



THE BTA AND VIETNAM'S WTO ACCESSION

4 AUGUST 2003

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U.S.-Vietnam Trade Council Education Forum

This chart analyzes the relationship between commitments made in the U.S.-Vietnam Bilateral Trade Agreement (BTA) and the requirements of accession to the World Trade Organization (WTO). It examines key BTA obligations in the context of (1) the corresponding WTO obligation/s, (2) their relevance to WTO accession negotiations, and (3) the accession terms of the four most recently acceded WTO Members (Macedonia, Armenia, Taiwan, and China). The U.S.-Vietnam Trade Council has worked to promote economic and political normalization between the two countries since its founding in 1989. Its affiliate, the U.S.-Vietnam Trade Council Education Forum, provides technical assistance to Vietnam on issues relating to the BTA, WTO Accession, and international economic integration. For more information, please contact our offices in Washington, Hanoi or Ho Chi Minh City, or refer to our website at <http://www.usvtc.org>.

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The Relationship Between the BTA and WTO Accession Requirements

| BTA Chapter | BTA Obligations | Relationship to WTO Obligation | Relationship to WTO Accession Negotiations | WTO Terms of Accession for the Four Most Recently Acceded WTO Members (Macedonia, Armenia, Taiwan, China) |
|---------------------------------|--|--|---|---|
| CHAPTER I: TRADE IN GOODS | SPS Article 2 (6)(A) – provides basic provisions of WTO SPS Agreement (e.g., SPS measures must be based on science and sufficient evidence). | SPS WTO SPS Agreement requires additional and more detailed obligations: -- establish SPS Enquiry Point; -- base SPS measures on international standards; -- ensure that SPS inspection and procedures meet standards; and -- allow other WTO Members to comment on proposed SPS measures. | SPS WTO accession requires adherence to SPS Agreement, the provisions of which are not negotiated by individual acceding countries. Applicants have occasionally sought to negotiate a transition period to implement SPS Agreement. | SPS <i>Macedonia, Armenia, Taiwan and China:</i> Commit to apply Agreement upon accession. No transition periods. |
| CHAPTER I: TRADE IN GOODS | TBT Article 2 (6)(B) – provides basic provisions of WTO TBT Agreement (e.g., technical regulations must not create unnecessary obstacles to trade and must be no more trade restrictive than necessary). | TBT WTO TBT Agreement requires additional and more detailed obligations: -- establish TBT inquiry point; -- ensure that conformity assessment procedures meet certain requirements; and -- allow other WTO Members to comment on proposed TBT measures. | TBT WTO accession requires adherence to TBT Agreement, the provisions of which are not negotiated by individual acceding countries. Applicants have occasionally sought to negotiate a transition period to implement TBT Agreement | TBT <i>Macedonia, Armenia and Taiwan:</i> Commit to apply Agreement upon accession. No transition periods. <i>China:</i> China’s protocol allows it 18 months to assign responsibilities to conformity assessment bodies. |

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| CHAPTER I: TRADE IN GOODS | <p>Trading Rights Article 2(7) phases in trading rights to domestic and U.S. entities over 7 years.</p> <p>Annex D sets out timetable to phase out restrictions on trading rights (maximum 7 years; certain products unbound)</p> | <p>Trading Rights National treatment (GATT Article III) and other basic WTO obligations apply to trading rights.</p> | <p>Trading Rights GATT MFN obligation (Article I) will require Vietnam to provide WTO Members at least what it provided the United States in the BTA. Members could request quicker timetable.</p> | <p>Trading Rights <i>Macedonia, Armenia, and Taiwan:</i> Agreed to conform to WTO requirements upon accession.</p> <p><i>China:</i> Annex 2B of China’s protocol establishes 3 year phase out period for restrictions on trading rights</p> |
| CHAPTER I: TRADE IN GOODS | <p>Non-Tariff Measures Article 3(2) – eliminate quotas, licensing requirements, etc.</p> <p>Annex B1/B2 provides phase out period for import and export quantitative restrictions.</p> | <p>Non-Tariff Measures GATT Article XI is similar to BTA and requires the elimination of such quantitative restrictions on products of all WTO Members.</p> | <p>Non-Tariff Measures Elimination of WTO-inconsistent NTMs is a requirement of accession.</p> <p>Some acceding governments have negotiated a schedule for phase-out of NTMs.</p> <p>GATT MFN obligation (Article I) will require Vietnam to provide WTO Members at least what it provided the United States in the BTA.</p> | <p>Non-Tariff Measures <i>Macedonia:</i> Eliminate WTO inconsistent NTMs upon accession (some import licensing restrictions remain until no later than 31 December 2003).</p> <p><i>Armenia:</i> Eliminate upon accession NTMs not justified by WTO rules.</p> <p><i>Taiwan:</i> Converted some of its NTMs to TRQs.</p> <p><i>China:</i> Annex 3 of China’s protocol establishes a phase out period for NTMs (upon accession for many products/no later than 2005 for others).</p> |

