

**St.MARY'S UNIVERSITY COLLEGE
FACULTY OF LAW**

LL.B THESIS

**ACCESSION TO THE WTO AND ITS IMPACT
ON ETHIOPIA NATIONAL SOVEREIGNTY**

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**ADDIS ABABA, ETHIOPIA
JULY 2010**

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Deceleration

I declare that, "Accession to the WTO and its Impact on Ethiopia National Sovereignty" is my own work that it has not been submitted before for any degree or examination in any other university and that all the source I have used or quoted have indicated and acknowledged as complete references.

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July, 2010
Addis Ababa

ACKNOWLEDGEMENTS

I will be grateful to thank my advisor, Binnyam Ahmed for his full support, critical comments and suggestions on this paper. With out his help this senior thesis paper would have been just a trash.

I am also grateful to Wondwosen Shewarega and Yishak Tekalegn for constructive comments and suggestions they give me to finalize my paper.

I would also like to thank Negist Eshetu and Mekdes Seifu who helped me by writing the typing for my senior thesis paper .

Addis Ababa
July , 2010

Chapter One

1. Theoretical Frame Work

1.1 Conceptualization of multilateral and bilateral trade negotiation

Every negotiation is different, but the basic elements do not change. Principled negotiation can be used whether there is one issue or several two parties or many whether there is a prescribed ritual as in collective bargaining, or an impromptu free for all as in talking with hijackers. The method applies whether the other side is more experienced is an all purpose strategy unlike almost all other strategies, if the other side learns this one, it does not become more difficult to use.¹

1.1.1 Bilateral Negotiation

The main tools for membership acquisition is negotiation with bilateral and multilateral. Negotiations lay the heart of international diplomacy. Parties, governments, business and non-government organizations employ the art and science of negotiation to protect and advance their organizational and constituent interests. The skillful use of negotiation can advance a party's interests and help to avoid a less attractive alternative.

An effective negotiation process can lead to positive outcomes that can result in the promotion of important national objectives including economic development, new business opportunities and environmental protection. Even for students and practitioners who may not aspire to the role of international trade negotiator, most professionals negotiate frequently in the performance of their jobs. Whether negotiating a raise, a vacation or a promotion with a supervisor or negotiating with peers and subordinates over work assignments, deadlines or workplace conflicts, we all negotiate all the time.

1. Roger Fisher and William Ury and for the 2nd Edition page (x)ix

International negotiations in the broad context to trade relations may include negotiations over price tariffs and sales or qualitative negotiations over broad principles related to the environmental labor health and safety or other impact of trade related agreements.

Bilateral agreement a treaty or other agreements usually between sovereign nations detailing their mutual understanding polices and obligations on a particular matters, such as trade or contract between the two parties that have agreed to mutually acceptable forms, an agreement with government-to-government reciprocal trade is express usually in a major currency.²

1.1.2 **Multilateral Negotiation**

Dispute settlement is the central pillar of the multilateral trading system and the WTO Unique Contribution to the stability of the global economy with out a means of settling disputes, the rules based system would be less effective because the rules could not be enforced the WTO's procedure underscores the rule of law, and it makes the trading system more secure and predictable the system is based on clearly defined rules with time table for completing a case first rulings are made by a panel and endorsed or rejected by the WTO's full membership applies based on points of law are possible.³

Disputes in the WTO are essentially about broker promise, WTO members have agreed that is they be live fellow members are violating trade rules they will use the multilateral system of settling disputes instead of taking action unilaterally. That means abides by the agreed procedures, and respecting judgments.

2. Institute for Trade and Commercial diplomacy modale 18([WWW.commercial diplomacy org](http://WWW.commercialdiplomacy.org))

3. World trade organization web siet w.w.w wto. Org last accessed date on 4/12/2010

A dispute arises when one country adopt a trade policy measure or takes some action that one or more fellow WTO members considers to be a breaking the WTO agreements or to be a failure to live up to obligations a third group of countries can declare that they have an interest in the case and enjoy some rights. ⁴

A procedure for settling disputes existed under the old GATT, but it had no fixed time table, rulings easier to block, and many cases dragged on for a long time inconclusively, the Uruguay round agreement introduced a more structured process with more clearly defined stages in the procedure. It introduced greater discipline for the length of time a case should take to be settled with flexible deadline set in various stages of the procedure.

The agreement emphasizes that prompt settlements essential it the WTO is to function effectively. It sets out in considerable detail the procedures and the time table to be followed in resolving take more than about one year- 15 months it the case is considered urgent (eg if perishable goods are involved it is accelerated as much as possible. ⁵

The Uruguay round agreement also made it impossible for the country losing a case to block the adoption of the ruling under the previous GATT procedure, rulings could only adopted by consensus, meaning that a single objection could block the rulings. Now ruling are automatically adopted unless there is a consensus to reject a ruling any country wanting to block a ruling has to persuade all other WTO members including its adversary in the case to share its view.

Although much of the procedure does resemble a court or tribunal, the preferred solution is for the countries concerned to discuss their problems and settle the dispute by themselves.

4. Ibid

5. Ibid

The first stage is therefore consultations between the governments concerned, and even when the case has progressed to other stages, consultation and mediation are still always possible. ⁶

1.2 Historical Involvement of W.T.O

The WTO began life on 1 January 1995, but its trading system is half a century older. Since 1948, the General Agreement on tariffs and trade (GATT) had provided the rules for the system. (The second WTO Ministerial meeting held the Geneva in May 1998, included a celebration of the 50th anniversary of the system)

It did not take long for the general agreement to give birth to an unofficial, defacto international organization, also known informally as GATT, over the years GATT evolved through several rounds of negotiation. ⁷

The last and largest GATT round was the Uruguay round which lasted from 1986 to 1994 and led to the WTO's creation where as GATT had mainly dealt with trade in goods, the WTO and its agreements now cover trade in service, and in traded inventions creations and designs(intellectual property).

There are a number of ways of looking at the WTO. It is an organization for liberalizing trade, It is a forum for governments to negotiate trade agreements it is a place for them to settle trade disputes. It is a place for them to settle trade disputes. It operates a system of trade rules. But it's not superman just in case any one through it could solve or cause all the world's problem.

6. World trade organization w.w.w. wto org web site last accessed date on 13/5/2010

7.Ibid

Above all, it is a negotiating forum essentially the WTO is a place where member governments go to try to sort out the trade problems they face with each other. The first step is to talk. The WTO was born out of negotiations. The bulk of the WTO's currently the last to new negotiations under the Doha, Development Agenda launched in 2001.⁸

Where countries have faced trade barriers and wanted them lowered, the negotiations have helped to liberalize trade, However, the WTO is not just about liberalizing trade and in some circumstances, its rules support maintaining trade barriers for example to protect consumers or prevent the spread of disease.

