

TURKEY, THE UN AND THE WTO: THE EMERGENCE OF A TRADING NATION AND A GOOD INTERNATIONAL CITIZEN

The UN and the WTO were each the brainchild of one ideal: The ideal of building a peaceful liberal world order. Establishing the rule of law in international relations and openness are indispensable elements of this new world order. By providing a rules-based system for international trade, and by increasing the openness of its Members' economies, the WTO contributes to the realization of this ideal. The WTO cannot fulfill this function without the commitment of its Member States. Good international citizens are those who support the Organization in its objectives. Good citizens are those who pursue open policies, and who actively and constructively participate in the legislative, executive and judicial functions of the Organization. Through its increasingly open trade regime, full commitment to the Doha Development Agenda negotiations, and its respect for, and contribution to the decisions of WTO judicial organs, Turkey is increasingly fulfilling its duties towards the international society as a good international citizen.

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Turkey's candidacy for the membership of the United Nations Security Council (UNSC) for the term 2009-10 is a timely opportunity for reflection on how 'good' an international citizen Turkey is.¹ The elections will take place in October 2008 during the 63rd UN General Assembly session. The elections and the campaigning process inevitably force a State to account for its past record as a member of the international community.

In fact, the UN Charter, the constitution of the UN, expressly asks Member States to pay due regard "to the contribution of" the candidate State "to the maintenance of international peace and security and to the other purposes of the Organization."² These purposes are broadly termed and extend to almost all fields of international relations: settling international disputes by peaceful means, developing friendly relations among nations, cooperating in "solving international problems of economic, social, cultural or humanitarian character", and promoting respect for human rights.³

In the spirit of this (self-)reflection, provided in the Charter, this article aims to assess how good an international citizen Turkey has been in the field of international trade relations. The focus of the analysis will be the role of Turkey in the World Trade Organization (WTO), in view of the central place the WTO occupies in international trade relations.

The UN and the WTO: Establishing the Rule of Law

One might ask why an examination of Turkey's record in international trade relations in general, and in the WTO in particular, is of relevance within the context of Turkey's UNSC candidacy. The answer has two dimensions, one factual, and one historico-ideological.

The factual answer is quite straightforward. The field that the UN regulates – the field of international relations – has transformed, and nowadays "economic concerns have taken center stage in foreign affairs decision making"⁴. In the words of the late Thomas Friedman, "[t]his is the age of the finance minister" and "[t]he game of nations is now geo-monopoly"⁵. Obviously, when the game is geo-monopoly, no analysis of the past performance of a player would be complete without an evaluation of its trade record.

Secondly, both the UN and the WTO—or more accurately, its predecessor the General Agreement on Tariffs and Trade (GATT)—are brainchildren of the same

¹ Turkey for UNSC, www.turkeyforunsc.org

² UN Charter Article 23 at <http://www.un.org/aboutun/charter/index.html>

³ UN Charter Article 1.

⁴ John H. Jackson, *The World Trading System Law and Policy of International Economic Relations* (MIT Press 2nd ed. 1997), p.4.

⁵ *Ibid.*

ideals and products of the same historical conditions, namely the immediate aftermath of World War II (WW II).

The ideal is to prevent the occurrence of anarchy by establishing the rule of law in international relations. In other words, the goal is to eliminate the Hobbesian ‘war of all against all’, *bellum omnium contra omnes*, by establishing a Kantian *ius gentium*, international law, to achieve ‘Perpetual Peace’. According to the UN Charter itself, the objective is “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind” by establishing “conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”.⁷ In sum, the dream is to establish a peaceful liberal world order.

Both the UN and the GATT/WTO share this liberal ideal in international relations.⁸ The UN seeks to establish the rule of law in various fields of international activity; the GATT/WTO in the field of international trade relations. Thus the GATT/WTO system aims at preventing the ‘war of all against all’ in international trade, which could sour political relations and hence endanger international peace and security. This close relationship between trade conflicts and international peace is succinctly captured in the words of Harry Hawkins, Director of the Office of Economic Affairs of the U.S. State Department in 1944: “Trade conflict breeds noncooperation, suspicion, bitterness. Nations which are economic enemies are not likely to remain political friends for long”.⁹

The Liberal Ideal: Openness and Interdependence

A very important corollary of this liberal ideal is its commitment to openness. In order to guarantee the viability of the rule of law at the international level, liberals believe in the necessity of an open trade regime and the interdependence which comes with openness. The argument is that trade increases economic interdependence, and this in turn reduces the possibility of political conflict.¹⁰ This is an idea as old as Montesquieu:

“The natural effect of commerce is to lead to peace. Two nations that trade together become mutually dependent: if one has an interest in buying, the other has an interest in selling; and all unions are based on mutual needs.”¹¹

⁶ Ernst U. Petersmann, *The GATT/WTO Dispute Settlement System International Law, International Organizations and Dispute Settlement* (Kluwer Law International 1997) 1-34.

⁷ UN Charter Preamble.

⁸ G. Evans, J. Newnham, *Penguin Dictionary of International Relations* (Penguin 1998) 304-305.

