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Getting the fundamentals right

The early stages of Afghanistan's WTO accession process

Afghanistan should be in no rush to join the World Trade Organisation. Rapid accession would have few benefits and could undermine efforts to reduce poverty. Careful planning and negotiation is the only way to avoid onerous commitments that have been forced on other very poor countries and to make the best of the potential benefits that membership of the multilateral system can offer. Given the country's severe poverty, massive reconstruction effort and ongoing security concerns, all parties involved in the process should promote an appropriate, pro-development accession package for Afghanistan that is in line with its least developed country (LDC) status.

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Summary

Afghanistan has recently embarked on the process of joining the World Trade Organisation (WTO). While increased trade can help lift countries out of poverty, the experience of countries at similar levels of development to Afghanistan's which have joined the WTO suggests that, unless great care is exercised, the terms of that membership may adversely affect poverty reduction. This paper seeks to identify how Afghanistan can give itself the best possible chance of achieving a WTO accession package that supports its efforts to develop sustainably and to reduce poverty.

Background to Afghanistan's accession

Afghanistan is one of the poorest countries in the world. It is classified by the United Nations system as both a least developed country (LDC) and a landlocked developing country (LLDC). Years of conflict and neglect have had a devastating impact on its human, social, and economic development. As a result, Afghanistan's human development indicators are below those of most sub-Saharan African countries. Life expectancy — 46.4 years at birth — is around 20 years lower than in all of the countries neighbouring Afghanistan and 4.2 years lower than the average for LDCs. Like Cambodia and Nepal — other LDCs that have recently acceded to the WTO — Afghanistan will struggle to get a fair deal within an inherently biased WTO accession process. Not only must a country abide by all the WTO's rules to enter the organisation, but also individual members are able to ask for further commitments and concessions from applicants, known as 'WTO-plus' or 'WTO-minus', in return for supporting its application.

On 21 November 2004, Afghanistan submitted a renewed request for WTO membership. Under the Afghan National Development Strategy, a key strategic benchmark for trade is that Afghanistan will have acceded to the WTO by the end of 2010. The WTO Working Party on Afghanistan will meet when the country has finalised and submitted its Memorandum on the Foreign Trade Regime (MFTR), the first step in the accession process. This MFTR, essentially an overview of the applicant's trade regime, is currently being redrafted by the Government of Afghanistan in consultation with the WTO and will probably be formally submitted during 2007.

Negotiating a fair package

Afghanistan would be in a stronger position to negotiate effectively if it gave itself the time to encourage political and economic stability and to establish its independence from foreign governments. As one of the poorest countries in the world, struggling to recover from conflict, Afghanistan has more pressing development and poverty reduction priorities than WTO accession. If the Government chooses to go ahead, then it should be mindful that at this stage there are major economic risks within the accession process and potentially few benefits for the Afghan people.

There are five key perceived benefits for developing countries and LDCs seeking to join the WTO:

1*. Technical assistance with economic and institutional reforms required of applicant countries by the accession process.*

Afghanistan is already undergoing reform of its customs and taxation systems, its legislature, and the operating capacity of its ministries, with

donor assistance. It is important to note the difference between assistance that consists essentially of trade facilitation, such as customs reform, and assistance that leads to internal legal reform linked to WTO agreements. The latter type of assistance could tie Afghanistan into trade-related legislation that may not be in its best interests and which could compromise its development in the future, even before it gets to the negotiating table. Afghanistan should therefore try to use donor support for internal reforms that are to its own advantage, and should resist any proposed reforms that may be overly restrictive. Technical assistance for trade facilitation must support the national development priorities of Afghanistan and must be substantial enough to be meaningful.

2. *The boost that countries hope membership will give to their exports, due to improved access to international markets.*

Afghan products do not yet have a competitive advantage in the global economy and most of the country's economic institutions, businesses, and infrastructure have been destroyed by years of conflict. Before it can really take advantage of increased market access, Afghanistan first needs to take the time to invest in and develop its local industrial and agricultural sectors, so that it has products to export in significant quantities. In any case, given the market access that Afghanistan currently enjoys through its preferential trade agreements (PTAs) with its main trading partners, it is difficult to identify how WTO accession would give it significantly increased access to these markets.

3. *Attracting increased foreign direct investment (FDI).*

Some countries believe that membership of the WTO offers proof of a business-friendly environment and that this in turn attracts FDI into the export sector. However, recent investment reports from the World Bank show that there is no link between FDI and the signing of trade agreements, including WTO membership. Moreover, without both political and economic security, including access to land, electricity and an educated workforce, foreign investors will continue to choose alternative destinations to Afghanistan.

4. *The protection that the multilateral system can offer small countries against bilateral pressures and unfair trade practices.*

Afghanistan will have access to the Dispute Settlement Understanding (DSU) once it is a WTO member. The DSU is the binding WTO procedure for resolving trade-related quarrels between member countries. In practice, although poor countries have the right to pursue disputes in this forum, they rarely do so, due to a range of financial, logistical and political obstacles, such as lack of technical capacity or political pressure. For the near term, the dispute resolution process is likely to be of very limited value to Afghanistan.

5. Influencing the formation of global trade rules.

Prospective members often cite the ability to be involved in negotiating the direction and detail of global trade rules as one of the benefits of joining the WTO. It is true that the collective voice of developing countries within the WTO has grown in power and volume in recent years. The Hong Kong meeting in 2005 saw the formation of a loose alliance of all 110 developing countries, united in opposition to the status quo. However, the

WTO continues to be dominated by the most powerful countries in the world, and as a result its agenda largely reflects their ambitions.

The extent of the risks posed by WTO accession largely depends upon the terms and conditions agreed within the package — which are impossible to change once agreed. These conditions effectively lock a country into a situation where it may not adopt policies once used by today's rich countries to develop or industrialise. It is possible to set out four potential risks posed by WTO accession to Afghanistan's development prospects:

1. Vulnerable sectors of the economy risk being damaged or undermined by international competition.

WTO membership usually means increased liberalisation of a country's trade regime. Just as trade liberalisation can increase the opportunities for exports, it also exposes local producers to foreign competition that they may be unable to withstand, particularly in poorer countries.

There are strong grounds for LDCs such as Afghanistan to be allowed to use tariffs to shelter vulnerable domestic sectors from competition; in order, for example, to promote key national development objectives or to support the livelihoods of poor communities. Even though Afghanistan will go to the negotiating table with a tariff system that is already extremely liberal, it will undoubtedly be faced with pressure to bind these low rates, or to lower its applied tariffs even further. Afghanistan's priority must be to resist this pressure. If it does not, the flood of cheap imports from neighbouring Pakistan and China that it is already experiencing will only increase, with a potentially devastating impact on the livelihoods of the majority of Afghans who live in poverty.

2. Privatisation of essential services could lead to an absence of provision in remote regions.

Even though the General Agreement on Trade in Services (GATS) is a flexible agreement that allows countries to choose if and when they liberalise their services sectors, developing countries can come under huge pressure to open up certain sectors. There are sensitive sectors in Afghanistan, as in other countries, that provide essential services vital for welfare, such as water, education, sanitation and electricity supply. The experience of other countries shows that a heavily privatised service is even less likely to reach poorer citizens. For this reason, such services should be excluded from GATS commitments.

3. Income and benefits from FDI may be lost due to insufficient linkages to the domestic economy.

Through performance requirements, local content provisions and technology transfer, successful developing countries have retained a substantial proportion of the benefits of foreign investment within their own economies. However, the WTO Agreement on Trade-Related Investment Measures (TRIMS) does not allow local content provisions. Given the scale of Afghanistan's development challenges, it should be allowed to negotiate a significant transition period for TRIMS compliance upon accession, based on development indicators, so that it too can ensure that foreign investment plays an integral role in the development of its industrial and services sectors.

4. Government funds could be diverted from pressing development challenges due to the high cost of implementing WTO agreements.

According to World Bank estimates, the cost of implementing WTO agreements stands at around $100m per agreement. The implementation costs for Afghanistan may not be this high, but would still be significant for a country that is emerging from conflict and whose budgetary priorities lie in sectors linked to poverty reduction, such as the provision of basic infrastructure, health care and education. Afghanistan will need support in order to spread the cost of accession over time.

The international community has granted LDCs special concessions within the multilateral trading system. For example, the Agreement on Agriculture (AoA) exempts LDCs from commitments to reduce domestic support and export subsidies, and to increase market access. Afghanistan should be able to take advantage of all flexibilities offered to LDCs within existing WTO agreements – including those recently agreed, in principle, within the Doha Round of negotiations – in the terms of its accession package. The experiences of recently acceded LDCs Nepal and Cambodia in their unsuccessful attempts to secure all of these flexibilities provide valuable learning for Afghanistan.

Action in the early stages of the accession process

If the negotiation continues, there is much that the key players in Afghanistan's accession process should be doing at this early stage in order to give the country the best chance of successfully negotiating a fair package.

