

**Key points**

- Accession to the World Trade Organization should allow a post-conflict country, such as Iraq, to enjoy non-discriminatory treatment and market-access opportunities under the multilateral trade rules.
- Accession negotiations pose major challenges for Iraq and other post-conflict countries.
- The international community should scale up its support to post-conflict countries to facilitate their beneficial (re)integration into the multilateral trading system and the global economy.



## ACCESSION TO THE WORLD TRADE ORGANIZATION: CHALLENGES FOR POST-CONFLICT NATIONS ILLUSTRATED BY THE CASE OF IRAQ

There are various motivations for a country to apply for membership of the World Trade Organization (WTO). The most common is to benefit from its integration into the global trading system, and WTO membership is considered the entry point for such integration. Once it has acceded to the Organization, the country can participate, on an equal footing with other members, in negotiations on future trade rules in WTO. Yet, the negotiation process will bring major challenges, especially for a post-conflict country such as Iraq.

### Expected advantages and challenges

WTO membership would allow a country to fully enjoy non-discriminatory treatment in accordance with its rights and obligations as a member. It would therefore place the acceding member in a position to benefit from multilateral trade rules. WTO accession would also help build momentum for important domestic reforms.

Although measuring the actual impact of accession remains an empirical debate,<sup>1</sup> WTO accession is perceived as a means to achieve the following objectives:

- To ensure stable legal and institutional trade-related frameworks.
- To improve transparency and predictability in trade flows.
- To provide opportunities for access to all WTO member markets and equal treatment (most-favoured nation).

- To strengthen the confidence of foreign investors by offering a WTO-compatible business environment.
- To use the dispute-settlement mechanism in the event of trade disputes.

In normal circumstances, acceding to WTO is a challenging endeavour due to the architecture of the accession clause in the Agreement Establishing the World Trade Organization. It is even more challenging in the case of post-conflict nations, as they face many additional challenges of their own, such as political and macroeconomic stabilization and recovery; national reconciliation; reconstruction of physical, economic and social infrastructure; and rehabilitation of government machinery and institutions.

Therefore, post-conflict countries that have joined WTO or those in the process of accession – for example, Bosnia and Herzegovina, Comoros, Iraq, Liberia, the Sudan and Somalia – have in general endured greater political

<sup>1</sup> See V Chemutai and H Escaith, 2017, An empirical assessment of the economic effects of WTO accession and its commitments, Staff Working Paper, WTO Economic Research and Statistics Division.

and economic pressures than other acceding countries, both domestically and at the WTO level.

## **The sweeping nature of article XII of the Agreement Establishing the World Trade Organization**

The complexity of the accession process is in many ways inherent to the sweeping formulation of article XII, the main provision in the Agreement, which governs the accessions procedure. This article does not limit the requests that WTO members may make of applicants and the degree to which these terms can be extended beyond the general requirement of the Agreement.<sup>2</sup> In addition, it does not provide any specific guidance on how the accession negotiation process should be conducted.<sup>3</sup> The article merely states that “[A]ny 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”. Hence article XII leaves open, subject to negotiations, the terms of accession to be agreed between the applicant country and WTO members.

The accession process consists of parallel negotiating tracks at multiple levels:

- **Bilateral:** with individual WTO members, to grant them commercially viable levels of market access in goods and services expressed in the form of legally binding commitments for tariff reductions and/or elimination and to open up the main services sectors listed under the General Agreement on Trade in Services to foreign competition.
- **Multilateral:** examination by WTO members of the acceding member’s foreign trade regime to ensure its alignment with WTO

agreements and disciplines (systemic issues).

- **Plurilateral:** to determine the level of domestic support programmes in the agricultural sector.

In practice, the right to provide export subsidies is no longer available to new members.<sup>4</sup> As stated in a recent publication, “... accession to the WTO is a hard and long-drawn-out process. Accession negotiations typically last about 10 years<sup>5</sup> and require far-reaching commitments by the acceding Government (or separate customs territory), as well as the acceptance of disciplines and binding commitments which in several instances go beyond those applied to existing members, and occasionally even acquiescence to lesser rights...”.<sup>6</sup>

## **Asymmetrical accession negotiations**

In the absence of clear provisions under the Agreement Establishing the World Trade Organization that would guarantee a bare minimum of acceding rights, accession negotiations, particularly under the bilateral track, are a one-sided exercise, as the acceding countries have little bargaining power to leverage the excessive demands of some WTO members.