⁹ Jackson (1997), p. 13.

¹⁰ Bernard M. Hoekman, Michel Kostecki, *The Political Economy of the World Trading System – The WTO and Beyond* (OUP 2nd Ed. 2001) p. 37.

¹¹ Edward D. Mansfield Brian M. Pollins, ‘The Study of Interdependence and Conflict’ (2001) *Journal of Conflict Resolution* p. 836.

This idea was all the more powerful in the minds of decision-makers in the immediate aftermath of WWII, who saw the economic policies of the interwar years as one of the main causes of the war. The conventional wisdom was that the mercantilist-protectionist policies of the interwar years (so-called beggar-thy-neighbour policies)—as epitomised by the Smoot-Hawley Tariff Act in the U.S.A, the Great Depression, and the mishandling of the economic aspects of the German question in the Versailles Treaty—were among the main contributing factors to WW II.¹²

This belief paved the way for the Bretton Woods Conference of July 1944, which led to the establishment of the International Monetary Fund (IMF) and the World Bank (International Bank for Reconstruction and Development).¹³ These institutions were assigned the task of regulating monetary and banking issues in the post-WWII era. Although the need to establish a corresponding institution for international trade was agreed at Bretton Woods, no action was taken because the conference participants were finance ministers who lacked the authority to negotiate such a trade agreement.¹⁴

The call for negotiations to form the so-called International Trade Organization (ITO) came about in 1946, in the very first meeting of the Economic and Social Council of the newly formed UN. This is important evidence of the strong relationship between the UN and the GATT/WTO system.¹⁵ The negotiations for the GATT and ITO were intertwined: the GATT was one part of the large workload that the ITO was to administer.¹⁶

Agreement on the GATT was reached in 1947 and on the ITO Charter in 1948. However, due to domestic political reasons in the U.S., the ITO Charter was never ratified and the organization never came into being. The GATT survived this debacle and provided the rules of international trade regime for the entire Cold War period. In 1994, almost 50 years after the initial ITO endeavour, and infected by the optimism of the recently ended Cold War, States agreed to establish the WTO at the end of the Uruguay Round of Trade Negotiations. The WTO, building upon, but also extending beyond the GATT regime,¹⁷ became “the missing leg of the Bretton Woods stool”.¹⁸

¹² Jackson (1997) 36; V Lowe *International Law* (OUP 2007) p. 192.

¹³ Jackson (1997), p. 36; Lowe (2007), p. 193.

¹⁴ Jackson *ibid*.

¹⁵ Jackson *ibid*.

¹⁶ While the GATT relates to trade and trade-related matters, the ITO Charter comprised provisions on such large fields as the employment, investment, restrictive business practices: WTO *World Trade Report* (WTO 2007) 180. All WTO documents can be found at www.wto.org

¹⁷ GATT is only one of the several agreements that the WTO is mandated to administer. In the field of trade in goods GATT is complemented by such agreements as the Agreement on Agriculture, Agreement on Subsidies and Countervailing Measures etc. In addition to agreements on trade in goods, the General Agreement on Trade in Services (GATS); the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Dispute Settlement Understanding (DSU) are the other main agreements under the responsibility of the WTO. These agreements are called the Multilateral Trade Agreements.

¹⁸ Jackson (1997) 32; World Trade Report (2007), p. 179-360.

In line with the liberal consensus of the post-WW II era, the GATT/WTO system contributed significantly to the opening up of domestic markets to international trade, and to a consequent rise in interdependence. The dramatic decrease in average tariff levels, especially in developed countries, has been seen as one of the great successes of the GATT/WTO system.

The average tariff rates on industrial products in developed countries have decreased from 40 percent in 1940s to a mere 4.7 percent after the establishment of the WTO. This decrease in tariff levels has been accompanied by a steady increase in world merchandise trade. The volume of world trade has increased from 22,700 million dollars in 1938¹⁹ to 11,783 billion in 2006.²⁰ More relevant with respect to interdependence is the growth of world trade over that period almost always outstripping the growth in the world's merchandise production.²¹ Consequently, the ratio of merchandise exports to world GDP has risen four-fold from 5.5 percent in 1950 to 20.5 percent in 2005.²² Overall, it might be said that, in terms of their trade relations, countries are on average four times more interdependent in 2005 than they were in 1950.

It should be clear that the UN and the WTO share the same vision and are based on the same ideal: a liberal world order. Establishing the rule of law in international relations in general, and in international trade in particular, as well as promoting openness are two important pillars of this new system. Former UN Secretary General Kofi Annan emphasized this shared vision in the following words:

Our predecessors [...] wisely chose a course of openness and cooperation. They established the United Nations, the Bretton Woods institutions, the General Agreement on Tariffs and Trade [later subsumed into the World Trade Organization] and a host of other organizations whose job it was to make the overall system work. [...] We benefit from that legacy still.²³

Having established these two common purposes of the UN and the WTO, we may now turn to an examination of what a 'good international citizen' should do to contribute to these objectives.

