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**Azerbaijan World Trade Organization (WTO)  
accession process: an analysis of its future  
prospects in the context of international trade  
regulations**

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## **A B S T R A C T**

International organisations acts an important part for forming the new world order which begins with globalisation. Among these organizations, World Trade Organisation (WTO) has taken on important tasks such as adopting and regulating commercial activities, liberalising trade in the world and setting up legal infrastructure for international treaty. In this present study the formation of WTO, its place in the international system, WTO Conferences and their results and change in the economies of countries in different categories in the WTO process, and mainly the reasons and future possible results of long lasting joining process of Azerbaijan to World Trade Organization are evaluated.

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## LIST OF ABBREVIATIONS

ACM	Arab Common Market
ASEAN	Association of Southeast Asian Nations
CACM	Central American Common Market
CIS	Commonwealth of Independent States
DSM	Dispute Settlement Mechanism
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EFTA	European Free Trade Agreement
EUFA	European Union Founding Agreement
GATT	General Agreement on Tariffs and Trade
IBRD	International Bank for Reconstruction and Development
IMF	International Monetary Fund
LAFTA	Latin America Free Trade Zone
LDC	Least-Developed Countries
NAFTA	North American Free Trade Agreement
NGO	Non-Governmental Organization
OPEC	Organisation of Petroleum Exporting Countries
PPA	Paris Peace Agreement
TPRM	Trade Policy Review Mechanism
UN	United Nations
WB	World Bank
WTO	World Trade Organization



## INTRODUCTION

As an international organization, the World Trade Organization (WTO) has been serving the states' liberalization of their foreign trade by giving up protectionist policies, lowering the customs walls and creating new market opportunities since its establishment.<sup>1</sup> The organization has gathered 164 states of the world under its own roof in order to achieve its founding goals and has formed the legal infrastructure and rules of world trade with agreements that include member states.

The effects of protectionist foreign trade policies on reducing world trade, economic crises caused by the decrease in trade and loss of welfare are the biggest problems that emerged after the II World War. For this reason, there was need to establish institutions and organizations that will increase world trade and reduce protectionism. The General Agreement on Customs Tariffs and Trade (GATT), which was established in the meetings held in the US city of Bretton Woods in 1944, pioneered the implementation of various rules and agreements in terms of the regulation of international trade. The current legal framework of world trade is largely the result of these regulations. WTO, which was established as a continuation of GATT in 1995, continues its activities as an international institution in setting the world trade rules.

The thesis consists of three parts. In the first part, approaching the WTO as an international organization, first of all, what the organization is, its function, its historical development, starting from the first organizations, the establishment of the General Agreement on Customs Tariffs and Trade (GATT) in the Bretton Woods process, and how the WTO system was passed were discussed. In this context, starting from why countries need a GATT Agreement, the principles and objectives of the agreement are mentioned. The issues on the agenda of the GATT negotiations are examined and how the current WTO system has come to be, the differences with the GATT and the principles developed with the transition to the WTO are also included. The WTO Founding Agreement and the purpose, institutional structure and principles of the WTO specified in this agreement have been revealed.

The second part gives information to understand Azerbaijan's accession process to the World Trade Organization. There we tried to specify the theoretical base for foundation of the WTO according to previous studies related to this field. Later I discuss general accession procedure for WTO membership and Azerbaijan's accession process in historical context with causes of delaying. Discussed the macroeconomic performance of Azerbaijan, Armenia and

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<sup>1</sup> Ensar Muslu, *The Role of International Organizations in the International System*, Istanbul, 2012, p.9.

Georgia economies during the transition period. Azerbaijan economy is studied in more detail within separated periods. Azerbaijan economy is analyzed in both oil-and-gas and non-oil-and-gas context.

In the third part of the thesis, the increase / decrease in trade together with the tariff rates applied to both developed, developing and underdeveloped countries within the framework of the rules introduced by the WTO are examined. It was tried to show the change that Azerbaijan, which is in the developing country category, will experience in the economic and commercial field with the membership of the WTO. In addition, the WTO Agreements, examining its place in the Azerbaijani legal status is evaluated in terms of the hierarchy of norms of the agreements between Azerbaijan and the present WTO member states on the day that the WTO established the disputes and legal infrastructures that Azerbaijani side was discussed.

## Chapter 1

### 1.FOUNDING, MAIN PRINCIPLES AND LEGAL BASIS OF WORLD TRADE ORGANIZATION

After the II World War, the economic and commercial developments in the world markets caused changes in the protectionist policies of the states. In this sense, through the General Agreement on Customs Tariffs and Trade established as a provisional agreement, and international organizations such as the International Monetary Fund (IMF) and the World Bank (WB), which were founded afterwards, world trade will be liberalized and world markets will be reorganized. Finance would be provided to keep the world economy alive against possible new economic crises. For this purpose, loans were given through the IMF and the WB to ensure the long-term stability of the countries, and it started to revive the world economy and trade. However, the problems encountered in the collection of loans granted by the IMF in the ongoing process encouraged international organizations to seek to resolve these legal problems and establish the legal infrastructure of international agreements. The structuring of such a formation also meant the completion of the unfinished third leg of Bretton Woods economic structuring. And the WTO was established in 1994, which is the legal structure of world trade. In order to examine all these processes in detail, it would be better to start by defining the concept of organization.<sup>2</sup>

WTO regulates trade relations among countries on the basis of multilateral trade agreements. Multilateral trade agreements comprise the normative juridical base of organization. These agreements regulate goods and services trade, intellectual property, survey of trade policy and solution of problematic issues.

The main principal of World Trade Organisation is to liberalize international trade maximally and create the strong basis that lead to improve economic development and wellbeing of population and the main responsibility of organization is to regulate trade relations among member states based on agreements that formulated by the result of negotiations on multilateral trade.<sup>3</sup>

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<sup>2</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.204.

<sup>3</sup> WTO, [www.wto.org](http://www.wto.org).

## 1.1.The concept of international organization

Organization, in social sciences, are structures formed by the combination of material and spiritual tools required on services and goods. The concept of organization appears in many fields of our lives from ancient times to the present.<sup>4</sup>

Throughout history, it has been felt the need to organize in order to meet some common needs in the international area as well as in the national area. In this respect, international organizations have emerged as a result of the mutual needs for interstate relations. Especially, international organizations, which number has increased dramatically after the II World War, have become one of the most important parts of the international system nowadays. So it's obvious that, even if it was criticized for a long time in the international system and even if the states could not get the benefit they expected as a member of the organization, they did not give up being a member of an international organization. For example, China has tried to be included in the organization by implementing the necessary legal and political changes for 14 years in order to comply with the rules of the World Trade Organization, which they think it will help it take a more active role in the international trade system.<sup>5</sup>

International organizations help the functioning of the international system by sometimes providing solutions to problems, sometimes by closing the gaps of the system and maintaining its continuity. In other words, international organizations not only create opportunities for their members, but also constrain state policies and pressure states to take a certain position on certain issues. In other words, we can say that international organizations are a subject of the international system. States wishing to become a member of an organization have to stand by the organization's predetermined principles and rules. International organizations have different functions too, such as gathering information, providing services and assistance, laying the groundwork for intergovernmental negotiations and finding ways to resolve disputes.<sup>6</sup>

Another important point regarding the functions of the international organization is that international organizations are established on the basis of international law. This should be clearly stated in an organization's founding agreement. If it is not clearly stated in the founding agreement that the organization was established on the basis of international law, the organization cannot be accepted as an international organization. The founding certificate of an

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<sup>4</sup> Sait Ashgin, *Strategical Management*, Ankara, 2008, p.23.

<sup>5</sup> Yucel Acer and Ibrahim Kaya, *Basics of International Law*, Ankara, 2011, p.95.

<sup>6</sup> Melda Sur, *Principles of International Law*, Istanbul, 2006, p.145.

international organization which is not established in accordance with international law is considered unimportant and its activity is suspended.<sup>7</sup>

There are different interpretations in different sources about the definition of international organizations in different periods of history. As an example, we can show the first article of the Vienna Convention on the Representation of States in Relations with International Organizations dated March 14, 1975. According to this convention, an international organization is an entity that has a legal personality, its own law and organs, separate from the member states, formed by an agreement between the states. In other words, international organizations are not essential elements of international law, but derived actors. They were created by the will of the state, not spontaneously or independently.

Over the years, the world trade system has increasingly moved beyond the technicalities of import tariffs to include more strategically important areas such as health regulation and intellectual property. Now that it matters, in that it concerns not only traders but everyone in society, and its disciplines and law have become real as the laws of the WTO have been stricter and more strictly applied, the WTO has been unable to satisfy the correspondingly strong demands for involvement, transparency and competition.<sup>8</sup>

According to some scientists, international organizations are formed by the common will of states and this will is determined by an international agreement. The elements here are to serve a common purpose, to be established by more than one state and to operate based on the founding agreement. And also others say, an international organization means a merger or organization that operates on an international scale, does not have a commercial purpose, concerns more than one state but does not have a state qualification.<sup>9</sup>

Today the structures which we call them international organizations emerged to meet any need in world politics, and then changed with the developments that took place. This process of change has reached a certain point till today, but has not ended. For this reason, we can say that the concept of international organization is not a static structure but has a characteristic that changes over time. Since it is a variable structure, it is not possible to make a definite common definition for international organizations. The definition made in a certain period of time is insufficient to define the international organization after a certain period of

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<sup>7</sup> Margaret Karns and Karen Mingst, *International Organization: The politics and Progress of Global Government*, Colorado, 2004, p.7.

<sup>8</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.12.

<sup>9</sup> Clive Archer, *International Organizations*, London, 1995, p.33-34.

time.<sup>10</sup>

### **1.1.1. Basic characteristics of international organizations**

The most important characteristic of international organizations is their membership status. These type of organizations can be established under the leadership of states with recognized existence. Its members can only be existing states. International organizations are closed for the membership of natural persons and other organizations. Regarding to that, international organizations are sometimes referred to as “interstate”. The reason is that their existence is dependent on states. Everything from the establishment of the organization to its termination is shaped according to the preferences of the member states. However, if we consider the establishment of international organizations as a necessity in today's conditions, we can see that the main purpose of states is to increase international organizations. In this context, we can say that international organizations are the extensions of states in the international arena.<sup>11</sup>

Organizations have had founder status in all periods of the time. International organizations have also been established on the basis of founding status. In case of necessity, the laws undertake this, and in the case of volunteering, the organization’s contract or by law are deemed important. The agreement or contract concluded between the states that want to establish an organization which gives the organization its presence. The founder status defines the physical and institutional existence and legal personality of the organization, and regulates the obligations of the member states, the basic areas on which the organization is based, the decision making system, the authorities and powers of the organization, and ultimately the employment policies of the organization.<sup>12</sup>

Like all other organizations, international organizations also have a physical, institutional and legal identity. What is meant by the physical presence here is the organizations’ administrative building and the officials representing the organization. Institutional unity is the sum of the organization’s name, field of activity, aims and actions to be taken. The physical and institutional identity of the organizations are interdependent. For instance, writing the name of the organization in the center of the organization is to indicate the corporate identity on the physical entity. On the other hand, legal personality is the right and

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<sup>10</sup> Margaret Karns and Karen Mingst, *International Organization: The politics and Progress of Global Government*, Colorado, 2004, p.7.

<sup>11</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.20.

<sup>12</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.21.

de facto license of the international organization in the international arena. Its basis is the founder status. A legal entity can acquire rights of its own free will, can take actions that create rights and debts, and is responsible for these actions. International organizations also have a legal personality according to international law. Legal personality gives international organizations a number of rights, such as states, and as a result, international organizations can sign agreements with other international organizations. At the same time, they can have the capacity to litigate in international courts.<sup>13</sup>

#### **1.1.1.1.Functions of international organizations**

The existence of international organizations such as WTO is basically linked to two reasons. The first is the realization of common goals among the states that make up the organization. The second is to help establish international order and stability. That's why, international organizations primarily focused on these issues. Here the aim is to enable states to achieve goals that they cannot achieve on their own, and to use the functionality of international organizations in order to obtain interests more easily. On the other hand, it has a function with other organizations in the establishment of international order. In the establishment of this order, different pro-war groups alliances, or pro-compromise groups with diplomacy in the fields of international law pursue a common policy together. As a result, international organizations have a functional role in the establishment and formation of the international order through consensus. In addition, international organizations have many other functions. We can list them as follows:<sup>14</sup>

- International Socialization
- International Norm and Law Formation
- Dental Policy Tool
- Diplomacy and Negotiation Culture
- Multilateralism and Openness
- Providing Information
- Mutual and Continuous Inspection
- Public Formation

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<sup>13</sup> Kelly-Kate S. Pease, *International Organizations: Perspectives on Governance in the Twenty-first Century*, Upper Saddle River, 2009, p.2-3.

<sup>14</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.37.

- International Employment
- International Activity
- International Legitimacy and Participation
- Representation
- Multilateral Conferences
- International Arena

Since the most important issue in the establishment and development of an international organization is the establishment of international norms and law, let's examine this topic in detail, the remaining titles will be examined in detail while describing the functional structure of the WTO in the rest of the study.

### **1.1.1.2. Historical development of international organizations**

Since international organizations are established through multilateral agreements, they contribute a lot in the structuring and development of international law. Agreements between states form the basis of international law.<sup>15</sup> We can evaluate two different contributions of international organizations to the development of international law.

In this sense, the first contribution of international organizations to the development of international law appears during the elimination of the legal problems arising during the negotiation of the founding agreement of the organization and the creation of the founding agreement. For example, while the terms of the European Union Founding Agreement (EUFA) were negotiated, many issues based on international law were discussed and the articles of association were formed by making a joint decision. The ability to resolve these problems through consensus is seen as an important development in international law.

The second contribution is that a contract that entered into force as a result of a joint decision should be applicable to the new states that will become members of the organization after its implementation and should be open to new decisions in order to be interpreted in the same way. That is, the terms of an international agreement must be enforceable by the countries that created it as well as the countries that will become members later. At the same time, the terms of this contract should be clear in a way that will not be misunderstood by the new participating countries or open to change in cases where it causes differences in interpretation.<sup>16</sup>

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<sup>15</sup> Clive Archer, *International Organizations*, London, 1995, p.96.

<sup>16</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.39.



These features are also very important for the development of international law.

As stated while defining the concept of international organization, it is almost impossible to reduce the definition of international organizations to a single definition in the everchanging world order. On the other hand, the fact that the development of its definition is so wide is also due to the historical development of international organizations. For this reason, the historical development of this structuring should be examined in detail in order to understand international organizations better.

### **1.1.1.3. First international organizations**

We can see that the first examples of organizations emerged in ancient times in the military cooperation between states, the use of the common currency, or the creation of a higher state. The existence of common organizations for military and commercial purposes in the predecessor states of the time such as Athens, Sparta and Macedonia are seen in the works of ancient greek philosophers. These associations between states in ancient times also constitute the oldest examples of international organizations. However, the difference of these examples from modern international organizations is the inability of its members to maintain their independent and dominant political structures. So much so that after a while, the stronger than the parties became the upper state and the organization was turned into an empire. This, in contrast to today's international organization system, has continued as a system dependent on hierarchy.<sup>17</sup>

Hierarchy creation period ended with the Westphalia agreement which signed in 1648 in Europe. The Westphalia agreement, or the peace of Westphalia, was a peace conference between warring states after the Thirty Years' (1618-1648) and Eighty Years' War (1568–1648) in Europe.<sup>18</sup> Another important point of the conference was the development of international relations theory and the emergence of international law. States should be completely independent in their internal affairs, they do not interfere in each other's internal affairs and develop a legal system in order to maintain their relations with each other according to the Westphalia agreement. After that the established unions came to a state of unity protecting the sovereign rights of their parties and started to resemble the modern organizational structure.<sup>19</sup>

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<sup>17</sup> Kelly-Kate S. Pease, *International Organizations: Perspectives on Governance in the Twenty-first Century*, Upper Saddle River, 2009, p.19.

<sup>18</sup> Beril Dedeoglu, *European Union from Past to Present, Istanbul*, 2003, p.27-28.

<sup>19</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.39.

### 1.1.2. Contemporary international organizations

International organizations first emerged in their contemporary form in the 19th century. According to the written sources, the closest formation to modern international organizations is the Vienna congress that held between 1815-1822.<sup>20</sup> What brought together the architects of the congress, the British politician Robert Stewart and the Austrian chancellor prince Klemens von Metternich, was that they thought that the French emperor of the time Napoleon Bonaparte should be arrested in order to ensure peace in Europe. Indeed, the result was as they thought. However, despite having superiorities against France, the balance policy which they followed in order to not to take revenge failed later. While the congress was still ongoing, Napoleon escaping from the island where he was held captive and taking over France again overshadowed the congress and the desired goal was not achieved. After Napoleon was arrested again, this time the Paris Peace Agreement (PPA) was signed. However, the fact that the conditions of PPA were more severe than those of Vienna congress and that the final decisions were taken by Britain, Russia, Austria and Prussia disturbed the European countries which were the other delegates of the agreement. Although the consequences of this disturbance will emerge later, a quadruple alliance was established between England, Russia, Prussia and Austria in November 1815, and the congress of Vienna took its place in history as an international diplomatic meeting where radical changes were made.<sup>21</sup>

The organizations in this period mostly had technical qualifications and focused on ensuring the rights of passage through rivers and straits. For example, with the establishment of the Central Commission on Rhine Navigation in 1815, representation rights and rules were established for the countries on the Rhine. Another example is, establishment of the Danube River European Commission to regulate rights of way on the Danube in 1856.<sup>22</sup>

In the period from the second half of the nineteenth century to the beginning of the 20th century, private associations started to become more common. These partnerships, which were established in transportation, communication, health, economy and many fields, have had organs such as permanent secretariat. The International Telegraph Union founded in 1865 and headquartered in Paris, the Universal Postal Union established in 1874, the International Industrial Property Bureau established in 1883, and the International Railway Association

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<sup>20</sup> Ensar Muslu, *The Role of International Organizations in the International System*, Istanbul, 2012, p.18.

<sup>21</sup> Oral Sonder, *Political History From Antiquity - to 1918*, Ankara, p.118-121.

<sup>22</sup> Kelly-Kate S. Pease, *International Organizations: Perspectives on Governance in the Twenty-first Century*, Upper Saddle River, 2009, p.16.

established in 1890 are examples of this. In economic terms, The German Customs Union was established between the states with the Zollverein Agreement. This agreement consists of the independent German state's customs and trade regulations.<sup>23</sup>

The efforts to establish organizations that continued throughout this period did not go beyond the meetings held by European states. This is because these countries have different cultures, do not want to give up their sovereignty rights, and do not think of a long-term peace draft.<sup>24</sup> Although an international organization was not established as a result of the La Heye Conferences held between 1899-1907, serious regulations were made regarding the use of war rules and weapons of war. These results have played the role of legal infrastructure in the formation of international organizations such as United Nations.<sup>25</sup> However, the outbreak of the I World War could not be prevented despite these important developments. The efforts to establish an international organization continued more successfully after the I World War. It is useful to examine this period after the I World War in detail in order to emphasize its importance better.

#### **1.1.2.1. Spread of free trade**

In addition to the intensive organizational work that continued before World War I, many developments were experienced in that period in order to create a free trade environment. The industrial revolution started in England in the second half of the 18th century during the pre-war period and spread rapidly to Europe, North America and Japan. This change and development, which first started in the field of technology, then spread to the social and economic areas and transferred the countries from the agricultural society to the industrial society. With the efficient increase in agricultural production and the acceleration of industrial production, the concept of capital market emerged and capitalism began to be established.<sup>26</sup>

With the technological developments not only social areas but also political and economic areas were affected. With the invention of the telegraph by Morse a telegraph cable was installed to the Atlantic Ocean in 1832. This incident caused the daily newspaper to be read more throughout the world. After that, Nicola Tesla, which had a great impact in the field of communication, invented the radio and radio that communicate with wireless signals, paving

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<sup>23</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.53.

<sup>24</sup> Meray L. Seha, *International Law and International Organisations*, Ankara, 1977, p.263-264.

<sup>25</sup> Clive Archer, *International Organizations*, London, 1995, p.9.

<sup>26</sup> Atesh Toktamish, *Political History*, Istanbul, 1994, p.189-195.

the way for liberalization that will become even more extensive in the following centuries.<sup>27</sup>

The London International Exhibition was held in London in 1851. The importance of this exhibition was the exhibition is the first of the world fairs. With the establishment of the exhibition, the countries of the world have come together for the first time in such a large organization, exhibiting their social, cultural, economic status to the world and commercial competition has reached the international level.

American and European companies began to make extensive use of steamships and railroad transportation between 1870 and 1914. With these roads, great investments have been made in building infrastructure in the fields of transportation and communication, and employment has been created in the fields of international rail transport, postal and telegraph.<sup>28</sup>

In parallel with all these developments, all coins were tied to the gold standard after the 1870s in order to facilitate trade. This development is important as it is the first currency standard in history. With the gold standard, countries have established a fixed exchange rate by tying their currencies to gold. Gold has been accepted as an upper value on which all currencies are bound.<sup>29</sup> In other words, the monetary values of the countries started to be calculated according to their gold reserves which were fixed, and this situation eliminated some of the trade barriers. All these developments regarding the expansion of free trade caused an increase of 3.4% in the foreign trade volume.<sup>30</sup>

### **1.1.2.2. Period between World War I and World War II**

The League of Nations and the International Labor Organization affiliated to it, which was established after World War I and was the first organizing rehearsal in the political field, had a great influence in the establishment of an international organization. The League of Nations was created on the basis of the principle of making the post-war international order a place based on peace, which was announced by the US President Wilson in 1918, and started its activities with the commission established at the Paris Conference in 1919. Thus, it was planned to establish a permanent peace after the First World War, which was called “the war that would end all wars”.<sup>31</sup> This organization is also called the predecessor of the United Nations Organization, the first world-wide international organization of the twentieth century.

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<sup>27</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.61.

<sup>28</sup> Paul Hirst and Grahame Thompson, *Globalization is in Question*, London, 2007, p.47.

<sup>29</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.61.

<sup>30</sup> Paul Hirst and Grahame Thompson, *Globalization is in Question*, London, 2007, p.47.

<sup>31</sup> Clive Archer, *International Organizations*, London, 1995, p.15.

It also represents an important initiative of organizing politically. The League of Nations was governed by officials who had a specific center, had a founding charter, and represented its various bodies. However, the fact that the system was not based on equilibrium balances, the states that lost the war were pushed aside during the preparation of the association charter, and it was mainly prepared for the recommendations and opinions of the war winner states. The states that won the war saw membership in this association as a means of realizing their national interests. The losing states are characterized this organization as a means of pressure of the imperialist order. Since the United States of America, which was the predecessor in the establishment of the organization, did not approve the association agreement and was not a member of the organization, the organization was managed under the control of the war-winning European states.<sup>32</sup>

Although international cooperation raised great hopes based on principles such as resolving inter-state problems through arbitration, achieving permanent world peace and disarmament, but the result was not as expected. The function of the organization did not last long due to reasons such as the economic withdrawal of all states after the war, the customs tariffs, import quotas, exchange controls, devaluations, and the exclusion of the war winners such as the United States, the Soviet Union, Germany, Italy, Japan, which are the balance of power of the international system.<sup>33</sup> It ended with the outbreak of the World War II.

During this period, the economy was weakened by the World War I, the Soviet Revolution of 1917 and the decrease in trade activities. In addition, with the Great Depression of 1930, which started with the stock market crash that started on October 29, 1929 and went down in history as Black Tuesday, the world economy could only increase by less than 1% until the 1950s. Thus, with the Cold War that started in the mid-1940s, the world was divided into polarity economically and politically.<sup>34</sup> All this crisis and the political problems it caused the Second World War to begin.

Even if the League of Nations could not provide stability for a long time, the experience and legacy it left important clues that will illuminate the organizational unions that came after it.

The shock that came with the Second World War revealed even more clearly the necessity of cooperation in the international arena and the need to organize around the same

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<sup>32</sup> Mehmet Hasguler and Mehmet Uludag, *Interstate and Non-Governmental International Organizations: History, Bodies, Documents, Policies*, Istanbul, 2007, p.134.

<sup>33</sup> Bayram Kodaman, *International situation (1919-2008)*, Ankara, 2008, p.153.

<sup>34</sup> Oguz Kaymakchi, *Notes about Globalization*, Ankara, 2007, p.10.

faith. As explained in the previous section, the ineffectiveness of the League of Nations during that period, its inability to prevent the Second World War, its inability to provide permanent peace, which was the main purpose of its existence, its inability to resolve national conflicts in a peaceful way and most importantly, its acceptance as one of the reasons of the Second World War, made the world states a new international organization. has put him in search. Thus, the United Nations (UN) was established with the San Francisco Conference on June 26, 1945. The organization, which continues its activities today, is the most mature example of modern international organization. Like the Association, the main purpose of the UN is to protect international peace and security.<sup>35</sup>

The difference of the United Nations from other organizations is that it not only covers security and political issues, but also includes organs with different functions within the organization in economic, social and cultural issues. In addition, it has created important opportunities for the voices of the newly independent states to be heard in the world. Many international agreements have been signed under the guidance of the organization in many areas of our lives, from human rights to business life, from crimes against humanity to illegal armament. Today the United Nations has physically reached every part of the world and has penetrated every aspect of our human life.<sup>36</sup>

### **1.1.2.3. The Cold War period**

The European states, which were the losing parties in the Second World War and suffered great destruction, have chosen to form a union with the states that are culturally and geographically close to them. Due to the Cold War that broke out between the western and eastern blocs in a short period of time, European states believed that the United Nations was inadequate. For this reason, Europe, NATO and the Warsaw Pact were established, which decided to establish their own defense organizations. In response to the membership of the Federal Republic of Germany to NATO, the Soviet Union signed the Warsaw Pact by drawing Central and Eastern European countries such as Poland, Czechoslovakia, Hungary, the Democratic Republic of Germany, Romania and Albania to its side. It was accepted that the Warsaw Pact, like NATO, would engage in peacekeeping activities and would make military aid in case of any external threat to one of its members. However, by forming the foundations of the Cold War, the Warsaw Pact caused the arms race to begin for many years between

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<sup>35</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.56.

<sup>36</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.57.

