

THE WORLD TRADE ORGANIZATION AND SERBIA'S LONG PATH TOWARDS ACCESSION

Sanja JELISAVAC TROŠIĆ*

Abstract: The World Trade Organization (WTO) is a crucial factor in the rules-based functioning and development of multilateral international trade relations. The WTO is an international organization that represents the institutional and legal framework of the multilateral trading system. The WTO is an international trade organization based on rules and adopted agreements that comprehensively regulate trade in goods, services, and trade aspects of intellectual property rights. In addition, a dispute settlement system has been established within the organization, which provides for sanctions against non-compliance with international obligations, as well as a system for monitoring the national foreign trade policies of member states, and a system of technical assistance and training for developing and transition countries. The challenges in the institutional and normative dimensions the WTO is facing in the modern world economic order are fundamental. In the paper, we would like to point out the existing way of working and organization of the WTO and a wide range of issues related to modern trade that it needs to address. The existing way of working and organization at the WTO is very complex and demanding, so this organization was late in responding in a timely manner to the economic shocks of recent years, especially the trade war and the corona crisis. There were problems with the work of several bodies, and the negotiation process stalled. The problems that this international organization is facing are not small and they are undermining the essential order as well as the rules on which it is based and operates. Serbia, as a part of Yugoslavia, has been a member of the

* Senior Research Fellow, Institute of International Politics and Economics, Belgrade. E-mail: sanja@diplomacy.bg.ac.rs. The paper presents the findings of a study developed as a part of the research project: "Serbia and Challenges in International Relations in 2022", financed by the Ministry of Education, Science and Technological Development of the Republic of Serbia, and conducted by the Institute of International Politics and Economics, Belgrade.

General Agreement on Customs and Trade, but after the disintegration of the country, found itself on a difficult multi-year path to WTO membership, which is still ongoing and its inclusion is currently completely uncertain.

Keywords: WTO, Serbia, multilateral trade negotiations, WTO legal framework, WTO accession.

INTRODUCTION

Facilitation and liberalization of international trade were the main goals of the creation of the General Agreement on Customs and Trade (GATT) and later of the World Trade Organization (WTO). The principles established by the GATT form the basis of the multilateral trading system. The regulation of international trade implies the participation of a large number of countries in the world in this process. With the accession of most countries to the WTO membership (currently 164 members), multilateral trade relations within this organization, have become the dominant way of regulating trade relations in the world. Multilateral trade relations did not, of course, repeal bilateral or regional agreements, but they provided a basis and principles for most of the trade negotiations between the countries. The structure and functioning of the multilateral trading system embodied in the WTO are no longer nearly as simple as they used to be. There is no way that international trade relations can be regulated by a few general rules. The WTO as an organization shows great comprehensiveness and intention to regulate all forms of international trade relations with general principles and rules. The wide range of trade rules that have emerged within the WTO includes various forms of trade (products, services, intellectual property) and the territory of almost all countries of the world. For instance, agreements within the WTO provide member countries preferential access to the world market in all areas of international trade. Multilateral trade negotiations and their regulation are a very complex area of economic relations between countries. For them to be successful, it is necessary to agree on these rules, adopt them, and successfully apply a large number of rules for conducting negotiations. Rules or regulations have changed over time, in accordance with the needs of the negotiating parties or current circumstances, depending on the strength and economic power of the negotiators themselves, etc. The WTO was formed as the only international organization that institutionally deals with the regulation of international trade relations and thus took on a major task. Today, the WTO operates a global system

of trade rules, acts as a forum for negotiating trade agreements, settles trade disputes between its members, and supports the needs of developing countries. There are fundamental principles that run throughout all of the WTO agreements. The principles of non-discrimination, the opening of trade, predictability and transparency of trade, fair competition, support for less developed countries and protection of the environment are represented in WTO documents. In addition, the WTO seeks to build a more inclusive trading system that will allow more women and small businesses to participate in trade and maintains regular dialogue with civil society, labor unions, universities and the business community to enhance cooperation and build partnerships. For instance, the latest area of regulation discussed in the WTO forum is aimed at developing global digital trade rules and addressing challenges posed by the digital divide (WTO, 2022a). The World Trade Organization is a legal entity. The WTO encompasses many things and performs many functions and tasks. The WTO is a forum for conducting multilateral trade negotiations which cover goods, services and intellectual property. The WTO oversees the international trade system, which includes bilateral trade negotiations between countries and multilateral negotiations. All WTO member states must undergo periodic scrutiny of their trade policies and practices. The WTO set procedures for settling trade disputes. Building trade capacity and special provisions for developing countries are also one of the WTO tasks. With its wide scope of work, the WTO form the foundations of the multilateral trading system. But this foundation has been in crisis for some time. At a time when there was a growing trade conflict between the United States and China and the introduction of trade restrictions, the WTO did not play a significant role in calming trade conflicts and as a mediator between the parties to the dispute, which is one of its important functions. The imposition of unilateral United States is a breach of United States domestic legislation and case laws, as well as the country's obligations under the GATT 1994, and represents a clear danger to the WTO and international trade in general (Nwoke, 2020, p. 81). In the meantime, trade tensions have risen as a result of rapid growth in exports and foreign investment by Chinese companies. Also, during the COVID-19 pandemic, many members resorted to unilaterally imposing export restrictions on medical supplies and personal protective equipment, and this organization did not adequately respond and provide support to the vulnerable, nor did it act in defense of a liberal system of trade without prohibitions and quantitative restrictions, which has been greatly disrupted by these