Good International Citizenship

Before examining the meaning of 'good international citizenship' within the WTO, a few words are warranted on the concept of 'good international citizen-

¹⁹ Jackson World Trade Report (2007), p. 47.

²⁰ WTO International Trade Statistics (WTO 2007), p. 9.

²¹ John H. Jackson, William J. Davey Alan O. Sykes, *Legal Problems of International Economic Relations* (Thomson West 4th Ed, 2001), p. 6.

²² World Trade Report (2007), p. 49.

²³ Kofi Annan 'We the Peoples' *The Role of the United Nations in the 21st Century* (UN 2000), p. 11.

ship' in general. The term was coined by Gareth Evans, Foreign Minister of Australia between 1988 and 1996. Evans propounded the concept as the underlying principle of his foreign policy.²⁴ He developed it as part of the search for a new foreign policy identity in the post-Cold War era: it is thus highly relevant today. In addition to its contemporaneous character, another relevant aspect of the concept, particularly for Turkey, is that it represents a viable foreign policy identity for a 'middle power'.²⁵

At the core of the 'good international citizenship' policy was a commitment to strengthening the 'rules and norms of international order'.²⁶ This policy would materialize in a state's commitment to the UN and other multilateral organizations. Having well-functioning and effective international organizations, which enforce and strengthen the international rule of law, is not only an idealist policy for middle powers: it also represents their long-term interests. Evans elaborated that the policy of 'good international citizenship' was not "the foreign policy equivalent of boy scout good deeds ... [it was] an exercise in enlightened self-interest: an expression of idealistic pragmatism".²⁷

Defining 'good international citizenship' by a state's commitment to international organizations overlaps with the analysis made in the previous sections. If the ideal of our brave new world is to establish the rule of law in international relations, and if this mandate has been given to such multilateral organizations as the UN and the WTO, then the commitment that a State exhibits *vis-à-vis* multilateral organizations stands as evidence of its commitment to the rule of law. Accordingly, the question is: What should this commitment in our case, that is, in the case of Turkey and the WTO, translate into?

Commitment to an Open Trade System: The Rise of Turkey as a Trading Nation

The answer to this question has two dimensions: one results-based, the other process-based. The results-based commitment to the international trading system is manifest in the degree of 'trade openness' of a country. If the purpose of the system is to increase openness and interdependence, it is clear that those who trade more internationally, those who have a more open trade system, contribute more to this objective.

Assessed in light of this results-based criterion, Turkey has been performing increasingly well in international trade. As can be seen in Table 1, Turkey's total merchandise exports reached 85.5 billion dollars in 2006. In the same year,

²⁴ Nicholas J. Wheeler, Tim Dunne, "Good International Citizenship: a third way for British foreign policy," in *International Affairs*, 74,4 (1998), p. 848.

²⁵ *Ibid.*, p.854-855.

²⁶ *Ibid.*

²⁷ *Ibid.*

Turkey's total merchandise imports amounted to 138.3 billion dollars. It should be further noted that, according to the latest figures, Turkey's exports in 2007 reached 107 billion dollars, surpassing the 100 billion dollar threshold for the first time in the country's history.²⁸ Based on its performance in 2006, Turkey is the 22nd largest exporter and the 15th largest importer in the world.²⁹ Its share in the world's total exports is 0.9 percent, and in imports, 1.5 percent.³⁰ Accordingly, Turkey's current share in international trade amounts to 1.2 percent.³¹

*TABLE 1 Main International Trade Statistics for Turkey*³²

TURKEY (current prices)	1995	1996	2000	2001	2002	2003	2004	2005	2006
GDP (million \$)	166,443	178,061	198,230	143,096	182,973	240,596	302,561	362,461	401,763
Total Merchandise Exports (million \$)	21,637	23,224	27,775	31,334	36,059	47,253	63,167	73,476	85,479
Total Merchandise Imports (million \$)	35,709	43,627	54,503	41,399	51,554	69,340	97,540	116,774	138,290
Total Merchandise Trade (TMT) (million \$)	57,346	66,851	82,278	72,733	87,613	116,593	160,707	190,250	223,769
Trade Openness (TMT/GDP) (per cent)	34.45	37.54	41.50	50.82	47.88	48.46	53.11	52.48	55.69

When examining the figures in Table 1, it should be kept in mind that 1996 represents a turning point in Turkey's trade policy. On 1 January 1996, Turkey entered into a Customs Union (CU) with the EU. Within the Turkey-EU CU, industrial products and processed agricultural products are traded on a duty-free basis. In addition to this internal aspect, the CU requires Turkey to harmonize its tariffs with the EU's Common External Tariff. Turkey completed this harmonization process by 1 January 2001.³³

²⁸ Turkish Statistical Institute, www.turkstat.gov.tr

²⁹ International Trade Statistics (2007) 13. (excluding the intra-EU trade).

³⁰ Ibid.

³¹ Ibid. (excluding the intra-EU (25) trade).

³² GDP: IMF, World Economic Outlook, October 2007. Trade Volumes: WTO International Trade Statistics. Trade Openness is calculated by the author.