Eastern and Western Europe. In addition, the Soviet Union strengthened its dominance in Central and Western Europe and deployed many Soviet soldiers in the countries that signed the pact. When we came to 1956, the process that started with the announcement of the Hungarian government leaving this union was completed on July 1, 1991, with the end of the Pact.<sup>37</sup>

In this sense, the establishment of a collective defense organization has also affected the future of international organizations. With the formation of the collective defense organization, the armies of the member states were united under the command of the organization. After the war, the innovations in the weapons industry, the development of missile systems, and the potential threat posed by the emergence of nuclear weapons were impossible to counter by conventional alliances. It was thought that the dangers that arise in this way would be more easily resisted from a single command center.<sup>38</sup>

#### **1.1.2.4. Widespread of regionalization**

Europe, which has been the center of the world for centuries, transferred this feature to the USA and the Soviet Union after the Second World War. In addition to the capitalization of the US, which is one of the two dominant powers of the world, Russia's communism policy meant that one side of the world was shutting itself in and implementing protectionist policies.<sup>39</sup> In order to catch up with the rivalry between these two dominant powers, it started regionalization studies in economic and political terms. In addition, common values such as geography, ethnic origin, religion, culture and civilization together with common threats, economic development and the surveillance of Germany, which caused the Second World War, have been a major factor in the spread of regionalization. This movement, which started from Europe and spread all over the world, created the ground for the spread of international organizations and for states to become members of more than one organization at the same time. Internal and external threats are the main reasons for the expansion of the regionalization influx that started in Europe.<sup>40</sup>

When we say internal threat, it is the psychological and economic effects of the two wars in Europe. As an external threat, it was created by the post-war Soviet Union. It was thought that the countries should be in close cooperation for Europe to be in a strong position

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<sup>37</sup> Christiane Hoffmann, *History: Warsaw Pact Against NATO*, 13.05.2005, <http://www.dw.com/tr/tarih-natoyakar%C5%9F%C4%B1-var%C5%9Fova-pakt%C4%B1/a-2524916>.

<sup>38</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.57.

<sup>39</sup> Nurdan Aslan, *Alternative Solutions to the Stability Problem of the International Monetary System*, Istanbul, 1990, p.25-31.

<sup>40</sup> Halil Seyidoglu, *International Economics: Theory, Politics and Practice*, Baku, 2009, p.245.

against the threat of the Soviet system (communism), which was the winner of the war. In this sense, the Coal and Steel Community was established in 1949. In the eyes of this community, the Western European Union was created. In 1965, all institutions of the Community were united under one roof and named the European Community. With the signing of the Maastricht Treaty in 1993, the regionalization studies for Europe came to its final stage and it was transformed into the European Union.<sup>41</sup>

During the Cold War, the world was divided into two poles, the USA and the Soviet Union. In such an environment, countries that have just gained their independence are undecided about which of these two poles to choose. This situation has led to the formation of new organizations in many parts of the world. As an example we can say the Economic Community of West African States (ECOWAS) in Africa in 1966, the Latin America Free Trade Zone (LAFTA) in Latin America in 1960, in the same year the Central American Common Market (CACM), the Arab Common Market (ACM) in the Middle East was established in 1964 and The Association of Southeast Asian Nations (ASEAN) was established in Asia in 1964.<sup>42</sup>

## **1.2. GATT/WTO and its main principles**

### **1.2.1. World Trade Organization**

#### **1.2.1.1. Problems in international trade before the Uruguay round**

The IMF and WB, which were structured after the Bretton Woods Conference, were charged with financing the world economy system and imposing financial and technical sanctions. It was planned to establish the International Trade Organization for the liberalization of trade, which is an important part of the agreement. However, the incompatibility between the macroeconomic policies to be adopted and free trade and the incompatible attitude of the European Union Congress prevented the establishment of this agreement, thus the third leg of the agreement remained missing.<sup>43</sup> In order to make up for this deficiency, GATT was established as a workaround. With the Uruguay Round in 1994, the World Trade Organization was established as a continuous organization that can control and direct the trade flow and solve problems when needed. With this development, the third leg of the Bretton Woods Conference has been completed. Today, World Trade Organization has become an important institution that directs world trade, determines the rules of world trade, ensures its control, and produces

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<sup>41</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.58.

<sup>42</sup> Ridvan Karluk, *International Economic, Financial and Political Organizations*, Ankara, 2002, p.491-577.

<sup>43</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.204.



solutions to commercial problems with the Dispute Settlement Mechanism (DSM).<sup>44</sup>

### **1.2.1.2. Differences between WTO and GATT**

WTO is not only the developed version of GATT, on the contrary, it is an organization with a completely different structure and character.<sup>45</sup> We can list some differences between these two organizations as follows:

- GATT is a multilateral agreement that has no institutional structure and the purpose of its establishment is to establish the International Trade Organization in 1940 and has various rules for this purpose.
- GATT was created to operate temporarily and after 40 years of activity, it was intended to be converted into a permanent agreement. However, WTO commitments are continuous.
- While the GATT rules cover only trade in goods, the WTO protects trade in services as well as intellectual property rights of a commercial nature.
- WTO is stronger than GATT at the point of dispute resolution. In the GATT system, the settlement of disputes was settled after all members reached an agreement at the meeting held between the members of the GATT Council and the parties to the discussion. In the WTO, on the other hand, the resolution provisions put forward regarding the debate can be unanimously rejected in the event that the Dispute Settlement Body, in which all members participate, opposes.<sup>46</sup>

### **1.2.1.3. Factors causing the establishment of the world trade organization**

The need for the regulation of international trade has been felt in all periods of intense trade. As a matter of fact, the economic recession that prevailed in the world markets after the First World War resulted in an increase in protectionist measures in the economy by giving up free trade. In the years of the Great Depression in 1929, world trade fell to the lowest level,

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<sup>44</sup> Mustafa Ozcan, *What Stopped the World Trade Organization Doha Development Round Negotiations?*, Istanbul, 2007, p.24.

<sup>45</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.21.

<sup>46</sup> Heywood Andrew, *Global Politics, China, 2014*, p.556, <https://peda.net/jao/lyseo/isac/ias/global-politics/ahgp/the-whole-book:file/download/e7ab471d24086998cb255025c53dc75c3c92ed9c/Andrew-Heywood-Global-Politics%20%28kopia%29.pdf>.

thanks to the world's detachment from international cooperation, the increase of mutual tariffs and the execution of foreign trade through bilateral agreements.<sup>47</sup>

The economic development that emerged after the Second World War brought the necessity to give a new shape to the developments preventing liberalization applied in previous years. The US has taken on the task of rebuilding the European economy and international trade order, which had collapsed as the strongest state from the war, and accelerated the establishment of the new order. In addition, EU countries, which were devastated during the war, wanted to maintain the post-war world peace in order not to experience this situation again, and they accepted that international economic cooperation should be established for this purpose.<sup>48</sup> In order to liberalize and increase international trade, the United Nations Monetary Conference was held in 1944 in Bretton Woods, the region of New Hampshire in the USA. As a result of intense negotiations, an award of the same name was signed.<sup>49</sup> The Bretton Woods conference focused on two main topics. The first is the Keynes Plan, named after John M. Keynes, one of the important participants of the conference.<sup>50</sup> According to this plan, the total lack of demand explained the economic collapse. For this reason, the state should encourage aggregate demand, and in cases where monetary policy is effective, the state should direct it towards fiscal policies. They could do this by increasing spending or reducing taxes. The second plan was the White Plan. According to this plan, the International Monetary Fund and the World Bank should be established and foreign exchange controls should be avoided by establishing a free exchange rate. The main purpose of the plan was to regulate the world markets after the crisis of 1929-1941, to ensure development, to take measures against new crises and to provide finance to save the world from the economic crisis.<sup>51</sup>

The post-war economic order started with the IMF, one of the important institutions of the system. The IMF mostly aimed to regulate the flow of goods and money between countries and to provide monetary stability by giving medium and short-term loans whenever any problem arises. Because, in the absence of monetary stability, the development of international trade was prevented, countries were competing with each other through devaluation through monetary policies, and as a result, when this competition reached high dimensions, it caused political instabilities and wars. The contributions made by the member countries to the IMF

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<sup>47</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.21.

<sup>48</sup> Zeki Kartal, *GATT and Uruguay Round: Increasing Structural Dependence of Developing Countries in World Trade*, Turkey, p.20.

<sup>49</sup> Joseph Stiglitz, *Globalization - The Great Disappointment*, Istanbul, 2002 p.32.

<sup>50</sup> Nazim Ozturk, *The Changing Role of the IMF and Its Effects on Developing Country Economies*, Ankara, p.98.

<sup>51</sup> Joseph Stiglitz, *Globalization - The Great Disappointment*, Istanbul, 2002, p.33.

capital constitute the main income of the fund, and the loans given by the IMF are basically given from this quota contribution pool.<sup>52</sup> The country, which has to borrow from the IMF, is obliged to regulate its monetary and fiscal policies within the framework of the rules set by the IMF. In this framework, the functions of the IMF can be summarized as follows:

- To provide financial assistance to the country with a deficit in the balance of payments,
- To promote stability in exchange rates,
- Trying to remove foreign exchange controls,
- Resisting members' resorting to competitive devaluations,
- To take anti-inflationary measures,
- Helping the structural transformation of member countries' economies,
- Trying to establish a multilateral payment system among members.

Since there is no single currency that can be valid in international trade transactions, the IMF has been assigned to harmonize the monetary and exchange rate policies between countries in order to prevent this deficiency from causing instability in the international economy.<sup>53</sup>

The aim of the World Bank is to provide technical and financial support to countries to organize negotiations in certain sectors or to implement certain project implementations, to encourage long-term economic development and poverty reduction.<sup>54</sup> The WB, which initially served for this purpose, directed its route to the implementation of development policies in developing countries after the 1950s. The World Bank provides long-term and low-interest or interest-free loans in developing or underdeveloped countries in order to encourage developments in education, health, public administration, infrastructure, finance, private sector, environment, agriculture, natural resources.<sup>55</sup>

In addition to the cooperation established to increase the production of the international monetary system and the world industry, some cooperation was also needed to liberalize international trade. Therefore, a group from the US Department of State called the "International Trade Organization (ITO)" They planned to introduce institutional arrangements.<sup>56</sup> Negotiations were initiated with the UK in order to implement this idea with a

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<sup>52</sup> IMF and WB, <https://www.imf.org/external/np/exr/facts/tur/imfwbt.pdf>.

<sup>53</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.199.

<sup>54</sup> IMF and WB, <https://www.imf.org/external/np/exr/facts/tur/imfwbt.pdf>.

<sup>55</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.190-191.

<sup>56</sup> Halil Seyidoglu, *International Economics: Theory, Politics and Practice*, Istanbul, 2009, p.220.

study named “Proposals for Expansion of World Trade and Employment”.<sup>57</sup> Negotiations, which started in 1947, lasted for five months and the International Trade Organization was established on March 21, 1948, upon the affirmative vote of 53 representatives. The main task of ITO has been to liberalize world trade by removing customs tariffs. However, this task was not accepted by a number of countries, especially the USA, on the grounds that it was interfering with their domestic economic policies.<sup>58</sup>

The fact that ITO was not accepted in 1948 caused the last of the three basic principles that constitute the Bretton Woods system to fall short. The GATT Agreement was signed in order to fill this gap.

### **1.2.2. GATT 1947 Agreement**

The General Agreement on Customs Tariffs and Trade was signed in 1948 in order to operate temporarily. As the name suggests, it is a “trade agreement”. Having a multilateral agreement and taking decisions by “joint action” in order for its provisions to be implemented, this agreement has become an “international organization”. However, GATT’s being an organization and the concept of membership are not clearly stated in the agreement. In addition to its main purpose being the liberalization of foreign trade, it is among the aims of GATT to increase the volume of foreign trade by reducing the quality and prices of the goods in foreign trade, and to remove the usual obstacles that may be faced with customs tariffs and non-tariff barriers that prevent the liberalization of foreign trade.<sup>59</sup> However, due to the increasing number of members and the fact that the decision-making authority belongs to the contractual parties, it could not achieve the success it showed in the first round. The fact that the decision-making authority belongs to the contracting parties and that the parties can only meet at certain times will cause the problems to be encountered in the future to not be solved. In fact, the “Selected Committee” was established in 1949 to discuss issues that should not be delayed, such as the balance of payments. However, as these temporary arrangements were not a long-term solution, some continuous innovations were required. In this sense, in the sixth negotiation held in 1951, the Intersessional Committee, whose authority was limited, was established in order to deal with the problems that would arise in the period when the members of the contracts could not meet. The task of the committee was to meet four or six weeks before the normal meeting time,

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<sup>57</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.18.

<sup>58</sup> Halil Seyidoglu, *International Economics: Theory, Politics and Practice*, Istanbul, 2009, p.220.

<sup>59</sup> Ceren Aydin, *World Trade Organization and Agriculture Negotiations*, Ankara, p.10-11.

to determine the meeting agenda and to discuss the problems that may arise during the periods when the parties to the contract were not meeting.<sup>60</sup>

The immediate sense of the development of the GATT in 1947 was the jolt of the Great Depression and the Second World War. The conclusion of the GATT was a significant departure from prior modes of trade collaboration. After the establishment of the League of Nations since World War I, international conventions have been held to resolve declining trading relations, but the world needed the wake-up call of another world war to step past the lofty language of hortatory declarations and to settle on more concrete agreements that will be supported by a normative framework.<sup>61</sup>

When attempts to establish the “Commercial Cooperation Organization” were unsuccessful in order to further strengthen the Intermittent Committee in 1955, “Council of Representatives” was established in 1960 to replace this Committee. As can be seen, since the day it was founded, GATT has always tried to continue its activities by establishing different Committees by the states within its body and left its place to the WTO.

#### **1.2.2.1. Main aspects of GATT 1947 Agreement**

The objectives of GATT are divided into general and specific in the Founding Agreement. The general purpose is to increase the welfare level of the member states, to use the world resources at full capacity with stable growth, to contribute to the development of production and international trade. Its special purpose is to minimize the negativities that prevent the development of international trade with tariffs in order to achieve general objectives.<sup>62</sup>

The agreement signed in 1947 was valid until the Uruguay Round, and it was named GATT with the addition of the Marakesh Protocol, which clarified new customs discounts and other issues. The first text of the agreement signed in 1947 was transferred to the WTO almost unchanged.<sup>63</sup>

The GATT Agreement consists of four main parts. First part is about the basic obligations linked to the member countries that are party to the agreement consist of the most favored country rule and tariff negotiation lines. These articles, which are open to discussion, can be changed with the affirmative vote of all parties to the agreement. Second part consists

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<sup>60</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.24.

<sup>61</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.26.

<sup>62</sup> Hamza Chestepe, *Economic Integration: Global and Regional Approach*, Baku, 2013, p.239-240.

<sup>63</sup> [www.wto.org](http://www.wto.org).

of the formation of free trade and the basic rules of Havana Agreement. In the event that the parties to the agreement do not apply the second Article, it has the right to re-evaluate the situation with the internal order and members. Third part is about membership, withdraw from membership, the relationship between Havana Agreement and application methods. The fourth part consists of improving the exports of industrializing countries.<sup>64</sup>

The GATT General Agreement generally adheres to four principles. These are as follows:

- Most Favored Country Rule
- National Rules of Treatment
- Use of only customs duties for protection purposes
- Protection through tariffs.<sup>65</sup>

According to the principle of the most favored national, when a country grants commercial privileges to another country that is close to it or has interests in mutual cooperation, it is obliged to grant the same privilege to other GATT member countries. All GATT members must comply with the most favored country rule.<sup>66</sup> However, when looking at the implementation, it is possible that countries do not comply more with this principle. These benefits do not only consist of customs discounts, but also include all facilities applied in the fields of import and export.

According to the first article of the General Agreement, the most favored country rule contains the following elements:

- The contracting parties will unconditionally apply the most favorable country rule to each other, imposed on import and export, or customs duties, methods of application and transactions and rules linked to import and export,
- At the time of importation of the goods of each contracting party to the other contracting party, a higher tax will not be applied to the goods compared to the goods of a third country with the same characteristics,
- Similar rules apply to imports,

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<sup>64</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.179-249.

<sup>65</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.26.

<sup>66</sup> Nazim Ozturk, *The Changing Role of the IMF and Its Effects on Developing Country Economies*, Ankara, p.21.

- The interest, privilege or exemption applied by the contracting party to the property sent to another country or to another country shall also be applied to goods with the same characteristics sent to all other contracting parties at the same time, unconditionally and unconditionally.<sup>67</sup>

As a result, the implementation of the most favored country rule is used by EMU in a limited way. Because, a developed country removes or reduces the customs taxes it applies to the developing country which is a member of the system, and does not apply this application for the other developed country.

The national treatment rule stipulates that no distinction is made between imported and domestic production goods in terms of regulations and practices regarding the domestic market. Accordingly, although a tax similar to the customs duty is not levied on domestic production, customs duty on imported goods is not contrary to the national treatment rule. Examples of exceptions to this rule are government purchases and government subsidies. Today, both exceptions have been agreed upon. It is estimated that all these exceptions within GATT will be lifted in the upcoming period. Because, all of the newly concluded agreements that occupy the agenda of the tours prepared within the WTO today are social issues that were not included in the scope of GATT in time, neglected or added to the footnotes as an exceptional provision.

With the principle of using only customs tariffs as a protection purpose, GATT has clearly limited its protective practices and showed that the industries of the countries that are parties to the agreement can only be protected by the customs tariff. In the principle of protection through tariffs, GATT requested that non-tariff barriers be completely banned with some exceptions and tariffs be gradually reduced. He argued that this is the most effective way to ensure transparency.

#### **1.2.2.2. Rounds of GATT 1947 Agreement**

GATT undertakes not only to regulate the current situation but also to the gradual liberalization of world trade. In order for the parties to the agreement to achieve the objectives of this agreement, it is necessary to come together at certain times or when needed, to take joint decisions and to concretize these decisions and turn them into action. In this context, meetings were held under the name of “GATT Tours” in different time segments, under the mask of

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<sup>67</sup> GATT General Agreement, 1988.

solving the existing problems.<sup>68</sup>

Table 1:GATT rounds by the years

<b>Year</b>	<b>Name</b>	<b>Parties</b>	<b>Subject covered</b>	<b>Tariff discounts</b>
1947	Geneva	23	tariffs	26%
1949	Annecy	13	tariffs	3%
1951	Torquay	38	tariffs	4%
1956	Geneva	26	tariffs	3%
1960-1961	Dillon Round	26	tariffs	4%
1964-1967	Kennedy Round	62	And anti-dumping measures. Section on trade and development	38%
1973-1979	Tokyo Round	102	Tariffs and non-tariff measures, “framework” agreements/ Enabling clause (development)	33%
1986-1994	Uruguay Round	123	Creation of WTO. Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, etc.	38%

Source: WTO

In the Geneva Tour, which was the first meeting of the Agreement, significant discounts were achieved in 1947 and resulted in the emergence of GATT. In these negotiations, a trade volume of ten billion dollars was negotiated and a reduction in tariffs of around 35% was achieved. In Western European countries, in order to protect economies with quotas and since countries cannot freely convert their money into foreign currency, tariff reductions have provided little benefit to the economies of these countries.

The 1949 Annecy (France) Negotiation, held after the 1947 Geneva Tour, 1950-1951 Torquay (England) Negotiation and 1955-1956 Geneva Negotiation were not very productive. In these tours, the countries participating in the agreement mutually made concessions at the rate of 4% on individual products and these concessions were applied to all countries according

<sup>68</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.36.



to the principle of the most favored country.<sup>69</sup> In the Annecy Negotiation, the participation of ten countries that could not participate in the Geneva Negotiation to the GATT was discussed and concluded. The Torquay Negotiation was considered more comprehensive than the Annecy Negotiation as it was conducted in the form of accession negotiation. Because in this session, new members together with the old members participated in the negotiations and contributed to the joint decision. In this tour, which is also defined as the Second Geneva Negotiation, the powers of the US negotiating team were restricted by the congress party. With this round of negotiations, the approaches to abandon bilateral negotiations have emerged through the "Low Tariff Club" in the Council of Europe and the "French Plan" within the GATT.

In the Low Tariff Club, it was advocated not to change the low tariffs as well as to reduce the high tariffs without expecting any return. As a result, since the European states wanted to join the European Economic Community (EEC) and accepted the customs union at the 1956 Geneva Conference, the tariff concession in the GATT rules and the automatic discount system implemented by the European Free Trade Agreement (EFTA) was introduced. Later, a discount in accordance with this principle was not applied in the Dillon Tour.<sup>70</sup>

The Dillon Tour was required for two reasons. The first was to take important steps towards the establishment of the EEC to go to the customs union, to implement common customs tariffs and to deem these implementations obligatory in the GATT scheme. The second is that the US government received a four-year mandate on multilateral trade by adopting the 1958 Trade Agreement Extension Act and this situation was considered as a positive development and a new tariff negotiation should be initiated.

The USA and the European Community played a major role in the start of the Kennedy Tour, which started in 1964 and lasted for three years. Until the Kennedy Tour, the negotiations were mainly carried out on the basis of item and bilaterally, while this method was changed in this round and the "across the board reduction" method was adopted, based on the principle of reducing all tariffs to an average rate, except for some exceptional cases. The basis of the Kennedy Tour was the Trade Promotion Act, which was made in 1963, based on the joint decision taken by the ministers of the member countries. Thus, up to 50% reduction in tariffs was achieved.<sup>71</sup> Industrial products were also included in the scope of these discounts, and countries could benefit from these discounts only by showing concrete facts. In addition to

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<sup>69</sup> *Understanding the WTO, The GATT years, from Havana to Marrakesh*, [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact4\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm).

<sup>70</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.62.

<sup>71</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.37.

these, the USA and the European Communities have proposed to completely remove the customs of products that have 80% of their share in world exports. The Kennedy Tour talks did not achieve significant success in terms of both non-tariff barriers and agricultural products, and the European Economic Community found the opportunity to develop the Common Agricultural Policy with a high protection method. As a result of the tour, an agreement was made over 33,000 tariffs and an average of 35% discount was achieved in these tariffs. In addition, 36% reduction in customs duties, 35% in industrial products and 20% in agricultural products were achieved. In addition, customs duties on 3600 goods and 40 billion dollars worth of goods were reduced. Developed countries have made tariff reductions of nearly 70% for cereal, meat and dairy products, which are the main purpose of the Kennedy Tour.<sup>72</sup>

In the first half of the 1970s, the economic recession that prevailed in the world markets, international monetary instability, large increases in the amount of inflation, the four-fold increase in oil prices at the end of 1973 caused the world economic crisis and the collapse of the Bretton Woods system caused restrictions in the field of free trade. For this reason, Tokyo Tour negotiations, which started in September 1973 and continued for four years, started. It is planned to re-examine all international economic relations in these negotiations. In this context, all areas of trade have been examined, including practices that prevent, slow down and restrict the trade of agricultural products, raw materials and industrial products. In non-tariff barriers; Six new codes of conduct have been adopted under the anti-dumping and subsidies Tax Code. Through these codes, member countries have contributed to legal regulations. In addition, any country that is not a party to GATT can become a party by signing them.<sup>73</sup>

As a result of the Tokyo Tour, along with tariff reductions of up to 34%, agreements were made on 4 memorandums of understanding with 9 special agreements on many issues such as customs valuation, government purchases, subsidies, compensatory taxes, antidumping and technical barriers in trade.<sup>74</sup>

The GATT meetings, which started in Punta del Esta, Uruguay on September 15, 1986 and were planned to last four years, could only be completed at the end of 1993. The Uruguay Tour is the longest and ultimately the best equipped tour in GATT history. After the last round of Uruguay Round, GATT turned into a World Trade Organization and thus GATT, which is an agreement, gained a permanent organizational structure with the WTO. Within the scope of the Uruguay Round, with the acceptance of the 1967 and 1971 Agreements, intellectual

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<sup>72</sup> Tugrul Cubukchu, *Results and Effects of the GATT "Uruguay Round" Negotiations*, Baku 2004, p.4.

<sup>73</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.38.

<sup>74</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.39.

property rights were included in the scope of GATT for the first time and certain standards were introduced. According to this regulation, computer programs are protected for 50 years and patent and technology rights are protected for a period of 10-30 years.<sup>75</sup>

Another important success of the Uruguay talks was the GATT control of the agriculture sector and the reduction of protectionism in this sector. Within the framework of the agreement, it is planned that all trade barriers in the agricultural sector will be converted into tariffs, agricultural and export subsidies budgets will be reduced by 36% in 6 years, while exports of agricultural products will be restricted by 21%. Within the scope of the agreement, non-tariff barriers such as agricultural markets, import bans, voluntary export quotas and variable customs duties will be converted into customs duties.

On the other hand, all non-tariff barriers in the textile and clothing sector will be converted into tariffs within 15 years, these tariffs will also be reduced by 25%, customs duties will be greatly reduced and it has been decided that this transformation will be made through “tariff quotas”.<sup>76</sup>

The subsidies code was also negotiated this round, with substantial regulations against subsidy practices that distorted trade.

For the first time, the decisions of the developing countries regarding tariffs within the scope of GATT were accepted as a whole, and the right to implement tariff barriers, one of the most abused decisions, was greatly restricted due to the imbalance of payments of countries.

As a result, the Uruguay Round, defined as the “Final Act”, was accepted at the Geneva meeting of the GATT Trade Committee on December 15, 1993, and entered into force with the votes of 125 countries at the Ministerial Meeting held in the city of Merakech, Morocco on 12-15 April 1994.<sup>77</sup>

### **1.2.3. WTO foundation agreement and its principles**

The new world order (capitalism), which was tried to be created with the Bretton Woods Conference, and the economic crisis that emerged as a result of the rise in oil prices in the 1970s, the increase in the distribution of world real income in favor of the Organisation of Petroleum Exporting Countries (OPEC)<sup>78</sup> countries, the national income of developed countries

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<sup>75</sup> Nil Karaca, *From GATT to World Trade Organization*, 2003, p.86.

<sup>76</sup> Togrul Cubukchu, *Results and Effects of the GATT “Uruguay Round” Negotiations*, Baku 2004, p.12.

<sup>77</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.204.

<sup>78</sup> OPEC was established on 9-14 September 1960 in Baghdad. It is a confederation of 12 countries that hold two-thirds of the known world oil reserves. Founding members: Saudi Arabia, Iran, Kuwait, Iraq and Venezuela. Nigeria (1971), Gabon (1975-1995) and Angola (2007) have participated then.

decreased and the regionalization trend that started became stronger.<sup>79</sup> Tensions between the EU and the North American Free Trade Agreement (NAFTA)<sup>80</sup> unions have increased further, and there has been concern that the increasing blockage will create very serious political problems. On the other hand, stronger cooperation was made between EU countries in order to be stronger against the Soviet threat, which was the winner of the war. However, the new globalization process that started after the cold war led to the formation of new international organizations and the International Monetary Fund, World Bank and later the GATT system were created.

