

Afghanistan: A Retrospective on Five Years of WTO Membership

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Acronyms and abbreviations

Unless otherwise specified, all references to dollars (\$) are to United States dollars, and all references to tons are to metric tons.

GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
ITC	International Trade Centre
LDC	Least developed country
PTA	Preferential trade agreement
SPS	Agreement on the Application of Sanitary and Phytosanitary Measures
STC	Specific trade concern
TBT	Agreement on Technical Barriers to Trade
TFA	Trade Facilitation Agreement
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
WTO	World Trade Organization

CHAPTER 1 INTRODUCTION

After four decades of conflict, the beginning of the twenty-first century marked a turning point for the Islamic Republic of Afghanistan. In the early 2000s, few institutions were functional. Insecurity was rife, contributing to deep uncertainty and a lack of predictability. Challenges remain, but Afghanistan has made remarkable strides in growing, diversifying and developing its economy in the last two decades. The policy reorientation that began from approximately 2001 involved a fundamental institutional and policy overhaul. While great strides have been made, policy backed growth and development remain a work in progress today.

Like any other nation, history and geography have played a large role in the country's socioeconomic evolution. Afghanistan is at the crossroads of South and Central Asia. It has long been a trading hub and a key part of the ancient Silk Road. This positioning historically has been the country's gateway to the outside world, and the country is richly endowed with natural resources. However, Afghanistan also faces all the challenges of a landlocked nation. It is surrounded by six countries – the Islamic Republic of Pakistan, the Islamic Republic of Iran, Turkmenistan, the Republic of Uzbekistan, the Republic of Tajikistan and the People's Republic of China. Relations with these neighbours play a role in shaping Afghanistan's trade prospects, not only in terms of their bilateral trade, but also in transit trade between Afghanistan and its more distant partners.

Afghanistan established a new constitution in 2004. Article 10 of the Afghanistan Constitution states: "*The state shall encourage, protect as well as ensure the safety of capital investment and private enterprises in accordance with the provisions of the law and market economy.*" In line with this provision, and in the same year, Afghanistan applied for membership of the World Trade Organization (WTO). This was a transformative step in the reform process on which the country had embarked.

In the 12 years of negotiation that followed, the contours of the nation's transformation were gradually put in place, leading to the attainment of WTO membership on 29 July 2016. Afghanistan joined the WTO as a least developed country (LDC). The progress made since the 2004 application to join the WTO and the successful negotiation of membership in 2016, followed by half a decade of membership, has been far-reaching. The government has stressed its commitment to make the most of the range of opportunities – both at home and abroad – offered by WTO membership.

WTO membership was a key aspect of Afghanistan's domestic reform agenda. It was also an important element in the process of creating a market-based economy. Commitment to an international agreement was seen as an important signal, imparting greater certainty, predictability and transparency in matters of governance. Trade and foreign investment have been central components of the reform agenda, contributing to economic diversification, growth and jobs, as well as fostering technology transfer and human capital development.

On the trade front, besides engaging more in international exchange through the multilateral trading system, Afghanistan seeks to strengthen regional ties, taking advantage of its geographical location as a trade and transit hub. In addition to the above-mentioned economic benefits expected from aligning domestic policy with the requirements of WTO membership, and signalling to foreign investors and traders that Afghanistan was open for business, WTO membership was seen as important in at least two other ways. One was that membership offered rules-based access to 163 other markets and also, as an LDC, to tariff-free and quota-free access to major potential markets for the country's exports.

A second attraction of being in the WTO is that it was the beginning of an opportunity for dealing systematically with the freedom of transit issues that can confront a landlocked country. The rules on transit are clear and, if necessary, the WTO dispute settlement mechanism is available to address difficulties that can arise. In this context, however, Iran, Turkmenistan and Uzbekistan are not WTO Members. Uzbekistan is negotiating membership and Turkmenistan has acquired WTO observer status – normally a precursor to seeking membership.

Having applied for WTO membership in July 2004, Afghanistan took until 2009 to submit its Memorandum on Foreign Trade Regime. Following that, five Accession Working Party sessions took place between January 2011 and November 2015. In the meanwhile, bilateral negotiations on Afghanistan's tariff schedules

took place with nine¹ WTO Members, and seven² Members engaged in negotiations on the country's schedule of specific commitments in services. Both these negotiations were completed in 2014. The resulting commitments potentially benefit all WTO Members, since they apply on a most-favoured nation basis.

The next section of this note examines developments in the Afghan economy in the last few years, which are undoubtedly related to WTO accession. It is not possible to isolate the effects of WTO membership per se on economic performance. However, there is little doubt that the WTO and the economic reforms undertaken in the context of membership have influenced economic outcomes. Chapter 3 will examine the terms of accession and the aspects of post-accession regulatory, institutional and other reforms contributing to an improved business environment. Chapter 4 assesses Afghanistan's post-accession WTO-related activities. Chapter 5 assesses the external policy environment and challenges facing Afghanistan.

¹ Canada, the European Union, Japan, the Republic of Korea, the Kingdom of Norway, Chinese Taipei, the Kingdom of Thailand, the Republic of Turkey, and the United States of America.

² Canada, the European Union, Japan, Korea, Norway, Chinese Taipei, and the United States.

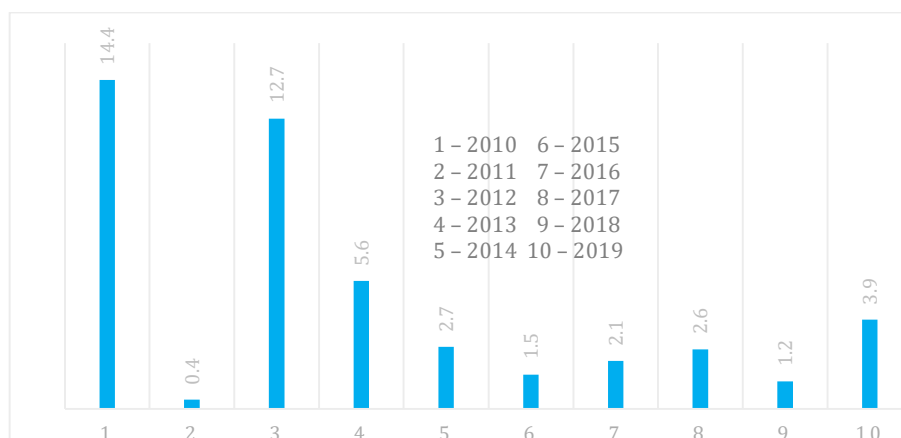
CHAPTER 2 ASSESSMENT OF ECONOMIC PERFORMANCE

Afghanistan's economic performance in the last five years or so is largely a positive story, despite considerable challenges, including that of undertaking a remarkable transformation that began at the start of the twenty-first century. The section will briefly review gross domestic product (GDP) growth, the country's economic structure, international trade developments and foreign direct investment.

GDP growth and economic structure

Figure 1 records annual average GDP growth rates in 2010–19. In 2010–2012, there was a dramatic fluctuation in growth from uncharacteristically high rates in 2010 and 2012 and practically zero GDP growth in 2011. These fluctuations are likely to have been affected by specific exogenous factors. From a relatively modest 1.5% growth rate in 2015, there has been an upward trend in growth, to 3.9% in 2019. The only exception to the trend was in 2018. As already noted, too many factors are at play to attribute the positive post-accession performance to WTO membership, although it is likely that changes in the domestic and external policy environments linked to accession have played a part.

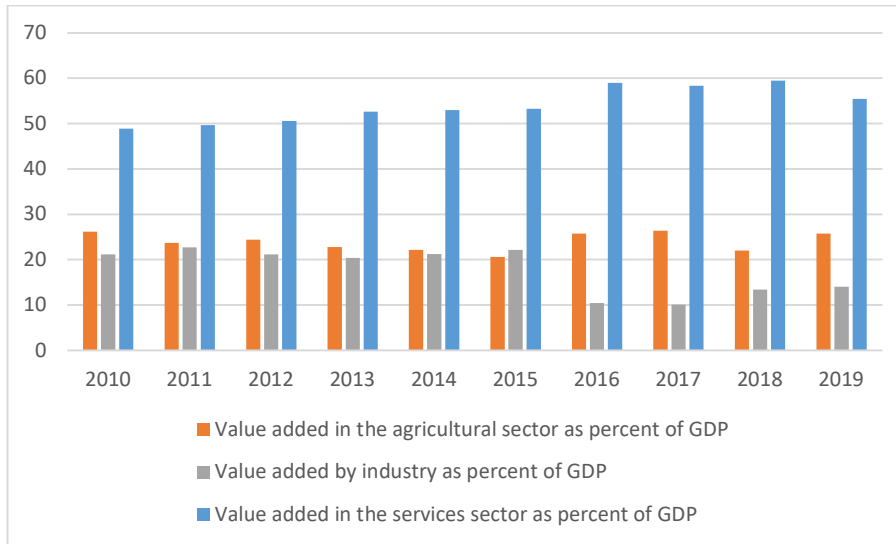
Figure 1 Annual GDP growth (2010–19)



Source: Data from the Afghan authorities.