The Government of Afghanistan should draw on and learn from the experiences of recently acceded countries. This includes building up a comprehensive knowledge of its Memorandum on the Foreign Trade Regime (MFTR) and identifying the issues on which it is either defensive or offensive; gaining a thorough understanding of the rules and flexibilities within the WTO that could be used to its advantage in negotiations; and separating the ultimate aim of WTO accession from any political goals. It would also include establishing a long-term, dedicated team of negotiators; cultivating allies within the Working Party group; including domestic stakeholders in the accession negotiations; making use of the media and NGOs; making the most of Afghanistan's LDC and LLDC status and the benefits that this should provide; and taking full advantage of the positive political will that Afghanistan currently enjoys within the international community.

International donors have a vital role to play in strengthening Afghanistan's ability to negotiate effectively by helping to conduct poverty and social impact analysis, which explores the potential consequences of WTO membership within vulnerable sectors.

Donors providing technical assistance for compliance with WTO agreements must ensure that such assistance serves the interests of Afghanistan and is guided by the priorities of the Afghan Government. Considering donor countries' massive investment in the reconstruction and development of Afghanistan it would be self-defeating for them to undermine these efforts by denying Afghanistan a pro-development WTO accession package in line with its LDC status.

The United Nations Conference on Trade and Development (UNCTAD) provides technical assistance in the form of training and hands-on support for developing country negotiating teams during accession negotiations. It is essential for UNCTAD to fulfil this role, as it is impartial and does not reflect the ambitions of any particular donor country. UNCTAD must also work with the Government of Afghanistan to undertake sectoral studies in order to examine the impact of different levels of liberalisation on key sectors. Together with poverty and social impact analysis, these are the principal methods by which an acceding country can negotiate from an informed position, and they will be essential for Afghanistan to be able to identify its negotiating priorities.

There needs to be a complete overhaul of the way that WTO members and the WTO itself approaches LDC accession, taking into account the disadvantages that LDCs face in the world trading system. This should start during Afghanistan's accession negotiations with implementation of the existing policy on accession outlined in the 2002 WTO Decision on the Accession of Least-Developed Countries. The WTO Secretariat, as the organisation with responsibility for ensuring that policy made by its members are acted upon, has a key role to play in the realisation of this new approach.

Conclusion and recommendations

It is clear that only through slow and careful negotiations will Afghanistan be able to minimise the potential risks from WTO accession and maximise the potential benefits for poverty reduction. If Afghanistan were to join the WTO without first building its economy and ensuring the best possible terms of membership, accession could actually undermine progress on poverty reduction. Oxfam believes that the following commitments must be made by those involved in the process in order to give the country the best chance of a fair accession package:

- **International donors** must provide vital technical assistance and poverty and social impact analysis to help Afghanistan to negotiate, then adapt to, WTO membership in a way that supports its pressing development needs. It is imperative that this assistance is recipient-driven, additional to existing development aid, free of economic conditions, predictable, and complementary to fairer trade rules.

- **The Government of Afghanistan** should maintain the policy space it needs in order to achieve its development priorities. This includes retaining the flexibility to set tariffs at appropriate levels according to conditions in different sectors; keeping control of incoming investment to all sectors, including essential services; and monitoring of the current donor-driven legal reform process to ensure that it exploits flexibilities for LDCs.

- **Donor governments** should refrain from making excessive demands of Afghanistan during the accession process, particularly those that would deny it access to the existing flexibilities granted to LDCs within the WTO.

Furthermore, given the concerns raised by the WTO accession negotiations of other developing and least developed countries, Oxfam believes that the accession process for LDCs, including Afghanistan, should be reformed in the following ways:

- **The WTO** should develop a fair and objective system, based on the existing 2002 LDC Accession Decision, that will enable LDC accession packages to reflect the development needs of the acceding country, rather than the demands of Working Party members.

- There should be full recognition that LDCs are entitled to the full benefit of all Special and Differential Treatment (SDT), all extended implementation periods, and all exemptions enjoyed by founding member LDCs, including those recently agreed in the Doha Round of negotiations.
- In order to ensure that such a system is actually implemented, far greater transparency is required and influential **Working Party members** should take their share of responsibility for ensuring a fair outcome from negotiations.
- LDCs that are in the process of acceding should be allowed to take full advantage of the recommended new process, if necessary by retracting any LDC-plus concessions already made in bilateral or multilateral negotiations.
- No acceding country, particularly LDCs, should be required to enter into accession negotiations until thorough and independent poverty and social impact analysis has been undertaken.

Introduction

Afghanistan has recently embarked on the process of joining the World Trade Organisation (WTO). This paper seeks to identify how the country can give itself the best possible chance of achieving a WTO accession package that supports its efforts to develop sustainably and to reduce poverty. This will undoubtedly be a tough process for Afghanistan in the context of an inherently unfair accession process within which Least Developed Countries (LDCs) are expected to liberalise their trade regimes even further than existing WTO members.

Section one puts Afghanistan's quest for WTO membership in the context of its human development status and of the severe challenges posed by the accession process, as experienced by other countries. The section ends with an overview of the current status of Afghanistan's accession.

Section two gives details of the potential benefits and potential risks of WTO membership for Afghanistan and explains how it could respectively maximise and minimise these. At this stage in Afghanistan's development, however, the costs of accession could well outweigh the benefits. Only through slow and careful negotiations will Afghanistan have any chance of achieving a fair package. This section also includes a summary of the flexibilities offered to LDCs within the WTO of which Afghanistan should be allowed to take advantage, including those recently agreed within the Doha Round of negotiations. The experiences of two recently acceded LDCs, Nepal and Cambodia, in attempting to secure these flexibilities are highlighted here.

Section three gives an outline of what the key players in Afghanistan's accession process — the Government of Afghanistan, international donors, UNCTAD, and the WTO Secretariat — should be doing at this early stage in order to give the country the best chance of negotiating a fair accession deal.

Finally, the paper concludes with a series of commitments that Oxfam believes should be immediately undertaken by the Government of Afghanistan and by the international community, and recommendations for reform of the accession process for LDCs, building on existing proposals.

1 Background to Afghanistan's accession

Afghanistan's human development status

Afghanistan is one of the poorest countries in the world. Its human development indicators are below those of the majority of sub-Saharan African countries and it is classified by the UN system as both a least developed country (LDC) and a landlocked developing country (LLDC). LLDCs are highly vulnerable states. Lack of access to the sea, remoteness and isolation from world markets, and high transit costs impose serious constraints on the development of these countries, preventing their people from reaping the full benefits of the trade and investment opportunities offered by globalisation.[1]

Box 1: Afghanistan at a glance[2]

Population: 28.7 million (inside Afghanistan)

GDP: $7.2bn (2005)

GDP annual growth rate: 13.8 per cent (2005)

GDP per capita: $315 (World Bank estimate)

Life expectancy at birth: 46.4 years

Literacy: 28.1 per cent of over-15s

Unemployment rate: 30 per cent

Infant mortality rate: 165 per 1,000 live births

Percentage of population living below the poverty line: 70 per cent

Percentage of population with access to safe drinking water: 23 per cent

Percentage of population with access to adequate sanitation: 12 per cent

Sources: UNDP Human Development Report 2006 (www.undp.org); 'Afghanistan: A Country on the Move', UNDP (2005); and World Bank Development Indicators Database April 2006 (www.worldbank.org). All figures are for 2004 unless otherwise stated.

Years of conflict and neglect have had a devastating impact on economic, social, and human development in Afghanistan. Most of the country's industrial and agricultural production capacity has been destroyed through fighting. Many members of the skilled workforce have fled the country and are yet to return. The United Nations Development Programme (UNDP) estimates that 3.4 million Afghans remain outside the country.[3]

Indicators of infrastructure availability are among the worst in the world; according to the World Bank, they are well below the corresponding figures for sub-Saharan Africa.[4] Afghans living in rural areas lack basics such as clean drinking water and access roads linking them to major cities.

In the education sector, an estimated 75 per cent of the country's schools have been lost during the past 25 years of conflict.[5] Afghanistan currently has nearly 5 million children who go to school. However, while there has been a massive enrolment in school, post-Taleban, of both girls and boys, there remain another 7 million children out of school.[6] Many of the schools that are functioning are blighted by an absence of proper equipment and teaching materials.[7]

Afghanistan is one of the most heavily mined countries in the world. Thousands of people have been killed or wounded by landmines, and UN estimates suggest that around 4 per cent of the population — some one million people — are disabled. This poses a huge challenge for a country with a very limited health-care system.

According to the UN, life expectancy — 46.4 years at birth — is around 20 years lower than in all of the countries neighbouring Afghanistan and 4.2 years lower than the average for LDCs. According to UNDP 2004 figures, one in five children dies before the age of five, and one woman dies from pregnancy-related causes approximately every 30 minutes.[8]

While steps are being taken to address these problems, reconstruction and development will take a considerable amount of time and investment. In the words of the UNDP, Afghanistan's recovery process is currently near the bottom of a very long and steep climb.[9]

The accession process

The WTO accession process is seriously flawed, favouring the self-interest of existing WTO members at the expense of the development priorities of acceding countries. Decisions on accession are formally taken by the WTO Ministerial Conference, which is comprised of all WTO members. The 'terms' to be agreed are negotiated with the applicant by the WTO members who opt to join the 'Working Party' dealing with its accession. The major trading nations are invariably members of a Working Party. All members of the Working Party must agree to these terms for the accession to be approved.