GATT is a multilateral contract and it has increased the need for a more comprehensive organization over time, since it covers only the basic principles to be applied in international trade in industrial products and has a temporary character. On the other hand, having problems in the collection of long-term loans by the International Monetary Fund has once again revealed the need for a legal infrastructure that will be accepted by all states in the economic order.<sup>81</sup> Later, with the establishment of the World Trade Organisation in 1995, GATT gained a corporate identity, not only in industrial products, but also in many areas such as anti-dumping, state aids, protection payments, technical barriers, intellectual and industrial property rights, environment. covered. In addition, in order to include the developing countries that are outside the trade liberalization in the GATT system, to force them to make different concessions by applying high tariff reductions, it has put forward and made the merger in the final single bill a condition of globalization. Factors such as removing the negativities that make export difficult in areas such as textiles and clothing, which cover a significant part of the industry of developing countries, and provide the right division of work by creating discipline in these fields have been effective in the establishment of the World Trade Organisation.<sup>82</sup>

In parallel to the development of the WTO, the regulation or engagement pole has since been implemented, but less prominent and recognizable. Importantly, for the first time ever, the WTO Agreement specifically confirmed that "the WTO shall continue to follow a consensus decision-making practice followed by the GATT 1947." This confirmation—in relation to the concept of simple majority voting in GATT Article XXV—offers tighter assurances of representation and voice than the mere tradition of consensus established over time. It cements

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<sup>79</sup> Togrul Cubukchu, *Results and Effects of the GATT "Uruguay Round" Negotiations*, Baku 2004, p.8.

<sup>80</sup> NAFTA was signed by the heads of state of the USA, Canada and Mexico on 12 August 1992 in Washington. The aim of NAFTA has been to close the economic gaps between the three countries in question, to ensure economic and social stability collectively in the North American continent and to reset the customs duties on trade within the specified process, with some exceptions.

<sup>81</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.205.

<sup>82</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.45.

the right of veto of each and every member of the WTO. At about the same time, the old majority voting law of GATT Article XXV was not completely withdrawn from the books, but if a conclusion cannot be made by consensus, and the matter should be resolved by vote. However, the WTO Agreement adopted higher consensus rules regarding particular decisions. A waiver now requires a three-fourths majority of all WTO members, or in some cases even a compromise, as opposed to GATT 1947, which only required a two-thirds majority of votes cast. The introduction of an authoritative version of the WTO rules now includes a three-fourths majority of all WTO members, as opposed to the GATT 1947 practice of implementing by simple majority the votes cast pursuant to Article XXV.<sup>83</sup>

Accordingly, the WTO has been charged with the establishment and management of mechanisms that will ensure the implementation of the agreement resulting from Uruguay, create an environment for negotiations, resolve disputes and review world trade policies. The WTO was established with the WTO Establishment Agreement, which is the final deed, and the eighth article of this agreement consists of 28 Multilateral and Multiple Trade Agreements and the legal texts attached to them. It consists of four additional agreements, including goods, services and intellectual property rights, and sub-agreements of these annexes.<sup>84</sup>

### **1.2.3.1. Goals of World Trade Organization**

The objectives of the WTO are detailed in the third Article of the Agreement as follows:

- Its main function is to ensure the correct implementation and supervision of multilateral and multilateral trade agreements signed under the WTO,
- Elimination of discrimination practices in international trade,
- To increase the living standards of the member states,
- To ensure full employment,
- To improve the production and trade of goods services,
- Protecting the environment,
- Supporting member states' demand for the market,
- Allowing the use of world resources in line with the goal of full and sustainable development,
- To develop its own resources to meet the needs of member states with different

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<sup>83</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.81-83.

<sup>84</sup> WTO Founding Agreement, 25 February, 1995, Article VIII.

economic levels.

The WTO requires member states to make transparent, predictable and non-discriminatory regulations in the implementation of their trade policies. The Agreement grants other member states complaining about the right to complain to the Dispute Resolution Body, which is an administrative settlement mechanism, in order to resolve all problems, when the regulations of the member states in the field of trade are the parties that do not comply with the WTO Rules.<sup>85</sup>

The most famous ideas for changing the WTO, including the January 2005 Sutherland Report on the future of the WTO, do not take note of this delicate relationship and balance between law and politics. Rather, they concentrate on one side of the scale without weighing the countervailing impact on the other.<sup>86</sup>

The WTO has two main objectives in this agreement. The first is to introduce regulations that facilitate the entry of other states into their internal markets in order to ensure the free movement of goods and services at the international level, and to ensure that they completely remove all trade barriers that have existed over time. If there are states that complain about this situation or do not comply with this rule, it is to apply to the Dispute Settlement Mechanism to solve the problems between them.

### **1.2.3.2. WTO principles**

In the third part of the Founding Agreement, the functions of the WTO are stated as follows:

- WTO Founding Agreement and Multilateral Trade Agreement,
- facilitating and supervising its implementation, administration and operation,
- To organize frequent negotiations and forums on the issues specified in the Multilateral Trade Agreement and its annexes, to implement the results of the negotiations,
- It will ensure the management of the Memorandum of Understanding, which determines the Rules and Methods on the Resolution of Disputes specified in the Second Annex of the Agreement,

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<sup>85</sup> Ugur Emek, *International Trade Arbitration Process*, Baku, 1999, p.5.

<sup>86</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.26.

- To ensure the management of the Trade Policy Review Mechanism (TPRM) specified in the third Annex of the Agreement,
- Lastly, they cooperate with the International Monetary Fund, the International Bank for Reconstruction and Development (IBRD) and their affiliated institutions in order to ensure greater stability in the formulation of global economic policy.<sup>87</sup>

#### **1.2.4. Step by step general accession process to WTO**

The headquarters of the WTO is located in Geneva, Switzerland. The aim of the WTO is to shape the commercial relations between the member states by organizing forums or forums according to the decisions to be adopted by the ministerial conference and to create the necessary environment for the implementation of the forum results.<sup>88</sup>

"If economists ruled the world," says Paul Krugman, "there would be no need for a World Trade Organization." In accordance with conventional economics, free trade maximizes national welfare. Rational countries can also liberalize markets unilaterally, without the requirement for an international regime. The truth is different, of course. Governments are faced with economic and political pressures to limit trade, and international coordination was required to effect its liberalization.<sup>89</sup>

The decision-making mechanism in WTO is done by consensus method as in GATT. This method allowed member states to take into account their own interests, even if they agree with ideas that would benefit the multilateral trading system. In cases where the consensus was not accepted, it was decided to vote.<sup>90</sup> Each member will have one vote, and EU member states will be able to cast as many votes as the number of members instead of one vote.<sup>91</sup> In cases where consensus cannot be reached, the voting method is used and the decision is made by majority vote.<sup>92</sup>

##### **1.2.4.1. Institutional structure of WTO**

There are four different voting methods accepted in WTO Agreements. First, a

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<sup>87</sup> WTO Founding Agreement, Article III.

<sup>88</sup> WTO Founding Agreement, Article III, Paragraph I and II.

<sup>89</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.65.

<sup>90</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.46.

<sup>91</sup> WTO Founding Agreement, Article IX.

<sup>92</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.206.

Multilateral Trade Agreement can be established with three out of four votes of the member states. Second, the Conference of Ministers, by a majority of three out of four, can lift the responsibility imposed on any country by international agreement. Third, the annulment of the decisions of international agreements can only be taken with a majority of two out of three votes, depending on the nature of the members' decisions, if all members agree.<sup>93</sup> The last one is the recruitment of new members only after they have been obtained by a majority of two out of three at the Ministerial Conference.<sup>94</sup>

As stated in Article 4 on the structure of the WTO, the majority of decisions in the WTO are held at the Ministerial Conference, which convenes at least once every two years, or the General Council, consisting of representatives or ambassadors of member states, with the participation of all member states. will be determined by.<sup>95</sup> The Ministerial Conference consists of the appointed general manager, staff and the Secretariat. It carries out the functions of the WTO and realizes the necessary activities for this. As stated in the fourth paragraph of article six, the responsibilities undertaken by the general manager and the secretariat are completely international and independent.<sup>96</sup>

The General Council consists of representatives of all members and meets when necessary to fill this gap between the period when the Ministerial Conference is absent and carry out the works.<sup>97</sup> In addition, the General Council meets in the form of the Trade Policy Review Unit and the Dispute Resolution Body to fulfill the duties assigned to it by the Agreement. The Trade Policy Review Unit periodically examines the trade policies of the member states, and the Dispute Settlement Body is to resolve and resolve disputes between member states. The General Council also assumes responsibility for the Commodity Trade Council, the Trade Related Intellectual Property Council and the Services Trade Council.<sup>98</sup> These three councils can establish as many auxiliary sub-bodies as they want and these bodies can create their own rules as permitted by the council to which they are affiliated.<sup>99</sup>

There is a Secretariat in the WTO, headed by the Secretary General and based in Geneva. The Secretary General is appointed by the conference of Ministers and determines its mandate, mandate, terms of service and duration. The responsibilities of the Director-General and employees of the Secretariat are international, and during their tenure, they cannot receive

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<sup>93</sup> WTO Founding Agreement, Article X, paragraph V.

<sup>94</sup> WTO Founding Agreement, Article XII, paragraph II.

<sup>95</sup> WTO Founding Agreement, Article IV.

<sup>96</sup> WTO Founding Agreement, Article VI..

<sup>97</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.207

<sup>98</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.37.

<sup>99</sup> WTO Founding Agreement, Article IV.



instructions from any government or non-WTO agency. The main task of the Secretariat consists of providing technical support to different councils and the Ministerial Conference, providing technical assistance to developing countries, researching world trade and informing the public about the work done through the media. Despite all these functions, the secretariat does not have the ability to make decisions.<sup>100</sup>

Apart from these institutions, the Ministerial Conference consists of the Trade and Development Committee, the Balance of Payments Restrictions Committee, and the Budget, Financial and Administrative Affairs Committee. These committees are open to the representation of all members and fulfill the duties assigned by the General Council.<sup>101</sup>

#### **1.2.4.2. Members, participation process and withdrawal in WTO**

While the WTO had 128 members when the GATT Founding Agreement was signed for the first time in 1994, it increased the number of members to 164 with the participation of the Afghanistan on July 29, 2016.<sup>102</sup> In addition to this, the participation of 24 countries continues. The country that wants to become a member of the WTO is accepted as an observer country first and has been continuing accession negotiations for five years from this date. Decisions on participation are made by the Ministerial Conference with two out of three votes of WTO members.<sup>103</sup> Participation in the Multiple Trade Agreement is determined according to the provisions of this agreement.<sup>104</sup>

The WTO participation process consists of four stages. First of all, the candidate country prepares all its commercial policies as a file and makes a written application to the WTO. The General Council positively evaluates this request for the president and decides to establish a “working party” regarding the participation of this country in the WTO. Working Groups are open to all WTO members. All documents prepared by the candidate country are reviewed by the Working Group and submitted to the WTO Secretariat as a memorandum. Second, the Working Group’s Review and Bilateral Concessions Negotiations. After the Working Group has finished its reviews, bilateral negotiations begin between the candidates. Since each country has its own unique commercial characteristics and interests, these negotiations are carried out in a bilateral package. Negotiations focus on tariff amounts, specific

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<sup>100</sup> WTO Founding Agreement, Article VI, paragraph III.

<sup>101</sup> WTO Founding Agreement, Article IV, paragraph VII.

<sup>102</sup> *Understanding The WTO: The Organization Members and Observers*,  
[https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm).

<sup>103</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.288.

<sup>104</sup> WTO Founding Agreement, Article XII, paragraph II and III.

market entry commitments, and other policies linked to goods and services. While the commitments to be followed by the candidate country are negotiated as a bilateral package, it is ensured that they are applied equally to all WTO member states with the principle of “non-discrimination”. The third is the process of making the Accession Protocol. After examining the trade regime of the candidate countries and their adherence to the market by the working group, the report is prepared and presented together with the “protocol of accession” and “lists of commitment”. Finally, the decision-making process begins. During this period, the member states submit the documents consisting of reports, protocols and lists to the WTO General Council or the Ministerial Conference. With the agreement of all WTO member countries, the candidate country that signs the accession protocol gains member status. In order to take a closer look at this process, we can examine the Russian Federation’s accession process to the WTO. The Russian Federation applied for membership in June 1993, after the application was accepted as positive by the WTO, it gained observer country status. At the meeting of the Working Group to be held in Geneva on 10 November 2011, the Working Group Report consisting of the conditions and concessions regarding participation was accepted. At the end of eighteen years of long accession negotiations, the membership of the Russian Federation was accepted at the eighth Ministerial Conference held on 15-17 December 2011.<sup>105</sup>

Any member state can withdraw from the agreement with the entry into force of the declaration six months after sending a written withdrawal notice to the WTO General Directorate. However, if the member state is a member of Multiple Trade Agreements, the terms of withdrawal are determined according to the provisions of the agreement to which it is a party.<sup>106</sup>

The decision making system in the WTO is specified in the ninth article of the Founding Agreement. Unless there is an extraordinary situation, the WTO takes decisions by the method of consensus, that is, by “compromise”, as in GATT 1947. In cases where a decision cannot be taken through consensus, voting method is used.<sup>107</sup> In the consensus method, if any member state present at the meeting during the decision-making does not directly object to the decision to be taken or does not express its reservations, the decision is approved by the competent body. As can be seen, decision making by consensus is different from unanimous decision making. In this decision-making method, it is accepted that everybody agrees and acts together if no

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<sup>105</sup> WTO, Accession: Explanation, [https://www.wto.org/english/thewto\\_e/acc\\_e/acces\\_e.htm](https://www.wto.org/english/thewto_e/acc_e/acces_e.htm).

<sup>106</sup> WTO Founding Agreement, Article XV, paragraph I and II.

<sup>107</sup> WTO Founding Agreement, Article IX, paragraph I.

objection is made or a reservation is not reported.<sup>108</sup>

As stated before, voting is used in cases where a consensus decision is not taken. In this method, the decision is determined by the majority of votes. Each WTO member has one vote. In cases where the EU exercises its own voting right, the number of votes will be equal to the number of member countries, and 1 vote will be equal to 28 votes. As a result, the number of votes cast by the EU and its member states will not exceed the number of member states of the Union.<sup>109</sup>

### **1.2.4.3. Decision making, interpretation and amendment in WTO**

Decisions regarding the interpretation of the WTO Founding Agreement are specified in the second paragraph of the Ninth Article. According to this decision, the Ministerial Conference and the General Council are the only authorized bodies to approve the comments of the WTO Founding Agreement and Multilateral Trade Agreements. However, when Multilateral Trade Agreements are to be interpreted, the recommendations of the Council, which is the controller of the said agreement, should be asked and the decision to accept the comments should definitely be taken with a majority of three out of four.<sup>110</sup>

Due to the difficulties that emerged in the fifteenth article of the GATT 1947 Agreement, certain assurances regarding the withdrawal method were obtained in the WTO Agreement. Here, what is meant by “renunciation” is the decision of one of the members to give up to the Ministerial Conference on the obligations to be made as stated in the agreement. The following are required for such a decision to be made:

First, the requests for the decision of non-compliance will be submitted to the Ministerial Conference in accordance with the consensus method and these requests will be examined within 90 days. During this time, if consensus is not reached, the decision of contradiction will be taken by a majority of three votes out of four.

The decision of non-compliance on the Multilateral Trade Agreement and its annexes specified in ANNEX 1A, 1B and 1C is made for review by the Commodity Trade Council, Service Trade Council and TRIPS Council within 90 days. At the end of this period, the relevant Council has to prepare and submit a report to the Ministerial Conference.<sup>111</sup>

In its decision on non-compliance, the Ministerial Conference determines the

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<sup>108</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.39.

<sup>109</sup> WTO Founding Agreement, Article IX, paragraph I.

<sup>110</sup> WTO Founding Agreement, Article IX, paragraph II.

<sup>111</sup> WTO Founding Agreement, Article IX, paragraph II.

extraordinary situation, the conditions and the deadline of the infringement that created this decision. Non-compliance decisions exceeding one year are reviewed annually from the date of their issue, and the Ministerial Conference checks whether the situation creating the contradiction is still valid and fulfills the requirements. According to the result of the Ministerial Conference Reports, it may extend the period of non-compliance decision, change its conditions or terminate the decision.<sup>112</sup>

Making amendments in WTO Agreements is an extremely difficult process. It is necessary to be able to put on the meeting list at least 90 days before submitting any proposal to change the agreement for the acceptance of the members through the Ministerial Conference.<sup>113</sup> During this period, the Conference of Ministers reaches a decision on whether to submit this proposal to the member states for approval, through consensus. Some articles of the Agreement can be changed by voting. In this case, the decision may be adopted by a majority of two out of three votes, as a result of the members' voting. However, these changes will only be binding by the members who accept the decision. In some cases, the Conference of Ministers may decide, with a three-quarter majority vote, that the amendment it has adopted is mandatory for all member states to adopt. Countries that do not accept this decision have the right to withdraw from the Agreement. If the member wishes to remain in the Agreement, they can remain as a WTO member upon the positive permission of the Ministerial Conference.<sup>114</sup> Countries that do not accept this decision have the right to withdraw from the Agreement.<sup>115</sup>

Membership process to WTO ensures some advantages such as much more trading opportunities with WTO members, higher level of transparency of policies over the trade, more reliable and presumable situation for the trade, rights to benefit from the advantages of WTO agreements, accession to dispute settlement mechanism of WTO in order to assert their trade rights and national interests and participation rights in multilateral trade negotiations of WTO. Thus, accession to WTO provides broad range of benefits at least theoretically and in this sense, non-member countries seek to become a full member of WTO.<sup>116</sup>

However, WTO is not all about benefits or advantages in terms of WTO principles and obligations by members of the organization. Thus, the membership causes some difficulties, especially for small states in terms of costs derived from the compliance to WTO as well as

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<sup>112</sup> WTO Founding Agreement, Article IX, paragraph IV.

<sup>113</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.41.

<sup>114</sup> WTO Founding Agreement, Article X, paragraph III and IV.

<sup>115</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.41.

<sup>116</sup> *Understanding The WTO: Basic, Principle of The Trading System*,  
[https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact2\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm).

decreasing of the policy autonomy.<sup>117</sup> Thus, new members take responsibilities to make their trade policies compatible with the principles of WTO and this means loss of trade policy independence. On the other hand, states face with the strong competition of advanced economies after their accession, especially in agricultural goods and this is the main source of concerns of developing countries.

Despite of some disadvantages of WTO membership, world countries are interested in accession to the organization. The accession procedure was specified in the document “Accession to the WTO - Procedures for Negotiations under Article XII” that defines the framework of a non-member’s accession process to WTO. However, a country can obtain an observer status for five years in WTO in order to become well informed about WTO as well as its activities before its accession as a member.<sup>118</sup> This status does not impose any commitment on that country.

Membership procedure of a country includes six staged accession process.<sup>119</sup> As we see that mentioned in the figure above, procedure starts with official request submission by the government of the candidate country. This request has to indicate the desire of that country to accept the Marrakesh Agreement and to become a member of World Trade Organisation, which should be submitted to the World Trade Organisations General Director. Afterwards the request is introduced to all members of WTO and included to the agenda of General Council’s subsequent meeting.

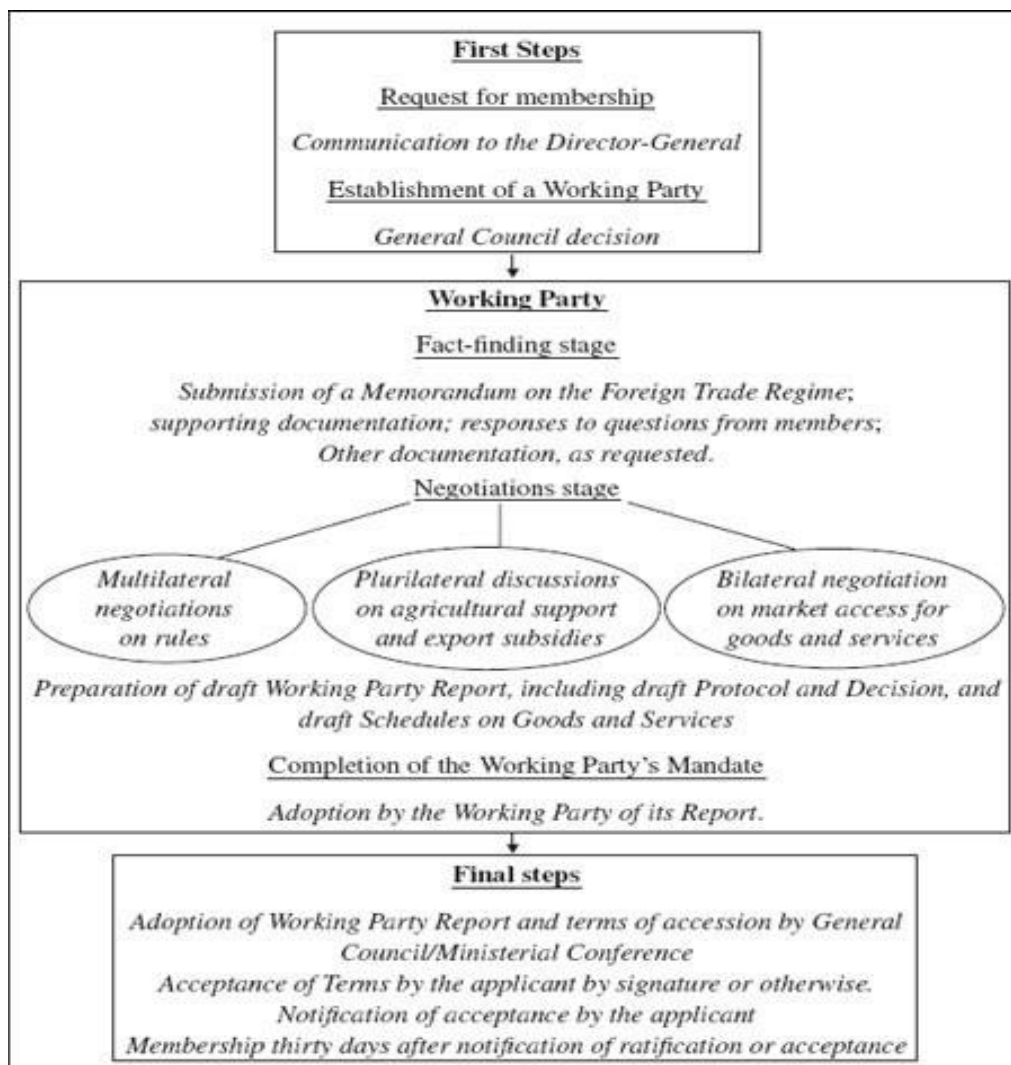
Figure 1: WTO accession process

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<sup>117</sup> Wangdi Karma, *To join or not to join WTO: A study on its negative impacts*, 2010, Bhutan, p.56.

<sup>118</sup> Ivan Markovic, *How to Join the World Trade Organisation: Some Aspects of the Accession Process*, Belgrade, 2009, p.118-119.

<sup>119</sup> Ivan Markovic, *How to Join the World Trade Organisation: Some Aspects of the Accession Process*, Belgrade, 2009, p.119.



Source: World Trade Organization, [www.wto.com](http://www.wto.com)

If the joining request of the country is adopted in the meeting of General Council, a Working Party is formed for this accession in order to look through the application of that country which all WTO members can participate in working parties. The next stage is applicant country must submit a “Memorandum on the Foreign Trade Regime” due to clarify its policies and institutions which covers the explanation of its economic policies and external trade of goods and services, agreements on the economic integration with other countries, “trade-related intellectual property regime”, “decision-making process”, “investments” and statistical supplement.<sup>120</sup>

The statistical supplement covers data about trade, external trade agreements, statutory acts, technical restrictions over trade, surveys on “import licensing and customs valuation procedures”, state enterprises in trade, “sanitary and phytosanitary measures”, government

<sup>120</sup> Igor Eromenko, *Accession to the WTO: Part I*, Ukrain, 2010, p.43.

support and subsidization of export in agriculture, services trade as well as “trade related aspects of intellectual property rights” of the applicant country. In the other hand, this memorandum is very important for the accession process that it constitutes the ground of future negotiations. In addition, the applicant country has to present an “Initial Schedule for Tariff Concessions for Goods” and an “Initial Schedule on Specific Commitments in Services” for WTO member countries as well.<sup>121</sup>

This is followed by bilateral negotiations among WTO members and the applicant country and if all negotiations are successfully ended, the WTO Secretariat formulate the “Accession Package” which include the “Working Party Report”, “Protocol of Accession”, the “Schedule of Concessions and Commitments on Goods” and the “Schedule of Specific Commitments on Services”.<sup>122</sup>

After all these procedures, if the Accession Package is accepted in the last meeting of Working party and confirmed by General Council of the Ministerial Conference, the applicant country ratifies the Protocol of Accession and gets the full membership status in WTO in the following one month.

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<sup>121</sup> Ivan Markovic, *How to Join the World Trade Organisation: Some Aspects of the Accession Process*, Belgrade, 2009, p.120-121.

<sup>122</sup> Igor Eromenko, *Accession to the WTO: Part I*, Ukrain, 2010, p.43.

## Chapter 2

### 2.AZERBAIJAN'S CASE OF THE ACCESSION TO WTO

#### 2.1.Historical Outlook of the Accession

Until 1991, the Republic of Azerbaijan had been part of the Soviet Union with a designed economic structure. In 1991, Azerbaijan regained its independence and agreed to change its economic structure from a planned one to a market economy. However, the transformation process has taken so long that we will discuss it in depth later on, one branch of this process has joined international organizations.

The incremental thickening of the legal-normative system of the GATT is well recorded. As has already been pointed out, most of the debates on the evolution of the world trade framework concentrate on only that. On the substance, seven rounds of tariff agreements significantly lowered import duties on manufactured products and, in 1979, the Tokyo Round Codes widened GATT discipline to cover a much more important area of non-tariff barriers. Moreover, although in the GATT document, the compliance system was part and parcel of the legislative system, over time the GATT litigation process was removed from conventional decision-making. At an early point, the GATT parties, rather than make decisions themselves in the negotiating process, referred Article XXIII of the complaints to the so-called Working Party. This was a smaller community of nations, usually comprising the key players in the conflict, as well as a variety of concerned parties and so-called 'neutrals.' The countries in the working party debated, negotiated and ultimately voted on the topics before them and, when successful in finding any consensus, proposed a path forward for GATT membership, which, in turn, accepted or rejected.<sup>123</sup>

Although the representatives of the World Bank proposed that Azerbaijan join the WTO in 1996, the starting point of the WTO "plot" of Azerbaijan is considered to be March 1997 or the meeting of Heydar Aliyev as President of the Republic of Azerbaijan with President Clinton of the United States.<sup>124</sup> So, at the press conference after the meeting, Haydar Aliyev has confirmed that Azerbaijan would apply for membership of the WTO. As a result, the

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<sup>123</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.73.

<sup>124</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.343-384.