Figure 2 identifies the sources of value-added in the Afghan economy in 2010–19 on the basis of three broad categories – agriculture, industry and services. Services are the leading source of value in the economy, at more than double the contribution of agriculture and industry combined. This is an important observation, as it stresses the need to pay adequate attention to services sectors and the policies that influence them.

Figure 2 Value-added in agriculture, industry and services (2010–19)



Source: Data from The Global Economy: <https://www.theglobaleconomy.com/download-data.php>.

The relative shares of the three sectors have remained quite stable during the 10-year period, although agriculture has gained over industry in the post-accession period, from 2016 onwards. A probable explanation for the growth in the share of agriculture is the significant uptick in exports of agricultural products in post-accession years (see Figures 4 and 6). A further relevant observation here is that the categories used in Figure 2 are highly aggregated, so this information does not reveal structural shifts that might have occurred within the three categories of services, agriculture and industry.

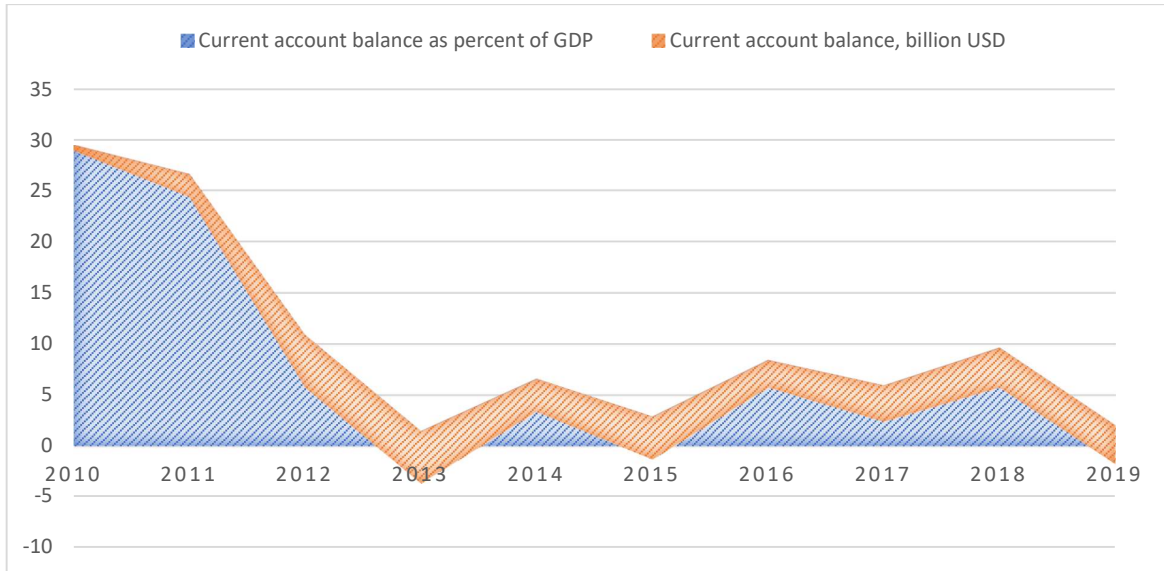
Another macroeconomic indicator of performance is the labour market. No figure has been provided here, since available data suggest that this market has been stable for the last decade. Registered unemployment is reported to have stayed at approximately 11% of the workforce and the labour force participation rate has hovered at just less than 50%.³

Trade and investment

Turning to trade, Figure 3 examines the current account balance on Afghanistan's balance of payments account in the 10 years to 2019. The two horizontal lines in the figure represent the current account balance in USD billions and the percentage of the balance in relation to GDP. The current account balance has been consistently negative during the period under review, reflecting an excess of imports over exports. This is not necessarily a problem, depending on how the current account deficit is financed. Indeed, many developing countries consistently run deficits, and are indicative of a certain economic dynamism, especially where these are financed by foreign direct investment. The other notable feature emerging from Figure 3 is that the size of the current account deficit in relation to GDP dropped from almost 30% in 2010 to a mere 2% in 2019, with some fluctuation in between. This does not reflect a shrinking deficit. Rather, the changes in the deficit–GDP ratio is driven by what happens to GDP in any given year.

³ Data from <https://www.theglobaleconomy.com/download-data.php>.

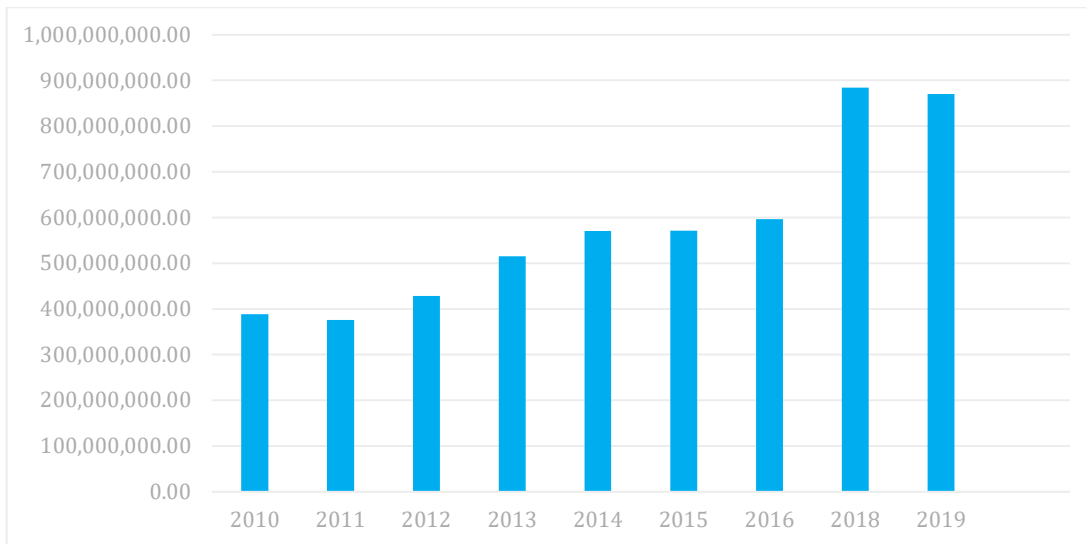
Figure 3 Current account balance in USD billions and as a share of GDP



Source: Data from The Global Economy: <https://www.theglobaleconomy.com/download-data.php>.

Figure 4 reports total exports in the 2010–19.⁴ The pattern of significantly increasing exports is clear, with their value approaching \$900 million, having started at less than half of that in 2010. It can be noted that these numbers are in current prices.

Figure 4 Total exports of goods and services (2010–16 and 2018–19) (USD millions)



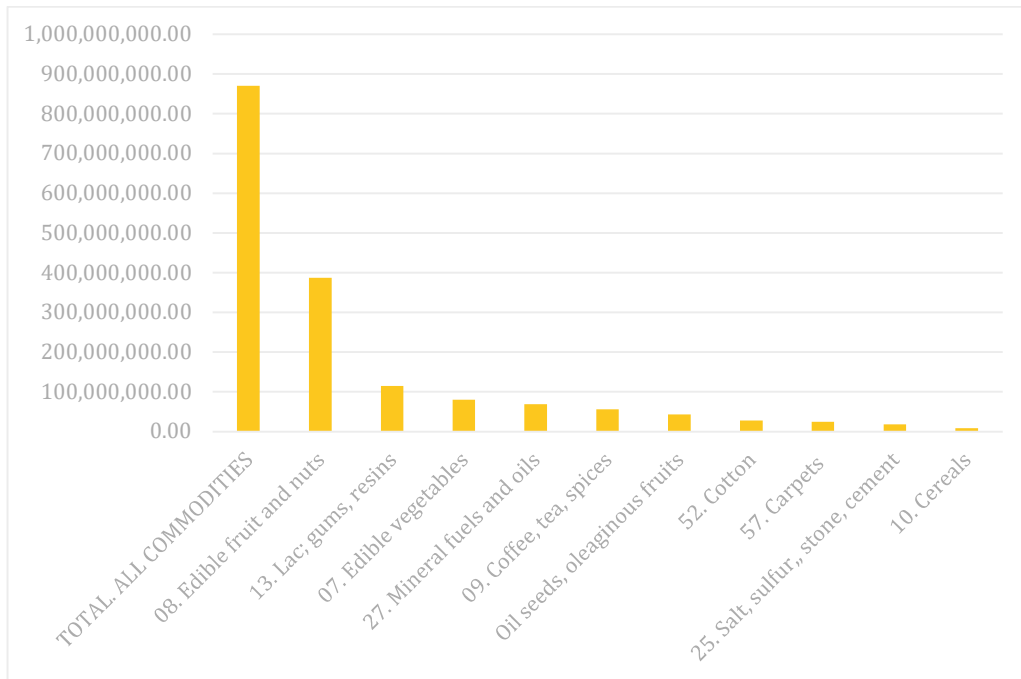
Source: Data from The Global Economy: <https://www.theglobaleconomy.com/download-data.php>.

⁴ The figure for 2017 is missing from the dataset, but it is highly likely that the relevant number conforms to the pattern observed for the years shown.

Figures 5 and 6 show respectively the product composition of Afghanistan’s exports and its major trading partners for the year 2019. Both the composition and the direction of Afghanistan’s exports show a very high degree of concentration. Almost 50% of exports are agricultural products (fruit and nuts, and peel of citrus fruit or melons). A further 25% of total exports are accounted for by lacs, gums, resins and vegetables.