For a self-declared 'rules-based organisation', the absence of any rules governing accession is a major omission, although one that can be explained by the advantage it confers on the powerful member countries. Not only must a country abide by all the WTO's rules to enter the organisation, but also individual members are able to ask for further commitments and concessions from applicants, known as 'WTO-plus' or 'WTO-minus',[10] in return for supporting their application.[11]

Whether or not a country accedes to the WTO, and the pace at which the process moves forward, are largely determined by the priorities and ambitions of existing WTO members. Accession for some countries has been blocked for political reasons, while others have been helped by their ex-colonial status or political alliances. The WTO has repeatedly refused observer status to Iran, until recently, and to Syria because of objections by the USA. The approval of Afghanistan's application for WTO membership came at a time of unprecedented levels of US engagement in the country - and on the same day that approval was given for Iraq.

Current status of Afghanistan's accession

On 21 November 2004 Afghanistan submitted a renewed request for WTO membership, and was accepted. The Working Party was established on 13 December 2004. As yet, no WTO members have expressed an interest in joining the Working Party; however, this is expected to change when Afghanistan has submitted its Memorandum on the Foreign Trade Regime (MFTR) to the WTO, the first step in the accession process. This Memorandum, which provides an overview of the applicant country's trade regime, is currently being drafted by the Government of Afghanistan and will probably be submitted during 2007.

After the document is circulated to Working Party members, a series of questions and answers on its content will follow. The number and complexity of these questions depend on the level of interest in the applicant country and the clarity and detail of the MFTR. If the document is thorough and the country is of little global interest or influence, there may only be a limited number of questions posed. Once this exchange is complete, negotiations on the terms and conditions of Afghanistan's entry to the WTO are likely to begin.

2 Negotiating a fair package

There is a strong feeling amongst the international community and amongst civil society within Afghanistan that there are more pressing priorities than WTO membership for a country recovering from decades of conflict, with huge development challenges and one of the highest rates of poverty in the world.[12] Moreover, without first addressing these problems, Afghanistan risks denying itself some of the potential benefits of accession and, perhaps worse, falling foul of the potential risks.

Afghanistan would be in a stronger position to negotiate effectively if it gave itself the time first to encourage political and economic stability and to establish its independence from foreign governments with entrenched national interests in trade negotiations.

Although its application has been made and the first steps towards membership taken, Afghanistan should be in no rush to join the WTO if it wants to achieve a fair accession package that will contribute to, rather than undermine, its development and participation in world trade.

Potential benefits of accession

There are five key perceived benefits for most developing and least developed countries seeking to join the WTO:

- Technical assistance with economic and institutional reforms required of applicant countries by the accession process. For some countries this means expediting reforms already underway;
- The boost that countries hope membership will give to their exports, due to improved access to international markets;
- Attracting increased foreign direct investment (FDI);
- The protection that the multilateral system can offer small countries against bilateral pressures and unfair trade practices; and
- The opportunity that membership of the multilateral system gives countries to influence the formation of global trade rules.

Assistance with economic and institutional reforms

Trade-related technical assistance is usually a top priority for countries seeking to join the WTO, particularly the poorest countries, such as Cambodia, Nepal, and Afghanistan, which simply do not have the resources themselves.[13] Trade-related technical assistance comes from a variety of sources, including donor countries, UNCTAD, and the WTO (see Section 3). It can include reform of customs, standards, and taxation systems; development of the operating capacity of ministries and their ability to formulate trade policy; and support for a country's capacity to understand and implement trade agreements. Afghanistan is already undergoing reform of its customs and taxation systems, its legislature, and the operating capacity of its ministries. While it remains to be seen what the outcome of these reforms will be, efficiency and effectiveness do need to be improved in these areas. That said, any new legislation must address the needs of the poor and vulnerable people who constitute the vast majority of Afghanistan's population.

It is also important to note the difference between assistance that essentially consists of trade facilitation such as customs reform, and assistance that leads to internal legal reform linked to WTO agreements, such as those on services, intellectual property, and investment. The latter could tie Afghanistan into trade-related legislation that may not be in its best interests and which could compromise its development in the future, even before it gets to the negotiating table. Afghanistan should therefore try to use donor support for internal reforms that are to its own advantage, and should be confident in turning down any suggested reforms that may be overly restrictive at this early stage.

Arguably, assistance with all these reforms could take place without an accession process, but it is unlikely that the motivation to drive forward reform would exist without the ultimate goal of WTO membership.

Technical assistance for trade facilitation must support Afghanistan's national development priorities and must be substantial enough to be meaningful. WTO members have committed themselves to providing substantial technical assistance for LDCs during the accession process, stating: 'Targeted and co-ordinated technical assistance and capacity building, by the WTO and other relevant multilateral, regional, and bilateral development partners, including inter alia under the Integrated Framework (IF),[14] shall be provided, on a priority basis, to assist LDCs.'[15] These commitments were reinforced in the WTO's Hong Kong Declaration, agreed in December 2005.

Despite these commitments, a group of LDCs at a conference on WTO accession expressed an opinion that current technical assistance programmes do not adequately meet the needs of the poorest nations acceding to the WTO. The representative from Yemen raised three areas of concern regarding the provision of technical assistance by donors: some training workshops, whilst generally useful, are often repetitive, overly generalised and of little practical value to negotiators; there is often a duplication of effort from different donors offering similar assistance; and technical assistance provided by donors with a seat on the other side of the negotiating table can lead to a conflict of interest.[16]

Furthermore, technical assistance should not finish when the WTO accession package is signed. Most WTO agreements contain provisions regarding the transfer of technology and the provision of technical assistance to developing and least developed country members. However, the experience of existing members shows that levels of assistance remain minimal and that what has been provided has too often been donor-driven rather than recipient-driven.[17] Poor countries urgently need money to strengthen their ability to trade and yet there are no binding commitments for donors to provide money under the Integrated Framework.

While appropriate technical assistance cannot undo any harmful concessions made in accession negotiations, it is essential for the implementation of future agreements and for Afghanistan's ability to adapt to WTO membership. It is therefore imperative that this assistance is recipient-driven, additional to existing development aid, free of economic conditions, predictable and complementary to fairer trade rules.[18]

Boost in exports due to improved access to international markets

In theory, Afghanistan could obtain increased access to international markets through the WTO principle that trade terms offered by one country to another (essentially tariff rates) must be offered to all trading partners — a principle of non-discrimination known as Most-Favoured Nation (MFN) treatment. Countries joining the WTO, such as Afghanistan, may not have had access to the lower tariffs enjoyed by existing members.[19]

However, according to representatives from the Afghan Government, Afghanistan already benefits from preferential trade agreements (PTAs) with the European Union, the USA, Canada, Japan, India, and Iran.[20] Negotiations on a further PTA with Pakistan are underway. Afghanistan is also entitled to benefits under the EU and US General System of Preferences (GSP) and the EU's Everything But Arms Initiative (EBA).[21] Furthermore, 80 per cent of all the country's exports go to four trading partners with which it already has or is currently negotiating preferential arrangements: in descending order, the USA, Pakistan, India, and the EU.[22]

Within this context it is difficult to identify how WTO accession would give Afghanistan significantly increased access to the markets of its main trading partners. It is one of the poorest countries in the world, struggling to recover from over two decades of conflict that have destroyed many of its economic institutions, businesses and infrastructure. Consequently, at this stage in its development, it does not have a sufficiently strong export base to enable it to take full advantage of increased market access through its existing PTAs.

Current trade statistics illustrate the point. According to the Afghanistan Central Statistics Office, in 2005/06 exports of goods were worth $1,900m (including $1,200m of re-exports) and imports were worth $3,900m, giving a trade deficit of $2,000m.[23] The Government estimates that this trade deficit is about 30 per cent of GDP.[24] World Bank projected trade figures for 2007 put Afghan imports of goods at $3,993m and exports at $1,558m, leaving a trade gap of $2,435m.[25] Furthermore, the World Bank estimates that 80–90 per cent of all economic activity in Afghanistan is informal. By way of a regional comparison, in 2005 neighbouring Pakistan exported $15,917m of goods; China registered exports worth a massive $761,954m, and Cambodia, also an LDC, had exports of $3,100m.[26]

Afghanistan's economy is still reliant on the rural sector, with largely subsistence agriculture accounting for 36.1 per cent of GDP in 2005/06. In the same year industry contributed 24.8 per cent of GDP and services 39.2 per cent.[27] Furthermore, the economy is dogged by the illegal opium trade. It is estimated that opium production and trade account for over a quarter of the total economy.[28]

The increased market access that Afghanistan currently enjoys will undoubtedly be of advantage once the country has had the opportunity to develop its export sectors. Whether or not the WTO will bring a further increase in market access to Afghan producers is questionable.

Afghanistan currently has no competitive advantage in the international trading system. The security risks, the logistical difficulties of importing to a landlocked country, and the fact that Afghan markets are dominated by a few large players, with consequent instances of anti-competitive behaviour,[29] mean that Afghan products are not cheap by regional standards. However, this is not to say that Afghan producers do not have a 'dynamic' comparative advantage: i.e. they could develop comparative advantage in the future. However, it is unclear how membership of the WTO would help in this respect.