Azerbaijani Government prepared the necessary documents for membership by decree, and Azerbaijan submitted an official application to the WTO on 23 June 1997, and the WTO General Council adopted its application on 16 July 1997, which granted it observer status in the WTO and formed a working party on the accession of Azerbaijan.<sup>125</sup>

However, the economic conditions of Azerbaijan at the time of the application were important in the sense of the desire to become a member of the WTO. As we can see during the debate on the economic transition of Azerbaijan, the country's development capacity was badly impaired by the economic crisis of 1991-1994.<sup>126</sup> Moreover, its international trade was mainly focused on "special arrangements" in the form of the "Deal of the Century" negotiated between the Government of Azerbaijan and the world oil companies. Thus, the country's imports consisted mainly of investment goods for the production of oil and gas under that deal. On the other hand, most of its exports were both oil and oil products. In this context, the motives behind the application for membership tend to be economically focused from the point of view of the Republic of Azerbaijan.

### **2.1.1. Working Party meetings in Azerbaijan**

At any rate, Azerbaijan has expressed its interest in enhancing the accession process. However, the country did not have the expertise or information to respond to the requirements of WTO accession in terms of submitting the required documents (memorandum on its foreign trade policy, etc.) and answering the questions put to it by the representatives of the Working Party. As a result, the first meeting of the working party was postponed until 2002. In this regard, the European Union, the USA and the World Bank have played an active role in assisting the Government of Azerbaijan in the preparation of the necessary documents and in the training of the approved personnel for accession.<sup>127</sup>

Although the first meeting of the Working Party was held in June 2002, there was no substantial change in the accession process, at least in terms of submitting the necessary documents and answering the questions of the members of the Working Party. However, the Azerbaijan government, with the help of the USA, has accelerated the preparation and timely submission of the necessary documents to the WTO. As a result, the second and third meetings

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<sup>125</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.346-347.

<sup>126</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.344.

<sup>127</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.344.

of the Working Group were held on 12-15 October 2004 and on 27 June-1 July 2005. The documents submitted by Azerbaijan were discussed at these meetings, as well as the members of the Working Party were aware of the general economic environment of the country. In addition, the third meeting of the Working Party was followed by multilateral negotiations on agriculture with the participation of the USA, Australia , Canada, Malaysia and bilateral negotiations on services and tariffs with the USA, the EU and Canada.<sup>128</sup>

The accession process of Azerbaijan began with the fourth (March 30, 2006) and fifth (May 6, 2008) meetings of the Working Group, which conducted multilateral negotiations on agriculture and bilateral negotiations with the USA, the EU, Turkey, Taiwan, Canada and Japan. In addition , the Government of Azerbaijan submitted the necessary documents for accession at the Fifth Meeting and, as a result, a decision was made to prepare the “Factual Report on Azerbaijan”. At the sixth meeting, Azerbaijan told the participants of the importance of the growth of the non-oil sector as well as the diversification problem in the Azerbaijani economy, which declared its desire to become a member of the WTO as a “Landlocked Developing Country”.<sup>129</sup>

Although the USA and the EU announced that Azerbaijan should be granted “developed country status” at the seventh meeting (24 July 2009), Azerbaijan stressed its economic concerns, such as diversification problems, and insisted on becoming a member of the WTO with the status of a developing nation.

In addition, the USA and the EU proposed that Azerbaijan cease government support as subsidies to the agriculture sector, but the representatives of Azerbaijan reiterated the importance of this sector at the meeting. At the next meeting (18 October 2010), Azerbaijan submitted its updated offers for goods and services on the basis of its economic interests, as well as justification for its intention to become a member of the WTO with the status of a developing country.<sup>130</sup>

In the background of the Ninth Meeting of the Working Party (February 24, 2012), bilateral negotiations were conducted with the USA, the EU, Norway, Japan and Canada on goods and services, as well as with Ecuador on goods only, calling for a reduction of the bound tariff rate, a full integration of sector initiatives and an increase in the liberalization of market

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<sup>128</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.355.

<sup>129</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.356.

<sup>130</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.358-359.

access in the service sector in Azerbaijan. In addition, Azerbaijan's proposals on government support for agriculture were debated at multilateral negotiations on agriculture, and members of the Working Group, in particular Canada and the Commonwealth of Australia, disagreed with Azerbaijan's aim of securing 10% of the minimum right to internal support for agriculture.<sup>131</sup>

Tenth meeting (December 7th, 2012), however, Azerbaijan reiterated its demand to receive 10 per cent de minimus right as well as 2 billion dollars of direct support for its agriculture sector per year. While this was deemed unlikely in previous agreements, the USA, the EU, Canada, the Commonwealth of Australia and Brazil stressed its probability for a time after accession. At the same time, bilateral and multilateral negotiations were also conducted at this meeting with some Member States on various issues.

11th meeting of Working Group on Azerbaijan took place on 21 February 2014 and 12th meeting took place on 27 July 2015.<sup>132</sup>

On July 22, 2016, 13th meeting of Working Group on Azerbaijan took place. Subjects of discussions and mandatory commitments to be undertaken by Azerbaijan:

- Elimination of export restrictions
- Holding list and rates of export tariffs invariable
- Elimination of discriminative tax exemptions during accession
- Aligning excise rates
- Aligning charges for services rendered
- Elimination of export subsidies
- Implementation of necessary measures with regard to competition (adoption of relevant legislation)
- Aligning sanitary and phytosanitary measures to international standards (adoption of relevant legislation)
- Acceleration of work on technical regulations (adoption of relevant legislation)<sup>133</sup>

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<sup>131</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.360-362.

<sup>132</sup> <http://www.wto.az/en/article/geneva-negotiations-14th-meeting-of-wto-working-group-on-azerbaijan/47>.

<sup>133</sup> <http://www.wto.az/en/article/geneva-negotiations-14th-meeting-of-wto-working-group-on-azerbaijan/47>.

On 24-28 July, bilateral agreements were held with the EU, the US, the Russian Federation, Brazil, Thailand, Japan, India and Switzerland, as well as market access for agricultural and non-agricultural products and services. Both countries with whom bilateral agreements are held have demanded the Initial Negotiating Rights (INRs) for goods subject to their interest. A multilateral conference on domestic funding for agriculture took place on 27 June. Finally, meetings were held with the WTO Accession Division. All concessions granted to the countries acceding as a developing country by Azerbaijan, including:

1. “De minimis” (minimum permitted amount of domestic support expressed in percentage to the amount of total annual agriculture production) - 10%
2. Total Aggregate Measurement of Support (the sum of all domestic support provided in favor of agricultural producers, calculated as the sum of all aggregate measurements of support for basic agricultural products) – USD 1 billion
3. The right to use additional amount for regeneration of rural areas after de-occupation of Karabakh and surrounding areas
4. The right to use Article 6.2 of the Agreement on Agriculture

The US, the EU, Brazil, Australia and Thailand have made comments on this subject. Generally, taking into account the fact that no newly acceding country with an economy similar to Azerbaijan has earned 10% de minimis, this kind of exception is also not to be expected. Possibility to award USD 1 billion. Concession continues (for a certain transitional period), but Azerbaijan is steadily turning its amber box subsidies (currently implemented and to be abolished or decreased in accordance with WTO requirements) into green box subsidies (to be used without any restriction in accordance with WTO requirements). The use of green box subsidies to Azerbaijan was recommended to a greater extent during the occupation of Nagorno-Karabakh. Members have declined to give Azerbaijan the right to use Article 6.2 of the Agreement on Agriculture. At the same time, it was emphasized that, in line with the outcome of the 10th Ministerial Conference held in Nairobi in 2015, WTO members did not apply any export subsidies.<sup>134</sup>

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<sup>134</sup> <http://www.wto.az/en/article/geneva-negotiations-14th-meeting-of-wto-working-group-on-azerbaijan/47>.

### **2.1.1.1. The last meeting of Working Party and their recommendations**

The representatives of Azerbaijan stressed that diversification of non-oil already produce results and once the development of prioritized areas of Azerbaijan reaches certain sustainable level, the accession process will be accelerated. The initial positive results of a number of economic reforms are expected by 2020.

Mandatory commitments to be undertaken by Azerbaijan:

- Elimination of export restrictions
- Holding list and rates of export tariffs invariable
- Elimination of discriminatory tax exemptions during accession
- Align excise rates
- Align charges for services rendered
- Eliminate export subsidies
- Implement necessary measures with regard to competition (adoption of relevant legislation)
- Align sanitary and phytosanitary measures to international standards (adoption of relevant legislation)
- Accelerate work on technical regulations (adoption of relevant legislation)

Any of the questions were answered by the representatives of the working party of Azerbaijan. At the end of the conference, the Member States agreed to send their questions to Azerbaijan in a short period of time.

In addition , the following recommendations to Azerbaijan have been made: the need to pay more attention to bilateral agreements, the need to speed up the execution of bilateral negotiations and the signing of protocols.

The continuing process of aligning national laws with WTO rules was debated at both multilateral and plurilateral meetings. In order to be a member of the WTO as well as a fully fledged member of the multilateral trade framework, national law is fully compatible with current WTO requirements. In this regard, the present state of the Action Plan on Approximation of Laws to the WTO requirements has been discussed; in particular, the importance of the adoption and enactment of the “Competition Code”, the “Legal Regulations”, the “Standardizations”, amendments and amendments to the Laws on “Veterinary”, “Phytosanitary Protection” and “Sanitary-epidemiological well-being” as well as a variety of

actions in the WTO requirements. In addition, the significance of the implementation in a short period of time of the current “Food Safety Act” stipulated in Decree No 1235 of the President of the Republic of Azerbaijan dated 10 February 2017 on “Additional steps to strengthen the food safety system in the Republic of Azerbaijan” was emphasized.<sup>135</sup>

In addition to the meetings conducted in the framework of WTO accession, on July 25, 2017 a meeting with the Executive Director of International Trade Center (ITC) Ms. Arancha Gonzalez took place. Possible support programs of ITC to the WTO accession of Azerbaijan were discussed at the meeting. As a result, production of research in 3 directions by ITC was agreed:

- Research on influence of WTO membership to the economy of countries acceded during last 10-15 years (in separate examples)
- Being a Member of the WTO and taking into consideration commitments within the frame of the organization, research on the possibility to use defense instruments prescribed in the WTO Agreements for the protection of domestic industry and national companies during regional and global financial and economic crises, as well as detailed report on protection mechanisms within the frame of WTO requirements
- Information on instruments used in international practice to stop illegal trade-economic activity of third countries in the occupied territory of the Republic of Azerbaijan, as well as such possibilities reflected in the WTO Agreements.<sup>136</sup>

This is the last meeting of the Working Group on Azerbaijan when I write this study. However, new meetings are also expected because Azerbaijan is still not a member of the WTO. The accession process is at the stage of multilateral and bilateral negotiations. Despite the several remaining problems, Azerbaijan’s accession road to the WTO shows that there is a willingness to reach a final agreement in terms of compromises during the process.

The commission on preparation work of Azerbaijan’s accession to WTO was established by the 22 August 2003 dated order of Ministers Cabinet of Azerbaijan Republic to speed accession process to WTO. The new composition of the Commission on preparation work of Azerbaijan’s accession to WTO was accepted by order of the Cabinet of Ministers of Azerbaijan Republic dated June 28 , 2019 numbered 472s. The Commission composition

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<sup>135</sup> <http://www.wto.az/en/article/geneva-negotiations-14th-meeting-of-wto-working-group-on-azerbaijan/47>.

<sup>136</sup> <http://www.wto.az/en/article/geneva-negotiations-14th-meeting-of-wto-working-group-on-azerbaijan/47>.

consists of Deputy Ministers of the respective Ministries, Heads of State Committees and Agencies.<sup>137</sup>

In this table below we can see application and chronology of the accession process as a table:<sup>138</sup>

Table 2: Application and chronology of the accession process

The application for Azerbaijan's accession to WTO was submitted to the WTO Secretariat	June 23, 1997
The Working Party on Accession of Azerbaijan to WTO was established	July 16, 1997
The Memorandum on Azerbaijan's Foreign Trade Regime was submitted to the WTO Secretariat	April 22, 1999
The interorganizational Coordination Commission on accelerating the accession process of Azerbaijan to the WTO was established in accordance with the Executive Order № 226s of the Cabinet of Ministers of the Republic of Azerbaijan	November 19, 1999
The 1st meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	June 3-7, 2002
The Commission on preparations for the accession of Azerbaijan to WTO was established in accordance with the Executive Order № 175s of the Cabinet of Ministers of the Republic of Azerbaijan	August 22, 2003
The 2nd meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	October 14, 2004
The 3rd meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	June 30, 2005
The 4th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	March 30, 2006
The 5th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	May 6, 2008

<sup>137</sup> <https://www.economy.gov.az/en/article/vto/21561>.

<sup>138</sup> <http://wto.az/en/azerbaijan-and-the-wto/application-and-chronology-of-the-accession-process>.

The 6th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	December 11, 2008
The 7th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	July 24, 2009
The 8th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	October 18, 2010
The 9th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	February 24, 2012
The 10th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	December 7, 2012
The 11th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	February 21, 2014
The 12th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	July 27, 2015
The 13th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	July 22, 2016
The 14th meeting of Working Party on Accession of Azerbaijan to WTO was held in Geneva	July 28, 2017

Source: [www.wto.az](http://www.wto.az)

## **2.1.2. Situation in Caucasus region**

### **2.1.2.1. General Outlook of Georgia economy**

Georgia is another South Caucasus country bordering Azerbaijan in the south-east, Turkey and Armenia in the south, Russia in the north and the Black Sea in the west. It is the only nation in the region with easy access to the world ocean. With 69.7 thousand square kilometers of land and 4.7 million people, it is the second largest country in the South Caucasus. The shortest path from Asia to Europe passes through the region. As a result, Georgia enjoys large regional ventures related to the export of Azerbaijan's oil and gas capital to the European economy. After gaining independence, Georgia faced ethnic struggles in Abkhazia and Ossetia within its territory. Georgia's last military effort to settle these tensions in August 2008



culminated in a five-day Russia-Georgia war that badly destroyed Georgia's economy.<sup>139</sup> Here, we will examine in the components of GDP and GDP, as well as exports and imports of Georgia before and after its accession to the WTO (June 2000).

The changes in GDP and GDP components of Georgia in terms of added value regard to the sectors. It is clear that the Georgian economy continued to expand until 1998. A decrease in Georgia's GDP was found in the following year. However, this downturn was followed by slow economic growth up to 2003. Over the time, agricultural production has declined, while the share of services in GDP has steadily increased. Despite very minor variations, neither agriculture nor industry changed drastically until 2003.<sup>140</sup>

Georgian membership in WTO did not cause any significant increase in GDP production in subsequent years of the accession. When comparing GDP metrics and industry output before and after 2000, there is no substantial improvement in the effect of accession in all sectors until 2003. The year 2003 was written down in Georgia's history as a result of the "Rose Movement" accompanied by a rise in prosperity, a reduction in poverty and the growth of the country's economy. As a result, Georgia's GDP has grown significantly in the following years, reaching \$6 billion in 2005 and rising by nearly \$ 2 billion annually until the end of 2008.<sup>141</sup>

However, the economy contracted in 2009, most likely due to the effects of the 2008 financial crisis on the global economy. Interestingly, this decline was mostly due to a decline in operation and partly due to a decrease in manufacturing development. However, the economy stabilized and expanded in years to come, hitting almost \$16 billion in 2020. The remarkable argument here is that this economic expansion was primarily attributed to a rise in the supply of services rather than to the general improvement of the economy.

In fact, agricultural production has not improved dramatically over all periods of time, and has also declined over a number of years. Over the same time, its share of GDP declined from 19.3 per cent in 2003 to 7.6 per cent in 2020. However, agriculture is still a main field of the Georgian economy, employing 50% of the country's population (World Bank). Another serious argument is the success of this degree of economic development, parallel to a substantial rise in capital spending and government debt. As a result, Georgia's external debt rose three fold in 2006-2010 from \$3.8 billion to \$9.8 billion, which exceeded \$18.8 billion in 2020.

It is noteworthy that Georgia's international trade balance has mostly been poor. In the early years of its freedom, both imports and the economic crisis following the dissolution of the

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<sup>139</sup> Papava V., *Georgia's economy: Post revolutionary development and post-war difficulties*, 2019, p.32-33.

<sup>140</sup> Papava V., *Georgia's economy: Post revolutionary development and post-war difficulties*, 2019, p.53-74.

<sup>141</sup> Papava V., *Georgia's economy: Post revolutionary development and post-war difficulties*, 2019, p.181-199.

Soviet Union decreased dramatically. In the years that followed, the country's exports never rose significantly and were still below \$1 billion until accession. On the other hand, despite the increase in imports in 1997, which reached almost \$1.5 billion, it decreased to slightly more than \$1 billion in the pre-accession year. However, all exports and imports of the country grew since accession, about the same amount before the end of 2003 or the Rose Revolution in Georgia.

After 2003, Georgia's imports grew considerably more than its exports, which boosted its trade deficit. In addition, this annual shortfall has also grown significantly. Especially after 2005, the country's trade deficit surpassed \$1 billion, and reached almost \$4 billion in 2008. Georgia's imports declined significantly in 2009 due to a small decline in the quantity of exports. However, it also retains a deficit of at least \$ 2 billion, which rose in the years to come, to about \$3 billion in 2012.<sup>142</sup> Without hesitation, since the conclusion of the transitional phase for the adoption of WTO agreements (2005), Georgia's foreign trade has expanded considerably. Although, relative to exports, this favorable effect has risen considerably on imports. The trade deficit of Georgia in May 2020 amounted to \$1.73 billion which is 41.3 per cent of total trade turnover.

In addition, shifts in Georgia's gross capital creation, net FDI flow and foreign debt supplies before and after WTO accession are also of concern. According to the World Bank reports, global capital development or global domestic investment has been on the increase, touching \$0.81 billion before the year of accession. Gross capital did not exceed \$1 billion in the first years of its existence. It was only after the Rose Revaluation in 2003 that it increased significantly and became more than \$3.3 billion in 2008, before the Financial Crises. While it decreased dramatically to \$1.4 billion in 2009, it recovered to \$14.8 billion in 2020.

The pattern for Georgia's net FDI flow is severely fluctuating. As a result , the amount of net FDI was very little or less than \$250 million until 2003. It tops \$1 billion in 2006-2008 alone, dropping dramatically to \$0.65 billion in 2009, and was \$1.3 billion in 2019. On the other hand, the amount of Georgia's foreign debt had been less than \$2 billion before and during the 2005 WTO accession. However, after 2005, Georgia's external debt stock increased dramatically from \$2.9 billion to \$7.63 billion, particularly in 2008. At the end of 2019, Georgia's foreign debt balance had hit more than \$17 billion.<sup>143</sup>

As a result, the effect of WTO accession on Georgia's GDP, GDP and foreign trade components can not be seen as solely favorable. While the economy increased annually, this

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<sup>142</sup> Papava V., *Georgia's economy: Post revolutionary development and post-war difficulties*, 2019, p.83-84.

<sup>143</sup> Papava V., *Georgia's economy: Post revolutionary development and post-war difficulties*, 2019, p.126.

development was not the result of an rise in demand in all sectors of the economy. Moreover, it is unclear that the degree to which membership of the WTO has an effect on economic development in terms of the unfounded probability of regression. Moreover, rising the trade deficit as well as the country's external debt means that there is a risk of severe economic difficulties in the future.<sup>144</sup>

### **2.1.2.2. General Outlook of Armenia Economy**

Armenia is the last nation to be found in the South Caucasus region, with 29.7 thousand square kilometers of land and almost 3 million inhabitants. It is a landlocked country surrounded by Georgia in the north, Iran in the south, Turkey in the west and Azerbaijan in the east. However, the boundaries of Armenia with Turkey and Azerbaijan have been closed due to the Nagorno-Karabakh dispute between Azerbaijan and Armenia. As a result, this has left it out of the major regional initiatives and has seriously weakened its economy.

The country also faced economic recession in the first years of its independence. However, the decline was dealt with by international assistance prior to 1994. Armenia's GDP grew marginally in 1994-2002, and surpassed \$2 billion in 2001 alone, amid a seven-year span. However, a comparatively sharp rise is noted after 2003, which is also the year of Armenia's accession to the WTO. According to statistics from the World Bank, GDP in the country rose by two-digit percentages until 2009. Its GDP hit its peak level-\$11.6 billion in 2008. However, Armenia's economy decreased to \$8.6 billion in 2009. The economy was revived in the following years and strong growth was reported until 2013. As a result, its GDP declined again, accounting for less than \$9.8 billion in 2020.<sup>145</sup>

In the sense of the distribution of GDP between sectors of the economy, no substantial variations in the level of sectoral output were reported until 2003. However, business production rose considerably in the manufacturing and service sectors after 2003 and the economy became dominated by industry until 2009. With the global financial crisis, the market deteriorated even more than any other business in 2009 and lost its domination. As a result, the service industry would become dominant in subsequent years of GDP. On the other hand, agricultural production slightly changed over the whole period, which reached \$1.9 billion in

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<sup>144</sup> Papava V., *Georgia's economy: Post revolutionary development and post-war difficulties*, 2019, p.205.

<sup>145</sup> [https://www.wto.org/english/res\\_e/statis\\_e/wts2019\\_e/wts2019\\_e.pdf](https://www.wto.org/english/res_e/statis_e/wts2019_e/wts2019_e.pdf).

2008, dropped to \$1.46 billion in 2009 and grew again in the following years, but never surpassed \$2 billion until these days.<sup>146</sup>

The developments in Armenia's exports and imports before and after its accession to the WTO are also important. It is remembered that Armenia has still faced foreign trade deficits over the entire time, both before and after its accession to the WTO. In comparison, the volume of both exports and imports of the nation had been roughly \$ 1 billion or less until 2003. Since 2003 or its accession to the WTO, the country's imports rose considerably more than its exports. In particular, imports rose sharply after 2005 and the trade deficit hit almost \$3 billion in 2008. While this deficit reduced in the years to come, it stayed over \$2 billion.<sup>147</sup>

It is clear that Armenia's accession to the WTO has boosted its imports considerably more than its exports, which could not be considered a positive influence from the point of view of Armenia. Both the highest level of GDP and the trade deficit in Armenia were recorded in 2008. On the other hand, a persistent foreign trade deficit could raise the country's foreign debt. However, "Armenia's major trade deficit has been somewhat offset by humanitarian assistance, remittances from Armenians working abroad, and foreign direct investment" and "Armenia is especially dependent on Russian trade and government funding".<sup>148</sup>

Armenia's total capital production remained nearly the same with ups and downs until 2003. Since 2003 or the year of accession to the WTO, the gross capital creation pattern in Armenia has risen dramatically until 2008 to \$4.8 billion. However, it falls sharply to \$3 billion in 2009 as a result of the Crises and follows a slight increase in subsequent years. On the other hand, the net flow of FDI to Armenia did not rise significantly until 2003. After 2003, the trend rose until 2008 and the trend declined after 2008. In general, the amount of net FDI flow to Armenia has never reached \$ 1 billion over the entire duration.<sup>149</sup>

The latest trend in the graph shows an overall increase in Armenia's external debt stocks over the time. Over the period 1994-2003, gross external debt rose from roughly \$214 million to \$1994 million or about \$200 million a year. However, the foreign debt portfolio hit \$7.4 billion in 2011 or rose by \$674 million for each year after 2003. However, since 2008, a sharp rise in the volume of foreign debt stock was noted to be more than \$1 billion each year. According to the CIA World Factbook, the total foreign debt stock of Armenia at the end of 2019 was approximately \$12.8 billion.<sup>150</sup>

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<sup>146</sup> Azer Afandiyev, *Armenian economy and difficulties*, 2015, p.67.

<sup>147</sup> Azer Afandiyev, *Armenian economy and difficulties*, 2015, p.86-89.

<sup>148</sup> Azer Afandiyev, *Armenian economy and difficulties*, 2015, p.42.

<sup>149</sup> [https://www.wto.org/english/res\\_e/statis\\_e/wts2019\\_e/wts2019\\_e.pdf](https://www.wto.org/english/res_e/statis_e/wts2019_e/wts2019_e.pdf).

<sup>150</sup> <https://www.cia.gov/library/publications/the-world-factbook>.

After all, the effect of WTO accession on the Armenian economy can not be seen as optimistic. Although its GDP rose dramatically after accession, it was also followed by an increase in reliance on Russian funding and support from foreign financial institutions and Armenians. In either case, the country's gross external debt is seriously high, which approaches 60 % of GDP.

## **2.2. Current Situation on the Accession Process**

Multilateral and bilateral negotiations are the most critical and time-consuming phases of the WTO accession process. The founders of the association thus join the working party in order to pursue their own economic interests. In this context, Paul Krugman emphasizes three simple “rules” concerning the intent of the WTO members who join the negotiations: “exports are good”, “imports are poor”, “other things are equal, the same rise in imports and exports is good”. The negotiating countries are therefore seeking to secure the best conditions for their export in terms of the degree of tariffs and the government support of the acceding country for its domestic economy.<sup>151</sup>

### **2.2.1. Current situation and tariff levels**

The accession process of Azerbaijan also included the stage of multilateral and bilateral negotiations. Following the third meeting of the Working Party on Azerbaijan, discussions were held on agriculture, utilities, tariffs, etc. However, the representatives of Azerbaijan stressed the concerns of the Azerbaijan Government about the growth of the non-oil sector and the diversification of its economy at the Sixth Meeting of the Working Group, which strengthened Azerbaijan's hand in the negotiations.<sup>152</sup>

#### **2.2.1.1. Working Party for WTO negotiations**

According to the official website for the accession of Azerbaijan to the WTO<sup>153</sup>, there are 37 participating countries in the working group. The EU Parties include the USA, the European Union (EU), China, Canada, Argentina, Australia, Turkey, Brazil, Pakistan, Croatia,

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<sup>151</sup> Bagwell Kyle and Staiger Robert, *An economic theory of GATT*, 1999, p.225-226.

<sup>152</sup> WTO, *A handbook on the GATS Agreement*, Cambridge University Press 2014.

<sup>153</sup> <http://www.wto.az>.

Dominican Republic, Ecuador, Egypt, Georgia, Haiti, Honduras, Norway, India , Japan, Jordan, Korea, Ukraine, Kyrgyz Republic, Malaysia, Moldova, Nigeria, Oman, Panama, Paraguay, Philippines, Saudi Arabia, Sri Lanka, Switzerland, Taiwan, Tajikistan, Thailand and Vietnam.<sup>154</sup>

Although the accession process has already lasted more than 23 years, no substantial progress has been achieved in the bilateral and multilateral negotiations between Azerbaijan and the representatives of the working group. Thus, only Oman, the United Arab Emirates (UAE), Turkey, Georgia and the Kyrgyz Republic (bilateral protocols have been signed) and China have concluded bilateral negotiations. However, bilateral agreements with remaining members of the Working Party continue, in particular with the USA, the EU, Canada and Australia as the major countries in world trade.<sup>155</sup> In addition, these countries are the most powerful in the organization's accession to the presidency. While Russia joined the WTO in August 2012, it has not yet joined the Working Party on the accession of Azerbaijan. However, Russia is expected to join the working party in the future, which has borders with Azerbaijan.