unilateral moves. Also, the WTO has not been used as a platform for cooperation in strengthening the global production and distribution of medical devices. In this paper, we will focus on the analysis of the institutional and normative dimensions of the WTO as a very important organization in the field of international trade. We will also give a critical framework of the WTO system. Considering that the Republic of Serbia, although it has been in negotiations for many years now, is not a member of the WTO, in the second part of the paper, we will explain the way of joining the WTO as well as the current status of our country in negotiations. In the concluding comments, we will offer our view of the WTO's work so far, as well as the current problems with the functioning of the WTO and Serbia's accession.

INSTITUTIONAL DIMENSION OF THE WTO

The WTO is a "member-driven" international organization. Decisions in the WTO are taken by consensus. One of the characteristics of this organization is that the WTO is run by its member states, and all major decisions are made by the membership as a whole. In practice, this happens in two ways: by ministers (who usually meet at least once every two years) and by their ambassadors or delegates (who meet regularly in Geneva). The way of making decisions, that is, the management of this organization, is exactly what sets this organization apart from others and makes it special. In other international organizations, such as the International Monetary Fund and the World Bank, usually, the power is delegated to a board of directors or the organization's head. But the WTO is different from most international organizations because decisions are made by member states by consensus. A majority vote is also possible, but it has never been used in the WTO and was extremely rare under the GATT. The WTO's agreements have been ratified in all members' parliaments. In the institutional structure of the WTO, the Ministerial Conference is the highest-level decision-making body. The Ministerial Conference usually meets every two years. Below the Ministerial Conference is the General Council, which is usually composed of ambassadors and heads of delegation based in Geneva, but sometimes officials from the member countries are sent to meetings. The General Council meets several times a year in the Geneva headquarters and also meets as the Trade Policy Review Body and the Dispute Settlement Body. At the next level are the Goods Council, Services Council, and Intellectual Property (TRIPS) Council, and all three report to the General Council. To

help with the complex work, there have been established numerous specialized committees, working groups, and working parties dealing with the individual agreements and other areas, such as membership applications, development, regional trade agreements, and the environment (WTO, 2022b). As we mentioned, the General Council meets as the Trade Policy Review Body and the Dispute Settlement Body. The Trade Policy Review Body undertakes trade policy reviews of member countries under the trade policy review mechanism and considers the Director-General's regular reports on trade policy development. It is open to all WTO members (WTO, 2022c). On the other hand, the Dispute Settlement Body deals with disputes between WTO members. Such disputes may arise with respect to any agreement contained in the Final Act of the Uruguay Round that is subject to the Understanding on Rules and Procedures Governing the Settlement of Disputes. The Dispute Settlement Body has the authority to establish dispute settlement panels, refer matters to arbitration, adopt a panel, an Appellate Body, and arbitration reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize the suspension of concessions in the event of non-compliance with those recommendations and rulings (WTO, 2022d). Even if the Appellate Body is completely lost within the WTO system, we must not return to resolving disputes before the WTO, where the results of the panel are not automatically binding and power relations play a much bigger role (Pauwelyn, 2019, p. 306). The main WTO functions are: administering trade agreements; acting as a forum for trade negotiations; settling trade disputes; reviewing national trade policies; building the trade capacity of developing economies, and cooperating with other international organizations (WTO, 2022e). The main goal of the WTO is the liberalization and facilitation of international trade in order to achieve sustainable economic growth and overall prosperity of member countries. The WTO achieves these goals by reducing tariff and non-tariff barriers to international trade in goods, facilitating trade in services, protecting trade aspects of intellectual property rights, harmonizing trade rules, and strengthening the rule of law. This means that barriers to free trade are removed, and therefore the rules are transparent and the consequences for all participating countries are predictable. The establishment of such an international trade regime and an international institution such as the WTO reduces the instability and volatility of international trade (Braumoeller, 2006, p. 271). The WTO negotiates global rules of international trade. These rules must be followed by all member countries