³³ Delegation of the European Commission to Turkey, www.avrupa.info.tr/DelegasyonPortal/AB_ve_Turkiye/Gumruk_Birligi.html

This harmonization with the EU's Common External Tariff in industrial and processed agricultural products brought about an important liberalization of Turkey's tariffs *vis-à-vis* non-EU trading partners. According to the WTO's calculations, with the formation of the Turkey-EU CU, Turkey's trade-weighted average applied tariff rate decreased from 12.3 percent in 1995 to 8.3 percent in 1996. This amounts to around 30 percent reduction in tariffs.³⁴ This process continued in the following years: by 2005, Turkey's weighted average tariff was only 3.8 percent. This reflects a liberalization of almost 70 percent in weighted averages between 1995 and 2005. Moreover, when preferential rates are taken into account, the weighted average decreases further to 1.5 percent.³⁵

It should be noted that trade-weighted average tariff statistics may be misleading, as they fail to account for the non-existent trade resultant from high tariffs. However, even when the simple (non-weighted) average applied tariff levels are considered, Turkey's tariff profile looks substantially liberal. The World Bank, taking into account the preferential rates as well, calculates Turkey's simple mean tariff to be 2.4 percent in 2005. Set against 7.7 percent for the world, and 8.8 percent for middle income countries, Turkey's level of protection at 2.4 percent attests convincingly to its openness.³⁶

The effect of these liberal trade policies on Turkey's openness has been significant. While the Turkish economy grew at an average annual rate of 7.4 percent during 2002-06, the average annual rate of growth for the volume of international trade was 25.62 over the same period.³⁷ This is in line with global trends. During 2000-06, worldwide merchandise trade grew by twice the annual growth rate of global output. In Turkey, then, the pace of Turkey's opening up has been substantially greater than the global trend.

The trends demonstrated by the statistics above are reflected in the development of Turkey's trade openness ratio in Table 1. In almost a decade—from 1995, when the WTO was founded, to 2006—Turkey increased its openness from 34.45 percent to 55.69 percent. These figures reflect an increase of more than 60 percent in Turkey's openness to international trade. This sizeable increase in Turkey's openness, and hence in its interdependence, constitutes important factual evidence of Turkey's commitment to the WTO and to its underlying ideals.

³⁴ WTO WT/REG22/10.

³⁵ World Bank *Turkey: Trade at a Glance at*

(<http://info.worldbank.org/etools/tradeindicators/CountryReports/report193.pdf>), World Bank 2007.

³⁶ World Bank *World Development Indicators* (World Bank 2007), p. 338.

³⁷ WTO *Trade Policy Review Report by the Secretariat TURKEY* (5 November 2007) WT/TPR/S/192 vii [Secretariat Report 2007];

WTO *Trade Policy Review Report by TURKEY* (5 November 2007) WT/TPR/S/192 39 [Government Report 2007].

Commitment to the Rule of Law: Participation is the Key

The process-based dimension of the commitment to multilateral organizations relates more to the general objective of establishing the rule of law than to attaining openness. This commitment must be shown in a state's participation in the work of the relevant international organization, in casu the WTO. Participation is the key concept in this regard. International organizations cannot function without the effective participation of their Member States. This applies to the WTO in particular, which, due to its smaller Secretariat compared to other Bretton Woods institutions, is still very much Member-driven.³⁸ In the words of Kofi Annan, "better governance means greater participation".³⁹ The following question arises: What are the functions of the WTO in which a 'good international citizen' should participate?

The main functions of the WTO can be grouped into three main categories: The first may be called the executive function of the organization, chiefly denoting the administration of multilateral trade agreements. This function entails taking decisions regarding the day-to-day functioning of the agreements, as well as monitoring Member's trade policies through such mechanisms as the Trade Policy Review Mechanism.⁴⁰

The second function is legislative: the organization is the 'forum for negotiations' in the field of international trade.⁴¹ The most important legislative steps, and issues regarding further liberalization of trade are the subjects of so-called 'trade negotiation rounds'. These rounds allow Member States to discuss various different issues simultaneously and thus provide an opportunity for trade-offs between different issues under discussion.⁴² Since the establishment of the GATT, eight different Rounds have been finalized. The eighth and most comprehensive one, the Uruguay Round, laid the groundwork for the WTO. The ninth round, the so-called Doha Development Agenda (DDA), started in 2001 and is still in progress.⁴³ In the words of a close observer of the system, "negotiation is the driving force of the multilateral trading system."⁴⁴

The third function of the WTO is the judicial one: it is one of the most important strengths of the WTO system compared to other international organizations. This is because WTO judiciary bodies, namely the Dispute Settlement Panels and the Appellate Body (AB), enjoy compulsory jurisdiction, a rare animal in public international law. It can be said that the WTO Dispute Settlement system

³⁸ Anne O. Krueger ed., *The WTO as an International Organization* (U of Chicago Press 1998), p. 1-97; Hoekman (2001), p. 53-54.

³⁹ Annan (2000), p. 13.

⁴⁰ WTO Agreement Article III:1 and III:4.

⁴¹ WTO Agreement Article III:2.