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| CHAPTER I: TRADE IN GOODS | <p>Customs Valuation Article 3(4) – adopt customs valuation system based on WTO Customs Valuation Agreement (CVA) by 2003.</p> | <p>Customs Valuation WTO CVA incorporated into BTA.</p> | <p>Customs Valuation WTO accession will require Vietnam to apply CVA to all WTO Members, the provisions of which are not negotiated by individual acceding countries.</p> <p>Applicants have occasionally sought to negotiate transition period to implement CVA.</p> | <p>Customs Valuation <i>Macedonia, Armenia, Taiwan and China:</i> Commit to apply Agreement upon accession.</p> <p>No transition periods.</p> |
| CHAPTER I: TRADE IN GOODS | <p>Tariffs Article 3(6) – provide tariff treatment in accordance with Annex E.</p> <p>Annex E binds Vietnam’s tariffs for 261 agricultural and non-agricultural products (out of a total of 6400 tariff lines).</p> <p>Simple average agricultural tariff is 23.6% (represents 3.3% of Vietnam’s tariff schedule)</p> <p>Simple average non-agricultural tariff is 22.86% (represents .76% of Vietnam’s tariff schedule)</p> | <p>Tariffs GATT Art. II – provide tariff treatment in accordance with goods schedule.</p> | <p>Tariffs Acceding governments negotiate tariffs in bilateral negotiations with individual WTO Members. Because of the GATT MFN obligation (Article I), these bilaterally negotiated tariffs will apply to all WTO Members upon accession.</p> <p>WTO Members will expect Vietnam to multilateralize Annex E of the BTA pursuant to the GATT MFN obligation (Article I).</p> <p>WTO acceding governments bind 100 % of their tariff schedule.</p> <p>Simple average agricultural tariff for last 10 accessions ranges from 10.4% to 30.5%.</p> <p>Simple average non-agricultural tariff for last 10 accessions ranges from 4.8% to 15%.</p> | <p>Tariffs <i>Macedonia:</i> Bound 100% of its tariff schedule. Simple average agricultural tariff is 15%. Simple average non-agricultural tariff is 6.1%.</p> <p><i>Armenia:</i> Bound 100% of its tariff schedule. Simple average agricultural tariff is 14.8%. Simple average non-agricultural tariff is 7.5%.</p> <p><i>Taiwan:</i> Bound 100% of its tariff schedule. Simple average agricultural tariff is 17.5%. Simple average non-agricultural tariff is 4.8%.</p> <p><i>China:</i> Bound 100% of its tariff schedule. Simple average agricultural tariff is 15%. Simple average non-agricultural tariff is 8.9%.</p> |