of this organization. All members of the WTO have joined this international organization as a result of negotiation, so membership means a balance of rights and obligations. The WTO is an organization that has many functions and a number of bodies that deal individually with issues of importance to trade. During the many years of work of the WTO, it has become increasingly clear that there are problems in the functioning and performance of certain bodies. Hoekman highlights four reforms that would bolster the effectiveness of the WTO as a forum for trade cooperation: improving the collection and reporting of information on trade-related policies; supporting analysis-informed deliberation to establish a common understanding of the need and scope for cooperation in specific policy areas; putting in place a stronger multilateral governance framework for plurilateral cooperation between groups of WTO members; and reestablishing an effective dispute settlement system (Hoekman, 2020, p. 341). There is also growing dissatisfaction with what some consider unfair practices of their trade partners, primarily the US and the EU against China (Mavroidis, Sapir, 2021, p. 48). As a result of the inability to make significant progress in multilateral trade negotiations, bilateral and regional trade agreements began to be created and expanded rapidly, making it easier for states to directly advance their trade interests. As a result, there is an increase in bilateral or regional preferential trade agreements in which countries negotiate disciplines on matters not covered by the WTO that go beyond what has been agreed in the WTO. But the preferential trade agreements cannot address key sources of trade tension at the global level, such as investment incentives, the competitive effects of subsidies and industrial policies on third markets, or the use of trade policy as an element of programs to combat climate change. There has been a positive shift lately towards plurilateral engagement in the WTO, which illustrates a willingness to engage in dialogue and negotiations to identify good practices in areas of common interest. An internationally agreed mechanism for resolving trade disputes within the WTO is available to all member states. The country uses it to protect its own trade interests. This system gives hope to smaller countries that they will protect their interests and their trade rights even when there is a powerful and developed country on the other side. The system for resolving disputes within the WTO has been a great advance and has provided an additional dose of security in compliance with the rules by both small countries and large and powerful countries (Jelisavac Trošić, Todić, Stamenović, 2018, p. 241). However, the WTO has found itself in a stalemate because the impossibility of reaching an agreement from the

Doha Round of negotiations increases the number of cases that go into the dispute resolution system, which causes an overload of this system. The result is a blockade of the WTO itself and its most important functions in regulating international trade — negotiating and resolving trade disputes (Jelisavac Trošić, Tošović-Stevanović, Ristanović, 2021, p. 84). Fortunately, more and more WTO structures within this organization are recognizing the need to reform their work, so, for example, at a meeting of the Dispute Settlement Body on April 27, 2022, the members expressed their commitment to engage in discussions on the reform of the WTO's dispute settlement system.

NORMATIVE DIMENSION OF THE WTO

The WTO agreements are complex and lengthy. The WTO agreements are legal texts covering a wide range of activities. The WTO is often described as a rules-based system, but it should be borne in mind that these rules are in fact agreements created by the member states during negotiations. The results of the Uruguay Round of multilateral trade negotiations represent a list of about 60 agreements, annexes, decisions, and understandings. In fact, all these agreements can be divided into six main parts: the Agreement Establishing the WTO (the WTO Agreement), the agreements for each of the three areas of trade (goods, services, and intellectual property), the area of dispute resolution, and the area of foreign trade policy reviews (WTO, 2022f). The Agreement establishing the WTO, together with the first three annexes, is a multilateral trade agreement that binds all members. Annex 4 of the Agreement contains multiple trade agreements binding only the members that have acceded to these WTO agreements (e.g., the Agreement on Public Procurement and the Agreement on Civil Aviation). Annex 1a contains the General Agreement on Tariffs and Trade (GATT 1994), 12 international agreements on specific aspects of trade in goods, and an appendix to the list of customs concessions of the WTO members.