#### **2.2.1.2. Discussed tariff levels**

It is clear that Azerbaijan wants to gain membership status in the WTO under the most favorable terms possible, which is in contrast with the interests of other Member States. Thus, Azerbaijan's initial offer for tariff negotiations is 14.4% on average and seeks to secure those main sectors of its economy by increasing import tariffs for the products concerned.<sup>156</sup> On the other hand, it aims to reduce the level of tariffs on imports of other commodities in order to preserve the present average level of tariffs. Tariff negotiations are classified into three groups, such as agricultural products, non-agricultural products and business initiatives.<sup>157</sup>

In this sense, Azerbaijan provides an average of 22,88 per cent required tariffs for agricultural products with a minimum of 0 per cent and a maximum of 80 per cent. However, the average tariff level provided by Azerbaijan for agricultural goods is higher than the comparable tariff levels of its neighbors, such as Georgia (12.4%) and Armenia (14.7%), which are members of the WTO. Moreover, Azerbaijan provides higher bound tariffs (30-50 per cent) on imports of many products which are perceived to be critical to its economy.<sup>158</sup>

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<sup>154</sup> Domulen I., *World Trade Organization*, 2009, p.63.

<sup>155</sup> Center for Economic and Social Development, 2013, <https://cesd.az>.

<sup>156</sup> Domulen I., *World Trade Organization*, 2009, p.85-86.

<sup>157</sup> Mehmet O., *The WTO and some important issues concerning world trade in goods*, 2012, p61-94.

<sup>158</sup> WTO, *International Trade Statistics*, 2014.

In the other hand, Azerbaijan's initial bid for bound tariff rate in non-agricultural goods is 10.4% on average or more generally, with a transition between 0 per cent as a minimum and 50 per cent as a limit. Zero tariff levels are specified for the import of raw materials or inputs for domestic production. The overall amount of required tariffs for non-agricultural goods is also higher than for Georgia (10.2%) and Armenia (7.7%). It should be remembered that the tariff rate suggested for both Georgia and Armenia remain the same as when they joined the WTO. Thus, the amount of bound tariffs on both agricultural and non-agricultural goods usually declines at the end of a given period of time.<sup>159</sup>

In addition, tariff talks may entail debates on achieving industry proposals for the complete elimination of tariffs or the harmonization of tariff standards in some manufacturing sectors.<sup>160</sup> Obviously, inclusion in sector projects is also an important topic with respect to Azerbaijan's accession to the WTO. Members of the WTO, in particular the USA and the EU, are also demanding that Azerbaijan enters high-level sectoral initiatives in those fields, such as information technology, chemical harmonisation, various forms of equipment (construction, irrigation, pharmacy, science) and so on, whereas Azerbaijan agrees to fully participate in the initiative only on agricultural equipment and partially on construction equipment (94%), pharmaceutical preparations (93%), scientific equipment (87%), medical equipment (78%), chemical harmonization (70%), civil aviation (45%) and information technologies (35%).<sup>161</sup>

On the other hand, WTO representatives, in particular the USA and the EU, are asking Azerbaijan to make a pledge not to offer subsidies to the service sector, to guarantee the purchase of property rights over land for foreigners within Azerbaijan, to increase the liberalization of the work of foreign experts in Azerbaijan, to provide non-discriminatory provisions for foreign service providers, and to abolish all remaining rulers. Negotiations on the accession of Azerbaijan will include negotiations on the technological obstacles to commerce, primarily in terms of standardization and registration, as well as the harmonization of the legal framework for the defense of intellectual property rights with the provisions of the WTO.<sup>162</sup>

To summarize the current situation in the accession process of Azerbaijan to the WTO, no significant progress has been made in the past 23 years with the completion of bilateral negotiations with only a few members of the working group. In addition, several other nations,

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<sup>159</sup> World Bank Press, World Bank, *Agriculture and the WTO*, 2005, p.98.

<sup>160</sup> International Trade Administration, <https://trage.gov>, 2013.

<sup>161</sup> WTO, *International Trade Statistics*, 2014.

<sup>162</sup> Mehmet O., *The WTO and some important issues concerning world trade in goods*, 2012, p108.

such as Russia, are likely to join the Working Party on Azerbaijan, which would entail the start of bilateral talks with another country. In the other hand, Azerbaijan and WTO representatives tend to insist on their own rights, which make accession more difficult. There is also less chance for Azerbaijan to become a member of the WTO in the immediate future.

### **2.2.2. Real outcomes and challenges**

Membership of the WTO is a matter for each country and combines very complicated procedures, which are specified by certain characteristics and can last from 3 to 15 years.

The WTO membership of Azerbaijan is explicitly tied to the improvement of the legislation. There are actually regulations in the fields of legislation, intellectual property and finance that do not follow the criteria of any international norms and of the WTO. Membership of the WTO will enable the country to predict the country's trade policy, increase the level of transparency, increase the number of international trade partners and resolve economic disputes more effectively. It should be remembered that the key points discussed in the agricultural agreement make it necessary to assess the upper limit and the tariff reductions.

#### **2.2.2.1 Azerbaijan's position in the negotiations**

According to the study carried out by the WTO Secretariat of Membership under the Ministry of Economic Growth of the Republic of Azerbaijan and the review carried out in the field of international economic relations, investors are searching for countries with a favorable investment climate and whose investment strategy is subject to forecasting. And membership of the WTO exerts a significant beneficial impact on attracting international investment, as the other main concept of the WTO is fearlessly invested by the international capitalist in the countries where the "social regime" is implemented. From this point of view, Azerbaijan will provide updates on developments in the country on a regular basis by maintaining close relations with members of other Member States.<sup>163</sup>

The position, to be taken by Azerbaijan while negotiations, is determined mainly in 4 key directions:

- on commodities trade;

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<sup>163</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.224-225.



- on services trade;
- on the intellectual property;
- on the matters deviating from WTO rules.

Before announcing the values of these positions, it should be remembered that, in order to avoid the undertaking of duties which do not conform to the economic interests of the nation at the same time as agreements, provisions such as the conduct of market consultation and openness in the membership mechanism would be favored:

- a) The poorest and most export-oriented segments of the economy, as well as the target directions for separate goods, must be defined and covered during the transitional phase, and customs tariffs, allowances, discounts and tax exemptions must be used efficiently. In order to maintain the relative level of average customs duties at the same rate, the goods whose production is not rational are subject to the lowest duty and the other goods – higher customs duties on imports. The upper limit indexes (bound tariffs) accounting for the security of the industrial fields needed for the defense of customs duties must be established and the higher rate of decline after membership must be regulated compared with the declining rate of the major trading partners, including those countries which are considered to be competitors of the same goods. Taking into account that the development of the industry is impossible only on the basis of customs duties, an all-inclusive and comprehensive micro-economic analysis of the relevant fields must be carried out. There must be a reduction in the prime cost, an increase in quality and the creation of sales opportunities for the produced commodity.<sup>164</sup> These researches involve proposals put out by government leaders, international scholars and donor organizations, as well as young university specialists. The acceptance of higher import duty limits on goods of considerable value to the agricultural region must be accomplished. All sources will be used to draw up a timetable reflecting the level of internal support and its nature in agriculture. Relevant inquiries and recommendations will be made to make use of the forms of subsidies placed at the highest stage following the accession process. The exemptions given under the special and differentiated regime extended to developed countries within the GATT must be

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<sup>164</sup> Suleymanov E., *The cooperation strategy of IMF with Azerbaijan Republic after independence with market economy process*, 2008, p.74.

systematically studied and their use will be studied in Azerbaijan.

- b) An ACC5 map will be drawn up to be forwarded to the WTO Secretariat for Services and Trade. This map shall include the strategy, the concession regime and the advantages applied to international and local entrepreneurs in all areas of operation within the region. In the same time as we write papers, we have to evaluate the facilities. For example, considering the availability in Azerbaijan of highly skilled accountants, complete liberalization of this market for international experts may lead to negative social outcomes. The key purpose of this report is to explain the present situation, to assess the scale of the liberalization process and to render a future initial calculation. It will allow the right recommendations to be made and decisions to be taken in strict accordance with the interests of the internal markets, while consulting local business circles.<sup>165</sup> The outcome of the negotiations concluded within the context of the multilateral trade mechanism leading to the liberalization of services are permanently controlled. It is relevant from the point of view of planning the correct answers to the proposals of an undertaking type by the Member States in connection with the new conditions.<sup>166</sup>
- c) Now we may suggest that talks on intellectual property would not be complicated for Azerbaijan. Therefore, in compliance with the provisions of the WTO, Azerbaijan is a member of the majority of the conventions on the defense of intellectual property. Around the same time, the adaptation of national laws in the area of copyright has also been made. There are plans to make some other arrangements if possible.<sup>167</sup> These involve work to join WIPO in the Performances and Phonograms Arrangements, as well as copyright and the Rome Convention. In addition, it should be remembered that some analysis would be carried out on the alignment of the regulations on agricultural property with the provisions of the GSP. New laws on “defense of the right of integral schema topologies” and “judicial defense of folklore” have been accepted. Azerbaijan is actively engaged in the creation and ratification of the International Convention on the Protection of the Law of the Folklore and has

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<sup>165</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.233.234.

<sup>166</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.236.

<sup>167</sup> Mehmet O., *The WTO and some important issues concerning world trade in goods*, 2012, p151.

already forwarded its resolution to the WIPO. In carrying out the work, careful attention must be given to the details of the exploitation of intellectual property, literary and musical works of Azerbaijan by Armenia and to the punishment of Armenia by means of the WTO conflict resolution process.

- d) Matters which deviate from the rules of the WTO fall under the category of optional WTO agreements. However, while the more recent membership procedures have been ongoing, the established WTO members have endeavored to meet commitments with respect to the execution of these arrangements and, in the majority of cases, have achieved them. Specific emphasis would also be given to the mastery of the optional rules of the WTO and their ability to make an attempt to fulfill responsibilities in compliance with the above-mentioned rules.<sup>168</sup> In theory, considering the fact that it is not of significant significance, it is appropriate to provide time and to draw certain capital at the most critical point of membership and to have a substantial impact on key agreements.

As the membership mechanism covers all aspects of the economy, all state institutions must be active in this mechanism. The specialists employed by the structure units involved would perform essential tasks, such as the provision of information and the preparing of documentation. At least one worker in each department must be active in WTO matters specifically and in full working time.

It should be remembered, in particular, that a professional agency, which is responsible for organizing all works and organizations and has adequate personnel, must carry out its activities within a State authority which is the organizer of the WTO membership process. The institution concerned must have the capacity to create relations with the WTO Secretariat, the Azerbaijan Mission in Geneva, as well as with the respective institutions of foreign countries, apart from working groups within the government.<sup>169</sup>

Taking into account the expertise of the other Member States, it should be remembered that a working committee of highly trained, seasoned experts would be set up. In addition to negotiators with significant expertise in the area of diplomacy, the Organization will involve highly trained experts in all areas. The Negotiating Committee shall arrange for the development of relations with the WTO Secretariat, the development of relations and bilateral

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<sup>168</sup> WTO, *A handbook on the GATS Agreement*, Cambridge University Press 2014.

<sup>169</sup> Bagwell Kyle and Staiger Robert, *An economic theory of GATT*, 1999, p.242.

meetings, in addition to the review of the membership documents and the criteria of the WTO, within a timeframe prior to the main point.<sup>170</sup> It which play a significant part in setting the groundwork for an agreement to be concluded during the bilateral negotiations.

The Azerbaijani Mission in Geneva must act as a bridge or an intermediary between the negotiation community and the WTO Secretariat, as well as the missions of other countries based in Geneva. At least one ambassador on the delegation must be specifically responsible for WTO affairs. If we take into account that, as decided in the Cancun Round in Geneva within the context of the WTO, discussions on essential documents will take place from December of this year, it will be very essential to name a Head of Mission with expertise in the field of the WTO before that term.<sup>171</sup>

Generally, ensuring adequate accountability in the membership process , providing information to the group on a timely basis, can prevent such non-constructive positions from taking place. Media representatives must be invited at all arrangements arranged by the WTO Secretariat, the Membership Committee and the Negotiations Community at shed light on these actions. At the same time, it will be very important to arrange training courses and seminars on the mechanisms which have arisen in the WTO, the ideology of this body and the mechanism of media membership in Azerbaijan, as well as representatives in public organizations in Azerbaijan.<sup>172</sup>

Discussions and meetings with members of the industry and public associations will take place before undertaking the commitments given to Azerbaijan during the negotiations. In this connection, it would be necessary to set up a Review Board composed of members of the corresponding divisions within the Commission.<sup>173</sup>

The topic that has given rise to intense discussions among experts is the likelihood of using preventive steps after WTO membership. In this connection, it must be remembered that the WTO rules do not forbid protectionism in its entirety, encourage customs tariffs to be raised, do not place a moratorium on quantitative controls and licenses and encourage for subsidies in some regions. However, any of these things must be carried out on the basis of standards solely defined by general laws and legal norms. Therefore, the accession of Azerbaijan to the WTO will not undermine the current possibilities of our state to control international trade, rather the reverse, will establish legal conditions for the security of national importers and exporters’

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<sup>170</sup> Mehmet O., *The WTO and some important issues concerning world trade in goods*, 2012, p143.

<sup>171</sup> Taymas Z., *Azerbaijan country economic memorandum: From crisis to sustained growth*, 1993, p.74.

<sup>172</sup> Taymas Z., *Azerbaijan country economic memorandum: From crisis to sustained growth*, 1993, p.86.

<sup>173</sup> Ministry of Economy of Azerbaijan Republic, <https://www.economy.gov.az/en/article/vto/21561>.

interests and will enable the transformation of the multilateral trade practice that has been entered by several other countries.<sup>174</sup>

We must therefore consider and recognize the WTO membership of Azerbaijan as a way of facilitating the extension of the current economic reforms and thereby summarizing the transitional phase in the short term, but not as a target of membership under favorable conditions.

According to the ideas of the experts of the Ministry of economic development, the end of the acts set out in the above-mentioned definition would occupy Azerbaijan's worthy position in the world trading system, including in the international labor market, the growth of economic ties with the other countries, the stimulation of economic development and, finally, the transformation of the economy.

#### **2.2.2.2. Important provisions for Azerbaijan in negotiations with the WTO**

The goal of the Government of the Republic of Azerbaijan to be a member of the WTO and the key issues to be preferred by the Government of the Republic of Azerbaijan, although negotiations may be listed as follows:

1. Speeding the process of incorporation into the world economic system;
2. Availing compromises given to each other by WTO members;
3. Transactions on the basis of general rules accepted by the WTO with the majority of countries in the world;
4. Increased aid to structural changes in the world through foreign organizations as well as countries;
5. Participation of significant volumes of foreign investment under the implementation of the WTO rules.
6. Obtain the right to use the WTO dispute resolution process.<sup>175</sup>

At present, a new round of talks in the WTO is being undertaken by the liberalization of foreign trade. In certain cases, each newly adopted participant is approved by the association

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<sup>174</sup> Lori Wallach, *Whose Trade Organization? A comprehensive guide to the world trade*, 2004, p.44-45.

<sup>175</sup> Ministry of Economy of Azerbaijan Republic, <https://www.economy.gov.az/en/article/vto/21561>.

under more serious conditions. Some CIS countries – Kyrgyzstan, Georgia, Moldova and Armenia – are members of the WTO.<sup>176</sup>

The requirements of membership for these countries are fulfilled by the developed countries, but not by those recognised by the developing countries. As with most CIS nations, they are at various and different levels of the membership process. Russia and Ukraine have passed the final level, i.e. the signing of the final protocols at the conclusion of all talks. At the same time, after accession, these countries will be willing to enter into negotiations with Azerbaijan with a view to undertaking those obligations.

The assistance of certain countries and, as a result of the purposeful talks conducted by the Azerbaijan Regime, the undertaking of some commitments by Armenia during its accession to the WTO was achieved. The most important responsibilities are not to place hurdles in the path of Azerbaijan to WTO membership and at the same time not to make any attempt to enforce the WTO rules in the occupied territories.<sup>177</sup>

According to the membership Conception adopted by the Commission on WTO membership of the Republic of Azerbaijan, it is envisaged that the role of the Azerbaijan State to be kept during the WTO negotiations would be based on the following principles:

- a) Obtaining equivalent compromises to other countries within the scope of the WTO, taking into account that Azerbaijan is a nation with a transitional economy;
- b) Obtaining a long-term interim time prior to the implementation of the WTO rules;
- c) Achieving the introduction of higher import customs duty on products of considerable value to the economy, in particular to the Azerbaijani industry;
- d) Decrease of duties on goods of little value and raise of duties on other goods where the reduction in duties is necessary for the preservation in average duties at the same level;
- e) Achieving the introduction of the differentiated settlement regime for Azerbaijan, which was provided for developing countries in the field of services during negotiations. Do not authorize the liberalization of work laws for

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<sup>176</sup> Roman Mogilevsky, *Participation in WTO and regional trade agreements: Kyrgyzstan's experience*, 2005, p.68.

<sup>177</sup> WTO, *The WTO dispute settlement procedures: A collection of the relevant legal texts*, Cambridge University Press, 2001.

- foreigners in the event of the existence of local experts in different fields;
- f) Achieving the granting of subsidies up to 10% of the annual agricultural products while negotiations on subsidies in the field of agriculture.<sup>178</sup>

## **2.3. Economy of Azerbaijan in Transition Period**

### **2.3.1. Azerbaijan Economy in Transition Period: Historical and Graphical Interpretation**

The first years of independence have been very difficult for the Republic of Azerbaijan, both strategically and economically. More specifically, economic issues were primarily the result of the country's political transitions. Thus, the years 1991-1994 are referred to as the first era, the era of recession or the period of downturn in the economic growth of Azerbaijan by different scholars. Unfortunately, this era of Azerbaijan's economy has not been analyzed separately by determining all the causes of economic downturn. Here, during this phase of its transition to the market economy, we will address political-military and economic problems for Azerbaijan.<sup>179</sup>

#### **2.3.1.1. Recession Period: 1991-1994**

Before 1991, Azerbaijan was part of the Soviet Union until independence. The country's economic structure was centrally planned (CPE) during this time.

After regaining its independence, Azerbaijan sought to turn its economic structure into a market economy that demanded privatization and liberalization in all sectors of the economy. However, Azerbaijan was faced with a severe political and economic crisis in the early years of independence.<sup>180</sup>

At the time of the Soviet Union (SU), the country's economic structure was structured to fulfill the geopolitical requirements of the SU. Land planting was performed jointly through large output cooperatives and state farms, many of which were under the jurisdiction of the government.<sup>181</sup> Despite its independence, CPE continued to maintain its influence in the economy in the first century. Privatization could not be initiated due to political turmoil and

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<sup>178</sup> Bulletins of WTO and trade strategy center, KDI school of public policy and management, 2015.

<sup>179</sup> Suleymanov E., *The cooperation strategy of IMF with Azerbaijan Republic after independence with market economy process*, 2008, p.143-146.

<sup>180</sup> Alkan Soyak and Zenfira Nesirova, *The consequences of IMF's policies in the Globalization process: The case of Azerbaijan*, 2003, p.3.

<sup>181</sup> Lermana Z., *Agriculture in transition Economies: From common heritage too divergence*, 2000, p. 96.

continuing war with Armenia. In addition, within the first three years of independence, the President of Azerbaijan has been elected three times. The Communist Party was still in the administration, and Ayaz Mutalibov, the first president of Azerbaijan, was “dependent” on the central government. He was unhappy with national issues and pursued Russia-oriented policies.<sup>182</sup>

However, under the leadership of Abulfaz Elchibey or the Azerbaijan People’s Front Party (APF) after May 1992, the country’s stance shifted to a “nationalist” Turkish foreign policy that exacerbated the country’s economic burden on Russia and Iran.<sup>183</sup> In short, the continuing conflict between Azerbaijan and Armenia, the loss of territory, the issues of refugees and IDPs, the turmoil of political regimes, the Russian trade blockade, the Chechen conflict and other political causes contributed to the worsening of economic difficulties during this time of transformation.<sup>184</sup>

Moreover, the fall of the Soviet Union prompted the dissolution of trade relations with other post-Soviet nations, the reduction of the country’s position of those markets, and the absence of central government subsidies.<sup>185</sup> Moreover, the breakdown of the “inter-Republican exchange agreements” and the delay in the “inter-Republican payment schemes” have contributed to a decrease in demand.<sup>186</sup>

In the 1990 GDP growth rate was negative, but not significant, in the first year of independence. However, GDP contracted by an average of 21,8 per cent in the other years of this century. As a result , the value added in the sectors of the economy fell significantly in 1995 relative to the comparable 1990 metrics.

As a result, agriculture accounted for just 32.7% of the 1990s and production-77.5%, industry-64.5% and services-64.3% respectively. In the other hand, gross export volumes fell more than 2.32 times in 1994 compared to 1992-\$1.484 billion (\$730 million in inter-Republic and \$754 million in extra-Republic exports), primarily due to a decline in exports of oil and gas and chemical goods.<sup>187</sup>

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<sup>182</sup> Yunusov A., *Twenty years of independence in Azerbaijan*, 2001, p.62.

<sup>183</sup> Ismailzade F. *Turkey-Azerbaijan*, 2005, p.2.

<sup>184</sup> Kaynak E. and Nasirova Z., *The transition period of C.I.S. Economies: Oil based economic development strategy of Azerbaijan*, p.40.

<sup>185</sup> Suleymanov E., *The cooperation strategy of IMF with Azerbaijan Republic after independence with market economy process*, 2008, p.171.

<sup>186</sup> Taymas Z., *Azerbaijan country economic memorandum: From crisis to sustained growth*, 1993, p.117

<sup>187</sup> World bank report, 1995, p78.



Table 3: Change in main macroeconomic indicators: 1990-1994

Indicators	Years	1990	1991	1992	1993	1994
GDP (mln. USD)		8858.006	8792.366	4991.350	3973.027	3313.739
GDP growth (%)		-	-0.7	-22.6	-23.1	-19.7
Inflation (%)		-	-	46.2	1128	1662.2

Source: World BankDatabase

Hyperinflation as the main problem of this time was also observed in the subsequent years of market liberalization in most transitional countries in Azerbaijan, 1992. While the inflation rate was 46.2 per cent in 1992, it rose dramatically to four digits, such as 1662.2 per cent in 1994. And the key source of hyperinflation was budget deficit funding by money printing by the country's central bank.<sup>188</sup>

A new president comes to the country in 1993. After the change of rule, the aim was to maintain political stability and central government authority over all affairs within Azerbaijan, under the leadership of the new president, Heydar Aliyev. In this sense, Azerbaijan and Armenia concluded a ceasefire deal in May 1994, which enhanced the attractiveness of the country to FDIs. Moreover, Azerbaijan welcomed foreign oil firms to invest in its oil industry as a result of the signing of the "Bill of the Century" on 20 September 1994. The deal was estimated at \$60 billion, with 33 firms from 15 different countries, which improved Azerbaijan's position in the FDI performance index to the top in the years to come.<sup>189</sup>

To sum up, this time was marked by a rapid rise in hyperinflation and a decrease in overall production. However, the creation of the National Bank and the National Currency should be regarded as a welcome event of that time. In either case, the initial requirements of the transition phase for Azerbaijan became difficult to introduce market economy reforms. As a result, Azerbaijan entered a new transformative era in 1995 with two key events: the truce agreement and the "Deal of the Century" which would bring the nation to a better position.

<sup>188</sup> Kaynak E. and Nasirova Z., *The transition period of C.I.S. Economies: Oil based economic development strategy of Azerbaijan*, p.41.

<sup>189</sup> Bayulgen O., *Facing the dilemma of global capitalism: the case of Azerbaijan*, 2003, p.209.

### 2.3.1.2. Restructuring Period: 1995-2005

Since 1995, the government's key goal was to restructure the decayed economy with the effect of a recession. Most scholars believe this time to have lasted until 2003 due to a transition in the presidency and a new reform policy for the social and economic growth of the Azerbaijani regions. However, I recommend that this time be studied until the end of 2005 as part of this study, which is the year of the opening of the Baku-Tbilisi-Ceyhan pipeline. In addition, 2005 marks the turning point in Azerbaijan's economic progress with high-speed economic growth and a major positive change in the current account.

In addition, Azerbaijan began introducing progressive economic policies in 1995, in cooperation with the IMF, in the form of its ambitious stabilization policy to combat hyperinflation.<sup>190</sup> As a result, the implementation of exchange rate-based orthodox systems in Azerbaijan has been very effective in reducing inflation to one-digit lows within a limited period of time. At the same time, Azerbaijan managed to obtain loans from the IMF only after the introduction of the stabilization programs funded by the IMF, amounting to \$219 million in December 20, 1996, particularly for structural reforms.<sup>191</sup>

In addition, the adoption of the constitution of Azerbaijan on 12 November 1995 was also a critical occurrence in terms of providing a legal framework for economic activities. Azerbaijan has established its partnership with the World Bank and other foreign organizations which have also promoted the transformation of the economy. As a result, 31 World Bank projects with a cumulative amount of \$726.72 million were carried out in Azerbaijan during this transformative time. However, the occupation of 20% of its territory, the problem of migrants and IDPs remained a significant obstacle to the reconstruction of the economy. As a result, the nation has lost a large portion of its development capacity as well as increased unemployment in terms of migrants and IDPs.<sup>192</sup>

The oil sector was restructured in the sense of the "Deal of the Century" in collaboration with international energy firms. After maintaining stability, the government introduced structural reforms aimed at creating a market economy framework that demanded policy adjustments in macroeconomic stabilization, price and trade liberalization, privatization, funding for new enterprises, and the establishment of a supporting legal base.<sup>193</sup> In the

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<sup>190</sup> Petros C. Marvoidis, *The Regulation of International Trade*, London, 2016, p.213.

<sup>191</sup> Yunusov A., *Twenty years of independence in Azerbaijan*, 2001, p.79-80.

<sup>192</sup> World Bank Press, 2013, p.12.