⁴² Hoekman (2001), p. 135-136.

⁴³ World Trade Organization, http://www.wto.org/english/tratop_e/dda_e/dda_e.htm

⁴⁴ Hoekman (2001), p. 100.

has become ‘the most important international tribunal’.⁴⁵ The Panels and the AB function are ‘very much like a court of international trade’. Their decisions are binding and there is a possibility of imposing sanctions if they are not observed.⁴⁶ As such, the WTO Dispute Settlement system is a very important aspect of the establishment of the rule of law in international trade relations.

This analysis will focus on the legislative and judicial functions of the Organization. Apart from space limitations, another important reason for this is based on the following assumption: if an issue arising during the administration of agreements (the executive function) is of significant importance, and if no agreement can be reached thereon, this issue will either be made subject to a dispute or will appear on the agenda of trade negotiations. Therefore the analyses of the legislative and judicial functions should take precedence.

Turkey as an Active Player in the Doha Development Agenda

What form, then, should the participation of a ‘good international citizen’ in the legislative function of the WTO take? With regard to the legislative function, the analysis must focus on Turkey’s participation in the DDA negotiations. The question should ask how actively Turkey participates in the DDA and how constructive it has been so far. While examining the density of its participation may be straightforward, the same cannot be said of its ‘constructiveness’.

In my view, a shorthand criterion that may be used to assess the overall constructiveness of a State’s participation in such negotiations concerns their ability to form or partake of coalitions. As countries have different economic development levels and needs, it is natural that they will adopt differing national policies. The ability to subsume these into coalition positions is a sign of constructive engagement.

In addition to the ability to partake of coalitions, the diversity in membership of the coalitions that a State joins is also important. This would be a sign that the State in question is adept at ‘playing the game’ multilaterally, rather than isolating itself in its regional grouping.

Finally, the substance of the policy advocated by the State is clearly another important criterion. If some signs could be found that the State in question is able to moderate its short-term interests, for the sake of strengthening the system in the long run, this would evidence its commitment to the system. As noted above, ‘good international citizenship’ is not the equivalent of ‘boy scout good deeds’: It is an attribute of *enlightened* self-interest.

⁴⁵ Thomas Matsushita, Petros Schoenbaum and M. Mavroidis *The World Trade Organization: Law, Practice and Policy* (Oxford University Press 2nd Edition 2006), p. 104.

⁴⁶ *Ibid.*

An analysis of Turkey's policies with regard to the DDA negotiations indicates a positive record in terms of both active and constructive participation. Turkey actively takes part in negotiations on agricultural and non-agricultural trade in goods, trade facilitation, anti-dumping measures, rules on regional trade agreements, TRIPS and trade in services. Apart from regular interventions in the negotiations, the Turkish delegation to the DDA talks authored and co-authored over fifty substantive proposals in these diverse fields.⁴⁷ Indeed, Turkey's active participation in the DDA has been praised by the Director-General of the WTO, Pascal Lamy. He has pointed out that Turkey's active participation "reflects the firm conviction [on the part of Turkey] that trade opening can help the Turkish people."⁴⁸

With respect to the constructiveness of its participation, that is, with respect to its ability to form coalitions, the diversity of the members of its coalitions, and its ability to moderate between short term political-economic and long term systemic interests, Turkey again displays a good track record. In the negotiations on trade in agricultural products, Turkey is part of the G-33 coalition of developing countries: this encompasses such diverse members as India, China, Barbados, Belize, Congo, Madagascar and Venezuela.⁴⁹ The group's aim is to have a list of 'special products' and a 'special safeguard mechanism' included in a revised agreement on agriculture. According to the group, 'special products' should be excluded from the liberalization obligations, on the basis of food security, sustainable livelihoods and rural development needs.⁵⁰

Another area in which Turkey successfully manages to partake of a coalition is the talks on anti-dumping measures. In these negotiations, Turkey coalesces with a diverse group of exporting countries such as Brazil, Chile, Japan and Korea.⁵¹ The coalition is also known as the 'Friends of the Antidumping Negotiations'.⁵² The group works together to impose more stringent WTO rules on the application of antidumping measures by Member States. Indeed, Turkey's efforts in that regard also constitute an example of 'enlightened self interest'. Although Turkey itself makes substantial use of antidumping measures, with 93 definitive anti-

⁴⁷ DDA Negotiating Documents from Turkey, (http://www.wto.org/english/thewto_e/countries_e/turkey_e.htm).

⁴⁸ Pascal Lamy 'The Doha Development Agenda: The Stakes are High for Turkey' (Turkish MFA May 2007) Uluslararası Ekonomik Sorunlar XXXV

http://www.mfa.gov.tr/MFA_tr/Yayinlar/DisisleriBakanligiYayinlari/EkonomikSorunlarDergisi

⁴⁹ The full membership of the group is as follows: Antigua & Barbuda, Barbados, Belize, Benin, Bolivia, Botswana, China, Cote d'Ivoire, Congo, Cuba, Dominica, Dominican Republic, El Salvador, India, Indonesia, Jamaica, Kenya, Korea, Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Peru, the Philippines, Saint Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.