Table 1: The basic structure of the WTO agreements

<i>Umbrella</i>	AGREEMENT ESTABLISHING WTO		
	Goods	Services	Intellectual property
<i>Basic principles</i>	GATT	GATS	TRIPS
<i>Additional details</i>	Other goods agreements and annexes	Services annexes	
<i>Market access commitments</i>	Countries' schedules of commitments	Countries' schedules of commitments (and MFN exemptions)	
<i>Dispute settlement</i>	DISPUTE SETTLEMENT		
<i>Transparency</i>	TRADE POLICY REVIEWS		

Source: WTO, Internet, https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm1_e.htm

Through all agreements that are an integral part of the WTO, the member countries operate a non-discriminatory trading system. The disputes specify the rights and obligations of the WTO member countries. Each member country receives guarantees that its exports will be treated fairly and consistently in the markets of other member countries. Each country undertakes to do the same for imports into its own market. The WTO system is designed to give developing economies some flexibility in carrying out their obligations. It is important to note that these agreements are not static, but that they have been renegotiated from time to time, and new agreements can be added to the package. Many are now being negotiated under the Doha Development Agenda. While progress was achieved across a broad range of issues, the WTO members missed several official and unofficial deadlines for concluding the Doha Round, and later they agreed to pursue negotiations on trade facilitation separately. At their Ninth Ministerial Conference in 2013 in Bali, the WTO members concluded the Trade Facilitation Agreement (TFA). The TFA entered into force on February 22, 2017, and is binding on all WTO members. At the Tenth Ministerial Conference in 2015 in Nairobi, some WTO members believed new approaches were necessary to achieve meaningful outcomes on the remaining Doha issues. During the COVID-

19 pandemic, there was uncoordinated use of trade policy instruments among the member countries of the WTO. About 100 countries have export restrictions or bans on goods, including PPE, pharmaceutical ingredients, COVID-19 vaccines, diagnostic kits, and medicines, according to the International Trade Centre. The problem with implementing trade-related measures as a response to COVID-19 is that they increase in numbers very fast and can disrupt trade flows, supply chains, and even the whole system of world trade (Jelisavac Trošić, 2021, p. 131). These extraordinary circumstances call for extraordinary action. According to some experts, it is time for trade ministers to leverage the WTO to help it recover from the pandemic. There are valuable lessons from the COVID-19 experience that could inform the development of a framework for strengthening the role of the WTO during systemic economic crises (Low, Wolfe, 2020, p. 85).

WORLD TRADE ORGANIZATION MEMBERSHIP AND THE ACCESSION PROCESS

The goal of the WTO is to become a universal organization — in scope and coverage. Currently, the WTO has 164 members, accounting for 98% of world trade. Until now, WTO membership has been acquired in two ways: original membership under Article XI (123 members), and accession, primarily under Article XII of the WTO Agreement (41 members).

A prerequisite for both original and acceding WTO members is having goods and services schedules formally annexed to the General Agreement on Tariffs and Trade 1994 (GATT 1994) and the General Agreement on Trade in Services (GATS), respectively.¹ The original WTO membership was available to contracting parties of the GATT 1947, as well as to the European Communities.² By accepting the WTO Agreement, 122 contracting parties to the GATT 1947, and the European Communities, became original WTO members upon the entry into force of the WTO Agreement, as of 1 January 1995, or within the subsequent two-year

¹ Article XI:1 of the WTO Agreement and the Decision on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization.

² On 1 December 2009, the European Union succeeded the European Community (WT/Let/679). The European Communities as well as each of its member States have also individually become WTO Members pursuant to Article XI or XII of the WTO Agreement.

period.³ While these accounted for an extremely large percentage of world trade, many economies remained outside the multilateral system regulated by the WTO. Five WTO members acceded through a special procedure between 1995 and 1996: Qatar; Saint Kitts and Nevis; Grenada; Papua New Guinea; and the United Arab Emirates. Although they were GATT 1947 contracting parties, they only finalized their WTO schedules in 1995 and therefore acceded to the WTO instead of becoming original WTO members, pursuant to the General Council Decision on “Finalization of Negotiations on Schedules on Goods and Services” of 31 January 1995 (WT/L/30). According to Article XII (1) of the WTO Agreement, the terms of accession are contained in individual accession protocols agreed by the acceding government and WTO members. So far, 36 members have negotiated terms of accession to the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). Within the WTO, a number of countries have formed coalitions in the WTO, and here it is interesting to mention the Group of Article XII, which is composed of member countries that joined the WTO after 1995. The Group seeks to close the gap between the commitments of the original WTO members and the greater level of commitments undertaken by the members of the group as part of their WTO accessions, thus achieving a level playing field and a fairer multilateral trading system (WTO, 2022g). Although the new members of the WTO represent a significantly lower percentage of world trade and weaker economies, they have still made a significant contribution to the WTO’s goal of becoming a truly universal body. The effects of WTO (and the GATT before) membership on international trade between the member countries are positive and statistically significant (Larch, Monteiro, Piermartini, Yotov, 2019, p. 17). The WTO membership includes not only all the wealthiest countries in the world but also 32 of the 50 least-developed countries. The percentage of world trade accounted for by the WTO member countries has increased from 86.8% to 96.4% and the percentage of GDP from 89.4% to 96.7%. The great degree of difference that exists within WTO membership can be illustrated by the fact that the five WTO member countries are the largest in trade terms (EC, US, China, Japan and Canada) and account for as much as 68 percent of the trade of