<sup>193</sup> Aslund A, Boone P. and Johnson S., *How to stabilize: lesson from post-communist countries*, 2018, p.251.

background of such economic policies , the government has introduced agricultural reforms such as the allocation of land to the private sector and the redistribution of the holdings of the former “Sovhozes” and “Kolhozes”.<sup>194</sup>

The land area was, however, split between households rather than forming cooperatives throughout the privatization process. In 2002, 96 per cent of the “raised land” and 98 per cent of the “livestock inventories” were split between individual farmers and 80 per cent of them were farmed on their own, although only 1/10 of the total property was leased to others. This kind of privatization and farming prevented the formation of agricultural cooperatives, which are essential for better success in foreign competition.<sup>195</sup>

In 1995, the parliament of Azerbaijan approved a privatization policy proposed by the president to privatize 70% of state enterprises. Initially, small and later medium-sized and large companies will be privatized by introducing the process of redistribution of vouchers.<sup>196</sup> Vouchers were circulated among the citizens of Azerbaijan that anyone might purchase them for the private company of the state. According to the EBRD Transformation Study 2005, the share of the private sector in Azerbaijan’s GDP was 60% by mid-2005. In addition, Azerbaijan’s transformation predictor scores (measuring between “1” and “4 +”) for 2005 have been “2” in large-state privatization and competitiveness regulation, “4” in small-state privatization, “4” in price liberalization and the trade and foreign exchange regime.<sup>197</sup>

Table 4: Change in main macroeconomic indicators: 1995-2005

	GDP (mln \$)	GDP growth (%)	Inflation (%)	Current account balance (% of GDP)
1995	3052.4	-11,8	411.75	-13.12
1996	3176.7	1,3	19.79	-29.31
1997	3962.7	5,8	3.67	-23.11
1998	4446.4	10	-0.77	-30.69

<sup>194</sup> Thomas J., *Propert Rights*, 2016, p.228.

<sup>195</sup> Dudwick N., *Land reform and farm restructuring in transition countries: The experience of Bulgaria, Moldova, Azerbaijan and Kazakhstan*, 2007, p.34.

<sup>196</sup> World Bank Press, 2005, p.15.

<sup>197</sup> EBRD, <https://www.ebrd.com/downloads/research/transition/TR05.pdf>, 2005.

1999	4581.2	7,4	-8.52	-13.09
2000	5272.6	11,1	1.80	-3.19
2001	5707.6	9,9	1.54	-0.91
2002	6236.0	10,6	2.77	-12.32
2003	7275.7	11,2	2.23	-27.77
2004	8680.5	10,2	6.70	-29.83
2005	13245.4	26.4	9.67	1.26

Source: World Bank, World Development Indicators

As a result of structural reforms and drawing FDI to Azerbaijan's oil market, the recession period ended and strong economic growth (out of 1995) was observed. This is also mirrored in the economic indices of the period. According to Table 4, GDP grew by about three times in 2004 and four times in 2005 relative to GDP in 1995. The inflation rate fell from 1662 per cent of the previous year to 411 per cent in 1995. In addition, it declined steadily until 2001 and deflation was detected in 1998 and 1999.

As a result of the liberalization of trade, the volume of imports has always surpassed the level of exports during this time. The proportion of the current account deficit to GDP was significant before 1998 or the first oil in the "Deal of the Century". However, this proportion increased again after 2001, primarily due to lower oil prices on the world market, because oil was the most valuable product in the country's exports. In addition, the oil deal and the introduction of economic reforms have strengthened Azerbaijan's attractiveness to FDIs.

In addition, according to the World Bank Index, the value added rose 1.57 times in agriculture, 2.44 times in construction, 8.22 times in business and 2.94 times in services in 2005 relative to 1995. However, the share of industries in GDP has increased relative to agriculture (2.75 times), manufacturing (1.78 times) and services (1.32 times). In the other hand, the share of industry in GDP rose 1.89 times during the same period, primarily as a result of the rise in oil and gas production. The share of oil and gas was thus 42.2 per cent of GDP, 75 per cent of industry, 86.5 per cent of overall exports and 94.2 per cent of FDI in 2005.<sup>198</sup>

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<sup>198</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.283.

After the 2003 presidential election of Azerbaijan, the new president – Ilham Aliyev – came to the administration. He vowed to generate 600,000 new jobs over the next five years, which had been nearly completed.<sup>199</sup> In addition, the “State Policy on Social-Economic Growth of the Regions of the Republic of Azerbaijan for 2004-2008” was introduced, which aims to reduce the social-economic development gap between the regions of Azerbaijan as much as possible by fostering regional growth, supporting main sectors of the regions, developing export-oriented goods and ensuring new employment opportunities. As a result, the latest pattern in the historical growth of Azerbaijan’s economy has not so far been tied, in particular, to the construction and opening of the Baku-Tbilis-Ceyhan pipeline and to the rapid rise in oil output under the “Deal of the Century”.

The estimation of the transformation phase of the Azerbaijan economy may be unclear. Achieving continuity in the political climate has helped the inflow of FDI and economic development. If only the country’s macroeconomic success were to be measured, the “rate” of development would be very good. However, the thorough study reveals that this “rate” is very closely linked to oil production , especially in 2005. As a result, Azerbaijan’s oil-based growth could have additional negative impacts on other sectors of the economy dubbed “Dutch Disease”. Despite oil-based changes and the mistakes made in privatization, especially in the agriculture sector, which still retains its negative impact on international competitiveness, the journey from recession to this stage of growth under these circumstances can be seen as a victory. In addition, opening the BTC pipeline to be used in May 2005 will carry Azerbaijan through another phase of economic growth dubbed the oil boom.

### **2.3.1.3.Oil Boom Period: After 2005**

The oil industry is not new to Azerbaijan’s economy, as it was the main producer of oil in the early twentieth century. Moreover, Azerbaijan’s rank in oil production by modern drilling equipment was first developed in the 19th century.<sup>200</sup> While Azerbaijan began processing its oil independently after the fall of the Soviet Union, there were major problems in the transport and supply of Azerbaijan’s oil to world markets. That is why the oil boom in Azerbaijan began after the opening of the BTC pipeline, which resolved the problem described above. The pipeline was built to supply Azerbaijan’s oil to Turkey’s Ceyhan Seaport from Georgia, with a length

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<sup>199</sup> Escudero S., *Azerbaijan and the global economic crisis: Sustaining stability*, 2001, p.10.

<sup>200</sup> Smith P., *Azerbaijan: Second oil Boom predicted*, 2001, p.28.

of 1760 km and an production potential of 1 million barrels per day.<sup>201</sup> In addition, the Baku-Tbilisi-Erzurum (BTE) gas pipeline was installed in 2004-2007 to provide Azerbaijan with 30 billion cubic meters of gas export potential to the Turkish and international markets.<sup>202</sup>

The completion of the BTC pipeline in 2005 dramatically improved oil production and exports, which means massive profits from energy, which dramatically changed the nature of the country's economy. As a result, oil output was above 42 million tons after 2007 and also approached 50 billion tons in 2009 and 2010, but in subsequent years the amount of production declined to 43 million tons in 2018.<sup>203</sup> As a result, Azerbaijan's GDP increased by 34.5% in 2006 and by 25.05% in 2007. However, GDP growth declined after 2007, which was just 1% in 2018 due to the fall in oil demand. Amid the downturn, the economy of Azerbaijan expanded by 4.45 per cent in 2018.

This era is also characterized by a rise in the intensity of inflation in the world. Thus, the inflation increased and became in two digit numbers for the first time after 1996 which was the result of high-speed economic growth or over-heating of the economy associated with oil production. Revenues of the State Oil Fund of Azerbaijan Republic (SOFAZ) which was established to accumulate the revenues from oil and gas production became \$66.3 billion within 2001-2019 where \$64.1 billion had been gained within 2005-2019.<sup>204</sup> And it is predicted to become \$200 billion until 2024.<sup>205</sup> Consequently, the huge amount of oil revenues led to the sharp increase in state budget or government expenditures through transfers from SOFAZ which raised the amount of national currency (manat) in circulation.

Table 5: Change in main macroeconomic indicators: 2006-2019

Year	GDP (mln \$)	GDP growth (%)	Inflation(%)	Current account balance (% of GDP)
2006	20982.3	34.5	8.37	17.67

<sup>201</sup> Cornell S. and Ismailzade F., *The Baku-Tbilisi-Ceyhan Pipeline: Indicators for Azerbaijan*, 2005, p.61.

<sup>202</sup> Aras O. and Suleymanov E., *The importance of Azerbaijan's energy revenues in its exports volume and the effects on the national economy*, 2012, p.228.

<sup>203</sup> State Oil Company of Azerbaijan Republic, <https://socar.az/socar/az/economics-and-statistics/economics-and-statistics/oil-production> 2013.

<sup>204</sup> State Oil Fund of Azerbaijan, [https://www.oilfund.az/uploads/annual\\_2011en.pdf](https://www.oilfund.az/uploads/annual_2011en.pdf), 2011 p.11.

<sup>205</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.282.

2007	33049.4	25.05	16.6	27.3
2008	48852.5	10.8	20.8	33.7
2009	44291.5	9.3	1.4	22.97
2010	52906.0	5	5.86	28.43
2011	63403.7	1	7.85	27.04
2012	67197.7	4.45	1.06	22.3
2013	74165.3	1	1.9	16.1
2014	75246.1	-17.7	2.1	13.9
2015	53077.5	-32.8	1.3	-0.4
2016	37879.6	8.1	14.6	-3.6
2017	40812.4	17.5	10.8	5.5
2018	47115.7	1	6.5	7.9
2019	48055.3	2	3.9	8.2

Source: World Bank, World Development Indicators

Indeed, the spending of the State budget rose 7.2 fold compared to 2005 for which SOFAZ payments amounted to 42.5 per cent or \$24,800.0 mln of the overall amount of budget expenditure reported (\$58,317.8 mln) in the period 2006-2019.<sup>206</sup> In addition, about 15 per cent of the state budget's own receipts were also related to oil and the non-oil fiscal deficit became 32 per cent of GDP in 2018.<sup>207</sup> As a result of a sharp rise in oil exports, the current account

<sup>206</sup> State Oil Fund of Azerbaijan, Annual report 2011, p.19.

<sup>207</sup> Boyarchuk D., *Azerbaijan's fiscal policy after the oil boom*, 2012, p.8.

balance was strong, also 33.7% of GDP in 2018, of which the share of oil and gas in gross exports was more than 90% in 2006-2019.<sup>208</sup>

The distribution of value-added GDP among sectors of the economy is also at the center of interest. According to the Global Growth Index<sup>209</sup>, value-added GDP, manufacturing, manufacturing and services have risen by 5.07, 3.2, 5.12 and 5.6 times in 2019 respectively. In comparison, there has been a small shift in the proportion of industries in the country's GDP. As a result, the share of agriculture in value added GDP declined from nearly 9 per cent in 2005 to 5.7 per cent in 2019. In the other hand, the share of utilities rose slightly from 24.4% in 2005 to 27.2% in 2019. The improvement in the share of manufacturing is very small (less than 1%), but still controls the economy with a share of 59.4% of GDP.

Amid high levels of economic growth, some core problems persist, such as high levels of oil dependency, economic diversification and less production of export-oriented sectors of the economy. In addition, there is a disparity in the allocation of labor force and GDP output between sectors of the economy, as well as the gap in labor force earnings due to this mismatch. As a result, only 1% of the overall labour force is employed in the oil and gas sectors and 50% in agriculture. This means that 50 per cent of the entire labour force generates a very small share (5.7 per cent) of GDP, while 1 per cent makes a large portion of it. Obviously, this is often expressed in the wages of employees in various industries.<sup>210</sup>

To sum up, the economic growth of Azerbaijan during this time was largely linked to a dramatic rise in oil production. Macroeconomic success can be perceived to be very good at first glance. However, some issues exist in the economy. Decreasing oil and gas dependency and disparity between sectors of the economy, as well as developing a diversified economy with a large export-oriented industry, could make Azerbaijan a better location.

### **2.3.2. Development of Azerbaijan despite the Armenian invasion**

The Republic of Azerbaijan is the largest nation in the South Caucasus region in terms of size, population and economic strength. It enjoys a good geographical position, as at the junction of Asia and Europe, and is surrounded by Russia in the North, Iran in the South, Georgia in the North-West, Armenia in the West, Turkey in the North-West and the Caspian

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<sup>208</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.283.

<sup>209</sup> World bank report, 2013, p.13.

<sup>210</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.285-286.



Sea in the East. It also has maritime ties with Russia, Iran, Kazakhstan and Turkmenistan. While the internationally recognised territory of Azerbaijan is 86,6 thousand square kilometers, 20 per cent of it was controlled by the Republic of Armenia in 1992-1993. Its population is approximately 9.4 million, of which about 1 million are refugees and IDPs as a result of an armed war with Armenia. The country is rich in natural resources , particularly oil and gas. In addition, Azerbaijan has tremendous potential for agriculture and tourism growth in terms of climate conditions.<sup>211</sup>

All the information given above is intended to give the readers an impression on the Republic of Azerbaijan and on the conditions under which the economic development of the country has been achieved. Here, after the end of the economic recession of 1994, we will discuss the trend in GDP and its components. We will analyze the changes in the GDP and GDP components of the Azerbaijan economy in two ways: including and excluding the contribution of the oil and gas sector to GDP, industry and exports of the country.<sup>212</sup>

There was no major shift in both the GDP pattern and the patterns in its components until 2004. However, with the completion of the Baku-Tbilisi-Ceyhan (BTC) pipeline in May 2005, there was a sharp rise in both GDP and industry until 2008.

Increased oil prices have also had a positive effect on GDP and industrial development. As a result , the price of oil per barrel rose from \$50 in 2007 to \$140 in the summer of 2008, which dropped to \$40 by the end of the same year. That is why Azerbaijan's GDP rose by approximately \$16 billion in 2008, primarily due to a rise in industrial, more specifically, oil production. However, as a result of the sharp fall in oil prices and the 2008 financial crisis in the world economy, a decline in GDP and industrial production was observed in 2009. Since 2009, both GDP and industrial production improved dramatically. However, industrial production declined marginally after 2011, mostly due to a reduction in oil demand.<sup>213</sup>

On the other hand, little variation has been observed in terms of both agricultural and service production over the entire period. As a result, the improvement in the agriculture sector has been very small compared to GDP growth. However, the value added in the service sector has grown significantly in line with the rise in GDP since 2005. As a result , the value added in

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<sup>211</sup> Kaynak E. and Nasirova Z., *The transition period of C.I.S. Economies: Oil based economic development strategy of Azerbaijan*, p.49.

<sup>212</sup> Aras O. and Suleymanov E., *The importance of Azerbaijan's energy revenues in its exports volume and the effects on the national economy*, 2012, p.201.

<sup>213</sup> Smith J., *The 2008 Oil Price Shock*, <https://www.rff.org>, 2009.

the service industry surpassed \$39.4 billion in 2019, which is 12.4 times the equivalent amount in 2005.<sup>214</sup>

### **2.3.2.1. The effect of oil prices in Azerbaijan economy**

As a result of the oil impact, the export trend is almost in line with the manufacturing trend. The country has also seen an growing trend in imports, particularly after 2005 (decreased only in 2009). Since 2005, a very high trade surplus hit \$20 billion in 2008 and \$28 billion in 2019, mostly due to oil exports.

While Azerbaijan's economy has been characterized by high-speed economic growth up to the last few years, growth itself has been at the core of discussions over the time, particularly after 2005, in terms of dependence on the oil sector.<sup>215</sup>

As a result, the difference between industrial production with and without oil and gas has grew dramatically after 2005, which grew to \$26 billion in 2008 and \$37 billion in 2019. As a result , the share of oil and gas production in the sector was 70-80 per cent, which is very high. The situation in the export market is even more critical. As a result, the share of oil and gas in overall exports was more than 70% after 2000 and between 82-91 percent in 2005-2019.<sup>216</sup>

However, both of these were still anticipated in the sense of the “Deal of the Century” several years ago. The most interesting issue is what kind of non-oil and gas patterns have been identified during this time. Non-oil and gas GDP has increased significantly after 2005. As a consequence, its worth in 2019 is eight times that of 2005. Approximately the same outcome is also attributed to a rise in the performance of the non-oil and gas sector in the period 2005-2019. In addition, the overall number of non-oil and gas exports has rose by 9.8 times (2019) relative to 2005.<sup>217</sup>

All non-oil and gas trends have slow-speed increasing tendency during the whole period. This proves that non-oil and gas sector did not decline in parallel with oil production. However, this should not be considered as that other sectors have not been affected by sharp

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<sup>214</sup> Aras O. and Suleymanov E., *The importance of Azerbaijan's energy revenues in its exports volume and the effects on the national economy*, 2012, p.147-149.

<sup>215</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.291-292.

<sup>216</sup> Suleymanov E., *The cooperation strategy of IMF with Azerbaijan Republic after independence with market economy process*, 2008, p.183-185.

<sup>217</sup> Kaynak E. and Nasirova Z., *The transition period of C.I.S. Economies: Oil based economic development strategy of Azerbaijan*, p.65-65.

increase in oil production and following huge revenues. Nevertheless, any research about Azerbaijan economy should take into consideration the occupation fact of its 1/5th territory and living in military conditions. As a result, Azerbaijan's foreign debt hit \$2.2 billion in 2005 and \$9.3 billion in 2018.<sup>218</sup>

Both non-oil and gas patterns have a slow-speed growing across the entire period. This indicates that the non-oil and gas market did not collapse in line with oil production. However, this should not be taken into consideration as other markets have not been hit by a sharp rise in oil output and massive revenues. However, any study on Azerbaijan's economy should take into account the occupation of its 20% territories and life under military conditions.

#### **2.4.Reasons behind Delaying of the Accession Process**

Despite the long-standing accession process, Azerbaijan has not gained WTO membership status. Moreover, the accession procedure itself can not be assumed to have been adequately effective in the face of this lengthy span of time. Several explanations can be offered as the cause of delaying membership. They can be both politically and economically entrenched.<sup>219</sup>

Often a country applies for membership of the WTO, which is followed by the formation of a working group, but does not take the other requisite steps, such as the preparation and submission of a memorandum, or does so after a long period known as the "poor follow-up" as the normal case for the accession of countries in transition.<sup>220</sup> In this regard, while Azerbaijan applied for membership of the WTO in June 1997, it submitted a memorandum on its foreign trade system in April 1999. In addition, as we mentioned above, there were serious problems concerning the preparation of the necessary documentation and the response to the questions posed by the working party members on Azerbaijan during the first years of the accession process. As a result, Azerbaijan with international assistance only ended the submission of the necessary documentation to the WTO Secretariat in mid-2004. Therefore, the main reason for delaying the accession process until 2004 should be considered that the Government of Azerbaijan has been inexperienced in this kind of matter.<sup>221</sup>

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<sup>218</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.296.

<sup>219</sup> Ciarreta A. and Nasirov S., *Development trends in the Azerbaijan oil and gas sector: Achievements and challenges*, 2012, p.299.

<sup>220</sup> Michalopoulos C., *WTO accession for transition economies: Problems and prospects*, 2000, p.74.

<sup>221</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.360.

### 2.4.1. Karabakh problem

On the other hand, the Nagorno-Karabakh problem between Azerbaijan and Armenia is also considered to have a “indirect effect” on the accession mechanism in terms of restricting the reach of technical assistance offered by WTO representatives, increasing the relevant concerns posed during the accession of Armenia and calling it a possible hindrance to congressional development support. The latter, in particular, is focused on the Jackson-Vanik amendment (section 907) which restricts US aid to Azerbaijan.<sup>222</sup>

In addition, Armenia (a member of the WTO) is often seen as a barrier to Azerbaijan’s accession to the WTO. However, Mahmoud Mammadguliev, Deputy Foreign Minister and Chief Negotiator of the accession process of Azerbaijan, reported that “Armenia had sent a letter indicating that it did not resist the accession of Azerbaijan to that organisation” at the time of its accession to the WTO.<sup>223</sup>

As mentioned above, negotiators in multilateral and bilateral agreements often follow their own economic interests. In this way, Azerbaijan and other negotiation countries are striving to seek the best result for themselves. That is why it takes a long time for multilateral and bilateral agreements to end. When we look at the meetings of the working party on the accession of Azerbaijan, we find that there are a range of big contested economic problems, such as the bound amount of tariffs, government funding for agriculture, membership status, participation in sectoral initiatives, etc.

Azerbaijan insists on membership of the WTO with the status of a developing country, which will guarantee certain provisions, such as a longer period of time for the enforcement of all WTO commitments, separate consideration when implementing regulations in some areas, such as anti-dumping and technological barriers to trade, 10% de minimis prospects for subsidizing the agriculture sector, provision for trade controls, etc. Agriculture is, in particular, the main issue in the negotiations.<sup>224</sup>

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<sup>222</sup> United Nations Publication, *Accession to the WTO: Issues and recommendations for central Asian and Caucasian economies in transition*, 2001, p.112.

<sup>223</sup> Akhundov A., *Deputy Minister: Azerbaijan should not cooperate with Armenia in case of WTO accession*, 2012.

<sup>224</sup> WTO Founding Agreement, Article XII.

## 2.4.2. Ongoing negotiations and future plans of Azerbaijan Government

More importantly, Azerbaijan plans to maintain government control of trade with other countries even after its accession to the WTO. In addition, it insists on achieving the highest minimum standard that would allow it to shield its agriculture sector from potential negative effects of accession. However, it is in the interests of Azerbaijan rather than all sides in the negotiations that certain nations, in particular the USA and the EU, insist on accession of Azerbaijan to the WTO with the status of a developing country, as well as on granting a minimum standard of 5% by subsidizing their own agricultural sector. In this regard, the success of the talks is closely connected to the consensus achieved by both parties, which leads to a pause in this accession process.

Another central concern in the accession negotiations relates to the harmonization of Azerbaijan's laws with WTO norms. Thus, "the second question, of course, is the enhancement of regulations in order to conform with WTO requirements. There are 40-50 records, 30 of which have been accepted in compliance with the criteria of the organisation. Moreover, some analysts consider the hegemony and apprehension of inclusion in Azerbaijan's economy and government to be the key reasons behind the delay in the accession process, but these are just hypotheses that have not been proved to be important."<sup>225</sup>

However, the impact of the oil factor on the accession process is clearly understandable. As mentioned above, Azerbaijan has emphasized the dependence of its economy on oil and, in particular, on exports, as well as the diversification and development of non-oil economy issues. In addition, oil receipts offered an incentive for the Government of Azerbaijan to support a 10% de minimis standard in the event of negotiations. However, Azerbaijani economists consider that "as long as the price of oil remains high, there is little reason for Azerbaijan to join the WTO".<sup>226</sup>

In the other hand, some economists think that growing liberalization after each round of WTO negotiations makes it more difficult for an applicant country to feel that extending the accession process will increase the future difficulties. In addition, the accession of post-Soviet countries to the WTO would also raise the complications in Azerbaijan's accession mechanism, which will inevitably also entail bilateral talks with Azerbaijan.<sup>227</sup>

In summary, different explanations can be offered as the reason for delaying

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<sup>225</sup> Center for Economic and Social Development, *Azerbaijan may join the WTO if government of Azerbaijan speed up membership negotiations*, 2012, <https://cesd.az>.

<sup>226</sup>Center for Economic and Social Development, *What new negotiations promise?*, 2012, <https://cesd.az>.

<sup>227</sup> Bulut C., *The evaluation of Azerbaijan's WTO accession*, 2007, p.66-67.

Azerbaijan's accession to the WTO. However, we addressed relatively more relevant issues such as inadequate follow-up, the Nagorno-Karabakh dispute, disagreement on membership status and the extent of agricultural assistance, the alignment of legislation with WTO requirements, the oil factor and the timing issue. In the light of these factors, Azerbaijan's accession process is expected to take several more years from the future.

## Chapter 3

### 3.WTO'S CONTRIBUTION TO INTERNATIONAL TRADE AND AZERBAIJAN

#### 3.1. WTO's role in the increase of world trade

The new world order, which started at the end of the twentieth century and is spreading rapidly in economic, political, social and commercial areas, forces countries to be closer to each other and to establish close relations in every field. A closed economy can no longer develop in the new world order and is not self-sufficient. In this context, WTO was established in order to support commercial globalization and it has greatly benefited globalization. Because the establishment purpose of the WTO, which is one of the three pillars of globalization, has been to ensure the free movement of capital in the world market.

Although international trade is not the only source of economic growth, it has been quite influential in the development of the world economy. In this sense, international organizations such as the WTO, IMF and WB, whose foundations were laid after the Second World War, form the basis of the world economy. The mission of the IMF was to ensure stability in world markets and to eliminate the difficulties faced by countries in their foreign payments, while the duty of the WB was first to raise the post-war European Union economy, and then to support the development program of developing countries.<sup>228</sup> With the establishment of IMF and WB, many developments have been made within the scope of structural adjustment policies, especially in areas such as foreign trade liberalization and privatization. The regulation of world trade, which is an important pillar of the world economy, the free movement of capital and the creation of common legal legislation are left to the WTO. The adventure of world trade, which started with the GATT 47 Agreement, gained legal qualification with the establishment of the WTO and created a very comprehensive legal discipline from financial services, patent issue, state aid, agricultural support, textile and clothing sectors.<sup>229</sup>

International trade has entered a new era through national economic breakthrough programs and “neoliberal” foreign trade policies that started after the Second World War. In this sense, free trade practices were gradually implemented with the decisions taken in the

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<sup>228</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.199-200.

<sup>229</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.24.

meetings and rounds within the scope of GATT and the subsequent WTO. For example; While the industrial products customs tax was 40% in 1947, this figure was reduced to 10% at the end of the 1960s, to 5% in 1990, and to 2% as of 2018.<sup>230</sup>

After the Second World War, there was a great increase in international trade. In this context, world trade increased by 60 billion dollars in 1948, 110 billion dollars in 1958, and increased more than twice in 1968 compared to 1958 and reached 240 billion dollars. When we look at it in 2001, this figure exceeded 12 trillion 676 billion dollars. This positive increase in world trade continued until the 2008 crisis and the world trade volume of goods increased to 16 trillion 154 billion dollars. With the crisis, this number decreased again to 12 trillion 554 billion dollars. However, with the contribution of developing countries since 2010, world trade has started to rise again, overcoming the negative effects of the crisis. As a matter of fact, according to the demonstrators of 2019, this figure rose to 19 trillion 480 billion dollars.<sup>231</sup>

### **3.1.1. Increase of world trade**

The fact that the USA gained the most from the Second World War undoubtedly increased the role of the USA in the establishment of the new world order and the establishment of new organizations. The fact that Europe, which was defeated in the war on the one hand, and the Soviet Union, which received a great economic and political blow despite winning the war on the other, caused the USA, who was away from the war, to come to the fore in the field of industry.<sup>232</sup> For this reason, industrialized countries, especially the USA, supported the free movement of capital and the establishment of organizations such as IMF, WB and WTO, which are the basis of globalization, in order to access new markets. In the light of all these developments, in this part of the study, it will be more efficient to examine the contribution of the WTO to world trade firstly in general and then across the country separately.