⁵⁰ Mayur Patel *New Faces in the Green Room: Developing Country Coalitions and Decision Making in the WTO* (GEG WP Oxford 2007).

⁵¹ WTO TN/RL/W/6 (26 April 2002). Full members of this grouping are Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Israel; Japan; Korea; Mexico; Norway; Singapore; Switzerland; Thailand and Turkey.

⁵² Patel (2007).

dumping measures in force in 2007⁵³, Turkey also pays attention to the long-term benefits of imposing stricter multilateral standards on anti-dumping measures.

Negotiations on TRIPS-regulated geographical indications are another field where Turkey forms a productive part of a coalition. ‘Geographical indications’ are ‘place names ... used to identify the origin and quality, reputation or other characteristics of products (for example, “Champagne”, “Tequila” or “Roquefort”)’.⁵⁴ The TRIPS Agreement provides for the protection of geographical indicators, and for the ‘enhanced protection’ of spirits and wines.⁵⁵ The Doha Mandate requires negotiations on the possibility of extending this ‘enhanced protection’ to all products, and the establishment of a multilateral register for wines and spirits.⁵⁶ Turkey’s position on this issue may be characterised as multilateralist. Turkey not only seeks the extension of enhanced protection to all products, but it also supports the creation of a multilateral register for all products, not only for wines and spirits. In supporting this view, Turkey works alongside Kenya, Nigeria, Pakistan and the EU.⁵⁷

Another field in which Turkey is very active is trade facilitation. The negotiations here relate to a variety of topics, generally falling under the category of customs administration. Topics such as the transparency of trade regulations and freedom of transit are also negotiated under this title.⁵⁸ Turkey has tabled proposals to strengthen freedom of transit with regard to ‘road transit regimes’ (with Georgia and Paraguay)⁵⁹; to abolish quotas in road transport (with Georgia)⁶⁰; to establish a right to advance rulings on customs treatment of goods (with Australia, Canada and the USA)⁶¹; to create an obligation for all Members to publish their trade-related regulations on a national website; to support the automation of customs procedures; and to establish the one-stop (single window) customs clearance system as a multilateral standard.⁶² Turkey’s efforts in this field are driven in particular by the conviction that binding rules on trade facilitation would be most beneficial for Small-and-Medium-sized Enterprises.⁶³ It is noteworthy that Turkey’s prolific activity in this field has again been praised by Director-General Pascal Lamy.⁶⁴

⁵³ Secretariat Report (2007) viii and 43.

⁵⁴ http://www.wto.org/english/tratop_e/trips_e/gi_e.htm

⁵⁵ TRIPS Articles 22&23.

⁵⁶ WTO Doha *WTO Ministerial 2001: Ministerial Declaration* (20 November 2001) WT/MIN(01)/DEC/1 para. 18.

⁵⁷ WTO TN/C/W/7 (29 November 2002). The other sponsors are: Georgia, India, Jamaica, Kenya, Liechtenstein, Malta, Mauritius, Nigeria, Pakistan, Sri Lanka, Switzerland and Thailand.

⁵⁸ GATT Articles V, VIII and X. See http://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm

⁵⁹ WTO TN/TF/W/146/Rev.1 (10 March 2008).

⁶⁰ WTO TN/TF/146 (26 June 2007).

⁶¹ WTO TN/TF/W/153 (10 March 2008).

⁶² WTO TN/TF/W/45 (8 June 2005);

⁶³ *Ibid.*

⁶⁴ Lamy (2007).

Finally, Turkey has been active in negotiations on the rules of Regional Trade Agreements (RTAs) as well. Collectively, agreements forming Customs Unions (CUs) and Free Trade Areas (FTAs) are known as RTAs. Apart from its CU with the EU, and its FTA with EFTA countries, Turkey has nine FTAs in force.⁶⁵ Despite this high number of FTAs, Turkey has supported the strengthening of multilateral disciplines on RTAs.⁶⁶ In spite of the risks that stricter control of RTAs may generate for Turkey's current agreements, the support that it gave to the strengthening of multilateral-list disciplines attests to its commitment to the system as a whole.

In light of the examples examined above, it would not be an overstatement to say that Turkey is an active and constructive player in the DDA negotiations. Turkey manages to form coalitions with numerous and diverse Member States, evidencing its constructiveness. Director-General Pascal Lamy has noted that "given the high proportion of trade to Turkey's GDP and the openness of the Turkish economy, an ambitious Doha Round would be in Turkey's best interests".⁶⁷ An analysis of Turkey's words and deeds in the DDA show that Turkish decision-makers are in agreement with Mr. Lamy.

Turkey in WTO Courts

With regard to the judicial function of the WTO, it should be noted at the outset that the most preferable situation is of course one where there is no dispute at all. However, it should not be assumed that all disputes arise because the defending party willingly and knowingly violates its obligations. It is sometimes the case that parties to the dispute actually have different opinions with regard to the interpretation of some legal provisions or with regard to their application in a particular case. Disputes are a reality of all societies, including the international one. Therefore, what counts is not the absolute, but the relative number of cases brought against a country. Accordingly, the ratio of the amount of disputes brought against a State within the total number of cases must be calculated against the share of this country in international imports.