At its heart are the WTO agreements negotiated and signed by the bulk of the world's trading nations. These documents provide the legal ground rules for international commerce, they are essentially contracts, binding governments to keep their trade policies within agreed limits.

Although negotiated and signed by over 120 countries, the goal is to help producers of goods, service exporters and importers conduct their business, while allowing governments to meet social and environmental objectives.⁹

1.3 The basic principles of rules of WTO

The WTO establishes a framework for trade policies; it does not define or specify outcomes. That is it is concerned with setting the rules of the trade policy game. Five principles are of particular importance in understanding both the pre 1994 GATT and the WTO.

8. Ibid

9. World Trade Organization www.wto.org web site

1.3.1 Trade with out discrimination

It has two major components the most favored nation (MFN) rule and the national treatment policy both embedded in the main WTO rules on goods services, and intellectual property but the precise scope and nature differ across these areas.

The MFN rule requires that a WTO member must apply the same conditions on all trade with other WTO members. i.e a WTO member has to grant the most favorable conditions under which it allows trade in a certain product type to all other WTO members grant some one a special favors and you have to do the same for all other WTO members.

The system's overriding purpose is to help flow as freely as possible so long as there are no undesirable side effects because this is important for economic development and well-being that partly means removing obstacles. It also means ensuring that individuals companies and governments know what the trade rules are around the world, and giving them the confidence that there will be no sudden changes of policy. In other words, the rules have to be transparent and predictable.¹⁰

In addition, its helps to settle disputes this is a third important side to the WTO's work trade relations often involve conflicting interests. Agreements including those painstakingly negotiated in the WTO system often need interpreting the most harmonious was to settles these differences is through some natural procedures based on an agreed legal foundation that is the purpose behind the dispute settlement process written in to the WTO agreements.

10. Ibid Principles of the trading system last accessed date on 3/28/2010

1.3.2 Freer Trade

It is known that various prosperous world civilizations throughout history have engaged in trade based on this theoretical rationalization as to why a policy of free trade would be beneficial to nations developed over time, especially in Europe and especially in Britain over the past five centuries before the appearance of free trade doctrine and continuing in opposition to it to this day, the policy of mercantilism had developed in Europe in the 1500s early economists opposed to mercantilism were David Ricardo and Adam Smith.

Economists that advocated free trade believed trade was the reason why certain civilizations prospered economically. Adam Smith, for example pointed to increased trading as being the reason for the flourishing of not just Mediterranean cultures such as Egypt, Greece, and Rome but also of Bengal east India and China.¹¹

The great prosperity of the Netherlands after throwing off Spanish imperial rule and declaring free trade and freedom of thought made the free trade/mercantilist dispute the most important question in economics for covering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customer's duties or tariffs and measures such as important barriers or quotas that restrict quantities selectively from time to time other issues such as red tape and exchange rate policies have also been discussed.

Since GATT's creation in 1947-48, there have been eight rounds of trade negotiations. A ninth round, under the Doha Development Agenda is now underway. At first, these focused on lowering tariffs customs duties on imported goods. Because of the negotiations by the mid 1990s industrial countries tariff rates on industrial goods had fallen steadily to less than 4%.¹²

11. World Trade Organization w.w.w.wto.org web site page 1-2 last accessed date on 3/28/2010

12 Ibid

However, by the 1980s the negotiations had expanded to cover non-tariff barriers on goods and to the new areas such as services and intellectual property. Opening markets can be beneficial, but it also requires adjustment the WTO agreements allow countries to introduce changes gradually through “progressive liberalization” Developing countries are usually given longer to fulfill their obligations.

Most favored nation (MFN)

The most favored nation (MFN) treating other people equally under the WTO agreements, countries cannot normally discriminate between their trading partners grant some one a special favors (such as a lower customs duty rate for one of their products) and you have to do the some for all other WTO members.

This principle known as most favored nation (MFN) treatment. Is is so important that it is the first article of the general agreement on tariffs and trade (GATT) which governs trade in goods. MFN is also a priority in the general agreement on trade in services (GATS) (Article 2) and the agreement on trade related aspects of intellectual property right (TRPIS) (Article 4) although in each agreement the principle is handled slightly differently together, those three agreements cover all three main areas of trade handled by the WTO.¹³

Some exceptions are allowed for example countries can set up a free trade agreement that applies only to goods traded within the group discriminating against goods from out side or they can give developing countries special access to their market or a country can raise barriers against products that are considered to be traded unfairly from specific countries and in services countries are allowed, in limited circumstances to discriminate but the agreements only permit these exceptions under strict conditions.

13. World Trade Organization w.w.w.wto org web siet page 1-2 last accessed date on 3/28/2010

In general, MFN means that every time a country lowers a trade barrier or opens up a market it has to do so for the same goods or services from all its trading partners, whether rich or poor, weak or strong.

National Treatment (NT)

National treatment means that imported good should be treated no less favorably than domestically produced goods (at least after the foreign goods have entered the market) and was introduced to tackle non tariff barriers to trade (e.g. Technical standards security standards, discriminating against imported goods) Imported and locally produced goods should be treated equally at least after the foreign goods have enforced the market. The same should apply to foreign and domestic service and to foreign and local trademarks, copyrights and patents.¹⁴ This principle of national treatment (giving others the same treatment as one's own nationals) is also found in all the three main WTO agreements (Article of 3 of GATT, Article 17 of GATS and Article 3 of TRIPS) although once again the principle is handled is lightly differently in each of these national treatment only applies a product, service or item of intellectual property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment even if locally produced products are not charged an equivalent tax.

free trade policies have battled with mercantilist protectionist, communist, and other policies over the centuries.

1.3.3 Predictability Trade (Transparency)

Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives business a clearer view of their future opportunities with stability and predictability investment is encouraged. Jobs created and consumers can fully enjoy the benefits of competition choice and lower prices. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

¹⁴ *World Trade Organization w.w.w.wto.org web site page 2*

In the WTO when countries agree to open their markets for goods or service, they “bind” their commitments for goods these bindings amount to ceilings on customs tariff rates , sometimes countries tax imports at rates that are lower than the bound rates frequently this is the case in developing countries.¹⁵

In developed countries, the ratio actually changed and the bound rates tend to be the same.

A country can change its bindings but only after negotiating with its trading partners which could mean compensating them for loss of trade one of the achievements of the Uruguay round of multilateral trade talks was to increase the amount of trade under binding commitments in agriculture 100% of products now have bound tariffs. The result of all this a substantially higher degree of market security for traders and investors

The system tries to improve predictability and stability in other ways are well one way is to discourage the use of quotas and other measures used to set limits on quantities of imports administering quotas can lead to more red tape and accusations of unfair play another is to make countries trade rules as clear and public transparent as possible many WTO agreements require governments to disclose their policies and practices publicly within the country of by notifying the WTO.