Notwithstanding Afghanistan's current poor terms of trade, economic growth post-conflict (from non-drug sources) remains high at 7.5–8 per cent, despite a recent slump.[30] In its Interim National Development Strategy, the Government of Afghanistan has identified priority investment areas where sources of growth will emerge in the long term. These are agriculture, pastoralism, and rural enterprises; the productive use of state assets; mining and extractive industries; and regional co-operation, trade, and transit.[31]

The development of these sectors will take time and policies must be developed to ensure that any growth is equitably distributed. These policies must pay particular attention to the share of growth created by women. The agricultural sector in particular employs a significant number of women, and growth here will therefore have the potential to benefit women directly.[32]

In the short to medium term, many of the international organisations and donors active in Afghanistan can see export-led growth in four sectors, all of which fall within the Government's first investment area: agriculture, pastoralism, and rural enterprises. These are carpets and rugs; dried fruit and nuts (see Box 2); fresh fruits; and hides, leather, and wool.[33] Indeed, these are the sectors in which Afghanistan has historically been a strong producer, and it could be so again. World Bank projections of export growth in these sectors show an increase from $100m in 2005 to $176m in 2010 in dried fruit and nuts, from $23m to $57m in fresh fruits, from $80m to $161m in hides, leather, and wool, and from $50m to $101m in carpets and rugs.[34]

Box 2: Almond boom: farmers seek new markets

An article in *Pajhwok Afghan News* in July 2006 told of a large increase in almond production in the northern province of Samangan. In 2006 farmers in the region predicted a bumper crop of 8,100 tonnes worth $32m, compared with 6,753 tonnes worth $27m in 2005. Normally, 70 per cent of the almonds from this province are exported to Pakistan, India, China, and the United Arab Emirates via merchant traders. However, in 2006 the farmers struggled to find a market for their crop, due to the large increase in production. Should this growth trend continue, almonds might be one commodity that could take advantage of increased market access through existing and forthcoming PTAs and potentially through WTO membership.

Source: 'Almond produce in need of good market', Barat, M. in Pajhwok*, 12 July 2006.*

It is clear that, if Afghanistan wants to maximise the benefits of increased market access through PTAs and perhaps through WTO membership, it first needs to take the time to invest in and develop its industrial and agricultural sectors, so that it has products to export in significant quantities. Provided that the security situation continues to improve, Afghanistan should be able to develop and rebuild these and other sectors and to establish a competitive advantage in certain sectors. However, it will continue to need significant help from the international community to achieve this. In the recent Doha Round of WTO negotiations, there was discussion about helping LDCs with supply-side capacity so that they could take advantage of the benefits of being WTO members. If these discussions bear fruit, Afghanistan should ensure that it benefits from any such LDC entitlements.

Attracting increased foreign direct investment (FDI)

Some countries believe that membership of the WTO offers proof of a business-friendly environment and that this in turn attracts FDI into the export sector and stimulates production for the local market. Indeed, when properly regulated, FDI can make a vital contribution to a country's sustainable development. However, World Bank findings show that WTO membership has little impact on the flow of FDI.

A survey by the Multilateral Investment Guarantee Agency (MIGA) of the World Bank found that an organisation's decision to invest in a particular country is driven primarily by access to customers and by a stable social and political environment. The greatest perceived risks in

FDI are physical insecurity of staff, war or civil disturbance, inconvertibility of the local currency, and breach of contract.[35] In fact, the World Bank's 2005 World Development Report, which focused on the role of investment in development, stated that there is no proof that investment decisions are influenced by the signing of any trade agreements, including WTO membership.[36]

The World Bank outlined similar findings in its 2005 report on the investment climate in Afghanistan.[37] According to the Bank, new decisions about investment usually depend upon the presence or absence of five basic factors: political and economic stability and security; clear, unambiguous regulation; reasonable tax rates that are enforced equitably; access to finance and infrastructure; and an appropriately skilled workforce. Trade liberalisation and membership of the WTO are not listed.

Within the Afghan context, although the World Bank reports that investment is currently at high levels and contributes nearly 22 per cent of GDP, the vast majority of this is public investment financed through international aid. Some progress has been made with tax reform and regulation, but limited access to electricity and land, and an under-skilled workforce pose huge problems. World Bank research indicates that businesses in Afghanistan have electricity for only 6.5 hours per day and that over 50 per cent of companies have been unable to acquire land, despite trying for the past three years. It is estimated that only one-third of workers in Afghan enterprises have a secondary education or higher and that only 62 per cent of Afghan managers have secondary or higher education, compared with 96 per cent and 98 per cent respectively in neighbouring Pakistan and India.[38]

Against a backdrop of poor access to resources, an insurgency threat that is perhaps greater than at any time since the fall of the Taleban regime, it is unlikely that foreign investors will be swayed by WTO membership, if at all.

Access to the WTO Dispute Settlement Understanding (DSU)

The DSU is the binding WTO procedure for resolving trade-related quarrels between member countries. Without this facility, developing countries would have to face the might of the trade heavyweights in bilateral confrontations. In such a situation, given the disparity in their power and resources, the likelihood of success for the smaller developing countries would be very low. The DSU is meant to provide developing countries with a means of appealing against 'illegal' trade practices that have a negative impact on their trade flows and economies.

However, in reality this facility has proved less useful for LDCs and developing countries.[39] Of the 346 cases brought before the Dispute Settlement body to date, only one — DS306 Anti-Dumping Measure on

Batteries from Bangladesh[40] — was led by an LDC. In reality, high costs, a lack of technical capacity, and political pressures have deterred LDC members from defending their rights in this forum, although LDCs have participated in several cases as third parties.

The DSU does offer Afghanistan the possibility of obtaining redress for unfair action by trading partners. There are numerous reports within NGO case studies[41] of an influx of cheap, allegedly subsidised goods into Afghanistan from China, Pakistan, and Iran. Whilst dumping[42] is not legally proven in these cases, other LDCs, such as Mozambique and Haiti, have strong, legally watertight cases concerning EU and US dumping that could be pursued within the DSU.[43]

Access to the DSU would, in theory, give Afghanistan the opportunity to confront such unfair practices in the future, should they arise. However, it remains doubtful that it would be able to follow them through successfully.

For example, a critical problem faced by Afghanistan's significant carpet industry is that many Afghan-made carpets, which are sent to Pakistan for finishing and cleaning, are being exported on to third countries as Pakistani products (see Box 3). Unfortunately, WTO Rules of Origin are very limited and it is therefore unlikely that Afghanistan would be able to address this particular issue through the DSU.

Box 3: Afghanistan's carpet industry: loss of a brand

Afghanistan has a worldwide reputation for producing carpets of exceptional quality, and carpets and rugs are the country's main export product. In 2005/06 they comprised 53.93 per cent of its total exports.[44] Furthermore, the carpet industry is one in which many poor women and men find employment.

Research from the Afghanistan Research and Evaluation Unit shows that most carpets are exported to Pakistan before being re-exported to third countries. Pakistan is where final cleaning and processing is carried out, although there is a carpet washing and processing plant in Mazar-i-Sharif in Afghanistan.[45] Many carpets are relabelled in Pakistan to make it appear that they were produced there, thus undermining the Afghan 'brand' for this traditional product.

Research by Christian Aid in the remote and isolated Faryab province tells a similar story.[46] Faryab has not benefited from the recent influx of aid money or the subsequent reconstruction boom, in part due to its geographical isolation. Consequently, poverty rates are extremely high and income-generating opportunities are few.

In the past, the weaving and trading of carpets was a good source of income for ordinary Afghans in Faryab. The income generated from the business not only contributed to the socio-economic development of the province but also to the national economy. Unfortunately in recent years, due to exploitation by external dealers and middlemen, income from this sector has declined. Further exacerbating the problem is the practice of false labelling by Pakistan-based dealers, who buy carpets at a low price and export them at an inflated one, and as a Pakistani product. As the carpet industry is predicted to be one of the main sectors of growth in Afghanistan in the short to medium term, this problem must be addressed as a matter of urgency.

Influencing the formation of global trade rules

Prospective members of the WTO often cite the ability to be involved in negotiating the direction and detail of global trade rules as one of the benefits of joining the organisation. It is true that the collective voice of developing countries within the WTO has grown in power and volume in recent years.

The assertiveness and teamwork pioneered by the Group of 20 developing countries (G20) at the WTO Ministerial in Cancun in 2003 has grown even stronger. The Hong Kong meeting in 2005 saw the formation of a loose alliance of all 110 developing countries, united in opposition to the status quo. The result was that more was on offer for developing countries at the Ministerial in Hong Kong than there was in Cancun. However, there is still a long way to go. The WTO continues to be dominated by the most powerful countries in the world, and as a result its agenda largely reflects their ambitions.[47]

While there are potential longer-term gains from WTO membership, there are also serious potential losses. The dangers posed by these losses must not be overlooked. The terms and conditions of accession are impossible to change once agreed. In effect, they lock a country into a situation where it is unable to adopt the same policies once used by today's rich countries to develop or industrialise.

Risks of accession

The extent of the risks posed by WTO accession largely depends upon the terms and conditions agreed within the accession package. While the terms of Afghanistan's accession are not yet known, it is clear that the country is facing a range of severe development challenges. The economy is not yet sufficiently developed to deal with fierce international competition, while productivity is low and the country's ability to compete is weak.