³ Article XIV:1 of the WTO Agreement. Exceptionally, Congo became an original WTO Member following expiry of the two-year period by depositing an instrument of acceptance in early 1997 in accordance with the extension of this period by the General Council (WT/L/208).

all WTO Members and the five smallest account for less than 0.01 percent of that trade (LDCs). Population figures are even more relevant and important in the goal of becoming a universal organization since the original members accounted for only 66.0% of the world's population; the accession of the new members has brought this figure up to 90.1% (WTO, 2022h). According to these data, it can be seen that the countries that joined this organization are very fragmented in terms of economic strength, size, trade potential, economic growth, population size, and more. And yet, in a way, all these countries have found enough motivation and benefits to join the WTO. Each state or each customs territory, under the condition that it has full autonomy in the conduct of its trade policies, can begin the accession process to the WTO. The condition for the accession process to be completed successfully is that all WTO members must agree on the terms. This is done through the establishment of a Working Party of WTO members and through the negotiation process between that country and the WTO member countries that have joined the Working Party. The process of joining the WTO is essentially a negotiation process, which is very different from the process of joining other international organizations. The Working Party process is divided into three distinct phases, the main features of which are:

Phase 1 – the collection of factual information on the trade regime of the applicant. The applicant submits a Memorandum containing a detailed description of its foreign trade regime. The Working Party members then submit written questions to the applicant asking for clarifications or additional data. Only when written answers have been received from the applicant and an adequate factual basis obtained, the Working Party hold its first meeting.

Phase 2 – the negotiation of the terms of accession. Negotiations on the general rules relating to goods, TRIPS, and services take place multilaterally in a Working Party. Consultations and negotiations with the applicant on the level of agricultural support and export subsidies take place plurilaterally in a group consisting of the members of the Working Party interested in these issues. In addition to the above, the applicant negotiates bilaterally with interested Working Party members on conditions of access to its market for goods and services.

Phase 3 – the Working Party draft Report is finalized. This includes the commitments on the general rules to be accepted by the acceding country and a draft Protocol of Accession. The results of the bilateral negotiations on goods and services and of the plurilateral consultations and

negotiations on agricultural support are consolidated in draft multilateral Goods and Services Schedules, reviewed by the Working Party and annexed to the text of the draft Report. The Working Party then agrees on the draft Report as a whole and forwards it to the General Council/Ministerial Conference for adoption (WTO, 2022i).

The General Council/Ministerial Conference then approves the text of the draft Protocol of Accession and the text of the draft Decision on the Accession; and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WTO document WT/L/93, 15 November 1995.), adopts the draft Decision on the Accession and adopts the Report of the Working Party as a whole, including the Schedule on Goods in its Addendum 1 and the Schedule on Services in its Addendum 2 (WTO, 2022j). Since 1995, these decisions have been taken by consensus, in accordance with Article IX (1) of the Agreement Establishing the WTO. In adopting the Decision, the WTO members offer terms of accession to the applicant, which accepts those terms by accepting the Protocol of Accession. Depending on the constitutional law of the applicant, acceptance may be effective through signature or subsequent ratification. The applicant becomes a member of the WTO thirty days after accepting the Protocol of Accession (WTO, 2022k). At present, there are, including the Republic of Serbia, 32 governments which have applied to accede to the WTO. They account for 4 percent of world trade, 3.3 percent of world GDP but as much as 8.4 percent of the world population. Their membership in the WTO would bring the coverage of the organization to 99.95 percent of world trade, 99.98 percent of world GDP and 99.35 percent of the world population. Thirteen of these applicants are LDCs (WTO, 2022l). To date, only 13 member States of the United Nations have not applied to accede to the WTO. They are Eritrea (LDC), Palau, Kiribati (LDC), San Marino, the People's Democratic Republic of Korea, Somalia (LDC), the Marshall Islands, Timor-Leste (LDC), Micronesia, Turkmenistan, Monaco, Tuvalu (LDC), and Nauru. Together, these states account for 0.05 percent of total world trade, 0.03 percent of world GDP and 0.70 percent of the world population (*Ibidem*). We can say with great certainty that membership in the WTO is important for all countries of the world.