The regular surveillance of national trade policies through the trade policy review mechanism provides a further means of encouraging transparency both domestically and at the multilateral level.

1.3.4 Competition

The WTO described some times a free trade institution but that is not entirely accurate. The system does allow tariffs and in limited circumstance other forms of protection, more accurately. It competition.

15. World Trade Organization web site WWW.wto.org page 4-5

The rules on non discrimination most favored nation (MFN) and national treatment are designed to secure fair condition of trade so too are those on dumping (Exporting at below cost to gain market share) and subsidies the issues are complex, and the rules try to establish what is fair or unfair and how governments can respond in particular by changing additional import duties calculated to compensate for damage caused by unfair trade many of the other WTO agreements aim to support fair competition in agriculture, intellectual property, services, for example the agreement on government procurement (a plurilateral” agreement because it is signed by only a few WTO members) extends competition rules to purchases by thousand of government entitles in many countries.¹⁶

1.4 Accession to WTO

1.4.1 Fact finding phase

Accession to the WTO procedures for negotiations under article XII of 24 March 1995. This issued by the WTO secretariat in close consultation with members as a practical non-binding guide. The procedures have involved somewhat since that date but the document is still valid.

The working party process divided into three distinct phases the main features of which are:-

1. This is devoted to the collection of information on the trade regime of the applicant. This fact-finding stage needed in order to provide both WTO members and the applicant with a basis for their work. It has to main purpose to clarify any changes that the applicant will need to make in order to bring laws, regulations and administrative practices into conformity with WTO requirements and to provide a baseline for the negotiations that will take place on market access for goods and services.¹⁷

16. World Trade Organization web site www.wto.org page (1-2)last accessed date on 3/28/2010

17. Ibid

The applicant first submits a memorandum containing a detailed description of its foreign trade regime receipt of the memorandum triggers the working party process and members then submit written questions to the applicant asking for clarifications or additional data where necessary only when written answers have been received from the applicant and an adequate factual basis obtained does the working party hold its first meeting. The first meetings of the working party see a continuation of this fact-finding process and a progressively clearer identification of areas of possible inconsistency with the WTO agreements. As the information gathering stage advances, and in order to ensure the transparency of the process, the secretariat is often requested to circulate a factual summary of point raised an informal document summarizing discussion in the working party.

2. At an appropriate moment, working parties move on to negotiate the terms of accession all WTO members have accepted commitments on its rules on agricultural support and export subsidies on customs tariffs and on services and acceding governments are expected to do like wise negotiations on the general rules relating to goods. TRIPS and services take place multilaterally in each working party acceding government are expected to observe these rules as well as the commitments negotiated in the working party consultations and negotiations with the applicant on the level of agricultural support and export subsidies take place.¹⁸

In a group consisting of the members of the working party interested in these issues other duties such as SPS, TBT or even TRIPS has also been taken up in a plurilateral setting.

3. The text of the draft report it examined and finalized in the working party this includes the commitments on the general rule to accept by the acceding country and draft protocol of accession.

¹⁸ *World Trade Organization w.w.w.wto.org, The accession process the procedures and law, page 1,2*

The results at 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 the draft report the working party then agrees often report as a whole and forwards it to the general council/ministerial conference for adoption.¹⁹

1.4.2 Negotiations phase

During the negotiation of commitments, applicants have sometimes explained the difficulties that they will have in achieving conformity with WTO requirements in specific area them time to bring their laws regulations and practices into line after they accede. This was more frequently the case in earlier accession when applicants often expected to accorded the some sort of transitional periods that WTO agreements accorded to original members of the organization.

How ever members have pointed out that the transitional periods for original members have now expired. Their expectation has been that new members observe the rules from the date of their accession to WTO accordingly applicants are encouraged to use the accession process to familiarize themselves with WTO rules and adjust their legal institutional and administrative frame work as the accession process advances, protocol commitments therefore usually provide that new members will abide by their obligations from the date of their accession, members may have ever, show a willingness to entertain requests for transitional periods in individual cases.

When applicants have demonstrated that they have done as such as possible to bring their system into line with WTO requirements, When necessary, an action plan can be provided to support the requests. A number of transitional periods have been agreed details will be found in sections below dealing with individual topics.

19 Ibid

Transitional periods for LDCs are a feature of the General Councils Guidelines, which provide that transitional periods foreseen under specific WTO agreements shall be granted to these countries, taking into account individual development, financial and account individual development financial and trade needs and that these shall be accompanied by action plans for compliance with WTO rules supported by technical assistance and capacity building measures for the acceding LDC, transitional periods are negotiated on the basis of action plans should demonstrate the applicant's need for the transitional period describe the extent to which its system is in compliance with WTO rules and lay out the steps that remain to be taken a calendar for progressive compliance and a date by which the applicant will be in full compliance.

LDC may also include technical assistance members expect that the existing degree of conformity with the provisions of the agreement will not be reduced during the transitional period, that transparency provisions are implemented as soon as possible and that critical provisions central to the issue of market access and the maintenance of a stable predictable trade regime are in place at the time of accession to the WTO of the applicant concerned.²⁰

1.4.3 Membership Phase

After receiving a letter requesting accession to the general council considers the appropriateness of the request and decides by consensus whether to establish a working party (WP) composed of interested WTO members, to conduct the negotiations and to develop the terms of the applicant accession to the WTO

The accession applicant submits a description of its trade regime to the working party, called a memorandum on foreign trade regime (MFTR) WP members review this document and submit questions about it focusing on areas where the current trade regime does not appear consistent with provision of the WTO.

20. World Trade Organization *w.w.w.wto.org web site Accession to the wto*

The working party meets several times to review applicant responses and additional information developed at each subsequent meeting. During WP meeting, members conduct a detailed review of the applicant's entire trade regime, identifying measures in place that do not conform to WTO rules, as well as the areas where legislation will be necessary to implement WTO agreements. The results of the WP discussions are record of the issues discussed the points raised by members and how the issues will be resolved.²¹

The draft protocol of accession for ultimate adoption by the general council attached to the WP report. It lists specific substantive commitments made by the applicant during the negotiation of eliminate existing WTO inconsistent measures and to move necessary legislative charges to implement WTO institutional and regulatory requirements. Acceding countries generally implement WTO rules before the working party concludes its work.

The working party reviews domestic implementing legislation and regulations to ensure that the WTO rules are being properly incorporated the working party also seeks to identify areas where technical assistance productively utilized.

In addition to the working party report and protocol of accession, the terms of accession also require bilateral negotiations for market access of goods and services. Applicants expected to under take trade liberalizing specific commitments on market access for industrial and agricultural goods agricultural domestic supports and export subsidies, and trade in services.

The terms of accession developed with working party members in bilateral and multilateral negotiations is recorded in an accession protocol package ”that includes:

A report of the working party and draft protocol of accession with commitments on the implementation of WTO rules.