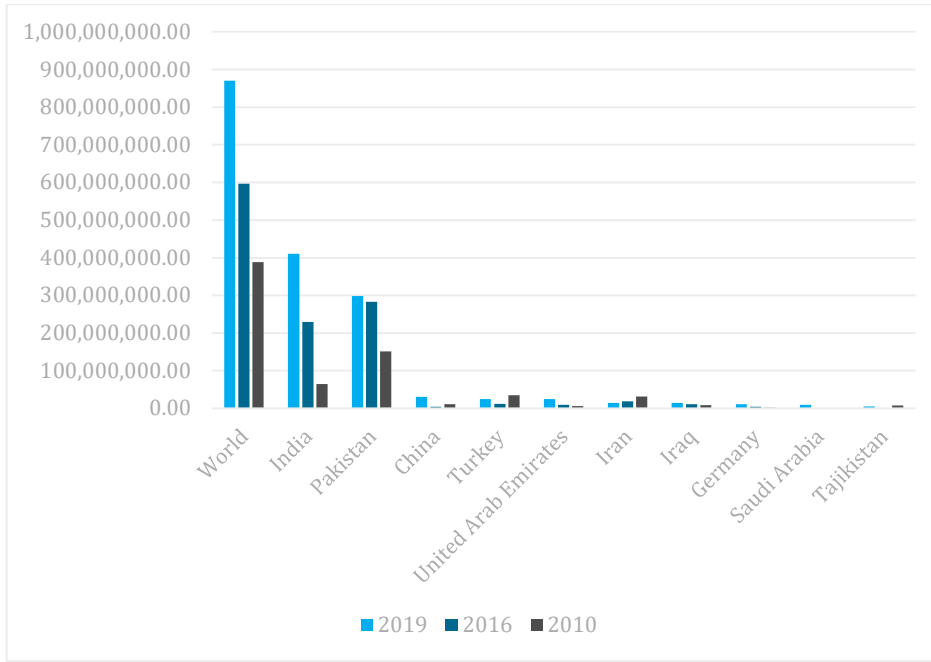
As for export destinations, the Republic of India accounted for almost half of all of Afghanistan’s exports, followed closely by Pakistan. Together, these two countries take 80% of all Afghanistan’s exports, with the eight other countries featuring in Figure 6 accounting for the rest. In previous years (2010 and 2016 in Figure 6), Pakistan accounted for more of Afghanistan’s exports than India. These concentrations of both product composition and export destinations make for greater vulnerability than would be the case with a greater degree of diversification.

Figure 5 Composition of exports (2019) (USD million)



Source: Data from The Global Economy: <https://www.theglobaleconomy.com/download-data.php>.

Figure 6 Direction of exports (2019, 2016 and 2010) (USD million)



Source: Data from The Global Economy: <https://www.theglobaleconomy.com/download-data.php>.

Figure 7 Foreign direct investment inflows (USD billions) and as a share of GDP



Source: Data from <https://www.macrotrends.net/countries/AFG/afghanistan/foreign-direct-investment>.

As far as investment is concerned, Figure 7 tracks foreign direct investment (FDI) flows in 2000–19. The pattern is erratic, possibly reflecting the lumpiness in investment projects, or other developments at particular times in the period.

CHAPTER 3 AFGHANISTAN'S ACCESSION PACKAGE

Afghanistan's accession package was characterized by Working Party members as a high-quality set of commitments, not least considering the country's status as a least-developed country. Commitments cover a range of regulations in the WTO agreements, along with commitments on trade in goods and services.

The rules accession package

On the regulatory front, some 27 laws, regulations and procedures required promulgation or modification (Box 1). In Afghanistan's Accession Working Party Report⁵ (AWPR), 37 paragraphs cover a wide range of specific regulatory commitments, mostly reflected in the legal instruments listed in Box 1. Paragraph 42 of the AWPR guarantees transparency in Afghanistan's privatization programme for as long as this lasts. Afghanistan also undertakes to ensure that purchases or sales by state-trading enterprises are exclusively in accordance with commercial criteria in relation to all terms of sale (Para. 45 of the AWPR). Pricing policy is to comply with national treatment (General Agreement on Tariffs and Trade (GATT) 1994, Article III.4 and Para. 4, Agreement on Agriculture), and provisions (GATT 1994, Article XI) on the general prohibition of quantitative trade restrictions. Any price controls should be consistent with GATT 1994 provisions, including in relation to the avoidance of negative impacts on exporters to Afghanistan to the maximum extent possible (Article III.9), and they should be fully notified (Para. 51).

Box 1: Adapted rules, regulations and procedures in Afghanistan's legal structures in the context of WTO accession	
<ul style="list-style-type: none"> • Law on the principles of commercial trials • Food safety law • Law on protection of trade secrets • Foreign trade law of goods • The law supporting the plan to build integrated circuits • Inventor and explorer protection law • Domestic industry protection law • Industrial projects protection law • Trademark registration law • Law on the manner of publishing and enforcing legislative documents • Quarantine law and plant protection • Law of animal health and veterinary • Standards law • The law of geographical indications 	<ul style="list-style-type: none"> • Consumer protection law • Law on protection of new types of plants • Income tax law • VAT law • Law of mines • Copyright law • Customs law • Subsidiary law and compensatory measures • Anti-dumping law • Regulation on the procedure for preparing legislative documents • Regulation of production and import of spices and medical supplies • Procedure for controlling intellectual property at borders • Procedure for mandatory customs decisions

When the legislature is not in session, the executive branch of governments is empowered to issue decrees with legislative force in cases of immediate need (Para. 57). Government actions are subject, as necessary to administrative and judicial review and, in full conformity with WTO provisions, the right of appeal to an independent authority is guaranteed in respect of WTO-relevant administrative rulings (Para. 64). Sub-central government bodies are not to exercise any autonomous authority over matters relating to subsidies, taxation, trade policy or any other measures covered by WTO provisions (Para. 65). Investment in Afghanistan is not a precondition for engaging in foreign trade and all legal and natural persons have the

⁵ Document WT/ACC/AFG/36, 13 November 2015.

right to engage in import and export activities in accordance with the relevant WTO provisions on a non-discriminatory basis (Para. 77).

Afghanistan agreed to participate in the Information Technology Agreement (Para. 82). With the exception of the Red Crescent tax of 0.2%, and in accordance with GATT 1994, Article II.1(b), no other duties and charges are to be levied on imports. The Red Crescent tax is to be eliminated within 15 years (Para. 85). Tariff exemptions and any tariff rate quotas are to be administered in a fully WTO-consistent manner (Para. 88). Fees for customs storage will be applied in a WTO-consistent manner and they will be published (Para. 93). All laws, regulations and other measures relating to internal taxes and charges are to be applied in a WTO-consistent manner. The 3% fixed tax on imports is to be eliminated, and the 2% business receipts tax was to be converted into a value-added tax no later than 1 January 2021 (Para. 100).

Afghanistan will not apply or reintroduce any quantitative restrictions, including licensing, quotas, bans, permits, prior authorization requirements, licensing requirements or any other measures with equivalent effect that are not fully in conformity with WTO provisions. Existing import prohibitions on certain commodities are to be eliminated. Any recourse to balance of payments provisions (GATT 1994, Article XII) or government assistance measures for economic development (GATT 1994, Article XVIII) will be applied in a WTO-consistent manner (Para. 109). The provisions of GATT 1994, Article VII on customs valuation will be fully adhered to, including through avoidance of any form of minimum prices or fixed valuation schedules. A valuation database is only to be used as a risk assessment tool in line with the World Customs Organization (WCO) guidelines (Para. 121). The WTO Agreement on Rules of Origin in respect of preferential and non-preferential trade will be fully observed (Para. 129).

If Afghanistan introduces any preshipment inspection scheme in the future, it will be fully consistent with the WTO Agreement on Preshipment Inspection, including in relation to the relevant provisions of GATT 1994, Articles X, VII and VIII (Para. 133). Afghanistan undertakes to administer and apply commercial policy measures provided for in its legislation intended to protect domestic production or otherwise advance national interests in conformity with relevant WTO agreements (Para. 135). The necessary WTO-conforming legal machinery will be put in place before any anti-dumping or countervailing duties or safeguard measures are applied (Para. 139).

Afghanistan agrees to accession to eliminate all duties, taxes, fees and charges on exports, with the exception of a 2% fixed tax on exports, which was agreed to be eliminated prior to 1 January 2021. However, exports covered by a list of 243 Harmonized System eight-digit tariff lines are exempted from the general export tax prohibition requirement. These include a range of products, including salt, iron ores, coal, monumental stones, pearls, and precious metals and their products. Tax rates on these items range from 1.5% to 40%, with most of the rates at the lower end of the range. These tax rates are bound (Para. 145). All prohibited subsidies are also to be removed by the date of accession (Para. 158).

Afghanistan agreed to gradually bring its policies into conformity with the Agreement on Technical Barriers to Trade (TBT Agreement). This staged process was set to be completed by 1 January 2018 (Para. 171). Similarly, a staged action plan has been agreed for attaining full conformity with the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) by 1 January 2020 (Para. 187). As for the Agreement on Trade-Related Investment Measures, this is to apply from the date of accession, with the exception of local content provisions in the 2009 Law of Hydrocarbons and the 2014 Law of Minerals for those holding licences and authorizations. These were set to be brought into conformity by 31 December 2020 (Para. 191).