Given this context and the history of accession negotiations for other countries, where onerous WTO-plus demands have been made, it is possible to set out four potential threats from WTO accession to Afghanistan's development prospects:

- Vulnerable sectors of the economy could be damaged or undermined by international competition;
- Extensive privatisation of basic services could lead to an absence of provision in remote regions;
- Income and benefits from FDI may be lost due to insufficient linkages to the domestic economy;
- Implementation of WTO agreements could divert Government funds from pressing development challenges such as health care, education, and infrastructure provision.

Vulnerable sectors of the economy could be damaged or undermined by international competition

WTO membership usually means increased liberalisation of a country's trade regime. Just as trade liberalisation can increase opportunities for exports, it also exposes local producers to foreign competition that they may be unable to withstand, particularly in poorer countries.[48]

Under-developed and vulnerable agricultural and basic manufacturing sectors risk being squeezed out of local and regional markets by increased external competition, and the livelihoods of people working in these sectors may be destroyed. There are examples of this the world over.

For instance, liberalisation of the corn market in the Philippines in 1997 exposed Filipino corn farmers — who had an average annual income of $365 — to heavily subsidised corn from US farmers with an average income from subsidies alone of $20,000 per year. Around half of the Filipino farmers were already living below the poverty line and the impact of exposure to competition from US farmers left the poorest households even worse off. Examples from the dairy industry in Jamaica, the sugar and confectionery industry in South Africa, and the textile industry in Zambia illustrate the same problem.[49]

There are strong grounds for LDCs such as Afghanistan to be allowed to use tariffs to shelter vulnerable domestic sectors from competition in order, for example, to promote key national development objectives or to support the livelihoods of poor communities.

Given Afghanistan's predominantly rural economy, in which 67 per cent of the labour force, many of them women, are employed,[50] and its low level of manufacturing capacity, domestic producers in certain strategic sectors must be given the time and space to expand production for the domestic market, while strengthening their capacity to compete internationally.

Afghanistan must be allowed to regulate trade flows to support agriculture, in order to ensure food security, rural development, and long-term growth for its rural population. In order to guarantee future industrial development, Afghanistan must also be allowed to retain sufficient flexibility to nurture infant industries.

This strategy, which is essentially the one previously followed by Western countries and the East Asian 'tiger economies' in their early stages of development, will typically mean limiting the import of some finished goods while allowing imports of crucial capital, raw materials, and intermediate goods that allows local producers to match competition from abroad.[51]

Afghanistan already has an extremely liberal trade regime. A tariff system, recently introduced, groups goods into six categories, from raw goods to luxury goods, and has applied rates ranging from 2.5 per cent to 16 per cent.[52] Neighbouring Pakistan has applied average agricultural tariffs of 18.7 per cent and average non-agricultural tariffs of 16.2 per cent. Even China uses an applied average agricultural tariff of 16.2 per cent, which is higher than Afghanistan's rate for luxury goods (which includes dried fruit and non-citrus fruit - key sectors for future growth). Fellow LDC Cambodia has applied average agricultural tariffs of 19.5 per cent and average non-agricultural tariffs of 15.9 per cent,[53] although these are already considered to be low for a poor country with a principally agrarian economy.

Afghanistan is therefore already open to stiff regional competition within its most important sectors. Not surprisingly, there are increasing numbers of reports of cheap goods from neighbouring countries flooding its markets, including batteries from Iran, fake leather goods from China, and carpets from Iran and Pakistan.[54]

Even though Afghanistan will go to the WTO negotiating table with an extremely liberal tariff system, it will undoubtedly be faced with pressure to bind tariffs at low rates, or to lower its applied tariffs even further. Its priority must be to resist this pressure. Any trade regime which is more liberal than which it has currently would be a disaster for the country's small producers, and the flood of cheap imports would only increase.

Instead, the Government of Afghanistan should retain the right to set tariffs at levels appropriate for each sector, thus encouraging agricultural and industrial development. It is imperative that developing countries are able to maintain the necessary policy space to use tariffs to support their development priorities. Binding tariffs at certain levels early in a country's development can compromise its ability to achieve policy objectives linked to poverty reduction. Afghanistan should be able to capitalise on the fact that existing LDC members are not obliged to bind all of their tariffs on industrial products and do not have to lower bound tariff rates on agricultural products.

Higher tariffs, if deemed appropriate, would also have the added advantage of providing the Afghan Government with much-needed income, which should then be channelled into priority sectors such as health care, education, and infrastructure provision. Afghanistan has one of the world's lowest levels of government revenue as a percentage of GDP, at 6.5% in 2006-07.[55]

Extensive privatisation of essential services could lead to an absence of provision in remote regions

Even though the General Agreement on Trade in Services (GATS) is a flexible agreement that allows countries to choose if and when they liberalise their services sectors, developing countries can come under huge pressure to open up certain sectors. The private sector can, in the right circumstances, deliver much-needed finance, as well as promote innovation and efficiency in some service sectors. However, this has been shown to be most effective when part of a publicly-led and well-regulated system.[56]

There are sensitive sectors in Afghanistan, as in other countries, that provide essential services vital for welfare, such as water, sanitation, electricity, education, and health care. Although government provision of these services is imperfect, the experience of other countries shows that a heavily privatised service is even less likely to reach poorer citizens. This is particularly likely in a mountainous country like Afghanistan, where many people live in remote, rural areas that are difficult to access. For this reason, essential services should be exempt from any GATS commitments.

At the Hong Kong Ministerial meeting in 2005, it was agreed that in the Doha negotiations there would be no requests of LDCs to liberalise services, but no such restraint has been apparent in the accession process. Afghanistan should take note that most acceding countries have been asked to sign up to extensive GATS commitments, including fellow LDCs Vanuatu, Cambodia, and Nepal. Cambodia made commitments in all 11 of the broad sectors under GATS and 34 sub-sectors. Nepal also made commitments in all 11 broad sectors and 28 sub-sectors, while Vanuatu made commitments in 10 broad sectors and 19 sub-sectors. Tonga, although not an LDC, was asked to make commitments in sub-sectors that the Working Party members themselves had not committed to, such as primary education and health care.

Income and benefits from foreign direct investment (FDI) may be lost due to insufficent linkages to the domestic economy

Many multinational companies use developing countries merely as assembly or distribution points, with limited backward linkages or technology transfer to the local host economy.

However, through performance requirements, local content provisions, and technology transfer, some developing countries have retained more of the benefits of foreign investment within their own economies. Indeed, this was how many of today's developed countries climbed the development ladder, including relatively recent success stories such as South Korea.[57] Some of Afghanistan's neighbours, including Pakistan, still use local content provisions for industries such as automobiles and motorcycles.[58]

The WTO Agreement on Trade-Related Investment Measures (TRIMS) does not allow local content provisions, although technology transfer and performance requirements are permitted. However, given the severity of Afghanistan's development challenges, the country should be allowed to negotiate a significant transition period for TRIMS compliance upon accession, similar to the seven-year period originally granted to LDC WTO members, so that it too can ensure that foreign investment plays an integral role in the development of its industrial and services sectors.

This flexibility was renewed for a further seven years under Annex F of the Hong Kong Declaration in 2005, which states: 'LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement… LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years'.[59] In addition, this transition period should be linked to Afghanistan's development indicators, so that if seven years proves to be too short a time for local industries to develop significantly, the period can be extended.

The Government of Afghanistan should also ensure that any new national legislation on investment does not prevent it from benefiting from this potential flexibility.

Government funds could be diverted from pressing development challenges

According to World Bank estimates, the cost of implementing WTO agreements stands at around $100m per agreement.[60] The implementation costs for Afghanistan may not be this high, but would still be significant for a country that is emerging from conflict and whose budgetary priorities lie in sectors linked to poverty reduction, such as the provision of basic infrastructure, health care, and education.

The level of Government revenue is increasing but remains low and far from covers core budget costs. The cost of implementing WTO agreements could constitute a significant fiscal burden.

This reinforces the case for Afghanistan to progress slowly through its accession negotiations, so that it can spread the cost of accession over time and get as much assistance as possible with the implementation of agreements, as and when the time comes. Nepal suffered from an absence of financial support for implementing its WTO commitments, although funds were promised at the time it signed the accession package.

It must not be forgotten that Afghanistan continues to experience serious political instability. Violent clashes and demonstrations are regular occurrences across the country. As the previous Minister for Rural Rehabilitation and Development, Haneef Atmar, has argued, if growth excludes the poor — the majority of Afghans — it will not only fail to achieve national prosperity and political normalisation but it will also destabilise the country. An uneducated workforce with little prospect of future prosperity will be more susceptible to extremism than an educated workforce that shares in the benefits of economic growth.

Onerous WTO-plus demands would be likely to undermine development in Afghanistan and could prevent it from implementing policies that will ensure a fair distribution of growth. All parties involved in Afghanistan's accession process should have this at the forefront of their minds before they enter into negotiations.

Flexibilities for least developed countries

Recognising that LDCs are disadvantaged in their development process and that they face greater challenges than other countries in their struggle to overcome poverty, the international community has granted them some special concessions within the multilateral trading system.