21 *World Trade Organization w.w.w.wto org web site Accession to the WTO*

A schedule consolidating all the specific commitments made in bilateral negotiations on market access for goods.

A schedule consolidating all the specific commitments made in bilateral negotiations marked access for service and

Specific commitments on the use of agricultural domestic supports and export subsidies.

The working party reviews the completed four elements of the protocol package (the terms of accession) and seeks to adopt the package by consensus, i.e. with no objection from any member. It then transmits the package to the WTO ministerial conference, or to the general council acting on its behalf with a recommendation that the applicant be invited to accede to the world trade organization. General Council or ministerial conference approval is also by consensus, not with standing that there are provisions in the WTO agreement for voting on accessions.²²

1.5 Benefits and challenges of W.T.O

1.5.1 The Benefits

Every Country entering the negotiation process for WTO accession has specific problems. The effects of accession depend, inter alia, on the outcome of the negotiations that is the conditions of accession, which every country is able to negotiate with WTO member.

The foremost benefits of the WTO are the improved access to markets and the international dispute settlement mechanism to defend national interests in cases of conflict with trading partners in practice.

22 Institute for economic research and policy consultancy in UKRAINE <http://www.w.w.kiev.ua> page(2)

Countries have often benefited from reduction of MFN rates even if practice countries have often benefited from reduction of MFN rates even if they remained outside the GATT/WTO. In such situations the main benefit, which are by no means guaranteed for outsiders. As a member of WTO a country can actively participate in multilateral talks aimed at further liberalization of international trade those improving the future standing of national exporters.

The second practical gain from joining the WTO is the beneficial effect on the WTO on the credibility of government policies by framing the countries' concessions on the legal commitments; the WTO membership provides powers full Guaranties of government's policy directions.

The increased credibility makes country more attractive for foreign investors and improved its standing compared to other countries in fact WTO membership may be seen as an international acknowledgement that the national regulatory environment and policies are based on internationally accepted norms and rules. But this case the country has not only to comply with WTO norms and disciplines at the moment of accession, but also to ensure the compliance in the future.

A third gain in the beneficial effect at the membership on domestic policies and institutions involved in the conduct of international trade, acceding countries are required of markets, to increase transparency to promote the rule of law to improve contrived enforcement and enable the evaluation of any independent judicial system. Though on principle nothing would prevent governments from putting in place these norms and regulations on unilateral basis, the WTO also helps to introduce harmonized policies based on best practices must be viewed as an integral part of national reform efforts.

Beyond its direct impact on efficiency through import liberalization, the most immediate effect of a WTO membership should be its indirect impact through

improved governance in providing countries with what are perhaps the most powerful Institutional checks and balances in the international economic sphere the membership in the WTO helps to reduce incentives for corruption, various forms of rent seeking etc.²³

1.5.2 The Challenges

Among the different challenges, which the WTO accession process the following one is of utmost importance. The acceding country to carry out significant changes in its policies and institutions to ensure full compatibility of the domestic legislation with the WTO disciplines and to ensure the existence of all institutions necessary for the implementation of the commitments, this raises serious concerns for the state. The following two are the most ignorant ones first the specific content of changes to be implemented and second investments necessary for the implementation.

WTO membership implies reducing the use of such instruments like subsidies. According to the Agreement on subsidies and countervailing measures (ASCM) all subsidies directly affecting trade are explicitly prohibited. WTO membership imposes disciplines on national policymaking. In this capacity, a new approach to economic regulation is required. The regulation is not simply a collection of laws and regulations in different areas, but a process in its own right. In order to be fully effective, the regulatory process needs to base on a comprehensive and coherent long-term framework with clearly defined priorities and strategies.

23 Institute for economic research and policy consultancy in UKRAINE <http://www.ier.kiev.ua> page3

The main duties WTO member is the obligation to notify all legislation, trade, policies, and practices. This obligation provided additional transparency in the system. Each country has the submit to WTO all legislation regulations and legal texts in fact all trade policies it has replaced or that it introduced modifies, etc. All information will automatically be transmitted to the other members so that all know about changes in regulation in a particular country WTO membership implies the necessity to implement policy making procedures preventing the appearance of legislative and regulatory acts contradicting WTO disciplines such a task requires special institutional capacity and coordination mechanisms within the government.

The WTO membership has also imposed many challenges to SMES first, WTO's import liberalization measures including gradual tariff reduction and prohibition of quantitative restriction on import, many increase competition for SMES. The many also be deprived of conventional subsidies and differential treatments that are not compatible with WTO rules.

Similarly, some WTO agreements, particularly sanitary and phytosanitary (sps) measures, Technical barriers to trade (TBT) and Trade related Aspects of Intellectual property rights (TRIPS) may bring additional challenges for acceding country due to their un-standardized products may face quality reliability/standard a gap because of WTO's standard and quality related agreements (SPS and TBT) are challenges to membership countries.

Costs and challenges ahead the membership however is not free cost and challenges viewing the existing level of development infrastructure, human resource availability competitiveness of private sector and supply side constraints for acceding country to realized membership inquires.²⁴

24. Ibid page 4

1.6 The Major area of agreement

1.6.1 General agreement on Tariff and Trade (GATT)

The WTO's processes, the general agreement on Tariffs and Trade (GATT) was established after world II in the wake of other new multilateral institution dedicated to international economic cooperation, notably the bretton woods institutions known as the World Bank and the international monetary fund. A comparable international institution for trade, named the international Trade organization successfully negotiated. The ITO was to be a united nations specialized agency and would address not only trade barriers but other issues indirectly related to trade, including employment, investment, restrictive business practices, and commodity agreements but the ITO treaty was not approved by the united state and a few other signatories and never went in to effect.

In the absence of an international organization for trades, the GATT would over the years transform itself into a defacto international organization. The GATT was the only multilateral instrument governing international trade from 1948 until the WTO was established in 1995 despite attempts in the mid 1950s and 1960s to create some form of institutional mechanism for international treaty regime on provisional basis.²⁵

1.6.2 General agreement on Trade in Service (GATS)

The agreement on trade in services reached in the Uruguay round perhaps the most important single development in the multilateral trading system since the GATT itself came in to effect in 1948. These new General Agreement on Trade in Services (GATS) for the first time Extends internationally agree rules and commitments broadly comparable with those of the GATT in to a huge and still rapidly growing area of international trade,

25. WTO secretariat trade division official document 1397, October 1999 page (1-3)

Although reliable statistics on services are few, conventionally measured trade in service's generally agreed to be equivalent in value to about one quarter of international trade in goods.

A further unmeasured, but undoubtedly very large, proportion of international trade on services does not cross national frontiers, because the service supplier (such as a branch of a foreign bank) or the service consumer (such as a foreign tourist) does so instead. The reach of the GATS rules extends to all forms of international trade in services. This means that the GATS agreement represents a major new factor for a large sector of world economic activity. It also means, because such a large of trade in service take place inside national economics that its requirements will from the beginning necessarily influence national domestic laws and regulations in a way that has been true of the GATT only in recent years.