Free zones and special economic areas should be managed in conformity with WTO provisions, including the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the Agreement on Trade-Related Investment Measures (TRIMS), and the Agreement on Subsidies and Countervailing Measures. The explicit reference to these provisions relates partly to the prohibition of export performance, trade balancing and local content requirements in these geographical zones. Moreover, normal customs provisions are to apply to any transactions between the zones and the rest of the country (Para. 193). Afghanistan has agreed to negotiate accession the Government Procurement Agreement (Para. 199). The provisions on transit trade will be fully applied by Afghanistan in accordance with the Article V of GATT 1994 (Para. 207). As far as exports subsidies in agriculture are concerned, Afghanistan agrees to bind all such measures at zero in its Schedule of Concessions (Para. 210).

In the event of the granting of a transition period applicable to LDCs under the WTO TRIPS Agreement, Afghanistan undertakes to implement Articles 3, 4 and 5 (dealing principally with the most-favoured nation

and national treatment principles) of the agreement immediately upon accession. Afghanistan will also not make any changes in laws and practices during the permitted transition period that would lessen consistency with these provisions. On the basis of a staged action plan for the implementation of the WTO TRIPS Agreement, Afghanistan undertook to fully comply with the agreement by 1 January 2019 (Paras. 253 and 255).

Afghanistan agreed that, with effect from 1 January 2021, the requirement that mining and hydrocarbon operators give priority to domestic suppliers of services would be eliminated, and foreign service suppliers would no longer be subject to less favourable conditions of competition than those enjoyed by domestic suppliers (Para. 279).

Turning to the WTO General Agreement on Trade in Services, Afghanistan agreed that, where specific commitments were undertaken, licensing procedures and conditions would be facilitated in a number of ways and would not constitute a barrier to market access (Para. 280). Afghanistan would publish all laws, regulations and other measures of general application, along with details of their operation (Para. 281). These measures are to be published in advance of implementation to allow time for consultations (Para. 282). Regulatory bodies must be separated from and independent of any service providers governed by them prior to 1 January 2021. Foreign suppliers are at liberty to choose their own commercial partners (Para. 283).

Afghanistan agrees to fully implement all its transparency commitments under the WTO agreements at the time of its accession. Apart from exceptional circumstances involving a timeliness imperative, no law, regulation, judicial decision, administrative ruling or other measures of general application would become operational prior to their publication. By the time of accession at the latest, Afghanistan will comply with all its initial notification obligations and will continue to do so with respect to new developments in a timely, WTO-consistent manner (Paras. 291 and 292).

Finally, Afghanistan undertakes to comply with all its notification, consultation and other requirements in relation to current and future free trade areas, customs unions and other preferential trade arrangements (Para. 300).

In summary, when it comes to the rules aspects of Afghanistan's accession commitments, their range and depth is far-reaching and commendable, not least in view of the fact that Afghanistan is an LDC facing many challenges. It is perhaps worth noting that, in common with a number of other countries that have joined the WTO in recent years (not all of which are LDCs), Afghanistan has assumed firm commitments that many other WTO Members have not.

Five illustrations of this phenomenon are perhaps worth noting. First, Afghanistan committed to joining the Information Technology Agreement, which is a "critical mass" plurilateral agreement signed by a subset of the membership. Second, while Article XXIV:12 of GATT 1994 states that Members "shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territories", Afghanistan has assumed a binding obligation in this matter. Third, while many Members have not undertaken any limitations or bindings on export taxes, Afghanistan has bound its export taxes at zero except for a specified list of exceptions bound at positive rates. Fourth, Afghanistan has committed to become a signatory to the Government Procurement Agreement, which is a WTO Annex 4 agreement signed by a subset of the membership. Finally, Afghanistan agreed to fully implement the TRIPS Agreement by 1 January 2019, foregoing the permitted implementation period available to LDCs up to 1 January 2033.

As discussed in the introduction, Afghanistan has articulated a number of reasons why WTO accession was an important steppingstone towards the creation of a market-based economy. The WTO can serve as useful mechanism for consolidating an internally consistent, predictable set of disciplines that contribute to diversification, growth, development and employment. It can also be an important signalling mechanism for the rest of the world, thereby encouraging investment and trade opportunities that could otherwise remain dormant. The strength and range of Afghanistan's commitments should be assessed with these factors in mind.

Afghanistan's market access commitments in goods and services

In the area of **goods**, Afghanistan bound its tariffs on non-agricultural products at an average rate of 10.3%. The rate for agricultural products is 33.6%. As is the case with many other Members, especially developing

country Members, the bound rates are higher than the applied rates. In the case of non-agricultural products, the average applied rate is approximately 4% lower than the bound rate, at 6.5%. For agriculture, the applied rate is 10.2%, approximately one-third less than the bound rate.

The gap between bound and applied rates provides flexibility in terms of raising tariffs if particular unforeseen circumstances call for such action. It is a margin of manoeuvrability that offers a simpler pathway than contingency measures (such as anti-dumping or countervailing duties, or a safeguard measure). The administrative costs associated with invoking the latter could prove burdensome for developing countries, particularly the least-developed among them. A second consideration for maintaining the margin between bound and applied rates could be to provide flexibility in future multilateral trade negotiations, where smaller countries are less able to exchange market access commitments with larger trading partners on a reciprocal basis but are nevertheless under pressure to make a market-opening contribution.

Finally, importation of 40 items are prohibited, including pork products, alcohol and chemicals used in explosives. Some 286 sensitive industrial products are left unbound, and high bindings are encountered in respect of 325 agricultural products (40%–70%).

For **services**, Afghanistan undertook specific commitments in all 11 sectors listed in MTN.GNS/W/120,⁶ and within these main sectors commitments have been made in 104 subsectors. The horizontal section of Afghanistan's schedule, which specifies measures that apply to all specific sectoral entries in the schedule, are mostly to do with a reservation on national treatment dealing with Mode 4 (natural persons), and to a lesser extent Mode 3 (commercial presence). Foreign companies and persons can only lease and not own land. Subsidies are granted only to Afghan citizens and fully owned Afghan enterprises. Preferential procurement is required in relation to local services in the hydrocarbon and mineral sectors until 1 January 2021. A variety of restrictions are also imposed on natural persons, with commitments applying to executive, expert and managerial employees. Most of the limitations encountered in Afghanistan's horizontal section are commonplace in the schedules of many Members.

The sector-specific commitments in business services are free of restrictions in Mode 1 (cross-border supply) and Mode 2 (consumption aboard), and largely so in Mode 3 except for the horizontal restrictions. Mode 4 is unbound except as indicated in the horizontal section. Most other subsectors are committed to a similar pattern, although in banking and insurance there are limited commitments on cross-border supply (Mode 1). In some cases, in various subsectors, commitments are limited to a minimum size of enterprise. In general, Afghanistan's specific commitments in services are quite open – more so than the case of many other Members.

⁶ Business services, communications, construction, distribution, education, environment, financial, health and social, tourism, recreational and transport. The MTN.GNS/W/120 classification is used by many Members as the basic nomenclature template for scheduling specific commitments.

CHAPTER 4 AFGHANISTAN'S POST-ACCESSION WTO-RELATED ACTIVITIES

It has been said that joining the WTO is challenging enough in terms of all that has to be done, but the immediate post-accession phase of the process is even more challenging. This could be so for at least three reasons. First, while much will have been done on the policy front to ready the new Member for its accession, a range of post-accession tasks will remain in terms of consolidation and phase-ins of policy reforms. Second, the government has to traverse the divide from being a supplicant to a Member, assume the responsibilities and engagements involved in membership, and seek to benefit as fully as possible from membership. Third, a new Member has to preside over what is often a very different policy environment at home to that of pre-accession days. Governments have to steer the economy in the right direction, inform the public and maintain support for the directional change, and make sure that visible benefits are realized in a reasonable period of time. Afghanistan has been active on all these fronts.

The rest of this chapter is divided into three subsections. The first deals with the process of implementing reforms arising from WTO accession. The second looks briefly at how Afghanistan has participated in the WTO. Finally, the third section considers what can be done in terms of domestic policy and other activities to take full advantage of WTO membership.

Implementation of reforms and modernization of Afghanistan's business environment

In 2016, Afghanistan's Ministry of Industry and Commerce published a detailed 29-page post-accession strategy document, with a completion date for full WTO membership by 2031.⁷ The document sets out 10 objectives (Box 2) to meet the goal of using WTO membership through active participation in WTO activities and the timely fulfilment of Afghanistan's commitments. Based on the objectives listed in Box 2, the strategy document is organized around eight sections.⁸

Box 2: Objectives of Afghanistan's post-accession strategy

1. Managing and oversight of the WTO post-accession process;
2. Cooperation and coordination with relevant ministries and entities, including private sector and civil society, in following up and exercising Afghanistan's commitments to the WTO;
3. Empowerment of the government and private sector to better use the resources and opportunities emerged by the WTO accession;
4. Applying and following up of legal and administrative reforms;
5. Attracting domestic and foreign investments;
6. Export promotion;
7. Human resources capacity building;
8. Effective use of WTO instruments and tools;
9. Active and practical participation in the work of WTO; and

⁷ Islamic Republic of Afghanistan, Ministry of Industry and Commerce. Dalva, 1395. Post Accession Strategy of Afghanistan (2016–2031). Mimeo.