SERBIA'S PATH TO WTO MEMBERSHIP

The Federal People's Republic of Yugoslavia (FPRY) was not initially the GATT Contracting Party. The FPRY was a socialist country and had a planned economy, which was not in line with the market economy and trade liberalization, which were at the core of the GATT. Because of that, when the GATT was formed, the FPRY was not ready to take on all the obligations required by the full status of a Contracting Party. However, our country noticed the impact that this agreement has on international trade, so it was decided to follow the GATT and eventually join this agreement. The relations between the FPRY and the GATT began from the observation stage, which lasted from 1950 to 1958. With the implementation of economic reform in the 1950s, the economy was directed from central planning to market structures and instruments. Relations were formalized when the Declaration on the Regulation of Relations between the FPRY and the GATT was signed on May 25, 1959, so they moved on to the next stage of associate membership. This stage lasted from 1959 to 1965 and implied an even distribution (equivalence) of the rights and obligations of the FPRY in relation to the GATT. With the implementation of economic reform, the adoption of a permanent customs tariff, the determination of the official exchange rate, and reaching a certain level of economic development, the conditions were created for the SFR Yugoslavia to fully join the GATT on August 25, 1966. The list of customs concessions of the SFR Yugoslavia became a GATT Contracting Party (Jelisavac Trošić, 2015, pp. 259-260). Yugoslavia has been a GATT Contracting Party since 1966, and it has been a signatory to a series of accompanying agreements during successive rounds of multilateral trade negotiations conducted under the auspices of the GATT. By joining the GATT, Yugoslavia has benefited from the multilateral treaty of the most favored nation and the principle of non-discrimination, as well as a range of rights, based on GATT provisions, aimed at liberalizing, developing, and growing world trade. As a foreign party to the GATT, Yugoslavia has been very active and has several times participated in the work of the "green room". Upon accession, Yugoslavia participated in all rounds of negotiations and was a member of most committees, commissions, and working groups. Yugoslavia also actively participated in the Uruguay Round of multilateral trade negotiations, the successful conclusion of which established the World Trade Organization. But, after the dissolution of the state, at the GATT Council meeting of June 16, 1993, a decision was adopted which, referring to UN General Council

Resolution 47/1, definitively challenges the “automatic continuity” of the former SFRY’s membership in the GATT; at the same time, it is concluded that the Federal Republic of Yugoslavia (FRY) must apply in the GATT if it wants to be a signatory. In addition, the foreign trade system of the FRY underwent a significant change during the international sanctions, which distanced it from the rules of the GATT and the WTO systems. The suspension of sanctions in 1995 created the conditions for Yugoslavia to address the WTO with a request to regulate its status. In the meantime, the period of the parallel existence of the WTO and the GATT expired when it was possible to acquire the status of an original WTO member on the basis of the 1947 GATT membership. The application for membership, submitted by the Government of the FRY on September 30, 1996, and re-submitted in an amended form on November 13, 1996, did not initiate the procedure for admission to the WTO since recognition of continuity with the SFRY was requested. It was proposed to conclude an agreement with a retroactive clause that would enable the FRY to become a member of the WTO under a shortened procedure (Jelisavac, 2006, p. 48). Given that the 1947 GATT ceased to solely exist, as well as bearing in mind the fact that the GATT Council no longer exists and that our country was not the only successor to the former common state, the FR Yugoslavia had to apply to the WTO for admission according to the procedure provided for new members. The new request, which was submitted to the WTO in the form of a Statement in January 2001, requested admission to the WTO under Article XII of the WTO Agreement as a new state. At the session of the General Council on February 8, 2001, a decision was made to start the process of accession of the FRY to the WTO by establishing a Working Party for the accession. But the country was in the process of transition after the 2000s, and was frequently and rapidly changing political and economic environment (Jelisavac Trošić, 2018, p. 265). The country’s constitutional reconstruction and negotiations on harmonizing economic systems between Serbia and Montenegro have stalled the WTO accession process. According to Article XII of the Agreement on the Establishment of the WTO, it specifies that only a state or a separate customs territory that has full autonomy in conducting its foreign trade affairs can become a member of the WTO. The State Union of Serbia and Montenegro (4 February 2003–5 June 2006) did not meet this requirement. As Serbia and Montenegro had two different foreign trade systems, there were attempts to harmonize them, but these attempts failed. The main problem was that neither Serbia nor Montenegro was ready to leave the competencies for the implementation of obligations towards the WTO, primarily the