In looking at the GATS agreement, as well as at the significant of the specific service commitments undertaken by WTO members. It must be borne in mind that the Uruguay round service package is only beginning. The GATS rules are not quite complete, and are largely untested. The process of filling the gaps will require several more years of negotiations, and experience will no doubt show a need to improve some of the existing rules, each government's schedule of liberalization commitments for trade on service is also only a first step comparable not with its GATT schedule of 1994 but rather with the initial limited tariff cutting undertaken when the GATT was launched, among the most important elements in the GATS package is the promise that successive further rounds of negotiations will be undertaken to continue opening up world trade in service.

In broad outline, and to some extent also in substance, the Uruguay round service package resembles the package for goods. There is a central set of rules, the GATs which to a great extent was directly modeled on the GATT and relies on many of the same principles, and there is supplementary agreement. Some in the form of annexes to the GATS, others embodied in ministerial decisions which deal with specific sectoral and other issues and there are national schedules one for each

WTO member, which set out commitments not to impose greater restrictions that are specified on the supply of services by other members, However some of the similarities are misleading. The principle of national treatment, for instance fundamental to the GATs, as it is to the GATT, but is applied very differently.²⁶

Whereas obligations under the GATT can to a great extent be understood by reference only to the general rules set out its articles, the GATs obligations of each member degreed significantly on what it has specifically undertaken, in its own schedule to do. The fact that the Gas rules are still necessarily un tested, and that the services schedules are much more complex that those for goods, adds to the difficulty of assessing exactly what rights and obligations WTO members have assumed under the services package,

Trade related intellectual property right (TRIPS)

Ideas and knowledge are an increasingly important of trade most of the value of new medicines and other high technology products lies in the amount of invention, innovation, research, design and testing and testing involved. Films, Music recording books computer soft ware and on line services are bought and sold because of the information and creativity they contain, not usually because of the plastic metal or paper used to make them many products that used to be traded as low technology goods or commodities now contain a higher proportion of invention and design in their value for example brand named clothing or new varieties of plants. Intellectual property rights are customarily divided into two main area.

1. Copyright and rights related to copyright the rights of authors of literary and artistic works (such as books and other writings, musical compositions, painting, sculpture, computer programs and films are) protected by copyright, for a minimum period of 50 years after the death of the author.

26. WTO secretariat trade in service division October 1999 New leter page 1

As so protected through copyright and related (sometimes referred to as ‘‘neighboring’’ rights are the rights of performers e.g. actors, singers, and musicians, producers. The main social purpose of protection of copyright and related rights to encourage and real creative work.

2. Industrial property

Industrial property can usefully be divided into two main areas:-

One area can be characterized as the protection of distinctive signs in particular trade marks which distinguish the goods or services of one under taking from those of other undertaking and geographical indications which identify a good as originating in a place where a given characteristic of the good is essentially attributable to its geographical origin.²⁷

The protection of such distinctive signs aims to stimulate and ensure fair competition and to protect consumers, by enabling them to make informed choices between various goods and services. The protection may last indefinitely, provided the sign in question continues to be distinctive.

Other types of industrial property are protected primarily to stimulate innovation, design and the creation of technology. In this category fall invention (protected by patents) industrial design and trade secrets.

The social purpose is to provide protection for the results of investment in the development of new technology, thus giving the incentive and means to finance research and development activities.

A functioning intellectual property regime should also facilitate the transfer of technology in the form of foreign direct investment, joint ventures and licensing.

27.world Trade organization WWW WTO org web site.

The protection is usually given for a finite term (typically 20 years in the case of patents, while the basic social objectives of intellectual property protection are as outlined above it should also be noted that the exclusive right given are generally subject to a number of limitations and exceptions, aimed at fine tuning the balance that has to be found between the legitimate interests of right holders and of users.²⁸

28. World Trade Organization WWW.WTO.ORG Web Site

Chapter Two

Ethiopia's accession to WTO and its implication on sovereignty

2.1 Significant of Sovereignty

The concept of sovereignty is still central to most thinking about international relations and particularly international law the old Westphalia concept in the context of nation. State's right to monopolize certain exercises of power with respect to its territory and citizens has been dis realist views or whom other wise wish to prevent sometimes with justification foreign or international powers and authorities from interfering in a national government decision and activities furthermore when one begins to analyze and disaggregate the concept of sovereigns to analyze and disaggregate the concept of sovereignty it quickly becomes apparent that it has many dimensions often how ever the term sovereignty is involved in a context or manner designed to avoid and prevent analysis, sometimes with an advocate intent to fend off criticism or Justifications for international infringements on the activities of a nation state or its international stake holders and power operators.²⁹

In addition to the power monopoly function sovereignty also plays other important roles for example the concept is central to the idea of equality of nations which can be abused and at time is days functional and unrealistic such as in inducing consensus as a way to avoid the one nation one vote approach to decision making in international institutions. This approach can sometimes seriously misdirect action of those institutions but consensus in turn can often lead to paralysis, damaging appropriate coordination and other decision making at the international level.

The concept of equality of nations is linked to sovereignty also plays other important roles for example the concept is central to the idea of equality of nations which can be abused and at times is dysfunctional and unrealistic such as in inducing consensus as a way to avoid the one nation one vote approach to decision making in international institutions. This approach can sometimes seriously misdirect actions of those institutions but consensus in turn can often lead to paralysis damaging appropriate coordination and other decision making at the international level.

29. American Journal of International law Oct. 2003 page 1-2

The concept of equality of nations is linked to sovereignty concepts because sovereignty has fostered the idea that there is no higher power than the nation state, so its sovereignty negates the idea that there is a higher power whether foreign or international unless consented to by the nation state.³⁰

Sovereignty also plays a role in defining the status and right of nation states and their officials thus we recognize sovereign immunity, the consequential immunity, and the consequential for various purposes of the officials of a nation state. It sovereignty implies a right against interference or intervention by any foreign or international power it can also play an antidemocratic role in enforcing extravagant concepts of special privilege of government officials.

There fore one can easily see the logical connection between the sovereignty concepts and the very foundations and source of international law. If sovereignty implies that there is no higher power than the nation state, then it is argued that no international law.

Norm is valid unless the state has somehow consented to it of course treaties or a convention almost always implies. Imply in a broader sense the legitimate consent of the nation states that accepted. How ever important questions arise in connection with many treaty details such as when a treaty based international institution sees its practice and jurisprudence evolve over time and purports to obligate its members even though they opposed that evolution like wise treaty making by various sovereign entities can be seriously antidemocratic and other wise flawed.