From the second half of the nineteenth century to World War I, free trade was based solely on the strong economies of the great states. In the next half century, this habit was broken and free trade, although in certain sectors, also included developing countries. Developing countries such as Brazil, Mexico, South Korea, Taiwan, Hong Kong and Singapore owe their breakthroughs in the 1970s to international trade. In the research conducted by the World Bank and IMF officials between 1963-1993 and covering developing countries, the relationship

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<sup>230</sup> Robert Went, *Globalization Neoliberal Claims Radical Responses*, 2019, p.27.

<sup>231</sup> Azerbaijan Statistic Year Book, Economy and Foreign Trade Report, 2020.

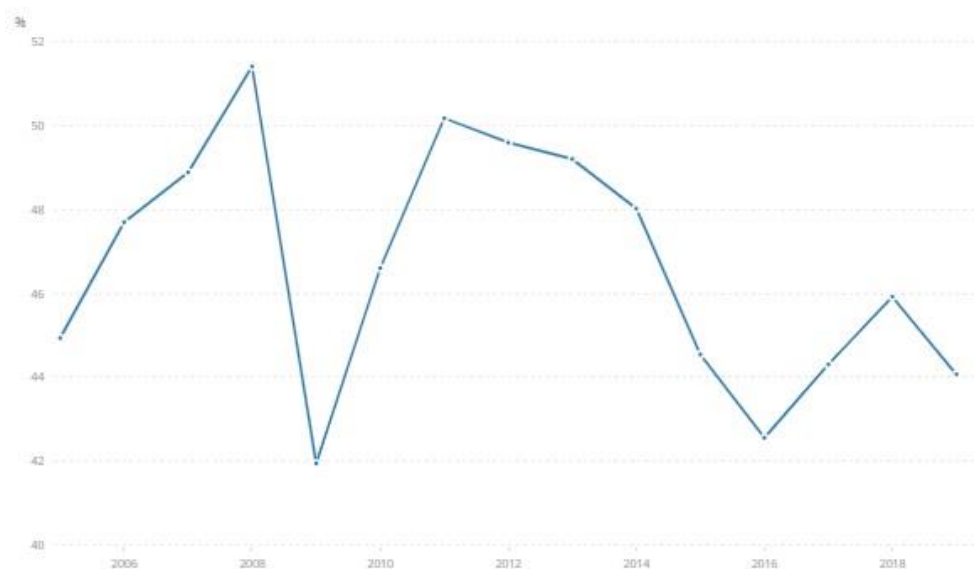
<sup>232</sup> Ugur Emek, *International Trade Arbitration Process*, Baku, 1999, p.63.



between “trade policies” and “economic growth” was revealed. According to the study, countries that are more open to foreign trade have achieved an average of 2 to 6 points more economic growth per year than closed countries.<sup>233</sup>

In the 1970s and 1980s, the world industry showed a low growth rate, negatively affected by the increase in oil prices in 1973. However, even this result was higher than the increase achieved in the 1950s and 1960s. In the period after 1970, a rapid growth was recorded in the world industry and trade. After the establishment of the WTO, which adopted the liberalization of world trade as its main principle, the shares of the member states in terms of world exports and imports increased and reached a great figure of 90% of the total value.<sup>234</sup>

Figure 2: World Trade GDP 2005 - 2019



Source: WB, Data Merchandise Trade (% of GDP),

If we look at the GDP of the world commodity trade we could see the world trade has achieved a faster growth stability after 2003. However, the growth achieved in world trade as a result of the stability that a number of developed countries have added to world trade has brought about increasing unemployment and impoverishment in terms of least-developed countries. This increase in the world commodity trade, which continued until 2008, suddenly plummeted with the Mortgage Crisis that broke out in 2009.<sup>235</sup> World countries trying to get rid

<sup>233</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.154.

<sup>234</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.28-29.

<sup>235</sup> WB, <http://data.worldbank.org/indicator/TG.VAL.TOTL.GD.ZS/countries?display=graph>.

of the crisis experienced a decrease after 2011, although they could increase the world commodity trade in 2011-2015 a little.

In its report prepared in 2018, WTO conducted research on the factors affecting world trade rather than focusing on a specific trade policy. In the report, the developments in world trade in 2017-2018 can be summarized as follows:

- Expectations for one or more countries to leave the euro caused the global commodity trade to slow down. Under normal circumstances, trade increases twice the global gross product. However, for 2017, the ratio of trade to gross product decreased by 1/1.
- Exports are still negatively affected by the ongoing low demand in Europe. Europe could not realize 32% of global imports within the scope of 2017.
- China's GDP increased 7.8% and India's GDP increased 5.2%. On the other hand, newly industrialized Hong Kong, Korea, Singapore and Taiwan were negatively affected by the contraction in the EU.
- The African continent has grown more than other regions with an increase of 9.3%. The main reason for this high rate of growth was the continuation of Libya's oil exports after the conflict ended in 2016.
- Asia ranks second after Africa in terms of growth rate. While the growth rate of Asia was 3.8%, the Commonwealth of Independent States (CIS)<sup>236</sup> grew by 408 3.7%, the Middle East 3.3%, South and Central America 2.6%, North America 2.3%; The growth rate of Europe was -0.1%.
- When the figures regarding global trade are examined, it is revealed that the figures regarding the trade volume (trade volume) are more than the figures regarding the value (trade value). For 2017, the global merchandise trade increased by only 0.2% to \$ 18.3 trillion, while for the services trade, these figures reached \$ 4.3 trillion with a 2% increase.
- For 2017, a 2% increase in volume was recorded in commodity trade. When this rate is considered by excluding the years when the trade volume decreased, it is seen that it is the lowest increase rate recorded since 1981.
- Service trade has a share of approximately 19% in global trade. In addition,

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<sup>236</sup> Commonwealth of Independent States; It emerged on December 8, 1991, when the Russian Federation, Ukraine and Belarus signed the agreement that formed the community after the collapse of the Soviet Union. Its members are: Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan, Armenia.

current trade statistics take into account gross trade rather than the added value provided at different stages of trade. For this reason, it calculates the contribution of services to international trade underestimate. Nevertheless, the CIS region provides the biggest growth in services trade, with an increase of 10% (105 billion dollars in total). Middle East with 9% growth (\$ 125 billion), Asia (\$ 1.16 trillion) with 6%, South and Central America (\$ 136 billion) with 6%, Africa (\$ 90 billion) with 5%, and Europe (\$ 2.02 trillion) with -3%.

- When evaluated in dollar terms, exports of the USA in the field of financial services decreased by 4%, Britain by 13%, Germany by 2% and France by 2%. This decrease was 29% in Greece, which was deeply affected by the crisis in the Euro zone, and 21% in the Greek Cypriot side. Despite this crisis in Europe, China's financial services trade has increased by 58%.
- These figures show a more pleasant picture in commodity trade. In this sense, North America's exports of goods increased by 4% and reached 2.37 trillion dollars. South and Central America's exports of goods were \$ 749 billion without a major change, Europe's exports decreased by 4% to 6.37 trillion dollars, and imports decreased by 6% to 6.52 trillion dollars.
- Exports of CIS countries increased by 2% to 904 billion dollars, and imports increased by 5% to 568 billion dollars. The figures for exports and imports for Africa are 5% (\$ 626 billion) and 8% (\$ 604 billion), respectively, for the Middle East 3% (\$ 1.29 trillion) and 6% (\$ 7.21 trillion), and for Asia% . 2 (5.64 trillion dollars) and 4% (5.79 trillion dollars).<sup>237</sup>

### **3.1.2.Developed Countries in the WTO System**

As of the second half of 2018, the USA started the exit process from the expansionary monetary policy. This statement of the US Central Bank FED created a fluctuation effect in the financial markets, currencies depreciated, the economies of many developing countries, especially Brazil, were adversely affected by this situation and interest rate hikes were implemented.

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<sup>237</sup> Azerbaijan Ministry of Economy General Directorate of Agreements Department of Multilateral Relations and International Organizations, *WTO World Trade Report Extended Summary*, Baku, 2019.

Article 12 demands that WTO members who have had lawful resources to export restrictions pay due respect to the food security of the importing members.<sup>238</sup>

The world economy, which hit the bottom in the 2009 crisis, could not achieve a permanent and balanced growth. As a matter of fact, although there was an increase in 2010, this increase remained below the average world growth in the following period. Despite the 2.5% growth achieved in 2016 and 2017, the world economy achieved a growth of 0.1% in 2018, reaching 2.6%.<sup>239</sup>

In developed countries, there has been a growth since 2016 compared to previous years. In this sense, while developed countries grew by 1.2% in 2016 and 1.4% in 2017, this figure was 1.8% in 2018. Contrary to this increase in developed countries, developing countries declined in the world economy.

Naturally, the adversities experienced in the world economy have not been ineffective on world trade. For this reason, the increase in world trade has not reached the level of 5.1% before the 2009 crisis. According to the data of WTO, the increase in world trade reached only 3.3% at the end of 2018, reaching 18 trillion 430 billion dollars.<sup>240</sup>

World commodity trade has slowed down significantly in recent years. In terms of value, world commodity trade grew by 0.2% in 2016 and 2.2% in 2017, but only 0.9% in 2018. In terms of quantity, a limited number of magic has been obtained in the world commodity trade in recent years. In this sense, a growth of 2.2% in 2016, 2.4% in 2017 and 2.8% in 2018 was achieved. When we look numerically, world commodity trade has increased to 17 trillion 910 billion dollars in 2016, 18 trillion 300 billion dollars in 2017 and 18 trillion 430 billion dollars in 2018.<sup>241</sup>

Due to the global economic and commercial regulations in the world export of goods, some regional developments have been experienced. In 2017, Europe and the EU increased by 2.3% and 1.7%, respectively, and maintained its stability as the highest exporting region with an export volume of 6 billion 736 million dollars. The Asian region increased its exports by 2.5% in 2018 and ranks second with an export volume of 5 billion 916 million dollars. The North America region, on the other hand, was the region that showed the fastest increase with 3.2%, although it fell far behind the European and Asian regions with its export volume in 2018.

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<sup>238</sup> Petros C. Marvoidis, *The Regulation of International Trade*, London, 2016, p.99.

<sup>239</sup> Azerbaijan Ministry of Economy, *International Economic Indicators Report*, Baku, 2019.

<sup>240</sup> Azerbaijan Ministry of Economy, *International Economic Indicators Report*, Baku, 2019.

<sup>241</sup> Azerbaijan Ministry of Economy General Directorate of Agreements Department of Multilateral Relations and International Organizations, *WTO World Trade Report Extended Summary*, Baku, 2019.

A decrease was recorded in exports in the Middle East, Latin America, Africa and CIS regions.<sup>242</sup>

According to WTO data, it is seen that three developed regions are the leaders in world exports of goods in 2018. Europe and the EU maintains the largest market share in imports, as in exports. In this sense, the EU has a volume of 6 billion 717 million dollars by achieving an increase of 0.7% in world imports. The Asian region was the region that increased its imports the most, reaching \$ 5 billion 874 million by providing an 8.3% increase in imports in 2018. There was a contraction in the imports of the CIS and South and Central American states. In this sense, a decrease of 10.6% was experienced in the imports of the CIS with the effect of the sanctions. A 5.1% decline was observed in the imports of the South and Central America region.<sup>243</sup>

In general, growth is accepted as an important measure in the reports published by organizations such as WTO, IMF and WB, which have an important place in the establishment of the international order. When we look at the aims of the establishment of these organizations, it was frequently mentioned in the previous sections of the study that the expansion of the international economy and trade is one of the primary goals. However, growth does not always mean development. In other words, the increase in the trade of goods and services in a country does not mean that the living standards in that country will increase because, while calculating the GDP, activities that are not beneficial to the society and decrease the quality of life are also taken into account. In this sense, the fact that the globalizing world order has a high increase in economy or trade does not mean that the income distribution is also smooth. This inequality is unlikely to improve in the near future. On the contrary, according to the economic data, these imbalances will gradually increase and take place in a system where the gap between the economic groups where the poor are poorer and the rich richer.<sup>244</sup>

### **3.1.3. Developing Countries in the WTO System**

Unlike the developed countries after the Second World War, the failure of developing countries to get the share they deserve from the world economy and trade caused some reactions. At that time, developed countries, in order to stimulate the world economy and trade, exported capital to developing countries, transforming these countries from being countries that

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<sup>242</sup> Azerbaijan Ministry of Economy, *International Economic Indicators Report*, Baku, 2019.

<sup>243</sup> Azerbaijan Ministry of Economy, *International Economic Indicators Report*, Baku, 2019.

<sup>244</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.28.

only export agriculture and raw materials, and supported them to produce consumer goods based on some basic industries or standard technologies. Until the 1970s, most of the developing countries saw the basis of development in industrialization and implemented import substitution industrialization policies. In the following period, the transition of the states to free trade policies led to a significant increase in the economies of developing countries and exports of goods in the 1980s. When we look at the 1980s, while direct capital investments and joint ventures were mostly made in developed countries such as the USA, EU and Japan, in the 1990s these investments started to shift from developed countries to developing countries, especially Asia and Latin America. In this way, developed countries started to produce industrial goods based on standard technology in developing countries with cheaper labor.<sup>245</sup>

Transparency lets WTO members benefit from each other and reduce expenses, but it also helps residents of the notifying country. The WTO transparency requirement fills the gap, particularly for countries with low democratic sensitivity and little or no domestic laws requiring transparency. Transparency thus returns not only to a "international" level (allows access to information for everyone, particularly the poor, developing countries, for whom the procurement of information is costly), but also to a "national" dimension.<sup>246</sup>

The smooth and automated enforcement mechanism of the WTO demanded more politics and engagement, including the effective defense of the consensus rule by the countries.<sup>247</sup>

In the years after 1980, foreign direct investments made to developing countries showed themselves more in areas with high profit margins such as banking, trade, tourism and insurance. Direct investments increased from 10 billion dollars in 1987 to 56.3 billion dollars in 1993 and to 90.3 billion dollars in 1995. The biggest investment, on the other hand, was made to the Far East with 56.3 billion dollars, mainly in China.

Now, most of the growth in the global economy has begun to shift from developed countries to developing countries. While developing countries provided 15% of the total global growth in the period between 1960-1973, this figure reached 22% in the period 1973-2001 and 37% in the period 2001-2005.<sup>248</sup> As can be seen from these, the place of developing countries in world trade is increasing.

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<sup>245</sup> Shener Buyuktashkin, *World Trade System*, Ankara, 1997, p.33.

<sup>246</sup> Petros C. Marvoidis, *The Regulation of International Trade*, London, 2016, p.675.

<sup>247</sup> Joost H. B. Pauwelyn, *The Transformation of World Trade*, Michigan, 2005, p.108.

<sup>248</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.48.

After the crisis that started in Thailand in 1997 and lasted for 5 years, trust in Asian countries was shaken, international investors withdrew their funds and thus, capital inflows decreased significantly. Almost all the Asian countries started this crisis in a short time with Thailand and Russia, Brazil, Uruguay, covered also the premise of countries like Turkey. After a five-year period, there was a significant increase in capital inflows to developing countries between 2003 and 2007. According to the 2007 Report of the World Bank, the net capital flow to developing countries reached its own record level in 2006 and reached 647 billion dollars and it covers 3/4 of the world's capital flow. Also, according to the reports, the flow of foreign direct investment increased to 325 billion dollars in 2006 and covered 1/4 of the volume of 1.2 trillion dollars, which is the amount of world capital flow. This ongoing steady increase has been adversely affected by the crisis that emerged in 2008, greatly reducing the flow of capital to the economies of developing countries. Although the world crisis had great effects on some of the developing countries, unlike the developed countries in general, they were not affected by the crisis for a long time. The capital inflow, which declined to \$ 975 billion in 2009, increased by 40% as of 2010, returning to the previous time of the crisis and still maintains this stability.<sup>249</sup>

In general, economic growth is considered important for many leading international organizations, especially developing countries. In this sense, China is one of the developing countries according to its economic indicators. In recent years, the Chinese economy has slowed down due to the change in the growth model and structural problems. Because the Chinese government has switched from a growth pattern aimed at exports and new investments to a growth style targeting more domestic consumption. With the effect of all these developments, the Chinese economy grew by 7.4% in 2018.

Another state with a decline in its economy is Russia. The country's economy and trade are adversely affected by the crisis with Ukraine throughout the year and the mutual sanctions that occurred with Western countries. On the other hand, the rapidly falling oil and gas prices in the world markets and the serious depreciation of the Ruble damage the Russian economy like many developing countries. In the light of all these developments, Russia's economic growth declined to 0.6% in 2018.

Brazil, which is dependent on external resources in energy exports, is one of the countries that are adversely affected by the new global financial conditions. Due to the tight monetary policy it implemented in order to adapt to the developing new conditions, it could

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<sup>249</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.51-53.

only achieve a growth of 0.1%. South Africa was one of the regions that achieved 1.4% less growth compared to previous years, such as Russia.<sup>250</sup>

In the IMF's 2018 report, an average of 4.3% constant growth rate in 2018 was shown in terms of developing countries. In the forecast for 2020, it is predicted that there will be 4.7% growth. In addition, it is estimated that there will be a regional economic stagnation in proportion to the decrease in demand for exports. In its regional statement, the IMF predicted that the growth rate in the Latin America and Caribbean Regions would increase by 1.5%, especially in 2019, but this rate would decrease by 2.3% in 2020. He stated that in parallel with the decrease in oil prices, Sub-Saharan Africa region may enter an economically dangerous period.<sup>251</sup>

Despite all these increasing statistical figures, many developing countries are in fact a source of exploitation of developed countries due to the cheap labor force. Because the goods produced in developing countries with low costs are not desired by developed countries to enter the world market after saturating the domestic market.

When we look at it, developing countries cannot benefit from the tariff reductions implemented by the WTO Agreements, since the concessions made include more advanced technology crops that these countries cannot produce. On the other hand, most of the raw materials exported by developing countries enter developed countries without customs duty or with very low tax rates.<sup>252</sup>

As can be seen, while the WTO and the free world economy that came after it caused the economies of a group of developing countries to revive and even reach a level to compete with developed countries, on the other hand, it did not prevent some developing countries from falling behind the global growth. Today, these countries lag behind developed countries like never before.

This situation, which has been going on for the last few centuries, has gradually increased the inequality of average income distribution among these countries. In addition to the economic decline, some countries have seen even large reductions in life expectancy through many terminal diseases.

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<sup>250</sup> Azerbaijan Ministry of Economy General Directorate of Agreements Department of Multilateral Relations and International Organizations, *WTO World Trade Report Extended Summary*, Baku, 2019.

<sup>251</sup> Nazim Ozturk, *The Changing Role of the IMF and Its Effects on Developing Country Economies*, Ankara, 2019, p.34.

<sup>252</sup> Davut Atesh, *International Organizations; Organizational Logic of Countries*, Baku, 2012, p.154.



### 3.1.4. Least-Developed Countries in the WTO System

Starting from the 1970s, state controls and controls in the economy and trade have decreased, and the place of international companies in the world economy has increased. In addition, unemployment rates started to increase in middle and low-level states in proportion to mechanization in industry and production. Before the 1970s, international economic and commercial activities were generally carried out in the form of exchange of goods and services, after the 1970s, the importance of capital in the global system gradually increased through international companies and foreign capital investments.<sup>253</sup>

This increase in global economy and trade has deepened the gap between rich and poor states. The income distribution between the 20% of the world's population living in the richest countries and the 20% living in the poorest countries increased from 1/30 in 1960 to 1/60 in 1990 and 1/75 in 2000. On the other hand, when we look at the world income of 1960, the richest 20% had 86% of the world income, while the poorest 20% had only 1% of the world income.<sup>254</sup>

In addition to these negativities, there are also those who argue that globalization benefits less developed countries. Accordingly developed countries, which makes technological and high quality production, sees less developed countries as a market. On the other hand, less developed countries will be able to make regional agreements by taking advantage of the economic and commercial freedom they will gain by being a member of international organizations and thus achieve economic integration. When we look at today's world, it is witnessed that these expectations do not confirm themselves and that less developed countries are getting poorer day by day.

While international organizations such as the World Bank and WTO were spreading globalization around the world, they argued that developing countries and less developed countries would grow faster than industrialized countries and that the inequality between the rich and the poor would disappear. However, according to the results of the researches, it was revealed that the total wealth of the world's 200 richest people is more than the income of 41% of the poorest segment of the world population. The reason behind these failures of the LDC is that the colonial organizations do not provide the necessary incentives in line with the needs of people for savings, investment and innovation. In short, the continuation of colonial institutions

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<sup>253</sup> Meltem Saribeyoglu, *World Trade Organization in terms of International Business Law*, Baku, 2010, p.39.

<sup>254</sup> Nil Karaca, *From GATT to World Trade Organization*, 2003, p.100.

such as IMF, WB and WTO with their policies aimed at strengthening the developed countries powers is one of the most important reasons for the general failure.<sup>255</sup>

Another of the main problems created by the least-developed countries (LDC) is the problem of climate change. The unlimited use of natural resources by the LDC, which is far behind in terms of meeting human needs, aggravates environmental pollution. This concentration of environmental pollution has caused deviations in all prices. As a matter of fact, in the 2008 Mortgage Crisis, we closely observed the problems experienced due to the diversions in housing prices. For this reason, the unsustainable consumption of main resources should be carried out by all countries of the world with a joint project before causing a crisis like the Mortgage Crisis. Otherwise, it will not be possible to prevent this situation from being costly to the whole world.<sup>256</sup>

### **3.2. Assessment in terms of Azerbaijan**

At the multilateral negotiations in the form of the WTO accession, the monetary and fiscal policy of the Republic of Azerbaijan, the privatization of state-owned enterprises, the state policy on trade in goods and services and elements of the country's international trade system in general are discussed.

#### **3.2.1. Multilateral and plurilateral negotiations**

In the scope of these agreements, responses to the questions posed by the Participants, a proposal to strengthen regulation, a timetable for domestic funding for agriculture (ACC/4), a timetable for trade related aspects of intellectual property (ACC/8), an interpretation of a timetable for technological barriers to trade and health and sanitary-phytosanitary issues (ACC/9) are addressed and clarification is given on issues of concern to Member States. Answers to Members' queries offered an opportunity to achieve a more complete understanding of Azerbaijan's trade regime. As evidence of this, the number of questions has declined over time.

The dynamics of the WTO accession mechanism demonstrate that each consecutive nation has more substantial commitments than the previous one. This is attributed to an rise in

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<sup>255</sup> Nazim Ozturk, *The Changing Role of the IMF and Its Effects on Developing Country Economies*, Ankara, 2019, p.21.

<sup>256</sup> Muhittin Adiguzel, *Economic, Cultural and Political Globalization and Its Results*, Ankara, 2011, p.59.

the amount of demands made by the Member States in comparison to the applicant countries. Exceptions are possible, however, and this is due to the successful strategies and policy of negotiations of each country.<sup>257</sup>

The new multilateral talks were held in Geneva on 28 July 2017 (14th meeting of the Working Party). Participants were told at the meeting about the country's new socio-economic indicators, promotion of domestic development, diversification of commodity and regional structure of exports and reforms to improve non-oil exports, strategic road maps and other programs adopted for the short, medium and long term. Responses to Members' concerns during the 13th meeting were addressed during the meeting. At the same time, questions on the chapters of the draft report of the working party were asked by the Representatives and answered by the delegation of Azerbaijan. Here, the key concern for Azerbaijan is to put national laws in line with the promises made in the plan in compliance with the rules of the WTO (Action Plan approved by the Decree of the President of the Republic of Azerbaijan of 2 August 2006). Azerbaijan has already sent the paper with the above-mentioned commitments to the Secretariat of the WTO. The concern of Participants at the multilateral negotiations is currently connected to the delay in the work undertaken to reform the legislation. Member States have requested Azerbaijan to step up the process of introducing new legislative measures.

Points related to domestic funding for agriculture are also debated in the context of multilateral treaties. The last round of discussions took place in Geneva on 27 July 2017. At the conference, Azerbaijan asked the representatives of the working group for access to the following flexibility measures:

- Per minimis 10 percent
- Access to USD 1 billion Supplementary measure
- Additional funding for the restoration of agricultural land in the occupied territory of Azerbaijan (Daglig Karabakh and adjacent areas) after these territories have been liberated.
- Access to subsidies according to Article 6.2 of the Agreement on Agriculture

The first version of ACC/4 was prepared on the basis of 1999-2001 years and submitted to the WTO Secretariat in 2004. The latest version of ACC/4 schedule was prepared on the basis of 2014-2016 data and discussed at the meeting in 2017. During the reported period,

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<sup>257</sup> <http://www.wto.az>.

Azerbaijan did not apply export subsidies. Member countries mentioned the high level of Azerbaijan's request on domestic support in agriculture, as well as stressed the importance of reducing agricultural subsidies (elimination of value added tax related discrimination and tax exemptions, non-application of export subsidies in future, etc.).<sup>258</sup>

### **3.2.2. Bilateral negotiations**

Bilateral agreements with WTO representatives on goods and services are ongoing. Every Member can negotiate the flexibility of market access for goods and services that are of interest to it. In compliance with WTO rules, when dealing with a variety of Member States on the same goods and services, the most generous form of the membership protocol would extend to such goods and services in all Member States.<sup>259</sup>

### **3.2.3. Goods**

Azerbaijan is engaged in talks on commodities on the basis of HS 2007. The products' timetable comprises 97 classes and 10130 lines. Usually, the overall tariffs applicable to imports are 8.77 per cent (considering the ad valorem scale of the particular tariffs as 15 per cent). The average "bound" tariff (proposed highest level) in the schedule submitted to the WTO is 11.52 per cent (considering the ad valorem rate of the relevant tariffs as 30 per cent). High tariff rates are developed for those products which are relevant and a priority for Azerbaijan's economy in the preparation of proposals. At the same time, Azerbaijan is considering reducing the tariff rates for other commodities and thereby retaining the overall tariff balance. Negotiations on commodities shall be concluded in terms of:

- Agricultural Products
- Non-agricultural goods
- Sectoral initiatives

During the current round of bilateral talks, discussions were held with the European Union, the United States, Russia, Brazil, Japan, Thailand, India and Switzerland. Bilateral deals on commodities span various fields, including the question of joining the paper,

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<sup>258</sup><http://www.wto.az>, legislative procedures.