For example, the Agreement on Agriculture (AoA) exempts LDCs from commitments to reduce domestic support and export subsidies and to increase market access. The Agreement on Subsidies and Countervailing Measures exempts the least developed members and other poor developing countries from the prohibition on export subsidies. In many cases in which a transitional period has been allowed to developing country members (e.g. on Trade-Related Intellectual Property Rights, Trade-Related Investment Measures, Sanitary and Phyto-Sanitary Measures, Technical Barriers to Trade, Customs Valuation), the least developed members have been given a longer time-frame.[61] Table 1 below provides an indicative list of the Special and Differential Treatment (SDT) provisions for LDCs contained in the various WTO Agreements. It also shows how the terms of the accession packages of the first two LDCs to join the WTO, Cambodia and Nepal, compare with these provisions.

Given that Afghanistan is likely to be afforded similar treatment during accession negotiations to countries of a similar development status, the terms of Cambodia's and Nepal's accession packages are informative.

Table 1: Special and Differential Treatment for LDCs

WTO Agreement	SDT provisions for LDCs	SDT achieved by acceded LDCs
Agreement on Agriculture	LDCs are exempt from reduction commitments.	**Cambodia:** bound export subsidies at 0%. Simple average agricultural bound tariffs of 30%. Agricultural tariff peak of 60%. Recourse to Tariff Rate Quotas (TRQs). **Nepal:** bound export subsidies at 0%. Simple average agricultural bound tariffs of 42%. Agricultural tariff peak of 200%. No commitment on TRQs.
Application of Sanitary and Phyto-Sanitary Measures (SPS)	LDCs have the possibility of delaying for up to five years the implementation of the provisions of the Agreement with respect to measures affecting imports.	**Cambodia:** four years to 2008. **Nepal:** three years to 2007.
Agreement on Textiles and Clothing	LDCs are accorded more favourable treatment than other groups in the application of the transitional safeguard.	Phase-out of the Agreement on Textiles and Clothing applies to both countries.
Agreement on Technical Barriers to Trade (TBT)	Particular account is to be taken of LDCs in the provision of technical assistance and in the preparation of technical regulations.	**Cambodia:** transition period of three years to 2007. **Nepal:** transition period of three years to 2007.
Trade-Related Investment Measures (TRIMS)	LDCs have a seven-year transitional period to eliminate TRIMS that are inconsistent with the Agreement.	Immediate compliance for both countries.
Agreement on Subsidies and Countervailing Measures (SCM)	Developing countries with per capita income below US$1,000 (and listed in Annex VII) are exempted from the prohibition on export subsidies. Prohibition on subsidies contingent upon export performance is not applicable for eight years for LDCs, and for five years for other developing countries.	Immediate compliance for both countries, although Cambodia was exempted from the prohibition on industrial export subsidies.
Agreement on Customs Valuation (CV)	Transition period of up to five years for some developing countries.	**Cambodia:** five years to 2009. **Nepal:** three years to 2007.

General Agreement on Trade in Services (GATS)	Special priority is given to LDCs in implementing Article IV of GATS (Increasing Participation of Developing Countries) and particular account is to be taken of the difficulties encountered by LDCs. Special consideration is given to LDCs with regard to encouraging foreign suppliers to assist in technology transfers, training, and other activities for developing telecommunications.	**Cambodia:** commitments in all 11 of the broad sectors under GATS and 34 sub-sectors at the two-digit level. **Nepal:** commitments in all 11 of the broad sectors under GATS and 28 sub-sectors at the two-digit level.
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)	Delay for up to 10 years in implementing most TRIPS obligations, with possibility of extension. Members to provide incentives for encouraging the transfer of technology to LDCs. LDCs are not obliged to implement Sections 5 and 7 of Part II of the TRIPS Agreement concerning pharmaceuticals until 1 January 2016. A 2005 WTO ruling has given all LDC members until 2013 to comply with the whole TRIPs agreement. As WTO Members, Nepal and Cambodia will benefit from this.	**Cambodia:** three years to 2007 (although the WTO Ministerial Conference later stated that this will not compromise Cambodia's ability to take advantage of the 2016 deadline with regards Sections 5 and 7 of Part II of the Agreement concerning pharmaceuticals). **Nepal:** three years to 2007 (excluding pharmaceutical products).
Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)	Particular consideration should be given to LDCs in all stages of a dispute. Members to exercise due restraint in raising matters involving an LDC. LDCs may request use of the good offices of the Director-General or the Chair of the Dispute Settlement Board.	Not applicable at the point of accession.
Trade Policy Review Mechanism (TPRM)	Greater flexibility is given to LDCs concerning the frequency of their reviews, with particular attention to the provision of technical assistance.	Not applicable at the point of accession.
Understanding on the Balance-of-Payments Provisions	Simplified consultation procedures may be used.	Not applicable at the point of accession.
Agreement on Import Licensing	In allocating non-automatic licences, special consideration is to be given to importers who import from LDCs.	Not applicable at the point of accession.

Source: 'Special and Differential Treatment for Least-Developed Countries', WTO Committee on Trade and Development, WT/COMTD/W/1355, October 2004.

New LDC members of the WTO, Afghanistan included, should also be granted access to these flexibilities. While the packages of Cambodia and Nepal show signs of marked flexibility in some areas, both countries were still denied access to many of the SDT provisions. Both were required to bind tariffs at levels lower than those of many existing developing country members and to liberalise their services sectors extensively. Furthermore, full transition periods were not awarded in all cases.[62]

If Working Party members are to pay more than lip service to the idea of leniency in accession negotiations, Afghanistan should certainly expect to achieve better terms of membership than those granted to either Cambodia or Nepal. However, Afghanistan should learn from the experiences of these two countries in order to support its quest for a fair package, with the list of commitments in Table 1 serving as a back-marker for Afghan negotiators.

Further special and differential treatment for both LDCs and developing countries is being discussed within the Doha Round of negotiations. The Doha negotiations have been dubbed a 'development round' because they were supposed to deal with issues of particular importance to developing country governments. So far little progress has been made, though at the time of writing the talks were beginning to recover after being suspended in July 2006.

Nevertheless, Afghanistan must take note of what has so far been agreed, in principle,[63] for LDCs within the Doha negotiations, and ensure that it negotiates the same privileges for itself. To date, LDCs have been exempt from making tariff cuts in Non-Agricultural Market Access (NAMA) and in agriculture, and they are excluded from plurilateral requests on services. However, beyond these exemptions, the latest development-friendly elements of the package that have already been agreed are disappointing.

LDCs will get duty-free and quota-free (DFQF) market access on a minimum of 97 per cent of tariff lines from all rich countries and from those developing countries in a position to grant this. This is welcome, but an exclusion of 3 per cent of tariff lines would still enable the USA, Japan, and others to exempt most products of strategic importance to developing countries, such as textiles — which in time could be relevant to Afghanistan's carpet industry.

LDCs are also technically eligible to take advantage of a decision which transforms a waiver on patents and public health into a permanent amendment of the TRIPS Agreement. This enables developing countries to import generic copies of patented medicines, if they lack the capacity to manufacture them themselves. Unfortunately the process is so bureaucratic that, since the waiver was introduced in 2004, not one country has used it to gain access to generic drugs.[64]

If industrialised countries had delivered on the promises they made at the start of the Doha Development Round, above all by significantly improving access to their markets and by reducing their farm subsidies, the potential benefits of WTO membership for Afghanistan and other LDCs would have been improved. With the collapse of the talks, no further movement is likely in the near future.

There is a group of landlocked developing countries within the WTO that are also fighting for special rights to ensure that they are able to realise the full benefits of the multilateral trading system. These privileges include the right to freedom of transit. As an LLDC itself, Afghanistan should adopt a similar position to these states in its accession negotiations.

3 Action in the early stages of the accession process

Afghanistan's accession process is likely to last upwards of five years[65] and will involve very complex negotiations with some of the world's most powerful countries. There is much that the key players in the process — the Government of Afghanistan, international donors, UNCTAD, and the WTO — should be doing at this early stage in order to give Afghanistan the best chance of successfully negotiating a fair package.

The Government of Afghanistan

While WTO accession negotiations will be challenging for a poor country with very limited resources. The following recommendations, based on the experiences of recently acceded countries, sets out how Afghanistan could best prepare for and engage in accession negotiations.

Separate the ultimate aim of WTO accession from any political goals

The government of an acceding country should take the time to negotiate carefully on the substance of each issue, rather than feel pressured to rush ahead with negotiations to meet a predetermined deadline, regardless of the consequences. Working Party members tend to leave their most far-reaching demands until the very end of the process,[66] thus increasing the pressure on the acceding country to agree to them. If a deadline is set, this intensifies the pressure and increases the vulnerability of a country to agreeing to potentially harmful concessions.

Preparation of the Memorandum on the Foreign Trade Regime (MFTR)

This document, detailing the substance of a country's economy and trade regime, is the basis from which negotiations begin. It is absolutely essential that acceding countries complete this document themselves, with support from UNCTAD, so that they have a comprehensive understanding of their own trade regime. Only with this knowledge will they be able to analyse the issues on which it is necessary to be either defensive or offensive in negotiations. This will include deciding where compromises could be made to assuage Working Party members' interests without damaging development prospects, and establishing low-cost concessions that could be made to substitute for other, higher-cost demands.