Like treaties the other major source of international law norms. Customary international law is theoretically based on the notion of consent through the practice of states and opinion juries for centuries practitioners and scholars have debated the impact of customary international law on hold out states and what constitutes a hold out but often in the context of rationalizing the notion that consent exists the ambiguities of these notions are obvious and from part of a broader mosaic of criticism against the very existence of customary international law norms.

30.Ibid

The above remarks do not exhaust the complexity of the sovereignty concept this article however does not purport to cover all possible dimensions of sovereignty but instead focuses primarily on what might be thought of as the core of sovereignty the monopoly of power dimension although it will be clear that even this focus inevitably entails certain linkages and slop over penumbra of the other sovereignty dimensions this core dimension is examined in the context of its roles with respect to international law and institutions. Generally and international relations and related disciplines such as economics.³¹

2.2 What is Sovereignty

The general perception is that the concept of sovereignty as it is thought of today, particularly as to its core of a monopoly of power for the highest authority of what evolved as the nation state began with the treaty of Westphalia. As time passed this developed into notions of the absolute right of the sovereign and what we call Westphalia sovereignty.³²

Historically sovereignty has been associated with four main characteristics first a sovereign state is one that enjoys supreme political authority and monopoly over the legitimate use of force within its territory second it is capable of regulating movements across its borders third it can make its foreign policy choices freely finally it is recognized by other governments as an independent entity entitled to freedom from external intervention these components of sovereignty were ever absolute but together they offered a predictable foundation for world order what is significant today is that each of these components internal authority border control policy autonomy and non-intervention is being challenged in an unprecedented way.

As noted above a considerable amount of literature deals with the issue of sovereignty and the various concepts to which it might refer most of this literature is very critical of the idea of sovereignty as it has generally been known one eminent scholar has described the sovereignty concept as originated hypocrisy some other authors have referred to it as being of more value for purposes of oratory and persuasion than of science and law.

31. American Journal of International Law Oct 2003 page (2)

32. American Journal of International Law Oct (2003) 4

Sovereignty has also been explored as a social construct according to this view numerous practices participate in the social construction of a territorial state as sovereign and the conferring of rights on to sovereign states the approach of these authors seems to be that no particular characteristics inhere in the concept of sovereignty but that its nature depends very much on the customs and practices of nation states and international system which practices could change over time.

State Sovereignty

The international law is primarily concerned with the rights and duties of states. The 1933 Montevideo Convention on Rights and Duties of States provided in Article 1. The state as a person of international law should possess the following qualification.³³

- A. A permanent population
- B. A defined territory
- C. Government and
- D. Capacity to enter into relations with other states

Sovereignty has many different aspects and non is stable the content of the notion of sovereignty is continuously changing under international law the sovereignty of states must be reduced international co-operation requires that all states be bound by some minimum requirements of international law without being entitled to claim that their sovereignty and allows them to reject basic international regulations every state respect fundamental sovereignty and integrity right of nations.

State sovereignty has been a source of stability for more than two centuries it has fostered world order by establishing legal protections against external intervention and by offering a diplomatic foundation for the negotiation of international treaties the formation of international organizations and the development of international law it has also provided a stable framework within which representative government and market economics could emerge in many nations at the beginning of the twenty first century sovereignty remain an essential foundation for peace, democracy and prosperity.³⁴

33. Akehurst's modern introduction to international Law 7th .Rev Edition page (74-75)

34. *University of Pennsylvania Journal of international economic law*(2005) page (4-5)

Legal Sovereignty

Legal sovereignty refers to the juridical independence and equality of states. The legal equality of all states is affirmed in Article 2.1 of the United Nations (UN) Charter, which states that “the organization is based on the principle of the sovereign equality of all its members” The requirement of state consent before a state can be bound by international treaty obligations is therefore an expression of states’ legal sovereignty because consent is an expression of a state’s legal sovereignty. The WTO gains some legitimacy because it was consented to by its member states.³⁵

The extent to which WTO membership affects states legal sovereignty depends on whether we use a “revocability based conception” of state sovereignty or a veto based conception under a veto based conception under membership in the WTO implicates states’ legal sovereignty when membership” creates a process that generates rules or decisions that they can not veto Ex Post.

As a result of the negative consensus rule in articles 16.4 and 17.14 of the dispute settlement understanding (DSU) state legal sovereignty is affected by membership in the WTO because they are unable to veto panel and appellate body decisions.

However any assessment of the implications for state sovereignty needs to be made in light of how state sovereignty has forced in a world characterized by increasing globalization and power asymmetries between states. In this regard, there is a significant variance between states as legally equal and the level of power that they can in fact exercise.

Panel and Appellate body decisions can move member states closer to the formal equality of underlying legal sovereignty by shifting power away from the older general agreement on tariffs and trade (GATT) 1947 style diplomatic settlements of trade disputes in which processes and out comes were more likely to reflect the power imbalances amongst member states. Strengthening the trading system because the same WTO law is applied to all member states. There fore the legalization of states trading relations under the WTO has helped legitimate WTO membership by reducing by the ability of member states to take advantage of existing power asymmetries.

35. Id (University of Pennsylvania Journal of international economic law (2005)page (4-5)

2.2.3 Westphalia Sovereignty

Westphalian sovereignty is another meaning of state sovereignty. It describes the arrangement of the international political arena based on the division of the world into territorially exclusive units and includes the right to exclude external actors whether other states or international organizations, from interfering in domestic political structures states Westphalia sovereignty is therefore implicated of the rulers of a state enter into an agreement that recognizes external authority structures.³⁶

Some commentators have noted that this territorially based conception of sovereignty has nevertheless been eroded by the increasingly international forms of economic arrangements and transactions that “spaces of net work” instead of “spaces of places”

has become the dominant paradigm in the international system. As a result, in order for states to effectively govern economies that have assumed increasingly transitional dimension. Domestic regulatory bodies and government agencies have had to overcome their territorial limitations by cooperating with other state’s agencies to address the challenges posed by an international economy. This has given rise to trans governmental networks.

However the increasing prevalence of net works between government agencies has challenged traditional notions of west phalian sovereignty and further, these networks often replicated the power asymmetries that exist between states for example the framework for cooperation between the united states securities and exchange commission and other foreign securities regulators deliberately seeks to transplant features of US securities regulation abroad. Anne marieslayhter including some of its most important trading partners, on the need for and the substance of a vigorous antitrust policy, and thus has much to lose in multilateral negotiations.

36. Id (University of Pennsylvania Journal of international economic law (2005)page (5-7)

Further Saskia Sassen has argued that the state of self has been a key agent in the implementation of global process, and it has emerged quote altered by this participation and that the mechanisms of globalization and integration of the global economy are of ten concentrated in "global city" such as New York.