Once a dispute has arisen, the most logical criterion with which to assess the commitment of a State to the rule of law is the rate of compliance of that State with judgments taken against its. If a State changes its policies in order to comply with Panel and/or Appellate Body decisions, this is a clear sign of its commitment to the system. Having said this, in the case of a dispute between States, the most preferable solution would be for these States to reach a mutually agreed solution even before the litigation process starts. Such a solution would save States from investing already scarce resources in litigation. The dispute settle-

⁶⁵ FTA partner countries are: Israel, Macedonia, Croatia, Bosnia-Herzegovina, Palestinian Authority, Tunisia, Morocco, Syria and Egypt. An FTA is signed with Albania, however, has not entered into force yet: Secretariat Report (2007) 20.

⁶⁶ WTO TN/RL/W/167 (8 December 2004); TN/RL/W/32 (25 November 2002).

⁶⁷ Lamy (2007).

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ment procedures of the WTO are also based on this assumption: therefore, all such procedures must be initiated by a request for consultations.⁶⁸ Accordingly, the rate at which a State manages to arrive at a mutually agreed solution upon receiving a request for consultations by another State is another important criterion in assessing its commitment to the system.

According to these criteria, Turkey's record is strong. So far, eight 'requests for consultations' have been filed against Turkey.⁶⁹ Considering that Turkey's share of world imports is 1.5 percent, and that a total number of 373 'requests for consultations' have so far been filed with the WTO, the amount proportional to Turkey's import share would have been five or six cases. Therefore, it might be thought that complaints against Turkey are slightly above the level they should be. However, these numbers should be treated with caution. Firstly, three of the 'requests for consultations' relate to the same dispute. Immediately after the formation of the Turkey-EU CU, and as a consequence of Turkey having to impose quantitative restrictions on some textile products in order to harmonize its policy with that of the EU, three countries, Hong Kong-China, India and Thailand requested consultations.⁷⁰ Only India continued the dispute, and the other two States joined India's case as third participants. The actual number of disputes is therefore six.

Two out of these six disputes have been solved prior to the Panel stage through a 'mutually agreed solution'.⁷¹ Two others were not pursued by the complainants after the 'request for consultations' stage.⁷² That is to say, only two out of the six disputes went beyond the consultations stage.⁷³ Considering that a total 146 disputes have gone to the Panel stage in the WTO⁷⁴, Turkey's share within this total is 1.35 percent: this is below Turkey's 1.5 percent share in world imports. Moreover, the fact that 67 percent of disputes initiated against Turkey (four out of six) have not proceeded to the Panel stage is a testament to Turkey's flexibility and willingness to negotiate 'mutually agreed solutions'.

As mentioned above, the first case to go beyond the consultations stage was the case brought by India. Turkey lost the case both in the Panel and the AB stage.⁷⁵ Following the finalization of the dispute, Turkey and India reached an agreement regarding the modalities of the decision's implementation in July 2001. Although India stated in December 2001 that it had not received any notification regarding one part of the agreed implementation modalities, no formal communication followed after 2001. It may be safely presumed that Turkey and India resolved their differences regarding implementation.

⁶⁸ DSU Article 4; Matsushita et al. (2006), p. 112-113.

⁶⁹ http://www.wto.org/english/thewto_e/countries_e/turkey_e.htm (Dispute cases involving Turkey).

⁷⁰ The Dispute numbers for these requests are DS29, DS34 and DS47, respectively.

⁷¹ DS43 where the US was the plaintiff; and DS 237, where Ecuador was the plaintiff.

⁷² DS 208 (Brazil) and DS 256 (Hungary).

⁷³ DS34 (India) and DS 334 (US).

⁷⁴ World Trade Law, <http://www.worldtradelaw.net/dsc/database/wtopanels.asp>

⁷⁵ http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds34_e.htm

The second case that Turkey lost in the WTO is a very recent one. In it, the United States had complained about several measures affecting the import of rice.⁷⁶ The Panel found in favour of the USA and held that Turkey had violated its WTO obligations. Turkey did not appeal the decision. The report was only adopted by the relevant WTO body in late October 2007, and information regarding the implementation of the decision is not yet available.

Thus an examination of cases where Turkey has been a defendant reveals that Turkey's commitment to the system is in general strong. In solving disputes, Turkey seems to prefer diplomatic means to litigation; this is indeed beneficial, as it does not overburden the system. In the very few cases that Turkey lost, the decision was implemented in one, and the other is too recent to assess.

All the criteria we have suggested so far regarding the WTO's judicial function relate to a State as a defending party in a dispute. Of course there is the other side of the coin as well. The propensity with which a State resorts to the dispute settlement system also provides clues as to the awareness of this State's decision-makers of the possibility of solving their disputes through judicial means. This can further be viewed as a sign of commitment to the system. This number should also be assessed in relative terms: that is, a comparison must be made between the ratio of disputes brought by a State within the total number of cases on the one hand, and the share of this State in international exports on the other.