Involvement of civil society

It is important to raise public awareness of the prospect of WTO membership and to involve civil society in a discussion of the costs and benefits of WTO accession at the very start of the process. Independent and objective information should be disseminated in an accessible form to members of the public who are likely to be affected by WTO accession. These may include poor rural communities that are difficult to reach.

There should be opportunities for civil society organisations (CSOs) to provide input through meaningful consultation throughout the accession process. Key interest groups — including producer groups, women's groups, traders, and Afghan chambers of commerce — will be able to offer valuable support and advice in accession negotiations. NGOs can help in the achievement of these aims by assisting CSOs and the government with the organisation of public meetings and seminars, and through use of the media.

Good use of public relations, the press, and NGOs can help create an environment in which Working Party members might be less inclined to make unfair demands. In this way, NGOs and CSOs can support an acceding government in standing firm against inappropriate requests.

Establishing a negotiating team

From the point of application, a long-term, dedicated team of negotiators with a thorough knowledge of international trade should be established. This team should be involved in the drafting of the MFTR. Effective co-ordination between government departments is essential to ensure consistency and coherence in the negotiations and that negotiating positions are taken seriously. A negotiating team drawn from different government departments should help to achieve this.

Cambodia, for example, established an inter-ministerial team on WTO accession, which provided guidance to the smaller technical negotiating team. It could be useful for Afghanistan to liaise with Cambodian officials to establish how this operated. Changes within the negotiating team, resulting in a loss of knowledge and experience, and conflicting messages from different parts of government, will reduce the chances of successfully negotiating a fair package.

Technical assistance

Technical assistance which is recipient-led and guided by the priorities of the acceding state is essential. This should include poverty and social impact analysis, designed and owned by the country concerned, at an early stage of the accession process. Funded jointly by key donors, and in consultation with civil society, this sets out the possible consequences of WTO membership for vulnerable sectors in acceding countries. It should provide a comprehensive analysis of the possible social, economic, environmental, and cultural impacts of WTO accession. It should also examine differentiated economic impacts on various groups within society.

Technical assistance should also involve training for acceding country negotiators to help them gain a full understanding of WTO Agreements. Both processes would help the acceding country to negotiate from an informed position. Only when a country has an idea of the impact of accession will it be able to direct and manage a technical assistance programme that supports its aims.

Exercise caution in bilateral negotiations

Afghanistan has recently signed a large number of trade agreements in a short period of time. While it appears that none of these are full Bilateral Trade Agreements (BTAs), under the principle of Most-Favoured Nation any concessions that are granted to one country within a BTA must be granted to all WTO members upon accession. For example, Viet Nam agreed a BTA with the USA that contained a number of WTO-plus concessions, which subsequently compromised its ability to negotiate a pro-development accession package.[67]

Cultivate allies within the Working Party group

Allies can help to soften the potentially damaging demands made by some WTO members. For example, Brazil and India fought on behalf of Nepal to keep pharmaceutical products out of the concessions made on TRIPS and to dilute the package of demands on transparency from the USA. While no members for Afghanistan's Working Party have yet come forward, it is likely that possible regional allies, such as India, Saudi Arabia, and the United Arab Emirates will join the group.

Highlighting development status

Afghanistan should make the most of the fact that it is an LDC and an LLDC and of the benefits that this status should provide. It should draw attention to the WTO Decision which provides guidelines on LDC accession[68] and the campaign for freedom of transit for LLDCs within the WTO. It is important for the Afghan Government to specify what, in its view, each of these LDC accession guidelines means in practice for Afghanistan. It should also take full advantage of the positive political will that it enjoys. Some of the most powerful countries in the world have invested heavily in Afghanistan's reconstruction and development in recent years. These countries will undoubtedly also be on the Working Party.

All of this preparation takes time and resources. Taking one step at a time and moving slowly through the early stages of the WTO membership process will help Afghanistan to be better prepared and to know when it needs to call in further advice or support.

International donors

International donors have provided support to Afghanistan on trade facilitation, such as customs reform, trade policy development, the creation of industrial estates, and investment in infrastructure.

Given the experiences with other acceding countries, donors, including the World Bank, should provide financing in order to enable the Afghan Government to assess fully the opportunities and costs of compliance with WTO agreements, before any formal negotiations begin.

As indicated above, any technical assistance provided must serve the interests of Afghanistan and must be guided by the priorities of the Afghan Government.

Donor countries currently have significant influence over policy decisions in Afghanistan, including those from which they stand to benefit. However, this influence should not extend into the arena of trade negotiations. Any efforts by donor countries in Afghanistan to influence or control the accession process and negotiations should be firmly resisted.

Donor countries should take steps to impress upon their WTO trade teams the importance of exercising leniency in accession negotiations. Bearing in mind their massive investment in reconstruction and development in Afghanistan, it would be self-defeating for donor countries to undermine these efforts by denying Afghanistan a WTO accession package that supports sustainable development, pro-poor growth, and that truly reflects its LDC status.

Several donor countries have raised concerns regarding Afghanistan's WTO application at this stage in its development, when it faces so many challenges, not least with regard to achieving stability, and is so heavily influenced by foreign governments.[69] These donors should make their concerns known to the Government of Afghanistan and should advocate for a slow and careful negotiating process.

UNCTAD

One of the three main functions of the United Nations Conference on Trade and Development (UNCTAD) is to provide technical assistance tailored to the specific requirements of developing countries, with special attention to the needs of LDCs and economies in transition.[70] During the accession process, this assistance is manifested in the training of developing country negotiating teams, help with the drafting of the MFTR, and support for the hundreds of questions that acceding countries must answer during accession proceedings.

It is vital that UNCTAD continues to provide this support to the Afghan Government, given its unique mandate to promote the development-friendly integration of developing countries into the world economy. Crucially, the organisation does not reflect the ambitions of any particular donor country and as such is unbiased in its advice.

It is also critical that UNCTAD works with the Government of Afghanistan to undertake sectoral studies to examine the impact of different levels of liberalisation on key sectors. Together with poverty and social impact analysis, these are the principal methods by which an acceding country can negotiate from an informed position. Given their significance, sectoral studies should be undertaken at an early stage in the accession process.

WTO

The WTO Accessions Division has the responsibility for organising and facilitating the accession process. It does not have a mandate to become involved in negotiations. Staff liaise with all parties (Working Party members and the acceding country) for the purpose of coordination and, at times, to facilitate the resolution of problems. As such it is essential that WTO Secretariat officials are strictly impartial.

The Secretariat does provide some technical assistance for the understanding of WTO agreements, which includes limited training carried out in Geneva. However, the majority of technical assistance is provided by donors and by UNCTAD.

There needs to be a complete overhaul of the way that WTO members and the WTO itself approach LDC accession. This approach must recognise the special characteristics of LDCs and help them to overcome the disadvantages they face in the world trading system.

This should start with implementation of existing policy on accession. The Decision on the 'Accession of Least-Developed Countries' which achieved consensus in the WTO General Assembly in December 2002 is clearly intended to bring about a fundamental change in the process. It calls for a simplified, streamlined process within which WTO members exercise restraint in their demands. It expressly acknowledges that LDCs are entitled to Special and Differential Treatment and that they are to be given the benefit of transition periods.[71]

The WTO Secretariat, as the organisation with responsibility for ensuring that Decisions made by its members are acted upon, has a key role to play in the realisation of this new approach. It should involve holding member states to account for their actions in ongoing LDC accession negotiations.

Conclusion and recommendations

If Afghanistan is to maximise the potential benefits of WTO membership and minimise the potential risks, it must not be in a hurry to begin negotiations. As one of the poorest countries in the world, suffering from chronic under-development in every sector and with a tiny export base, it must give key sectors of potential growth the support and the time they need to develop, before exposing them to the multilateral trading system.

To do this, it must retain full flexibility to institute trade and industrial policies and domestic regulations that support development and poverty reduction. Regrettably, many LDCs and other acceding countries have been pressured by WTO Working Party members not to institute such policies. Afghanistan should not fall into this trap. In order to give Afghanistan the best chance of a pro-development accession package, Oxfam believes the following commitments must be made by those involved in the process:

- **All international donors** must provide vital technical assistance and poverty and social impact analysis to help Afghanistan to negotiate, then adapt to, WTO membership in a way that supports its pressing development needs. It is imperative that this assistance is recipient-driven, additional to existing development aid, free of economic conditions, predictable, and complementary to fairer trade rules.

- **The Government of Afghanistan** should maintain the policy space it needs in order to achieve its development priorities. This will include retaining the flexibility to set tariffs at levels appropriate to each sector; retaining control of incoming investment to all sectors, including essential services; and strict monitoring of the current donor-driven legal reform process to ensure that it exploits WTO flexibilities for LDCs.
- **Donor governments** should refrain from making excessive demands of Afghanistan during the accession process, particularly demands that would deny the country access to the existing flexibilities and concessions available to LDCs within the WTO.