⁸ Implementation of reforms and modernization of Afghanistan's business environment; active participation in meetings and work of the WTO; effective use of resources and opportunities created by WTO membership; development and implementation of foreign direct investment strategy; development and implementation of an export promotion strategy; development and implementation of capacity-building programmes for building public and private sectors; launching of public awareness programmes; and oversight mechanism for implementation of Afghanistan's WTO post-accession strategy.

10. Strengthening working relations with WTO Member states, particularly with the least-developed and landlocked countries.

Since accession in 2016, various ministries have been working on some 84 commitments, of which 50 have been met and the remaining 34 are being worked on. This work in progress involves a range of policy and institutional matters. The implementation of the Trade Facilitation Agreement is also ongoing.

Of the 27 laws, regulations and procedures that required promulgation or modification (Box 1), the Afghan authorities have prioritized six agreements (TBT, SPS, TRIPS, GATS, TFA and the Government Procurement Agreement), along with the full implementation of WTO transparency obligations. The following short sections highlight some salient points of activities in these areas. These should be read in conjunction with Appendix I, which summarizes the areas where work is required and has been carried out, or remains the focus for further activity.

Agreement on Technical Barriers to Trade

Under the TBT Agreement, progress has been made in establishing mechanisms for validating foreign technical regulations and procedures, and for a certification system. Capacity-building activities have been undertaken in various areas, including training of trainers, raising public and private sector awareness, metrology, and conformity assessment procedures. Afghanistan has yet to secure membership of the International Laboratory Accreditation Cooperation (ILAC), the international body involved in the accreditation of conformity assessment bodies, and a range of testing laboratories, inspection bodies, testing providers and reference material producers. A TBT enquiry point has been established under the auspices of the Afghanistan National Standards Authority (ANSA).

Agreement on the Application of Sanitary and Phytosanitary Measures

Prior to accession, Afghanistan adopted three animal and plant health laws relevant to the SPS Agreement – the Food Safety Act, the Plant Protection and Quarantine Act, and the Law on Animal Health and Veterinary. Work is underway in establishing relevant regulations, procedures and training in relation to these laws. A National Food Safety Board is being established under the Ministry of Public Health and the Ministry of Agriculture, Irrigation and Livestock. This body replaces the Medicine and Food Board, and it will be responsible for monitoring implementation of the Food Safety Act and strengthening coordination among relevant government departments on food safety. The Food Control Organization, responsible for animal and plant health measures, is strengthening organizational capacity, providing facilities, and introducing new methods for testing spice residues and toxicology, microbiology, bacteriology and quarantine shell testing, in accordance with international standards, guidelines and recommendations. A SPS enquiry point has been established under the auspices of the Ministry of Agriculture, Irrigation and Livestock (MAIL).

Agreement on Trade-Related Aspects of Intellectual Property Rights

Two intellectual property offices have been established. One is at the Ministry of Industry and Commerce in the Department of Central Business Registration and Intellectual Properties. This office is responsible for the registration of patents, trademarks, industrial designs, geographical indications and genetic resources. The second office is at the Intellectual Property Directorate of the Ministry of Information and Culture, and is responsible for the registration of copyright. In order to operate efficiently, these two offices require significant assistance, including in relation to capacity building, procedural guidelines and automation.

General Agreement on Trade in Services

As noted earlier, Afghanistan made a fairly far-reaching set of specific commitments under GATS in its accession negotiations in 104 subsectors. Work has proceeded in strengthening provisions and administrative arrangements related to qualification requirements and procedures, technical standards and licensing requirements, particularly in those sectors where Afghanistan has undertaken specific market access and national treatment commitments in its GATS schedule. The authorities have also been making the necessary arrangements to fulfil an accession commitment to separate and render independent all regulatory bodies from the services providers that are regulated by 2021. An enquiry point has been established in accordance with Article 3.4 of GATS.

Trade Facilitation Agreement

The TFA was negotiated in parallel with Afghanistan's accession and was completed in December 2013. Afghanistan accepted the FTA on 29 July 2016, the same date as its WTO Protocol of Accession, and the agreement came into force on 22 February 2017 with the signatures of two-thirds of the WTO's membership. Under the agreement, Members specify their commitments under three categories. Category A is for immediate implementation upon entry into force of the agreement. Category B allows the delayed implementation of designated provisions within a specified time frame. Category C also provides a transition period, but fulfilment of the commitment is conditional upon receipt of technical assistance.

In a notification by Afghanistan in May 2020,⁹ Members were informed that, of the 62 provisions identified in the document, 12 were included under Category A for immediate implementation. Half of these Category A commitments concerned transit trade. In Category B, 19 provisions were listed, with implementation dates falling between 2020 and 2027. Finally, 31 provisions were listed under Category C, almost all of which fell under Article 12 of the FTA dealing with customs cooperation among signatories.

Agreement on Government Procurement

Having committed to join the Government Procurement Agreement (GPA) in its accession negotiations, Afghanistan was granted observer status in the Committee on Government Procurement on 18 May 2017. In Afghanistan's case, observer status could be seen as a precursor to membership negotiations. Afghanistan is the only LDC committed to GPA membership. At the meeting when the observer decision was made, the Afghan representative emphasized the importance of procurement to the economy, pointing out that it represented 15% of GDP and some 50% of the national budget.

Implementation of WTO transparency obligations

Accession negotiations are intensive in transparency and notification requirements, both in the negotiating phase and in terms of post-accession obligations. Afghanistan has been systematic in dealing with these obligations. In the post-accession context, Afghanistan has made 34 notifications to 17 committees and councils. Appendix II lists out all these notifications.

Active participation in meetings and work of the WTO

Afghanistan is the first LDC to have established a mission in Geneva dedicated exclusively to the WTO. Afghan officials have chaired a number of WTO bodies during the first five years of the country's membership, including the Committee on Trade Facilitation, the Committee on Trade and Development, and the Accession Working Party of South Sudan.

Active participation in the WTO has enhanced Afghanistan's ability to take advantage of its membership. The country has used its available resources and capacity to participate as fully as possible in WTO activities and deliberations. It attends as many of the numerous meetings taking place in the WTO as it can, and often speaks at them. Afghanistan joined the 2017 Joint Statement Initiatives on Investment Facilitation for Development and on Micro, Small and Medium-Sized Enterprises (MSMEs). Afghanistan has also registered as an interested third party in three WTO disputes, involving the United Arab Emirates, the State of Qatar and Pakistan.¹⁰

Afghanistan is active in interactions with other LDCs. It was closely implicated in the launch of the g7+ WTO Accessions Group – an offshoot of the g7+ association of 20 fragile and conflict-affected (FCA) states formed in 2010 with the aim of forging pathways out of fragility and conflict and to enable peer learning and support among its members. Led by Afghanistan and the Republic of Liberia, eight g7+ members associated with

⁹ Document G/TFA/N/AFG/1/Add. 2 of 18 May 2020.

¹⁰ United Arab Emirates – Goods, services and intellectual property rights (DS526 – complaint brought by Qatar); Pakistan – Anti-dumping duties on BOPP film (DS538 – complaint brought by UAE); and Qatar – Goods from UAE (DS576 – complaint brought by UAE).

WTO accessions¹¹ established the group on the margins of the 11th WTO Ministerial Conference in Buenos Aires, the Argentine Republic, in December 2017 (WT/MIN(17)/51).

The group's main objectives are: i) to facilitate the integration of fragile and conflict-affected (FCA) economies into the global economy through WTO accession-related reforms (including the establishment of credible economic and trade policy frameworks and institutions, and the promotion of transparency and good governance, based on international best practices); and ii) to support the WTO accession efforts of the group members through information and experience sharing. The group was coordinated by Afghanistan from its establishment until December 2020, and pioneered a number of outreach activities on Trade for Peace and fragility in the context of WTO accessions. Afghanistan was also active in sharing its experiences with other acceding countries during Accessions Week 2020 (29 June to 3 July).

In terms of making effective use of opportunities associated with membership, Afghanistan is working on the development of appropriate institutional structures and skill sets to be able to defend its own legitimate rights in relation to the policies of its trading partners. These activities aim to sharpen preparedness in areas such as dispute settlement and the use of contingency trade measures such as anti-dumping and countervailing duties, and safeguard actions.

On a final note, Afghanistan will now be sitting on the other side of the table among other Members negotiating with countries seeking WTO membership on their accession terms. Since a number of near neighbours who are yet to join the WTO already have close commercial relationships with Afghanistan, this is an opportunity to find ways to improve those relationships. The relevant countries that are immediate neighbours potentially include Iran, Turkmenistan and Uzbekistan. Afghanistan is a member of the Working Party, originally established in 1995 to examine Uzbekistan's application for WTO membership.

