries that Poland has provided with the most favored treatment remain at a high level.

In most member countries of the WTO bound tariff rates are higher for agricultural products than for industrial ones. In particular, India, which managed to get the status of a developing country, took advantage of it to establish a higher level of bound tariffs on some products. The high level of bound tariff rates differentiation is typical for countries with economies in transition. A binding level for sensitive products in these countries can rise to 100%, while for other products it may also be zero-rated. Having applied certain flexibility in the binding of tariffs, some member countries have set bound tariff rates that exceed the effective tariff rates which were in effect in the base period of 1986–1988 [Gubin Ed. 1999].

To ensure the minimum market access countries apply tariff quotas for agricultural products, despite the recommendations of the WTO to turn them into ad valorem rates. This system is widely used by Bulgaria, the Czech Republic, Hungary, Romania and Slovakia.

An important aspect is to determine a base period for calculating an amount of domestic support. Most countries took as a benchmark year, following the year of application for entry into the WTO. This, usually, corresponded to that representative three-year period when the level of domestic support was the highest (beginning of economic reforms). Meanwhile, an experience of Bulgaria, which has achieved a longer base period, is an interesting one. As stated in the report of the Working Group 'the base period of Bulgaria has been extended... on grounds that a period of the last three years has been recognized as unrepresentative due to the UN embargo on the former Yugoslavia'. This important concession shows that the wording 'on the conditions, agreed with the member countries of the WTO' envisages some flexibility.



Georgia and Kirghizia strived for obtaining a status of the developing countries in the agricultural sphere that would allow them to benefit from the General System of Preferences. Those requests were not satisfied, but Kirghizia obtained a concession that involved application of special and differential measures, including, in particular, investment subsidies, exempt from reduction liabilities. This means that Kirghizia may use investment subsidies even after the five-year implementation period.

China, in the process of accession, also gave rise to a number of possibilities for protection of agriculture, including untargeted subsidies of the industry. Among such means of protection – the rules of imported food supplies certification as well as new rules for the use in China of agricultural crops with a modified gene structure that were implemented in spring of 2001.

Protection of domestic markets from the unfair competition on the part of imports is efficiently ensured by anti-dumping instruments. So, 13 investigations, related to excessive imports were conducted in Poland in 1998–2001, and 8 – related to imports at dumped prices based on applications of the coal, metallurgical and other industries. Most part of these investigations ended by setting customs duties and additional benefits, introducing numerical quotas etc. In 2001 Poland adopted two new laws: on protection from import of goods at dumped prices into Polish customs territory and on protection against excessive import of goods into Polish customs territory.

A policy of science and technology potential support and its integrated development is of great importance for the use by countries which have recently joined the WTO, for the positive effects of membership for competitive industries. In particular, national developments have an absolute priority in the implementation in China: it is the focus of administrative and information policy of the state. A large number of rules regulating state procurement continue to operate. A strategy of creation of large national companies, which, in their turn, carry out a strategy of import substitution indirectly, stimulates development of the scientific and technical potential.

Missing elements of the scientific and technical potential are compensated by all known methods, including those that are ‘not approved’ by international rules. Stimulating foreign investments in the industries related to the high-tech solutions production, incentives for domestic producers of technologies in the sphere of foreign relations, policy of involving specialists from abroad etc. are of great importance. In the areas of development and adopting high-tech solutions, preferential tax treatment has been set. For example, in Harbin enterprises are completely exempt from the value added tax for three years from the date of accreditation, and the next three years they pay it with a 50% discount, so at a rate of 8.5%.

Thus, the economies in transition within the period of their entry into the WTO and their further membership applied a wide range of the economic policy

instruments that allowed preventing the excessive spread of the entry negative consequences and preparing the national economies for functioning in conditions of openness. Unfortunately, strengthening openness of the economy of Ukraine is not accompanied by carrying out a relevant domestic and foreign economic policy [Corporation... 1996].

Despite the entry of Ukraine into the WTO, a problem of great importance is still not clarified definitely – what specific effects in the short, medium and long term prospects, this entry will have for the industrial complex of the country, the economy and society as a whole.