conduct of foreign trade policy, to the Ministry of Economic Relations with Foreign Countries of the state union. When the Republic of Serbia became an independent state on June 5, 2006, it started independent negotiations on WTO accession. The Republic of Serbia's request for admission to the WTO, under which ongoing negotiations are underway, was officially submitted on December 10, 2004. On February 15, 2005, the General Council of the World Trade Organization decided to establish a Working Party for Serbia and to start the process of Serbia's accession to the WTO. The request originally submitted by the FRY in 2001 is considered withdrawn (Jelisavac Trošić, 2015, p. 267). After the Working Party for the Admission of Serbia to the WTO was established, negotiations on WTO rules and previously described phases began. Serbia, after 17 years, has still not completed negotiations on joining the WTO. Serbia is one of 24 countries currently negotiating accession to the WTO. The Working Party for Serbia met a total of 13 times, the last time on June 13, 2013. Until then, when the stalemate arose, the meetings of the Working Party for Serbia were usually held twice a year, and the negotiations progressed. In the negotiations, Serbia was marked as a transitional economy and a landlocked country. It would have been easier for the negotiations if Serbia had received the status of a developing country, but like other countries in Europe, has neither the status of a developing country nor the status of the least developed country, so all regulations must be in accordance with WTO rules on the date of joining the organization, without any transition period of adjustment. The last draft Working Party Report for Serbia was made in October 2012. The next Working Party meeting is expected when Serbia completes the procedure of adopting the remaining legal solutions in accordance with WTO rules (primarily regarding the trade of GMO products), when the work on the new draft report of the Working Party is completed and when significant progress is made in the remaining bilateral negotiations on market access, i.e., when a new bilateral protocol on access to the goods and services market is signed. But, since 2013, there has been no progress on the adoption of the Genetically Modified Organism (GMO) law, and Serbia has sustained contacts with several members to advance bilateral market access negotiations. So far, Serbia has completed negotiations and signed and deposited in the WTO Secretariat bilateral protocols on market access for goods and services with 14 WTO members: the European Union (EU), the Dominican Republic, Ecuador, Honduras, Japan, Canada, China, Korea, Norway, El Salvador, Panama, India, Mexico, and Switzerland. Currently, within the WTO, Serbia is conducting bilateral negotiations

with four other countries: the United States, Ukraine, Brazil, and Russia (Jelisavac Trošić, Todić, Stamenović, 2018, p. 184). Documents related to the Working Group for Serbia are limited to the public and will be available only after the adoption of the report at the Ministerial Conference and the WTO General Council, in the final phase of negotiations (WTO, 2002).

CONCLUSIONS

The rules that are an integral part of the WTO agreements and which regulate international trade have been established for decades. These rules were harmonized by the WTO member countries through negotiations. It is a large system that includes negotiations, control of the application of agreed rules, control of trade systems of member countries, resolution of mutual trade disputes and more. The fact is that the WTO is a universal organization in the field of international trade and that it has no alternative. Despite the parallel existence of bilateral and regional trade agreements, the scope and importance of the WTO far exceeds them. The growth of international trade has undoubtedly stemmed from the multilateral framework developed under the auspices of the WTO. However, over the years, the WTO has accumulated significant problems awaiting resolution, making it increasingly difficult to reach agreements between member countries or advance trade negotiations. The trade war and the corona crisis have further shaken confidence in the functioning of this organization, as it has failed to impose itself as the supreme body capable of coping with such shocks. The sluggishness of the negotiations and the insufficient speed and strength of the reaction to the individual introduction of restrictive measures on trade by the member states have somewhat undermined the integrity of this organization. Due to all that, the WTO is about to reform and modernize in accordance with the needs of the modern world. This organization and its functioning have been re-examined, but still, countries are conducting trade according to WTO rules which make the fundamental principles for multilateral trade. Serbia is outside of the WTO in long-standing membership negotiations. After 17 years, Serbia has still not completed negotiations on joining the WTO. The negotiations have been de facto frozen since 2013. The reasons are the failure to pass a new GMO law and the incompleteness of several bilateral market access negotiations. WTO rules in these fields remain unchanged, so it depends on our country whether this process will continue. Of course, despite the advantages that WTO membership would bring, it will

not in itself increase the competitiveness of the Serbian economy, but will enable it easier and non-discriminatory access to foreign markets.