<sup>259</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

pharmaceuticals and civil aircraft business arrangements, as well as joining the improved information technology agreement. At the same time, the Members asked Azerbaijan to reduce the bound tariffs for all classes of products (except sensitive goods) to the amount applied and the list of sensitive goods in general. Members have asked Azerbaijan to reduce the transitional times to 2-3 years. Azerbaijan is holding discussions on the nomenclature of products on the basis of the demands of the Members.<sup>260</sup>

### **3.2.4.Services**

Azerbaijan is discussing facilities on the basis of the paper ACC/5 sent to the WTO. Azerbaijan negotiates commitments in the 11 services sectors out of 12 and 113 subsectors out of 116. Negotiations on services are being held with the European Union , the United States, Russia , Japan, Norway, Canada, India, Saudi Arabia, Chinese Taipei and South Korea. Negotiations are conducted, in particular, on quotas for foreign workers, possession of foreign property, postal, science and research, education , finance (insurance and banking), shipping, mining, electricity and medical facilities. Discussions often take place on the topic of job visas, mainly for a consecutive 3-year cycle, and the reduction of the quota system for international labor force. In addition, demands are made for the introduction of the process for securing work permits and for the adoption of the quota system on the grounds of the principle of transparency, as well as in accordance with international standards.<sup>261</sup>

### **3.3. Implementation of the WTO agreements in Azerbaijan**

According to the Constitution of the Republic of Azerbaijan, the legislative structure consists of the following legal acts:

- Constitution
- Acts adopted by referendum
- Laws
- Decrees
- Resolutions of the Cabinet of Ministers
- Normative acts of executive authorities.

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<sup>260</sup> <http://www.wto.az>.

<sup>261</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

The implementation and compliance of legal actions is compulsory for all residents, political, administrative and judicial powers, legal institutions and municipalities. Acts enacted by the Municipality shall be binding on residents and legal bodies residing within the jurisdiction. Acts to improve the legal situation of individuals and legal entities and remove or reduce their responsibility have a retroactive impact.

Other actions do not have a retroactive effect. If there is a discrepancy between the provisions of Azerbaijani law (with the exception of the Constitution and the actions enacted by referendum) and the interstate treaties of which the Republic of Azerbaijan is a member, international treaties shall prevail and apply.<sup>262</sup>

### **3.3.1.Procedure for amendment of the Constitution**

Modifications to the text of the Constitution can be made only by referendum. For this reason, the Constitutional Court is asked in advance to give its opinion on changes to the text of the Constitution suggested by Milli Majlis (Parliament) or the President of the Republic of Azerbaijan.

The reform of the Constitution is to be proposed either by the President of the Republic of Azerbaijan or by at least 63 deputies of Milli Majlis. The additions to the Constitution was introduced in the form of the constitutional laws of Milli Majlis by a majority of 95 votes.

Judicial legislation on amendments to the Constitution is put to the ballot twice in Milli Majlis. The second vote will take place six months after the first vote. These laws are then forwarded to the President of the Republic of Azerbaijan for signature after the first and second elections, in line with the protocol laid down in the Constitution. These procedural laws shall come into effect upon signature by the President of the Republic of Azerbaijan after the second ballot. Constitutional rules are an integral part of and do not contradict the Constitution.<sup>263</sup>

### **3.3.2.Right to legislative initiative and submission for signature**

The right of constitutional action belongs to the deputies of the Parliament, the President, the Supreme Court, forty thousand people with the right to vote, the Prosecutor's Office and Milli Majlis of the Autonomous Republic of Nakhichevan.

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<sup>262</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

<sup>263</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

The draft laws or resolutions sent to Milli Majlis shall be put to the vote within 2 months in the manner in which they have been submitted. Amendments to any draft laws or resolutions can be made with the consent of the subject exercising the privilege to legislative initiative. Where the implementation of a plan for a law or a resolution is declared as a matter of urgency, the time referred to above shall be 20 days.

The manner in which 40 thousand people of the Republic of Azerbaijan entitled to the right to vote exercise their right to legislative initiative is prescribed by statute.

Draft laws and resolutions must be approved and the object of their adoption must be suggested.

Draft laws shall be forwarded to the President of the Republic of Azerbaijan for signature within 14 days from the date of their ratification. If the adoption is declared as a matter of urgency, the draft legislation shall be forwarded to the President for signature within 24 hours from the date of its adoption.<sup>264</sup>

### **3.3.3. Signing of laws**

The President of the Republic of Azerbaijan shall sign the laws within 56 days of their submission. If the President has some opposition to the legislation, he can return it to Milli Majlis without his signature, along with his objection, within that time. Constitutional laws shall not come into effect until they have been signed by the President. If Milli Majlis adopts, for the second time, a law by a majority of 95 votes previously adopted by a majority of 83 votes and a law by a majority of 83 votes previously adopted by a majority of 63 votes, the law shall come into force after the second vote.<sup>265</sup>

### **3.3.4. Forms, revision and adoption of legal acts**

The legislative actions of Milli Majlis of the Republic of Azerbaijan (Parliament) shall be implemented in the form of a statute. Judicial actions issued by the President of the Republic of Azerbaijan shall be implemented in the form of a decree.

The Cabinet of Ministers of the Republic of Azerbaijan shall follow legislative acts in the form of resolutions on the basis of and for the enforcement of the Constitution and of the

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<sup>264</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

<sup>265</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

decrees of the President. The legislative actions of the administrative authority shall be followed in the form of decisions.

The lawmaking authority revises the draft legal act in a manner prescribed by the legislation. After revision of a draft legal act, the lawmaking authority may undertake one of the following:

- Approve and adopt the draft legal act
- Reject to approve the draft legal act, stating the reasoning
- Suspend approval of the draft legal act for a certain period
- Return the draft for revision, stating the reasoning<sup>266</sup>

The international conventions and rules on the acceptance or rejection of intergovernmental agreements are checked in Milli Majlis in one reading, the other in three readings. The regulatory authority has the right, if necessary, to call back the submitted legislation before it is enacted. The subject of the right of legislative initiative has the right to call back the submitted proposal in Milli Majlis until it is amended in the final reading. After amendment, the constitutional body shall enact the draft legislation in the manner required by the legislation. The topic of the legislative proposal or its approved delegate shall have the right to engage in the negotiation process at Milli Majlis.

The procedure for laws is indicated above. Signing of other legal acts is carried out in the following manner:

- Decrees – by the President of the Republic of Azerbaijan
- Resolutions of the Cabinet of Ministers – by the Prime Minister of the Republic of Azerbaijan
- Other legal acts – by the chairperson of the authority adopting the legal act<sup>267</sup>

### **3.3.5. Adopted laws**

The following trade-related legal acts have been adopted in the recent years in Azerbaijan:<sup>268</sup>

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<sup>266</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

<sup>267</sup> Azerbaijan aznd WTO, <http://www.wto.az>.

<sup>268</sup> <http://www.wto.az>.



Table 6: Adopted laws in Azerbaijan according to accession period

Subject	Legislation / Regulation	Date of adoption
Import-Export Regulations	Amendments to Decree of the President No. 609 "On Further Liberalization of Foreign Trade in the Republic of Azerbaijan" of 24 June 1997	14 May 2010
Licensing Systems, including Import Licensing	Law "On Licenses and Permits"	15 March 2016
Licensing Systems, including Import Licensing	Decree of the President No. 713 "On Certain Measures at the Sphere of Licensing"	21 December 2015
Rules of Origin and GATT customs related provisions	Customs Code	24 June 2011
Customs Valuation	Law "On Customs Tariff"	13 June 2013
Anti-dumping, Countervailing Duties, Safeguard Regimes	Law "On Anti-Dumping, Safeguards and Countervailing Measures"	31 May 2016
Technical Barriers to Trade, Standards and Certification	Order No. 11 of Head of State Committee for Standardization, Metrology, and Patents on Establishment of TBT Enquiry Point dated 28 July 2010	28 July 2010
Technical Barriers to Trade, Standards and Certification	Law "On Accreditation in the sphere of Conformity Assessment"	30 May 2014

Sanitary and Phytosanitary Measures	Order of the Cabinet of Ministers "On Application of Set of Codex Alimentarius Standards", dated 23 July 2010 establishing National Codex Contact Point	23 July 2010
Free Zones and Special Economic Areas	Decree No. 548 "On Establishment of Sumgayit Chemical Industrial Park"	21 December 2011
Free Zones and Special Economic Areas	Executive Order No. 1947 "On Establishment of Balakhani Industrial Park in Baku City"	28 December 2011
Government Procurement	Law "On Public Procurements"	27 December 2001
Agricultural Policies	Amendments to Law "On Viticulture and Wine-Making" of 19 October 2001	28 October 2008
Agricultural Policies	Amendments to Law "On Tobacco and Tobacco Products" of 8 June 2001	30 September 2009
Copyright and Related Rights	Amendments to Law "On Copyright and Related Rights" of 5 July 1996	1 April 2008
Trademarks and Geographical Indications	Amendments to Law "On Trademarks and Geographical Indications" of 12 June 1998	3 April 2009
Patents	Amendments to Law "On Patents" of 25 July 1997	20 October 2009

Intellectual Property Rights	Law "On Provision of Intellectual Property Rights and Fight against Piracy"	22 May 2012
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### 3.3.6. Draft laws under discussion

As of August 2020, the following trade-related draft laws are under discussion in Azerbaijan:<sup>269</sup>

Table 7: Laws are under discussion between Azerbaijan and WTO Working Party

<b>Subject</b>	<b>Legislation / Regulation</b>
Competition Policy	Draft Competition Code
Framework requirements	Draft Law "On State Regulation of Foreign Trade Activity"
Technical Barriers to Trade, Standards and Certification	Draft Law "On Technical Regulation" Draft Law "On Standardization"
Copyright and Related Rights	Draft Law "On Protection of Rights of Broadcasting Organizations in Digital Network"
Telecommunications	Draft Law "On Amendments to the Law of the Republic of Azerbaijan on Telecommunications", dated 25 April 2014
Sanitary and Phytosanitary Measures	Draft Amendments to Law No. 759-IQ "On Food Products" of 18 November 1999. According to the Presidential Decree No.1235 dated 10 February 2017 the Law will be replaced by new draft Law "On Food safety"  Draft Amendments to Law No. 922-IIQ "On Veterinary" of 31 May 2005

<sup>269</sup> <http://www.wto.az>.

	<p>Draft Amendments to the Law No. 102-IIIQ "On Phytosanitary Control", dated 12 May 2006</p> <p>Draft Amendments to the Law "On Sanitary and Epidemiologic Welfare", No. 371 of 10 November 1992</p> <p>Draft Amendments to Resolution No. 140 "On Approval of Additional Rules and Regulations for the Purpose of Strengthening the protection of the State Border of the Republic of Azerbaijan", dated 9 March 1993</p>
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### 3.4. Possible future prospects of accession for Azerbaijan

At present, import duties in Azerbaijan vary from 0 per cent to 15 per cent, while their average rate is around 10 per cent, and our country has undertaken before the IMF to lower this rate to 5 per cent-6 per cent. I would like to offer an example from countries that I have ever heard of. For example: prior to the accession of the WTO, import customs duties in the Kyrgyz Republic varied between 0 and 50 per cent, while the average rate was 10.74%. Since accession, the country was given the benefit of keeping the highest amount of duty at 50% for the first three years and the reduction of tariffs (customs duties) accounted for 5.4%.<sup>270</sup> As far as Turkey is concerned, while it is one of the first WTO members to be the creator of GATT, at present the country's import duty duties on certain seasonal agricultural goods have also crossed 200 per cent. In China, customs tariffs ranged from 0 per cent to 65 per cent before WTO accession and, in order to retain this amount, the country was permitted to apply reduced tariff rates by 2010. For comparison, the transitional times for tariff priorities for Latvia, the Kyrgyz Republic,

<sup>270</sup> IMF Working Paper, *Regional Trade Integration and WTO Accession: Which is the right sequencing?*, 2015.

Georgia and Moldova at WTO accession were 9, 7, 5 and 4 years respectively. This period covered 15 to 25 years for certain countries (e.g. China, India, etc.).<sup>271</sup>

In particular, the main points addressed in the agreement on agriculture concern the creation of a high margin and tariffs for agricultural subsidies.

The second explanation that worsens our status is the low degree of fiscal opportunities for offering agricultural subsidies. Every year, EU countries grant \$350 billion in subsidies for the sale of agricultural goods. In addition, associated companies also benefit indirectly from these subsidies. More specifically, according to historical figures, every year a farmer in Sweden receives \$33,000 in subsidies. This number is \$20,000 in the United States and Japan. In our case, it would be a struggle to secure the agricultural industry at low customs duty rates and subsidies.<sup>272</sup> While the growth of the oil sector is a priority in government policy, we are worried about the possible risks in the agricultural sector. Indeed, we have the right to receive a preferential/reduced rate from the WTO for agricultural subsidies, with a maximum margin of 10% of the overall agricultural output rate (currently a high level of such subsidies is 10% for developing countries and 5% for developed countries). This pace is definitely fair. But it is unlikely whether the government of Azerbaijan would offer subsidies at this pace. Actually, Kyrgyzstan has faced similar problems: while it has provided subsidies to farmers to the amount of 0.01 per cent of total agricultural production, it has been permitted to raise this rate by 5 per cent a year. However, insignificant budget resources have stopped the government from taking advantage of them.<sup>273</sup>

In connection with the accession of the WTO, Azerbaijan may be deprived of food assistance to the region. However, neither the World Bank (WB) nor the International Monetary Fund (IMF) would be affected by this hurdle. For example in the event of a declaration of a national emergency in Azerbaijan and a WTO member nation ready to support Azerbaijan, certain obstacles will occur. In order to do this, the assisting party must have a fair case and align its decision with other member governments. After the practice of Ethiopia, the WTO passed this law. Although that country has obtained food assistance for decades, no incentives have been developed to stimulate farmers. In order to mitigate this issue in other Member States, the WTO has applied a barrier to this end. It is clear that non-WTO members will provide assistance to WTO member countries.<sup>274</sup>

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<sup>271</sup> WTO, *A handbook on the GATS agreement: WTO secretariat publication*, 2015.

<sup>272</sup> Bernard Hoekman, *The political economy of the World Trading System*, 2017, p.41.

<sup>273</sup> WTO, *A handbook on the GATS agreement: WTO secretariat publication*, 2015.

<sup>274</sup> Carlos Correa, *WTO and Developing countries*, 2012, p.63.

Another factor that may have a detrimental effect on Azerbaijan's accession is that certain government officials do not fully recognize the burden of accession to the WTO and have ample knowledge of teamwork. In comparison, there is a shortage of qualified employees. Because in the process of WTO accession, appropriate and core intervention steps to protect all realms are genuinely necessary. The WTO Secretariat should not be accountable for this. On the other hand, apart from seasoned diplomats in this area, Azerbaijan needs trained and knowledgeable professionals and experts to conduct discussions in the field of international business and commercial law not only before but even after entering the WTO.<sup>275</sup>

The lack of research into the structure and outlook of the national economy, as well as the indexing of the productivity of economic fields and commodity products, contributes to negligible and uninteresting responses from the Azerbaijan Mission to the WTO and limits Azerbaijan's prospects.<sup>276</sup>

We agree that it is important to mobilize all government institutions, including the Parliament, in order to reduce the effect of the crisis. It is necessary to consult with the market processes, research institutions and interested analysts during WTO accession. The participation of NGOs and media outlets in the process under open conditions is important.

Regarding NGOs and research institutions, it is necessary to charge them to investigate the process. The subject of their studies may cover determination of products' absolute advantage in terms of division of international labor, export potentials, and opportunities to replace imports. In this situation, the goal is definitely to expose the weak and strong facets of future competition after the accession of the WTO and to correct the indexing of competitive potential.<sup>277</sup> Both results would definitely improve the benefits and reduce costs of the WTO, as well as ensure fair trade.

Relations with our neighboring countries are another cause for difficulties. The fact that Russia, one of our main trading partners, has been a signatory to the final protocols on accession to the WTO allows us to expect that it will join the WTO before Azerbaijan. There is also no question that talks on a series of agreements with Azerbaijan will be discussed after Russia joins. We must also be prepared for pressure from Iran, our neighbor to the south. Iran's accession may exacerbate the situation and intensify adaptation in a number of divisions. Much

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<sup>275</sup> IMF Working Paper, *Regional Trade Integration and WTO Accession: Which is the right sequencing?*, 2015.

<sup>276</sup> WTO, *A handbook on the GATS agreement: WTO secretariat publication*, 2015.

<sup>277</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.374.

remarkable is that for Iran, such strain can derive not only from economic but also political interests.<sup>278</sup>

According to the corruption ranking, the extent of economic liberalization and the economic climate in Azerbaijan, the slow growth of political institutions restricts factors that accelerate entrepreneurship and human capacity. These reasons make our position weaker under all conditions-before and after accession. The current diplomatic climate is often not conducive in order to gain assistance from other nations. After the last presidential election, the pro-Russian diplomatic path contributed to the lack of political assistance from the West – the EU and the USA – following accession. While this is a strategic factor, it can be used as a greater lever than other ones.<sup>279</sup>

As can be seen from the issues set out above, it is questionable whether the Government can take mitigation steps. But that does not mean that we have to deny accession. In any event, the accession of the WTO would offer major benefits to society, including manufacturers and exporters in particular. Although the central rule of the WTO is to prevent discrimination in international trade and to have equal access to the markets of the Member States.<sup>280</sup>

The values of the WTO would definitely carry major benefits. In reality, the barriers to quantity added to import operations are causing difficulties for local business systems. The number of such hurdles is actually seven.

The provision of accountability and honesty in this process is also troublesome. In cases where trade inequality is evident, the opportunities of the WTO in this respect are irreplaceable. We must keep in mind that the State government is losing millions of dollars per year due to difficulties in the turnover of international trade.<sup>281</sup> WTO measures will certainly enable to reveal and tackle all these problems.

As a result, the annual number of unregistered foreign trade activities in Azerbaijan is valued at millions of dollars. In that situation, provided that WTO values establish favorable conditions for exporters, while warning officials to avoid opportunities for corruption, we can understand why some officials are not loyal to this issue.

However the advantages of the WTO will never be enough. Let's reflect on another opportunity: certain company structures are considered to be unable to fulfill their demands from their private funds. However the strategy of lowering WTO import tariffs and widening

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<sup>278</sup> WTO, *A handbook on the GATS agreement: WTO sectorial publication*, 2015.

<sup>279</sup> Carlos Correa, *WTO and Developing countries*, 2012, p.186.

<sup>280</sup> Lori Wallach, *A Comprehensive Guide to the WTO*, 2014, p.56.

<sup>281</sup> WTO, *A handbook on the GATS agreement: WTO sectorial publication*, 2015.

free market access paves the way for the supply of the new and standard technology to the domestic market at attractive rates. As a result of the agreements, the tariff rates for consumer products by 2000 industrial countries had dropped to some 5 per cent from 40 per cent after the GATT was formed in 1947.<sup>282</sup>

We are not only going to reflect on the advantages of WTO accession. Of course, while WTO accession is desirable not only for Azerbaijan, but also for industrially developing countries, it is far from a fact. Since membership “expenses” some “sacrifices” to this association.

Given that WTO accession is a complex procedure and gives various dividends to separate countries, as well as poses certain problems for the national economy, it is worth describing the positive and negative effects of Azerbaijan’s accession. In addition, it would be fair to pool the profits and losses in the person of exporters (producers) and importers (consumers). Naturally, when culture receives advantages and disadvantages in all contexts, we should argue about it separately.

The benefits of exporters are:

- To gain access to a wide-ranging and rich knowledge network and to ensure a just settlement of trade conflicts through the WTO;
- Gain safe market access for all Member States;
- Participates in multilateral trade agreements as a full and equal participant and has the right to have an impact on international trade policies.<sup>283</sup>

The advantages to customers are as follows:

- Increased competition on the national market as a result of lowered import duties;
- Consumers can truly reap the rewards of competition-choices and reduced prices;
- A decline in tariffs contributes to reduced costs for raw materials, intermediate goods and parts. As a consequence, the cost benefit of the goods and services provided is reduced;

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<sup>282</sup> Peet Richard, *The IMF, WB and WTO*, 2003, p.33.

<sup>283</sup> Lori Wallach, *A Comprehensive Guide to the WTO*, 2014, p.66.



- Consumers' spending is being limited.<sup>284</sup>

There is a wide list of overall public benefits. In this:

- Global and domestic market developments are accelerated by the adaptation of national law to international law and by the implementation of national norms in this field;
- The government's position in economic governance is weakened, especially in the adjustment of international economic activity, thus encouraging foreign trade and investment cooperation and encouraging related reforms;
- is the product of public trust in the government and decreases the likelihood of expenditure and credit seduction;
- The government shall receive a safe right of transit from the territory of all Member States;
- The volume of secret trade turnover and waste is minimized as a result of the simplification of international trade practices, transparency in accounting for import and export activities, and the elimination of artificial regulatory obstacles.<sup>285</sup>

Of course, in addition to the gains of Azerbaijan's entry into the global economy through the WTO, future losses can also be maintained. These defeats can be grouped as follows:

- Adaptation declines in the manufacture of non-competitive products and the provision of services due to the growth of competition in the national market;
- Receipts from customs duties and tax items expressed in the state budget are limited and the spending item faces short-term and often mid-term difficulties;
- Commission fees charged for the use of invention patents on imports improve industrial spending, thereby reducing their benefit from market competition;
- The direct and indirect subsidies granted by the government for the purpose of protecting the local economy cease to exist and this region is facing a crisis of adaptation;

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<sup>284</sup> Lori Wallach, *A Comprehensive Guide to the WTO*, 2014, p.68.

<sup>285</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.399-402.

- Adjusting world prices raises consumer spending, and the civil instability challenges transition economies and politically sensitive powers;
- Investment productivity is decreased in regions that can replace imports in terms of high profitability of finished goods and as a result, gross investment in the national economy is reduced.
- According to our projections, successful accession to the WTO depends on the composition and pace of growth of the national economy. It is therefore necessary, first of all to prepare the economy for this process, to organize diplomatic opportunities and skillfully address the problem. We should not forget that accession to the WTO is not a target, but a means.<sup>286</sup>

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<sup>286</sup> Kavass Igor, *Azerbaijan's Path toward WTO Accession: Political Concerns, Technical Difficulties, National Attitudes*, 2008, p.402-406.

## CONCLUSION

On June 23, 1997, Azerbaijan submitted an application to join the WTO. Since then, Azerbaijan's accession to the WTO has continued at a changing pace. On August 2, 2006, by the Order of the President of the Republic of Azerbaijan on the approval of the "Action Plan to bring the legislation of the Republic of Azerbaijan in line with the requirements of the World Trade Organization in connection with the process of accession to the World Trade Organization" became more active and intensive. To date, the WTO Secretariat has hosted seven meetings of the Working Group on Azerbaijan's membership in the WTO. It should be noted that Azerbaijan is currently in the 9th stage in terms of the above membership process. Azerbaijan also continues bilateral talks with the European Union, the United States and other interested countries, as well as multilateral talks on the level of aggregate domestic assistance to agriculture.

The commitments proposed by WTO members for Azerbaijan's acceptance of financial and trade services include:

- undertaking not to apply subsidies in the field of services;

At present, no such subsidy is applied in Azerbaijan. Whether or not to commit to such subsidies in the future will be determined as a result of negotiations within the WTO.

- granting foreigners the right to acquire ownership of land in the territory of the Republic of Azerbaijan;

At present, according to Article 48 of the Land Code of the Republic of Azerbaijan, "Foreigners and stateless persons, foreign legal entities, international associations and organizations, as well as foreign states may acquire land in the Republic of Azerbaijan only on a lease basis".

- Elimination of restrictions proposed by the Azerbaijani side on all methods of providing services in accordance with the requirements of the General Agreement on Trade in Services (GATS);

There are four ways to provide services under GATS, and they can be used separately and together as a mixture. These four methods are listed below:

1. Cross-border movement of service products (ie direct supply from one country to another)
2. Movement of service consumers to the exporting country
3. Provision of services by a Member's service provider by establishing a commercial presence (enterprise) in another country where the service is to be provided
4. Temporary relocation of individuals to another country to serve there.

Whether the commitment to remove the restrictions provided for in the proposals of the Republic of Azerbaijan will be taken will be determined as a result of negotiations within the WTO membership.

- Full liberalization of the insurance market and no restrictions on the activities of foreign legal entities and individuals in this field, removal of restrictions on the authorized capital of insurance companies for foreigners, permission to open direct branches and representative offices of foreign insurance companies in Azerbaijan, joint insurance with foreign capital abolition of the requirement that half of the members of the Management Board in their companies consist of foreigners, and that the director or one of his deputies be a citizen of the Republic of Azerbaijan;

Undoubtedly, a healthy and strong competitive environment is one of the factors that can stimulate the development of any market and increase the quality of goods and services provided. However, it should be borne in mind that the insurance market in Azerbaijan is relatively young and needs some extra time to compete with large insurers that are active globally. Full liberalization of the insurance market and no restrictions on the activities of foreign legal entities and individuals in this area can have a positive impact on the country's insurance services market at the expense of foreign investors, increasing the volume of capital and insurance products, improving insurance infrastructure and increasing the efficiency of insurers. At the same time, we must not forget that the opening of the domestic market to foreign

insurers without any restrictions can also lead to a number of serious and long-term negative effects.

Regarding the issue of removing the restriction on the authorized capital of insurance companies for foreigners, I would like to note that Article 20 of the Law of the Republic of Azerbaijan “On Insurance Activity” states: The rules for calculating this share shall be determined by the insurance supervision body. There are no specific restrictions (ie there is no obstacle to the existence of an insurance company with 100% foreign capital), but the use of the maximum limit of the share of foreign insurers in the total authorized capital of all insurers is intended to maintain a certain regulatory instrument reflects that such practice is applied in a number of developed countries around the world.

- Abolition of the right of the Central Bank of the Republic of Azerbaijan to impose restrictions on the participation of foreign bank capital in local bank capital and enshrined in law, allowing foreign banks to open branches in the territory of the Republic of Azerbaijan, abolishing the requirement that one of administrators be a citizen of the Republic of Azerbaijan;

Restrictions on the participation of foreign bank capital in local bank capital may give the impression that local market participants are still unable to compete internationally. However, this should not be deceived, it is not just a matter of protecting local banks from the influence of foreign banks.

Close integration of the country’s young financial sector with international markets without adequate human and financial resources can in some cases make the market dependent on several internationally dominant foreign banks, as well as allow large foreign banks to take speculative and high-risk steps to weaken local competitors can create.

Regarding direct branches, it should be noted that this is an option that foreign banks prefer to use, especially in young markets, given the banking supervision and tax regime. Today, the events in international financial markets, the fact that a number of EU countries have reached the point of economic default as a result of the financial crisis, give Azerbaijan ample reason to refrain from risky and prudential steps in its financial services market.

The requirement that one of the high-ranking administrators be a citizen of the Republic of Azerbaijan is one of the requirements for strengthening the capacity of local staff in the field of banking.

At present, the Republic of Azerbaijan continues both bilateral and multilateral negotiations on the WTO membership process, as well as work is underway to bring national legislation in line with the requirements of the relevant WTO Agreements.

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