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| CHAPTER I: TRADE IN GOODS | Safeguards Article 6 – allows parties to take action when imports of a like or directly competitive product are a significant cause of material injury to the domestic injury (“market disruption”). | Safeguards WTO Safeguards (SG) Agreement/GATT Article XIX affords more protection. These provisions establish strict disciplines on conduct of national investigations and permit safeguards only when a product causes or threatens to cause serious injury to the domestic industry producing like or directly competitive products. | Safeguards If SG measures are taken, WTO accession requires adherence to the GATT Article XIX and the SG Agreement, the provisions of which are not negotiated by individual acceding countries. Other than China, no special SG provisions involved in accession. | Safeguards <i>Macedonia, Armenia, Taiwan, and China:</i> Commit to apply Agreement upon accession. <i>China:</i> China agreed to a special safeguard with a “market disruption” standard similar to that in the BTA. This special safeguard expires 12 years after China’s accession (2013). |
| CHAPTER I: TRADE IN GOODS | Antidumping (AD) Article 6(4) – recognizes a Party’s right to apply its AD law but provides no disciplines on the conduct of AD investigations. | Antidumping WTO Antidumping Agreement disciplines AD actions: -- establishes procedures on conduct of AD proceedings; -- provides detailed rules on method to determine dumping and prove injury; and -- permits Members to challenge AD orders that do not conform to WTO rules. | Antidumping If AD measures are taken, WTO accession requires adherence to the AD Agreement, the provisions of which are not negotiated by individual acceding countries. Other than China, no special AD provisions involved in accession. | Antidumping <i>Macedonia, Armenia, Taiwan and China:</i> Commit to apply Agreement upon accession. <i>China:</i> For purposes of AD proceedings, China presumed to be a non-market economy for 15 years. |
| CHAPTER I: TRADE IN GOODS | Countervailing Duty (CVD) Article 6(4) – recognizes a Party’s right to apply its CVD law but provides no disciplines on the conduct of CVD investigations. | CVD WTO Subsidies & Countervailing Measures (SCM) Agreement disciplines CVD actions: -- establishes procedures on conduct of CVD proceedings; -- provides detailed rules to determine subsidy, injury, and causation; and -- permits Members to challenge CVD orders that do not conform to WTO rules. | CVD If CVD measures are taken, WTO accession requires adherence to the SCM Agreement, the provisions of which are not negotiated by individual acceding countries. Special negotiations on CVD provisions not typically involved in accession. | CVD <i>Macedonia, Armenia, Taiwan and China:</i> Commit to apply Agreement upon accession. |

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| CHAPTER I: TRADE IN GOODS | <p>Textiles Article 6(4) - recognizes a Party's right to apply its textiles law.</p> <p>Article 1(4) – exempts textiles from requirement to provide MFN for the application of quotas.</p> | <p>Textiles WTO Agreement on Textiles and Clothing (ATC) requires countries to phase out all textile quotas by 2005. After 2005, GATT rules (e.g., no quotas, MFN) apply to textiles.</p> | <p>Textiles WTO accession requires adherence to ATC, the provisions of which are not negotiated by individual acceding countries. The ATC expires in 2005.</p> <p>Other than China, no special textiles provisions involved in accession.</p> | <p>Textiles <i>Macedonia, Armenia, Taiwan and China:</i> Commit to apply ATC upon accession.</p> <p><i>China:</i> China's accession included a special textiles safeguard, available for 7 years after its accession (until 31 December 2008).</p> |
| CHAPTER I: TRADE IN GOODS | <p>State Trading Article 8 – state trading entities must makes purchases or sales in a non-discriminatory manner and in accordance with commercial considerations.</p> <p>Annex C sets out products subject to state trading (33 for import/12 for export) and phase out schedule.</p> | <p>State Trading GATT Art. XVII establishes similar obligations to BTA.</p> | <p>State Trading WTO accession requires adherence to GATT Article XVII, the provisions of which are not negotiated by individual acceding countries.</p> <p>For transparency purposes, Members may ask for a list of products subject to state trading and other related information.</p> | <p>State Trading <i>Macedonia, Armenia, Taiwan, and China:</i> Commit to apply GATT Article XVII upon accession.</p> <p><i>Taiwan:</i> Taiwan made detailed commitments in its Working Party Report with respect to state trading (e.g., agreed to provide specific information about the import transactions of certain state trading enterprises).</p> <p><i>China:</i> China provided a separate list of the particular products subject to state trading. Annex 2A of China's protocol lists products subject to state trading (8 for import/21 for export).</p> |