Domestic policies, other activities and WTO accession opportunities

Institutional arrangements

In 2016, the lead ministry for dealing with WTO matters – the Ministry of Industry and Commerce¹² – established the WTO Inter-Ministerial and Trade Facilitation Committee, whose core function is to implement Afghanistan's post-accession strategy to ensure that the country benefits effectively from full WTO membership by 2031. The committee operates at the technical and political levels. It comprises 13 ministries, the central bank, the Afghanistan Chamber of Commerce & Investment, the Afghanistan National Standards Authority, the National Environmental Protection Agency, the Independent Directorate of Local Governance, the Kabul Municipality, Da Afghanistan Breshna Sherkat and the National Procurement Authority. The committee has met numerous times at both the political and technical levels.

Foreign direct investment and export promotion

The Afghan authorities have always been acutely aware of the potential for WTO membership to signal that the country is looking for foreign direct investment. The emphasis placed on this point is based on recognition of the potential for foreign direct investment (FDI) to raise levels of economic activity and create jobs, convey technology, and nurture human capital through skill transfer and training.

Another important area of emphasis has been the export promotion strategy. The government has developed and officially endorsed a comprehensive National Export Strategy (NES).¹³ Key areas were identified for supporting trade, including quality management, trade facilitation, trade information and promotion, skills

¹¹ These are: three recently acceded WTO Members: Afghanistan, Liberia and the Republic of Yemen, and five WTO-acceding governments: the Union of the Comoros, the Democratic Republic of Sao Tome and Principe, the Federal Republic of Somalia, the Republic of South Sudan and the Democratic Republic of Timor-Leste. Although not a g7+ member, the Republic of the Sudan, also joined the group in 2019.

¹² It can be noted that, in some official documents in English, the ministry is also referred to as the Ministry of Industries and Commerce.

¹³ Afghanistan: National Export Strategy 2018–2022. The document was produced under the auspices of the Ministry of Industry and Commerce, with inputs from the Export Promotion Agency of Afghanistan and the Afghanistan Chamber of Commerce and Investment (among others) and support from the International Trade Centre (ITC) with EU funding.

development, business and professional services, and access to finance. The NES also identified a number of priority products, including saffron, fresh fruit and vegetables, dried fruit and nuts, carpets, marble and granite, and precious stones and jewellery.

Another significant government report, titled Afghanistan National Trade Policy¹⁴ (ANTP), was released in 2019. The ANTP complements the NES, adopting a broader sweep in terms of the areas of policy and development activity that are key in determining trade performance. The report sets out a detailed roadmap, focusing on six clusters of activity – increasing export competitiveness, promoting domestic production and trade, rationalizing tariff policy, reducing trade costs, promoting market access for Afghan goods and services regionally and globally, and increasing the effectiveness of trade-enhancing domestic institutions. Twenty specific areas of action are identified within the six clusters. Finally, three cross-cutting objectives are to drive the ANTP. These are the promotion of policy coherence and consistency (among and between policies with direct and indirect trade impacts), gender equality, and good governance and transparency.

Leveraging all these trade-related elements of development policy off the opportunities offered by WTO membership is particularly important in light of the current geographical and product concentrations characterizing Afghanistan's trade profile. As noted in Chapter 2, approximately three-quarters of the country's exports are accounted for by two product categories (mainly fruit and vegetables), and the top two export destinations (India and Pakistan) take four-fifths of total exports.

The promotion of foreign direct investment (FDI) and of exports has kept commercial and trade attachés busy in several of Afghanistan's actual and potential foreign economic partners. Below are some examples of this activity.

In Iran, numerous fairs, seminars and contacts with commercial interests have taken place. Existing agreements are monitored and a search for new investment and trade opportunities proceeds on a continuing basis. The Khaf-Herat railway has also been opened. In the United Arab Emirates, corridor flight arrangements between Kabul, Dubai and Sharjah have opened up new export opportunities. As with Iran, in the United Arab Emirates and the other countries referred to below, participation in trade fairs (including Dubai Expo in the United Arab Emirates case), exhibitions, seminars and investment promotion activities are frequent events in Afghanistan's inward investment and export drives. Deals with particular commercial outlets to stock and sell Afghan products are also being sought. A joint trade council is being established. Technical agreements are under preparation for the standardization and alignment of customs procedures.

In Turkey, a Joint Trade and Economic Commission has been established with the aim of strengthening trade ties and investment, including through the improvement of transport and transit arrangements, the reduction of tariffs and streamlining of regulatory requirements in such matters as standards and certification. A joint chamber will be established between the Federation of Afghan Chambers of Commerce and the Union of Chambers and Commodity Exchanges (TOBB).

Belgium-based activities that focus on securing contracts have significantly increased Afghanistan's exports to the Federal Republic of Germany in 2019. For the European Union as a whole, exports doubled to €51 million in 2019. An export registry has been established in the Afghanistan Chamber of Commerce and Investment to facilitate the use of European Union tariff preferences and shorten delivery times. Databases of traders are also being built to facilitate trade contacts. These are just some of the long list of collaborations and initiatives being taken to strengthen investment and trade ties between the European Union and Afghanistan.

In the United States, efforts are being made to establish direct working relationships between Afghan and US companies in various fields of interest to Afghanistan. A direct working relationship is being nurtured with the United States Agency for International Development (USAID). In addition, a Central Asian grouping is also working to promote the region in the United States.

¹⁴ Afghanistan: National Trade Policy 2019–2023.

Developing networks of preferential trade agreements

On average, each Member of the WTO belongs to more than a dozen of the hundreds of preferential trade agreements (PTAs) in existence today. While this might not be ideal in terms of the administrative costs of trade and PTAs can sometimes distort trade, the reality is that they have become a crucial feature of the international trade panorama. They achieve benefits for their members that the WTO does not always offer, and they can be useful in a regional context to settle more local trade and trade-related issues.

Afghanistan signed a PTA with India in 2003, and belongs to another broader agreement with the People's Republic of Bangladesh, the Kingdom of Bhutan, India, the Republic of Maldives, the Federal Democratic Republic of Nepal, Pakistan and the Democratic Socialist Republic of Sri Lanka, established in 2004 and joined by Afghanistan in 2008.¹⁵ Apart from these agreements, Afghanistan is in the process of negotiating PTAs with Uzbekistan, Pakistan, Iran, Turkey, the Republic of Kazakhstan and the Republic of Indonesia. These agreements can enhance the terms of access of the countries concerned to each other's markets. For a number of these partners, Afghanistan's landlocked status makes conditions of transit a key element of any broader trade agreements.

Capacity building and public awareness

Capacity building and training are crucial if Afghanistan is to take full advantage of its WTO membership. For this reason, the Ministry of Industry and Commerce, as a coordinating agency, is supporting capacity-building programmes and training for the public sector and for private sector stakeholders. These programmes focus on a broad range of trade-related issues, including domestic regulatory and institutional frameworks for dealing with standards, trade facilitation, customs administration, and trade policy more generally. They have also covered obligations, functions and objectives of the WTO.

Donors play an important role in supporting these activities, such as the European Union, the United States Agency for International Development (USAID) and others, as well as implementing agencies such as the WTO and ITC. It should, however, be the Afghan authorities who decide what the needs are and how they might be met. Mention has been made of the development of some institutions as well, such as a WTO Scientific Study Centre and a trade and investment institute. Supported by European Union funding, ITC has established a WTO Resource Centre at the University of Kabul, which, along with the university, has developed curricula aimed at building relevant skills among pre-career individuals.

Finally, public awareness-raising activities are crucial to increase the level of understanding about trade and investment issues and their relevance to Afghanistan's growth and development. Among the groups that might be targeted for such activities are provincial councils, members of parliament, civil society, business associations, trade unions, the media and academia.

¹⁵ Notified by Afghanistan to the Committee on Trade and Development on 29 July 2016v (WT/COMTD/N/50).

CHAPTER 5 THE EXTERNAL TRADE POLICY ENVIRONMENT FACING AFGHANISTAN

A combination of issues poses challenges to Afghanistan's exports. A number of these are to do with factors outside the control of the Afghan Government. In some cases, such problems can potentially be addressed within the framework of the WTO, but only if the parties concerned are Members of the WTO. As noted earlier, this is not the case at present for three of the six countries bordering Afghanistan – Iran, Turkmenistan and Uzbekistan.

One obstacle that exporters face in some markets is the existence of high tariffs and various non-tariff barriers affecting certain exports. Some exports also encounter quarantine barriers. Instances of forgery of Afghan certificates of origin occur, particularly at Torkham Port. The false attribution of Afghan origin, notably of fresh fruit and vegetables from other countries, carries significant reputational risk. A similar problem can arise with origin certificates for Afghan carpets.

Certain bureaucratic obstacles in customs, including clearance delays and other difficulties, weigh on exports in some destination and transit countries in Central Asia and other regional markets. Some Afghan exporters also face challenges in accessing banking services and credit facilities. Money transfers to exporters are sometimes difficult through private banks.

Transportation-related challenges take several forms. Problems can arise with the issuance of business visas to entrepreneurs and drivers, especially in respect of countries along the Azure Route. Transit arrangements can be costly and unreliable. One of the challenges facing exports is the high cost of road passes for transit. Neighbouring countries do not always fulfil their obligations in regard to transit arrangements. Exports can face long delays in ports. A particular problem is the lack of a bilateral trade agreement at present with Pakistan. As previously noted, efforts are currently underway to forge closer rules-based commercial relationships with trading partners, and particularly with near neighbours in relation to transit as well as trade.