## CONCLUSIONS

One of the main long-term positive consequences from the entry of Ukraine into the WTO is creation of an economic and legal environment that operates on the basis of transparent rules and regulations. Adapting the national legislation in the economic sphere and the national regulatory system to the requirements of the WTO, Ukraine is gradually becomes free from the typical for the economy transition period of branch subsidizing schemes, tax incentives, which has deformed the competitive environment and the competitive ability of Ukrainian enterprises, has complicated their adaptation to compete in global markets. At the same time a system of standardization, certification, application of sanitary and phytosanitary measures, will be improving. An increase of predictability, transparency and consistency of the government economic policy will reduce the risks of business conduct and stimulate an investment activity. Introduction of stable transparent and predictable rules, clear consolidation in the national legislation of the investors' rights is supposed to result in the growth of the volume and improving the structure of foreign investments.

The WTO also serves in this situation as an objective 'counterweight' to the lobbying pressure of certain domestic corporate groups that expect to receive preferences at the expense of other sectors of the national economy. The government has more opportunities to protect itself from the actions of the lobbying groups, to carry out the state policy in the interests of all sectors of the economy, rather than its separate parts, which helps to avoid distortions of the competitive environment.

Development of competition and reducing trade barriers, by encouraging the cheapening of imported finished goods and services as well as domestic products with the imported components used in their production, creating conditions for reducing cost of the goods and services for consumers in the domestic market. Parallel to that, increasing transparency and improving the performance of control procedures over the commodity flow should help to reduce the illegal import



of goods to Ukraine, as a result the Ukrainian markets will become more protected from cheap low-quality products.

An advantage of being a member of the WTO, which is of no less importance is to provide for the Ukrainian goods Most Favored Nation treatment as well as the National Treatment in the markets of trading partners. Having obtained an access to mechanisms of their interests' protection in the markets of the WTO member states, Ukrainian exporters have been able to more effectively defend their interests internationally. In particular, it should help to limitation of use of anti-dumping, special and anti-subsidy investigations, various quantitative restrictions, which have been widely used by foreign countries against Ukrainian exports since 1992.

The WTO membership has created favorable background for the trade regime improvement and for extension of cooperation with the EU, launch of negotiations on a free trade zone and the gradual integration of Ukraine into the EU through the preparation and signing of the Association Agreement. It allows expecting growth in certain export-oriented industries as a result of an increased access of Ukrainian goods to the most important commodity markets of developed countries. As a result, producer incomes, tax revenues, employment in export sectors are supposed to increase.

We should not forget, however, that at the same time Ukrainian trading partners get the instruments by which they can directly require compliance of Ukrainian commitments to liberalize imports and reduce state support of the economy. Therefore rendering the WTO opportunities to protect the interests of domestic producers in the world markets requires both acquiring methods of such protection, having a political will to do so, and ability to meet the requirements of the WTO in our own economic policy.

It is important to note that the WTO membership renders an opportunity to participate in multilateral negotiations on the future architecture of the global trading system, conducted between members of the WTO, which can be used to defend the national interests of Ukraine. However, not always a successful experience of such negotiations showed dominance of the developing countries interests that had significant differences comparing to the national interests and development priorities inherent to Ukraine.

Transition to the economic and legal environment of 'world pattern' is both a large step forward in the integration into the world economy and a tough challenge of the Ukrainian companies' ability to compete equally with the leading players of the economy.



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### SKUTKI PRZYSTĄPIENIA UKRAINY DO WTO DLA KORPORACJI

**Abstrakt.** Współczesne procesy globalizacji zmuszają każde państwo do integracji z gospodarką światową. Wymaga to kształtowania polityki zagranicznej na podstawie zapisów wielostronnych umów ustalonych przez Światową Organizację Handlu. Ukraina musi osiągnąć znaczącą pozycję w gospodarce światowej oraz ukształtować jasną politykę bazującą na założeniu pełnego członkostwa Ukrainy w Światowej Organizacji Handlu.

**Słowa kluczowe:** globalizacja, Światowa Organizacja Handlu, korporacje



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