To some extent, the accession process could be considered a fully fledged round of trade negotiations which, contrary to the stalled negotiations under the Doha work programme, has been delivering tangible outcomes as part of the article XII accession packages. “A close look at the accession packages suggests that accessions have already contributed to clarifying existing disciplines and developing new ones in virtually all key trade areas. In trade-related aspects of intellectual property rights (TRIPS), geographical indications, competition, agriculture, WTO-plus obligations and many other areas where the current multilateral negotiations have been progressing slowly, accessions have made significant contributions to shaping the new multilateral trading system.”<sup>7</sup>

2 WTO, 2017, *Trade Multilateralism in the Twenty-first Century: Building the Upper Floors of the Trading System through WTO Accessions*, Cambridge University Press, Cambridge, United Kingdom of Great Britain and Northern Ireland.

3 The decision of the WTO General Council of 25 July 2012 on revised guidelines on the accession of the least developed countries established measurable benchmarks in market access for goods and services commitments to be made by such acceding countries.

4 Some WTO members, in particular those of the Cairns Group, have made it a rule to ensure that acceding countries make a formal commitment to bind at zero their export subsidies before the accession date.

5 This is a minimum; the majority of accessions take between 15 and 20 years to complete.

6 WTO, 2015, *WTO Accessions and Trade Multilateralism: Case Studies and Lessons from the WTO at Twenty*, Cambridge University Press, Cambridge, United Kingdom.

7 WTO, 2017, pp. 13–14.

Post-conflict acceding countries are thus expected to pursue wide-ranging transformative sectoral policies and verifiable administrative and legislative measures that involve a systematic review to amend existing domestic trade-related laws and regulations, and where necessary, to enact new ones, in an inhospitable environment. In the words of Rubens Ricupero, who served as the Secretary-General of UNCTAD from 1995 to 2004, “the scope of multilateral obligations, the technical complexity and sheer volume of the issues covered, the extraordinary work load on Geneva-based delegations and the administrative burden on capitals have placed most developing countries in a situation where participation in the system, let alone attempting to shape its future course, is almost beyond their means”.<sup>8</sup>

### The case of Iraq

Iraq applied for WTO membership in 2004. This decision, nearly one year after the end of 2003 Iraq war, would appear questionable today, owing to the magnitude of political, economic, social and security challenges this country was facing in the immediate aftermath of the conflict.

Iraq has indeed undergone a difficult period of upheaval over the past three decades, ravaged by three protracted armed conflicts in close succession (Iraq-Iran war, 1980–1988; first Gulf war, 1990–1991 and second Gulf war, 2003), as well as several years of international economic sanctions.

This also explains the country’s long-stalled accession process (14 years). Further, Iraq was subject to terrorist acts, which endangered its relative institutional stability. Fighting terrorism has become a top strategic priority, which has diverted its attention from WTO accession.

Nevertheless, in 2013, the Government of Iraq

### Policy recommendations

In May 2018, Iraq launched the National Development Plan 2018–2022 (available at [www.iraq-jccme.jp/pdf/archives/nationaldevelopmentplan2018\\_2022.pdf](http://www.iraq-jccme.jp/pdf/archives/nationaldevelopmentplan2018_2022.pdf); accessed 11 March 2019). The Plan defines the country’s strategic development goals in the post-Daesh phase. If managed properly, the WTO accession process will contribute positively to the attainment of these goals. To that effect, the following policy recommendations are suggested for consideration by the Government of Iraq:

- Reviewing and strengthening trade policy to ensure the transition to a modern economy and managing the social impact of such a transition so as to achieve employment growth in an equitable and inclusive manner.
- Building the capacity and structure of government institutions to enhance their performance using good governance best practices and principles.
- Creating an enabling and conducive legal environment that supports the emergence and development of a vibrant private sector and reinforcing its role in economic growth, in particular by promoting micro, small and medium-sized enterprises.
- Consolidating the economic and trade integration of Iraq at the regional level (for example, the Greater Arab Free Trade Area) and resuming the WTO accession process once the overall political, economic and social situation has been stabilized.

Continued support from international organizations would be necessary to address the accession-related challenges of Iraq.

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