High transport costs and expensive transit routes, including by rail, sea and road, hamper the competitiveness of Afghanistan's exports. In some cases, no road connections exist in transit countries to reach more distant markets in the region. High prices of wagons and vehicles are a further burden.

A range of problems that compromise export success are of a more domestic nature. As an LDC, Afghanistan enjoys preferential market access in certain countries. In the European Union, the Everything But Arms initiative provides duty-free and quota-free access to exports from LDCs. Other economies providing special treatment for LDCs include Australia, Canada, the Republic of Chile, China, India, Japan, Korea, Norway, the Swiss Confederation, Chinese Taipei, Thailand and the United States. Afghanistan trades with a subset of these countries, but additional opportunities are likely to exist as a result of these preferences. Challenges can arise, however, in meeting product standards and navigating rules of origin.

A recent study on preference usage rates undertaken by the WTO Secretariat¹⁶ found that, among all eligible LDCs, preferences on fruit and vegetables were underused by 82%. This is a finding of significance to Afghanistan, considering the current predominance of these products in the country's export basket. The WTO study also found that the non-usage of preference rates by Afghanistan in various preference-giving economies with which it traded ranged from 32.7% (EU) to 100% (China, India, Korea, Switzerland and Thailand).

Certain products for export are poorly packed and labelled, and not properly sorted in terms of size and quality. Inputs into exporting value chains sometimes fall short in terms of quality, quantity, packaging and labelling.

A significant obstacle for certain exports from Afghanistan is non-compliance with standards required in some target markets. Some difficulty has been encountered in meeting European Union standards. In

¹⁶ See WTO document G/RO/W/185, 9 May 2019.

particular, laboratories and associated services are lacking for International Organization for Standardization (ISO) certification of agricultural and other products.

Exporters are sometimes not well enough connected to entrepreneurs in destination markets or familiar with market conditions. Effective marketing of exports is also inhibited as a result of inattention to the use of local languages in those markets.

The Export Promotion Directorate, which is a key institution for export development, is underfunded.

CHAPTER 6 CONCLUSIONS

Afghanistan has made impressive strides in the last two decades in building up its economy. Preparing for WTO membership and subsequently becoming an active Member of the institution in the last five years have been key elements in the country's growth and development strategy. However, many challenges remain.

Afghanistan's future growth and development depend crucially on trade. Sustained efforts are required to achieve greater diversification of the country's export basket, including by nurturing higher levels of added domestic value in both existing and new product lines. At the same time, excessive vulnerability arises from reliance on very few markets for the country's export earnings. Moreover, in recent times, the share of intermediate products in total trade has grown, reflecting the internationalization of production processes. A question for Afghanistan to consider is whether, notwithstanding its landlocked status, unrealized opportunities exist for increasing participation in global value chains.

A further consideration that is often overlooked and might not have received sufficient attention in policy circles is the role of services in production and trade. As Figure 2 shows, services are a dominant source of value in the Afghan economy. Some of these services – commonly referred to as producer services, including financial services, telecommunications, transport, distribution and business services – are essential inputs in almost every other branch of economic activity. These services sectors must be nurtured and rendered competitive.

A final consideration in this context that has not received much attention in policy related documentation and analyses produced by the Government of Afghanistan in the last few years relates to two policy issues that are becoming increasingly prominent in many countries. These concern digitalization and the greening of economic activity. In the case of developing countries, the focus is primarily on shaping appropriate industrial policies. The growing digitalization of economic processes, accelerated by the COVID-19 pandemic, is partly about efficiency, productivity growth and competitiveness. However, digitalization also carries an environmental dimension.

The need to pay more serious attention to the greening of economy activity is also assuming evermore pressing urgency. While the scope for rapid action on these matters in LDCs is obviously circumscribed by developmental realities, it is worth examining the implications of these trends for competitiveness and market access for an economy such as that of Afghanistan in years to come.

The above considerations are all important parts of a broader imperative requiring continued attention, namely the creation of a facilitated, transparent and predictable business environment. This is not only essential for existing operations, but also for attracting new investment, which has on average lagged in recent years. Connected to these considerations, and to trade prospects in general, is the need to ensure adequate physical and virtual infrastructure for competitiveness. This is particularly challenging for Afghanistan on account of its landlocked status and the need for much of its trade to traverse the territories of other countries.

While these broad-based considerations can help to frame the context in which trade and trade-related policies are addressed, a number of more specific and immediate issues merit continued attention. It is in Afghanistan's interest to persist in being an active Member of the WTO and exercise vigilance in analysing how the rules-based system can be put to work in the interests of the country's development through trade. In pursuing this objective, five somewhat interrelated areas for action can be suggested.

The first is to ensure that WTO Members with whom Afghanistan is trading are acting consistently with their contractual obligations and doing what they can to allow Afghanistan to benefit fully from its WTO membership. Depending on the nature of a situation of perceived non-compliance with WTO obligations, different avenues could be available for Afghanistan to pursue. If, for example, an issue arose with respect to the Agreement on Technical Barriers to Trade (TBT) or the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), an avenue open to Members is to raise a specific trade concern (STC). Many hundreds of STCs have been raised over the years and very few have resulted in formal disputes. STCs are best seen both as an opportunity to clarify a matter and to address disagreements or complaints.

LDCs have been sparse users of the STC mechanism in both the TBT and SPS committees. In the case of the TBT Agreement, very few issues were raised by LDCs, and none since 2014. In the case of the SPS Agreement, there has been a bit more LDC activity. In 1995–2020, LDCs raised 10 issues, supported 22 raised by others, and responded to two issues addressed to them. When compared to the growing volume of activity under the STC mechanism and the modest use made of the mechanism, however, a question worthy of attention arises as to whether there are missed opportunities here.

Where other trade policies or practices arise that are regarded as inconsistent with the WTO obligations of a trading partner, resort may be had to the dispute settlement system. The first step in the process is to request consultations and, if these do not resolve the issue, the next step is to request the establishment of a panel and enter into a dispute settlement process, which can also include an appeal to the Appellate Body (AB) by either of the parties to the dispute. The WTO dispute settlement system is not functioning properly at present, because no AB members have been appointed to replace the outgoing members.

Pending resolution of the issues behind the current dysfunctionality of the dispute settlement system, limited purpose would be served in seeking recourse through this avenue. However, when the issue is resolved, it would make sense to ensure an adequate degree of national preparedness through capacity building to make use of the mechanism. Elements relevant to this preparedness include legal clarity, institutional readiness, adequately trained personnel and well-developed communication channels with business. It is worth noting, however, that while some 10 LDCs have taken potential disputes to the consultation stage over the years, none save Bangladesh has participated as plaintiff or respondent in a WTO dispute. As noted elsewhere, however, Afghanistan has taken advantage of the possibility of participating in three disputes as an interested third party, and this process can be helpful in deepening involvement in WTO dispute settlement when the need arises. This is something that seven other LDCs have also done over the years.

Second, there is the question of special and differential treatment (SDT) afforded Afghanistan as an LDC. Some SDT provisions can be triggered independently by the beneficiary country, and it is important to ensure that Afghanistan is using these possibilities in its own developmental interest. Where SDT is of a more best-endeavours nature and requires triggering action by a WTO Member other than the beneficiary, it is important that Afghanistan monitors the adoption of measures from which it stands to benefit, and follows up with the relevant parties when the benefits are not forthcoming.

A particular issue that stands out in relation to special and differential treatment is preferential market access. LDC duty-free and quota-free preferences are available in several of Afghanistan's actual and potential markets. Yet according to the information reported in Chapter 5, usage rates are low. It would be worthwhile investigating why this is the case. Among possible explanations, it could be rules of origin strictures, excessive administrative burdens, other regulatory obstacles or simply a lack of exporter awareness.

A third factor that can inhibit exports and reduce opportunities encompasses a range of possible supply-side constraints. Some of these were referred to in Chapter 4 and could relate to such factors as an inability to meet requisite technical regulations, standards and recognized conformity assessment procedures, particularly in the domains of the Agreement on Technical Barriers to Trade and the SPS Agreement. Among the key prerequisites here are robust legal and institutional arrangements, sufficiently supple administrative procedures, solid technical knowledge, and awareness of local and foreign market conditions.

Fourth, Afghanistan could consider accelerating its pathway to full compliance with WTO obligations assumed upon accession and subsequently. As reported in Chapter 4, there remain some 34 out of 84 separately identified commitments to be met. In addition, some 19 Category B provisions under the Trade Facilitation Agreement (TFA) remained to be implemented in 2020–27. A question to be considered is whether implementation schedules could be accelerated here. In addition, there are 31 Category C provisions where no implementation date has been set and for which technical assistance is required. Many of these provisions refer to customs cooperation among TFA signatories and could presumably be tied down with agreement on the provision of the necessary assistance.

A general observation regarding technical assistance could be warranted here. Many agencies are involved in providing support. Managing technical assistance from the recipient side in terms of coherence, the elimination of duplication and ensuring that technical assistance offerings respond to nationally determined

needs can be challenging. Afghanistan might wish to consider whether existing arrangements are adequate to monitor for factors such as these to ensure maximum benefit from technical assistance in terms of the country's growth, development, diversification and job creation.