REFERENCES

- Braumoeller, Bear F. (2006). "Explaining Variance: Or, Stuck in a Moment We Can't Get Out Of", *Political Analysis*, 14(3), Oxford, University Press.
- Hoekman, B. (2020). WTO reform priorities post-COVID-19. *East Asian economic review*, 24(4), pp.337-348.
- Jelisavac, S. (2006), Odnosi Srbije i Svetske trgovinske organizacije, *Međunarodna politika*, br. 1122, april-jun 2006, Beograd, Institut za međunarodnu politiku i privredu.
- Jelisavac Trošić, S. (2021). The World Trade Organization and COVID-19-Related Trade Measures, in: Sanja Jelisavac Trošić, Jelica Gordanić (eds) *International Organizations and States' Response to COVID-19*, (pp. 127-144). Institute of International Politics and Economics. Retrieved from: https://doi.org/10.18485/iipe_response2covid19.2021.ch7. Accessed 12 January 2022.
- Jelisavac Trošić, S. (2015). *Pregovori u okviru GATT i STO*. Beograd, Institut za međunarodnu politiku i privredu.
- Jelisavac Trošić S., Tošović-Stevanović, A., Ristanović, V. (2021). *Kriza svetske ekonomije na početku XXI veka*. Beograd, Institut za međunarodnu politiku i privredu.
- Jelisavac Trošić S., Todić, D., Stamenović, M. (2018). *Svetska trgovinska organizacija, životna sredina i sistem zdravstvene zaštite*. Beograd, Institut za međunarodnu politiku i privredu.
- Jelisavac Trošić S. (2018). Serbia's Sustainable Development Strategy and Industrial Policy for the European Union and the World Trade Organization, in: M Yülek (ed.), *Industrial Policy and Sustainable Growth*, Springer. (pp. 263-284). Retrieved from: https://doi.org/10.1007/978-981-10-5741-0_23. Accessed 12 January 2022.
- Larch, M., Monteiro, J. A., Piermartini, R., & Yotov, Y. (2019). *On the effects of GATT/WTO membership on trade: They are positive and large after all*. Staff Working Papers, WTO.
- Low, P., & Wolfe, R. (2020). How the WTO kept talking: Lessons from the COVID-19 crisis, in: Simon J. Evenett and Richard E. Baldwin (eds),

- Revitalising Multilateralism Pragmatic Ideas for the New WTO Director-General*. London, Centre for Economic Policy Research.
- Mavroidis, P. C., & Sapir, A. (2021). *China and the WTO: why multilateralism still matters*. Princeton, University Press.
- Nwoke, U. (2020). Imposition of trade tariffs by the USA on China: implications for the WTO and international trade law. *Journal of international trade law and policy*, 19(2), pp. 69-84.
- Pauwelyn, J. (2019). WTO dispute settlement post 2019: what to expect?. *Journal of International Economic Law*, 22(3), pp. 297-321.
- WTO. (14 May 2002). Ministerial Council Decision WT/L/452 of 14 May 2002.
- WTO. (2022a). *What we stand for*. Retrieved from https://www.wto.org/english/thewto_e/whatis_e/what_stand_for_e.htm. Accessed 5 February 2022.
- WTO. (2022b). *Structure*. Retrieved from https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm. Accessed 17 February 2022.
- WTO. (2022c). *The Trade Policy Review Body (TPRB)*. Retrieved from https://www.wto.org/english/tratop_e/tpr_e/tprbdy_e.htm. Accessed 18 February 2022.
- WTO. (2022d). *Dispute Settlement Body*. Retrieved from https://www.wto.org/english/tratop_e/dispu_e/dispu_body_e.htm. Accessed 21 February 2022.
- WTO. (2022e). *How the WTO is organized*. Retrieved from https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm. Accessed 23 February 2022.
- WTO. (2022f). *Overview: a navigational guide*. Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm1_e.htm. Accessed 2 March 2022.
- WTO. (2022g). *Groups in the negotiations*. Retrieved from https://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.htm. Accessed 23 January 2022.
- WTO. (2022h). *Accession in perspective*. Retrieved from https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c1s1p1_e.htm. Accessed 12 January 2022.

- WTO. (2022i). *The accession process – the procedures and how they have been applied*. Retrieved from https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c4s3p1_e.htm. Accessed 7 March 2022.
- WTO. (2022j). *Adoption of Report by General Council/Ministerial Conference*. Retrieved from https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c4s9p1_e.htm. Accessed 16 March 2022.
- WTO. (2022k). *Accession of applicant*. Retrieved from https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c4s10p1_e.htm. Accessed 21 March 2022.
- WTO. (2022l). *Accession in perspective*. Retrieved from https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c1s1p1_e.htm. Accessed 22 March 2022.