Turkey has requested consultations with other WTO Members in only two cases: One against Egypt, the other against South Africa.⁷⁷ Compared with the total of 373 cases, this amounts to 0.5 percent, which is well beyond Turkey's world export share of 0.9 percent. Moreover, Turkey did not pursue the dispute against South Africa beyond the consultations stage. Hence, Turkey has so far brought only one case as a complainant to the Panel stage, the one against Egypt's antidumping measures on Turkish steel rebars.⁷⁸ This amounts to 0.7 percent within the 146 total cases, and this is again lower than Turkey's share in world exports. In this case, the Panel found that Egypt was in breach. The dispute did not go to the appeal stage, and the parties agreed on a timetable for the implementation of the decision.

Finally, in addition to being a plaintiff or a defendant in a dispute, a State may also participate in the dispute settlement process as a third party.⁷⁹ Participating in a dispute as a third party provides that State with the opportunity to be heard and to make submissions to the Panels and the Appellate Body. The importance

⁷⁶ http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds334_e.htm

⁷⁷ DS211 (against Egypt); DS288 (against S.Africa).

⁷⁸ http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds211_e.htm

⁷⁹ DSU Article 10.

of participating in a dispute as a third party lies in its opportunity cost: That is, what would happen if that State did not participate in the dispute as a third party? The answer is quite straightforward: it could very well free-ride too.⁸⁰

Even given the assumption that the third participant has a direct interest in the resolution of the dispute in a particular manner (in favour of either the plaintiff or the defendant), since the dispute had already been initiated, and as parties to the dispute normally strive hard to make their case strong, the third party could just as well choose not to participate, and hope that the dispute would be resolved in the manner it prefers.

This possibility of free-riding is mainly created by the non-discrimination obligation stipulated by the WTO (the so-called most-favoured nation principle).⁸¹ With regard to their trade policies, states, in principle, are prohibited from discriminating between Members of the WTO. Therefore, where a dispute was resolved in a particular way, and the defending party had to bring its relevant legislation into conformity with its WTO obligations, it would have to extend the application of the new legislation not only to the winning party but to all other WTO Members as well. Even those States who had not participated in the dispute would benefit from its results.⁸²

In light of the possibility of free-riding, then, participation by states as a third party in disputes should be seen as an important sign of commitment to the system and of an awareness of systemic effects.

It is here in particular that Turkey's commitment and awareness of the system are most obvious. Turkey has submitted third party interventions in seven cases.⁸³ As mentioned above, only 146 cases have reached the Panel stage so far, and Turkey was either a defendant or a complainant in three of them. Of the 143 remaining cases, then, Turkey attended seven as a third party. This amounts to a participation rate of 4.9 percent, which is well above its 1.2 percent share in the world trade.

It follows that Turkey's commitment to, and participation in the WTO's judicial function is strong. There are no cases in which Turkey did not implement the decisions of a WTO adjudicating organ. In cases where it is the respondent, Turkey prefers reaching mutually agreed solutions, which are favourable from a

⁸⁰ Chad P. Bown, 'Participation in WTO Dispute Settlement: Complainants, Interested Parties and Free Riders' (2005) World Bank Economic Review, p. 287-310.

⁸¹ GATT Article I, GATS Article II, TRIPS Article 4 are the main MFN obligations in multilateral trade agreements.

⁸² Bown (2005).

⁸³ DS33; DS174; DS189; DS(248,249,251,252,253,254,258,259) [these complaints was merged into one dispute: the US Steel Safeguards Case]; DS290; DS294; DS295. Although WTO's statistics indicate that Turkey has 18 third party participation (at http://www.wto.org/english/thewto_e/countries_e/turkey_e.htm) this number is misleading, because it counts US- Steel Safeguard cases separately, and it includes the cases which did not reach the Panel stage.

systemic perspective as well. Although Turkey's participation in the system as a complainant is below its share of world exports, its relatively high rate of participation in disputes as a third party provides a counterbalance. Overall, then, there is good reason to believe that Turkey is committed to the system.

Conclusions

The UN and the WTO were each the brainchild of one ideal: the ideal of building a peaceful liberal world order. Establishing the rule of law in international relations and openness are indispensable elements of this new world order. By providing a rules-based system for international trade, and by increasing the openness of its Members' economies, the WTO contributes to the realization of this ideal.

The WTO cannot fulfil this function without the commitment of its Member States. Good international citizens are those who support the Organization in its objectives. Good citizens are those who pursue open policies, and who actively and constructively participate in the legislative, executive and judicial functions of the Organization.

Through its increasingly open trade regime, full commitment to the Doha Development Agenda negotiations, and its respect for, and contribution to the decisions of WTO judicial organs, Turkey is increasingly fulfilling its duties towards the international society as a good international citizen.

Finally, it should be emphasized that no matter who is elected to the UN Security Council in New York next September, Turkey will be one of the winners. The election process has occasioned a self-reflection on Turkey's record in fulfilling its duties towards the international society which is invaluable.