Furthermore, in light of the accession of other developing and least developed countries, Oxfam believes that the accession process for LDCs, including Afghanistan, should be reformed in the following ways:

- **The WTO** should develop a fair and objective system, based on the existing policy – the 2002 Accesssion of LDCs Decision – that will enable LDC accession packages to reflect the development needs of the acceding country, rather than the demands of Working Party members.
- There should be full recognition that LDCs are entitled to the full benefit of all Special and Differential Treatment, all extended implementation periods, and all exemptions enjoyed by founding member LDCs, including those recently agreed in the Doha Round.
- In order to ensure that such a system is actually implemented, far greater transparency is required and influential **Working Party members** should take their share of responsibility for ensuring a fair outcome from negotiations.
- LDCs that are in the process of acceding should be allowed to take full advantage of the recommended new process, if necessary by retracting any LDC-plus concessions already made in bilateral or multilateral negotiations.
- No acceding countries, particularly LDCs, should be required to enter into accession negotiations until thorough and independent poverty and social impact analysis has been undertaken.[72]

Notes

[1] Extract from a European Commission Statement on LLDCs, 17 September 2002: Statement by H.E. Ambassador John B. Richardson on behalf of the European Community at the Third Annual Ministerial Meeting of the Group of Landlocked Developing Countries (New York).

[2] Afghanistan's remoteness and low levels of development make the collection of statistical data a very difficult task. As a result, the most recent human development data from the World Bank and UNDP are from 2004 or 2005 at best.

[3] 'Millennium Development Goals in Afghanistan', UNDP, www.undp.org.af/about_us/mdg_afg/mdg_afg.htm.

[4] 'The Investment Climate in Afghanistan: Exploiting Opportunities in an Uncertain Environment', World Bank 2005.

[5] 'Free, Quality Education for Every Afghan Child', Oxfam International, November 2006, p.12. Original sources are German Technical Cooperation (GTZ) and the Afghanistan Ministry of Planning Department.

[6] Ibid., p.4.

[7] 'Afghanistan: A Country on the Move', UNDP 2005.

[8] Ibid.

[9] Ibid.

[10] 'WTO-plus' are commitments that go beyond those agreed by existing WTO members during the Uruguay Round of negotiations. 'WTO-minus' are commitments that represent a denial of the rights available to existing WTO members.

[11] This section is taken from the Oxfam briefing paper, 'Extortion at the Gate: Will Viet Nam join the WTO on Pro-Development Terms?', Oxfam International 2004.

[12] This statement is based on a series of meetings with Afghan and international development professionals in Kabul in July 2006.

[13] 'Accession to the WTO: Country Experiences and Technical Assistance', German Technical Co-operation (GTZ), 2004, p.6.

[14] The Integrated Framework (IF) is a process that was established to support LDC governments in building trade capacity and integrating trade issues into overall national development strategies.

[15] 'Accession of Least-Developed Countries', WT/L/508, World Trade Organisation, 20 January 2003.

[16] Al-Sabbry, M. (2005) 'Experiences from Yemen', from 'Accession to the WTO: country experiences and technical assistance', report from a joint BMZ/BMWA/GTZ/World Bank Conference held in Berlin, 17–19 November 2004.

[17] 'Scaling Up Aid for Trade: How to Support Poor Countries to Trade Their Way out of Poverty', Oxfam International 2005.

[18] Ibid.

[19] Trade preferences which override the MFN principle are allowed under WTO rules for the benefit of developing countries, including LDCs under the enabling clause.

[20] This statement is based on a series of meetings with government ministers and officials in Kabul, July 2006.

[21] For EU GSP and EBA information, see: http://ec.europa.eu/trade/issues/global/gsp/eba4_sum.htm. For US GSP information, see: http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html.

[22] Statistics from the EU website: http://ec.europa.eu/trade/issues/bilateral/data.htm; click on 'Afghanistan' to reach: http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_114134.pdf.

[23] Afghanistan Country Profile, IMF, March 2006, Statistical Appendix, http://www.imf.org/external/pubs/ft/scr/2006/cr06114.pdf.

[24] 'Quarterly Economic and Statistical Bulletin', Quarter One, 2006/7, Government of Afghanistan. http://www.centralbank.gov.af/pdf/First%20Q.Bulletin%201385,%20%20July%2027,%2006.pdf.

[25] 'Trade Projections for Afghanistan 2005–10', World Bank 2005.

[26] Figures from WTO website: www.wto.org.

[27] Statistics from the International Monetary Fund and the Government of Afghanistan, op cit., p.3.

[28] 'World Drugs Report 2006', United Nations Office on Drugs and Crime.

[29] 'Paterson, A. (2006) 'Going to Market: Trade and Traders in Six Afghan Sectors', Afghanistan Research and Evaluation Unit, June 2006, p.8.

[30] Ibid., p.8

[31] Interim National Development Strategy (I-ANDS), Government of Afghanistan, p.81.

[32] 'Trade and Gender in Afghanistan: Dangers and Opportunities', UNIFEM 2006.

[33] This statement is based on a series of meetings with Afghan and international development professionals in Kabul, July 2006.

[34] 'Trade Projections for Afghanistan 2005–10', World Bank 2005.

[35] Foreign Direct Investment Survey, Multilateral Investment Guarantee Agency (MIGA), with the assistance of Deloitte & Touche LLP, World Bank 2002.

[36] World Development Report 2005: A Better Investment Climate for Everyone, World Bank, 2005.

[37] 'The Investment Climate in Afghanistan: Exploiting Opportunities in an Uncertain Environment', World Bank 2005.

[38] Ibid.

[39] This section is taken from the Oxfam briefing paper, 'Extortion at the Gate', Oxfam International 2004.

[40] www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm.

[41] See 'GCAP Afghanistan Trade Fair: Case Study of Gada Mohamad Ameri', ActionAid, December 2005; and The GCAP Afghanistan Trade and Advocacy Group: 'Briefing Sheet', 2005.

[42] Dumping is the practice of selling goods for less than the price of their production.

[43] 'Truth or Consequences: Why the EU and the USA Must Reform Their Subsidies, or Pay the Price', Oxfam International 2005.

[44] 'Quarterly Economic and Statistical Bulletin', Quarter One, 2006/7, Government of Afghanistan.
http://www.centralbank.gov.af/pdf/First%20Q.Bulletin%201385,%20%20July%2027,%2006.pdf.

[45] 'Going to Market, Patterson, A., op. cit.

[46] 'Carpet Weaving and Trading in Miamana, Faryab Province: A Case Study', Christian Aid, December 2005.

[47] This section is taken from the Oxfam briefing paper, 'A Recipe for Disaster: Will the Doha Round Fail to Deliver for Development?', Oxfam International, April 2006.

[48] 'Asia-Pacific Human Development Report', UNDP 2006.

[49] 'Rigged Rules and Double Standards', Oxfam International 2002.

[50] 'Trade and Gender in Afghanistan: Dangers and Opportunities', UNIFEM 2006, op. cit.

[51] 'Asia-Pacific Human Development Report', UNDP 2006.

[52] Figures from the Government of Afghanistan customs website: www.customs.gov.af.

[53] Figures for 2004 from the WTO website: www.wto.org.

[54] See 'GCAP Afghanistan Trade Fair', ActionAid, op. cit., and the GCAP Afghanistan Trade and Advocacy Group, op. cit.

[55] 'The Political Economy of Taxation and Tax Reform in Developing Countries', Di John, J., July 2006.

[56] 'In the Public Interest', Oxfam International, 2006, pp.60-61.

[57] This section is taken from the Oxfam briefing paper, 'Extortion at the Gate', op, cit.

[58] 'Investment Climate Statement', Pakistan 2005, US State Department. www.state.gov/e/eb/ifd/2005/42099.htm.

[59] WTO Hong Kong Ministerial Declaration, Annex F, December 2005. www.wto.org/english/thewto_e/minist_e/min05_e/final_annex_e.htm.

[60] 'Implementation of Uruguay Round Commitments: The Development Challenge', Finger, J. M. and P. Schuler, World Bank Policy Research Working Paper, 1999.

[61] 'Special and Differential Treatment for Least-Developed Countries', WTO Committee on Trade and Development, WT/COMTD/W/1355, October 2004.

[62] For further information on the terms of Cambodia's accession, see 'Cambodia's Accession to the WTO: How the Law of the Jungle is Applied to One of the World's Poorest Countries', Oxfam International 2003.

[63] Although these LDC flexibilities have been agreed in principle, they are not legal rights and have not yet been implemented. They will not become legal rights until the round has been concluded.

[64] This section is taken from the Oxfam briefing paper, 'A Recipe for Disaster', op. cit.

[65] 'Accession to the WTO: Country Experiences and Technical Assistance', World Bank, op. cit.

[66] 'Mind the Gap: Countdown to Viet Nam's Accession to the WTO', Oxfam International, 2005.

[67] See 'Extortion at the Gate', op. cit.

[68] 'Accession of Least-Developed Countries', WTO, December 2002. The guidelines relate to market access, WTO rules, technical assistance, and capacity building as regards the accession of LDCs.

[69] This statement is based on a series of meetings with Afghan and international development professionals in Kabul, July 2006.

[70] 'About UNCTAD': www.unctad.org.

[71] Taken from the Oxfam paper, 'Extortion at the Gate', op. cit.

[72] Recommendations drawn from previous Oxfam papers on WTO accession, 'Extortion at the Gate', op. cit. and 'Make Extortion History: the Case for Development-Friendly WTO Accession for the World's Poorest Countries', Oxfam International, 2005.

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