These global markets are therefore amenable to regulation by only a limited number of powerful states, while the flow of, for example, international capital can have enormous ramifications for state sovereignty, and some states are more capable than others of encouraging and regulating these markets and by extension, the impact of globalization on state sovereignty. This also high rights have decision making authority is not necessarily congruent with national boundaries, challenging traditional notions of sovereignty as territorially bounded.

State Westphalia sovereignty is implicated as a result of membership in the WTO one of the fundamental norms of Westphalia sovereignty is non intervention in the affairs of another state, however, Westphalia sovereignty is a question of authority not control. As a result, the negative consensus rule, which leads to the automatic adoption of WTO appellate body reports affects states Westphalia sovereignty, for example when member states are required to alter domestic legislation in order to comply with adverse appellate body rulings. It gives the WTO authority over states decision-making processes.³⁷

At the same time membership in the WTO has strengthened states Westphalia sovereignty firstly, the implications of appellate body decisions over member states domestic decision making processes need to be assessed in light of a globalizing world comprised of inter governmental networks secondly, the reduction in the effectiveness of territoriality as the basis for economic governance and the development of trans governmental networks have themselves challenged states Westphalia sovereignty. Due to their sub treaty level forms of cooperation, these networks are important avenues where by powerful states are able to impose their regulatory model on other states, Therefore, from the horizontal perspective of inter state relations, membership in the WTO is an alternative or parallel form of economic governance that can strengthen states Westphalia sovereignty by minimizing the negative implications of trans governmental networks.

37. Id (University of Pennsylvania Journal of international economic law (2005)page (5-6)

For example harmonization through the development of international standards is an important part of this new form of governance. The WTO Technical barrier of Trade (TBT) agreement in particular also regulates the role of international standards. However, there WTO emphasis on consensus may lead to the development of international standards in ways that are more consistent with sovereign equality and the rights of states to exclude external actors, than would trans governmental networks, the latter being more susceptible to the imposition of powerful states own regulations models.

36. *Ibid*

2.3 WTO Membership and the implication for state sovereignty.

The principle source of WTO Law is the Marrakesh Agreement establishing the World Trade Organization concluded on 15 April 1994 and enforced since 1 January 1995. Other sources of WTO Law include WTO dispute settlement reports, acts of WTO bodies, agreements concluded in the context of the WTO, customary international law, general principles of law, other international agreements, subsequent practice of WTO members, teaching of the most highly qualified publicists, and finally the negotiating history.

The concept of sovereignty includes a number of different meanings that are related but logically independent, therefore it is possible to reinforce one dimension of sovereignty while undermining another. The impact of the WTO on state sovereignty depends on our understanding of state sovereignty. For instance, cooperation between states may be necessary in order for a state to govern effectively. One way of cooperating is through international organizations. While membership in an international organization is an expression of a state's legal sovereignty, membership may nevertheless undermine a state's Westphalian sovereignty.³⁸

The implications of membership in the WTO for state sovereignty have a vertical and a horizontal dimension. The vertical dimension is the effect on state sovereignty as a result of the relationship established between the WTO and each member state. The horizontal dimension focuses on how WTO membership affects interstate relations. The horizontal and vertical implications for state sovereignty of membership in the WTO need to be assessed in light of both the increasing interdependence and globalization of the international system and the power asymmetries that exist between states. For instance, irrespective of whether a state is a member of the WTO, there exists a variance between state sovereignty defined as legally equal and what some refer to as behavioral sovereignty, the level of sovereignty that most states are in fact able to exercise. Similarly, power asymmetries among states also undermine a state's Westphalian sovereignty, leading to the result that most states are not fully sovereign. This is particularly true in today's politically and economically integrated world.

38. *University of Pennsylvania Journal of International Economic Law* (2005) page (3-4)

The impact of Ethiopia Accession to WTO on the above theoretical bases the sovereignty of state special in the accession process the major WTO agreement package like GATS, GATT, TRIPS and other agreements.

Ethiopia Exports of non agriculture products are concerted of few products the most important are cotton, textiles leather and leather products the main trading partners are the Eu, the US, Japan, China and Sudan.³⁸

The manufacturing sector in Ethiopia has developed Export potential in products, which constitute one of the more contentious issues at the WTO. There is a genuine concern that WTO accession will make it difficult for Ethiopia to further develop it own manufacturing potential,. This sector is undergoing fundamental changes in light of the Exportation of quotas pursuant to the WTO Agreement on Textiles and clothing³⁹.

In regards to GATS, the Ethiopia financial sector special in banking service the sector is reserved for Ethiopia National and Registered company the share company in which the whole shares are owned by Ethiopia nationals. The organizations should be established under the ownership of Ethiopia National, Registered in accordance with the Ethiopia law and the head office of the company should be in Ethiopia⁴⁰

38. Technical Assistance to support Ethiopia in its Accession to the WTO page 7

39. Ibid page 7

40. The national bank of Ethiopia proc No 591/2008 Art 2(15)

The WTO Law needs to financial liberalization the sector for every members in this regards the GATs Law has to oblige the acceding state excepted to liberalization, Transparency most favored nation treatment, national treatment and other GATs major Law & rules ⁴¹.

In the case of electric power service has partial prserved for state owned corporation, the supervision also conducted by Ethiopia Electricity Agency the main duties of the Agency promote the development of efficient reliable, high quality and economic Electricity services⁴² to achieve this purpose the agency also vested power to grant of licence and refusal of licence on the specific area like power generation license, power transmission licence, distribution and sale of electricity license and Importation and exportation.⁴³

The other problems that the Ethiopia Law also compliance with the WTO agreement on trade related Investment measure (TRIMS).

In this regard for possible investment related demand, WTO members can be expected to ask a wide range of questions regarding the general investment climate in Ethiopia and the existence of any kind of discrimination between foreign and national investors for this indication .⁴⁴

- Length procedure for registration & the payment fee for the investment permit is to high
- Discrimination between foreign and national investors, Ethiopia restrict a large number of sectors to foreign investors will come under scruting in this regard regu No 84/2003 investment incentive and Investment Area Reserved for Domestic Investors reserve, Investment area for Ethiopia national which indicated on the schedule of the regulation.

41. Article 2 of the Annex of Financial Service of the GATs with article xx(2) of the GATS

42. Proc No 86/1997

43. Rega No 49/1999

44. WTO Agreement on trade related investment measure (TRIMs) Impact assessment for Ethiopia may 11,2006 page 46ff

In Ethiopia, land ownership the fact that no private ownership of land is allowed it will quite certainly be raised however. This is a regulation that is under the full sovereignty of the Ethiopia Government .

The right of ownership of rural and urban land as well as of all natural resource is exclusively vested in the state and in the people of Ethiopia stipulate on FDRE constitution article 40(3) this obstacle for Investor.