Finally, not all Afghanistan's trade relations can be managed through a WTO lens. Several neighbouring countries are not yet Members of the WTO. For many WTO Members more generally, a mixture of multilateral and preferential trading arrangements is considered optimal. In the case of Afghanistan, regional cooperation also has important attractions, especially where trade policy is more multifaceted on account of transit considerations. In addition, however, vital relationships for Afghanistan's trade and development prospects require cooperation with non-WTO Members. These considerations speak for a strong regional component to supplement the WTO's role in defining trade and trade-related policies from which Afghanistan can benefit. At the same time, Afghanistan has opportunities for leveraging its WTO membership to fashion agreements with non-WTO Members who are in the process of becoming Members.

APPENDICES

Appendix I

Implementation activities arising from Afghanistan's accession

Area of activity	Specific areas for action	Responsible institutions(s)
1. Implementation of Agreement on Technical Barriers to Trade (TBT)	<ul style="list-style-type: none"> • Obtaining membership of the International Laboratory Accreditation Cooperation for compulsory testing • Negotiations and agreements on mutual recognition of assessments' results • Development of a database for standards and technical regulations • Establishment of a certification system • Establishment of a training institute to be effective for technical standards and regulations • Capacity building • Awareness in public and private sectors • Cooperation and coordination with relevant agencies 	Afghanistan National Standards Authority (ANSA)
2. Implementation of Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)	<ul style="list-style-type: none"> • Regulations on risk assessment and awareness • Capacity building of departments of the ministries on specific skills • Quality control, laboratories, quarantine systems, monitoring of spread of diseases and animal health, monitoring, quarantine management, inspection and veterinary surveillance • Improvement and assessment of animal health risks • Establishment of food control authority • Establishment of mechanism for SPS measures • Implementation of basic capacity building and new practices for testing of drug residues, toxicology, microbiological and bacteriological testing • Opening of nine quarantine control centres (check posts) • Development of pre- and post-quarantine facilities • Implementation of SPS Agreement considering standards, guidelines, and recommendations of the Codex Alimentarius Commission, World Organisation for Animal Health (OIE), and International Plant Protection Convention (IPPC) 	Ministry of Agriculture, Irrigation and Livestock, Ministry of Public Health (MOPH)
3. Implementation of Agreement on Trade-Related Aspects of Intellectual	<ul style="list-style-type: none"> • Establishment of a board for protection of the rights of authors, composers, artists and researchers (copyrights) • Capacity building of judicial bodies, ministries and departments concerned • Establishment of offices equipped with modern IT equipment for inventions, geographical indications, 	Ministry of Industry and Commerce, Ministry of Information and Culture (MOIC), Ministry of

Property Rights (TRIPS)	<p>industrial designs, trade secrets and integrated circuits registration units</p> <ul style="list-style-type: none"> • Establishment of offices equipped with modern IT equipment for plant variety registration • Launching of capacity-building programmes on better performance of given tasks • Development of database for customs for the purposes of registration of copyrights, trademarks, establishment of intellectual property rights section 	Finance (MOF) and Ministry of Agriculture, Irrigation and Livestock
4 Implementation of WTO commitments on trade in services	<ul style="list-style-type: none"> • Publication of regulations, requirements for obtainment and processing of licences, their time periods, provision of timely and reasoned written responses to rejected applicants and having specific regulations for taking exams of the individuals with specialist skills for issuance of professional licences • Implementation of practices for issuance of required licences for regulating the telecommunications sector 	Ministry of Communications and Information Technology (MCIT), Ministry of Industry and Commerce relevant sectoral ministries and departments
5 Trade Facilitation Agreement (TFA)	<ul style="list-style-type: none"> • Establishment of an inter-ministerial committee for dealing with the agreement • Managing and coordination with relevant ministries and departments for fixing (A, B and C) categories suitable for Afghanistan's economic conditions 	Ministry of Industry and Commerce
6 WTO Government Procurement Agreement (GPA)	<ul style="list-style-type: none"> • Dealing with and working towards obtainment of observer status and follow-up of accession process 	Ministry of Industry and Commerce
7 Implementation of WTO transparency commitments	<ul style="list-style-type: none"> • Creation of specific e-mail address in local official languages and English for publication of all laws, regulations and trade-related regulations • Considering transparency principles in the broader privatization and corporation of state-owned enterprises 	Ministry of Finance, Ministry of Industry and Commerce

Appendix II

Afghanistan's post-accession notifications

No.	Article/committee	Document
Agreement on Preshipment Inspection		
1	Notifications under Article 5 of the Agreement on Preshipment Inspection	G/PSI/N/1/Rev.5
2	Notifications under Article 5 of the Agreement on Preshipment Inspection	G/PSI/N/1/Rev.3
Committee on Trade Facilitation		
3	Notification under Article 22.3 of the Agreement on Trade Facilitation	G/TFA/N/AFG/2
4	Notification of category commitments under the Agreement on Trade Facilitation	G/TFA/N/AFG/1
Council for Trade in Services		
5	Contact and enquiry points notified to the Council for Trade in Services	S/ENQ/78/Rev.21
Committee on Market Access		
6	Notification pursuant to the Decision on Notification Procedures for Quantitative Restrictions (G/I/59/Rev.1)	G/MA/QR/N/AFG/3
7	Notification pursuant to the Decision on Notification Procedures for Quantitative Restrictions (G/I/59/Rev.1)	G/MA/QR/N/AFG/2
8	Notification pursuant to the Decision on Notification Procedures for Quantitative Restrictions (G/I/59/Rev.1)	G/MA/QR/N/AFG/1
Committee on Customs Valuation		
9	Notification under Article 22 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994	G/VAL/N/1/AFG/1
Committee on Agriculture		
10	Export Subsidy Commitments (Table ES:1) for the calendar year 2019	G/AG/N/AFG/6
11	Export Subsidy Commitments (Table ES:1) for the calendar year 2016	G/AG/N/AFG/3
12	Export Subsidy Commitments (Table ES:1) for the calendar year 2017	G/AG/N/AFG/4
13	Export Subsidy Commitments (Table ES:1) for the calendar year 2018	G/AG/N/AFG/5
14	Domestic Support Commitments (Table DS:1 and the relevant supporting tables) for the calendar years 2013, 2014 and 2015	G/AG/N/AFG/1
15	Export Subsidy Commitments (Table ES:1) for the calendar years 2013, 2014 and 2015	G/AG/N/AFG/2
Council for Trade-Related Aspects of Intellectual Property Rights		

16	Notified under Article 69 of the TRIPS Agreement	IP/N/3/AFG/1
Committee on Trade-Related Investment Measures		
17	Notifications under Article 6.2 of the TRIMS Agreement	G/TRIMS/N/2/Rev.28
Committee on Subsidies and Countervailing Measures		
18	Notification of laws and regulations under Article 32.6 of the Agreement on Subsidies and Countervailing Measures	G/SCM/N/1/AFG/1
19	Notification under Articles 25.11 and 25.12 of the Agreement on Subsidies and Countervailing Measures	G/SCM/N/202/AFG
20	Subsidies new and full notification pursuant to Article XVI:1 of GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures	G/SCM/N/315/AFG
21	Subsidies new and full notification pursuant to article XVI:1 of GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures	G/SCM/N/284/AFG
Committee on Anti-Dumping Practices		
22	Notification of laws and regulations under Article 18.5 of the Agreement on Anti-Dumping Procedures	G/ADP/N/1/AFG/1
23	Notification under Articles 16.4 and 16.5 of the Agreement on Anti-Dumping Procedures	G/ADP/N/193/AFG
Committee on Technical Barriers to Trade		
24	Notification under Paragraph C of the WTO TBT Code of Good Practice – Notification of Acceptance	G/TBT/CS/N/187
25	Notification in accordance with Article 10.6 of the Agreement on Technical Barriers to Trade (Portland cement)	G/TBT/N/AFG/1
26	Notification in accordance with Article 10.6 of the Agreement on Technical Barriers to Trade (gasoline for vehicles)	G/TBT/N/AFG/2
Committee on Safeguards		
27	Notification of laws and regulations under Article 12.6 of the Agreement on Safeguards	G/SG/N/1/AFG/1
Committee on Import Licensing		
28	Agreement on Import Licensing Procedures notification under Article 1.4(a)i and/or Article 8.2(b) ii of the agreement	G/LIC/N/1/AFG/1
Working Party on State Trading Enterprises		
29	State trading new and full notification pursuant to Article XVII:4(a) of the GATT 1994 and Paragraph 1 of the Understanding on the Interpretation of Article XVII	G/STR/N/16/AFG
Committee on Sanitary and Phytosanitary Measures		
30	Notification – Afghanistan – Animal and products thereof	G/SPS/N/AFG/1
31	Notification – Afghanistan – Food	G/SPS/N/AFG/2
32	Notification – Afghanistan – Plants, plant products and other regulated products	G/SPS/N/AFG/3
Committee on Rules of Origin		
33	Notification under Article 5 and Paragraph 4 of Annex II to the Agreement on Rules of Origin	G/RO/N/143

Committee on Trade and Development

34	Notification of regional trade agreement – Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka	WT/COMTD/N/50
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