Proclamation No 455/2005 Expropriation of land holdings for public purpose and payment of compensation article 11 (4) for the purpose of appeal the individual who claim for compensation he/she has to served with an expropriation order may be admitted only if it is accompanied with a document that proof the hand over of the land to the urban or woreda administration it also stipulated in article 11(6) both rural & urban land holding appealing right steps is not exhaustive this leads to the right of individual limited with certain stage. The problem became very serious violation of fundamental constitutional right of individuals.

The Ethiopia Telecommunications sector is fairly simple, consisting on the following basic instruments proc No 49/1996 for establishing of the Ethiopia Telecommunication Agency and describes it power, duties , management and budget as well as licensing requirements and condition and it also amended by proc No 281/2002.

Council of ministers Reg No 10/1996 to provide for the establishment of the Ethiopia telecommunication corporation and amended by Reg No 99/2004 and also amended Reg No 47/1999 to provide for the Regulation of Telecommunication service which contain provision on licensing technical standards for telecommunications network and services and frequency management.

The corporation has a power vested on council of ministers regulation No 10/1996 Articles 5 the duty to provide the service in the country's exclusive provide of local, domestic and international voice service as well as mobile cellular, internet and telex and telegraph service, as in most other countries.

The Ethiopia Telecommunication Agency has also the power to implement the major policy make role in the sector

- It has concentrated on building capacity acquiring technology and staff training
- It also monitors telecommunication service quality by imposing quality and equipment standard on ETC and equipment importers

The sector monopoly by state owned operator, the state has the intention to preserving the state monopoly for this indication. The government believes that the monopoly is the most dependable way of extending basic connecting to every region. In his latest interview with financial times, Prime Minister Meles Zenawi reaffirmed the government's reluctance to open up the sector to private sector⁴⁵

2.4 The proposed Solution for the issue identified

In the membership accession procedure the sovereignty of Ethiopia were envisage by the country to be party of multilateral Trade relation with the TWO trade agreement & sprit of the organization in the above sub chapter WTO membership and the implications for state sovereignty the problems that indicated could have the following proposed solution.

In the case of non-agriculture product, the country has to be export the products by adding some value add & finished products to the foreign market. Once a finished product exports the country, earning a better foreign currency and getting deserved income.

45. *Impact of WTO Accession on Ethiopia's Telecommunication Service Sector.*

The other advantage that Ethiopia accommodate a better job opportunities for their Citizenship so we can get a better stand for the international market access.

Financial sector are managed by strict supervision of National bank. The WTO GATs agreements highly need of liberalization of financial sector with out being any restriction, and Trade in financial service entails as well creation GATS obligations with regard to ensuring transparency of regulatory measure adherence to non discrimination according to the most favored nation principle making commitments to provide for market access and national treatment for foreign service providers due to this the financial sector be liberalized.

The protected financial sector became open for foreign companies the domestic financial sector like state Commercial bank, private bank, state insurance companies & private insurance company may get difficulties to compute with foreign financial companies.

To get solution for the problem related with state sovereignty with relation to financial sector due to the dynamic nature of the sector Ethiopia has to be planned with the benefits and risks of financial liberalization program taking cautious action for the issue.

The issue taken as the advantage of the sector like-

Increased domestic competition may bring about improved quality of services.

It helps for domestic reform by creating a constancy for improved regulation and supervision

It helps transparency of domestic regulations and practices by making information about laws regulation and administrative guidelines more readily available to all market participant

The foreign compares may serve for additional fund raising source for the country

It helps for domestic bank & insurance to transfer of skill, knowledge & technologies for modernization of the sector

Some, major risk may be the following

Transfer of capital by foreign company to their country

Foreign bank may be more likely to with draw the country when financial crises happen

The foreign bank may not open branch bank on the rural area.

For the above reason the state has responsibilities to have sound decision in the sector to be liberalized.

Electricity power generation & distribution is also preserved for state owned firm. This also highly conflict to WTO service sector agreement GATs in this regard the state also open the sector to foreign companies though the state permitted foreign companies to work with the state and the foreign companies with Joint venture still, the WTO law require to be freely liberalize the sector. The same question may raise also in this case, state sovereignty may challenge but due to the capital & technologies, we have very limited. Therefore, the issue became equal necessity with sovereignty the sector are strategic in its nature in development process of country due to this the policy maker take decisive decision regarding the issue.

The Investment area alt of Investment sector is not allowed to foreign investor. This also has a negative implication on WTO agreement, Trade related Investment measure, even the Investment Law is amended several times to have accommodate investment opportunities for foreigners but still in Regu No 84/2003 /Limitation of investment area .

Ethiopia Laws is not compatible with WTO (TRIMs) so the state expected to adjutor amended the former law & reserves the right to introduce such measure in the future too.

The basic economical factor for investment is the land, In Ethiopia case land is exclusively state property due to this reason, and Investor has get difficulties to get land easily. The government arranges land for specific Investment sector even though in this area also it is difficulties to administrative problems.

This problems has to get rapid decision with the administrative offices service for getting land, permission service on relation to the land.

The other mechanism to get land with lease holding system based on proc No 272/2002 here the problems came when the land of individual or companies that to be subjected for expropriate the land for public purpose the compensation and replacement of land may have some problems for the aggrieved party, the appeal in relation to compensation the hierarchical of appeal court are reduced this trends. The justicability of individual & companies may subject to injustice so in relation to sovereignty the state has to amend the land policy and other legislative law.

The Telecommunication sector does more than just connect people businesses, governments and markets to one another. In facilitating the dissemination of information to the world, it contributes to economic growth, financial stability, knowledge on global issues and problems and to political and cultural awareness in

fact, the sector often has two functions providing a foundation for other economic activities and being a key economic activity on itself.

Ethiopia's accession to the WTO is certain to generate demands from WTO member's that it open its telecommunication sector to competition that Ethiopia must prepare to respond to this request and develop a strategy to manage this vertical aspect of its accession negotiations.

Unless the telecommunication service liberalized the accession procedure in related to Telecommunication sector, become difficulties. The Technologies is very complex & sophisticated due to this we are not out of the international Communities

The sovereignty of the country here also mitigated with the advantage of the sector to economical and social aspect.

2.5 Ideas from Interview

The focal government body for WTO accession is ministry of Trade and industry. With in the ministry there is Trade relation and Negotiation directorate. The ministry has the duty to follow the acceding process of the WTO member ship. It follows and gives answers to requests of different stake holders for the accession process by conducting various impact studies with many sectors.

I have conducted an interview on June 17, 2010 with different government officials in the ministry of trade and industry, namely the director for Trade Relation and negotiation directorate, the director for legal directorate and the Team Coordinator for multilateral trade relation & negotiation with in the trade relation and negotiation directorate.

I have asked the same question for these three persons who have a direct relation with the WTO accession process.

The question was “What are there impacts of WTO membership and the National sovereignty of Ethiopia?”

The first interviewed person Ato Anetneh Mengistu who is the director of legal directorate responded the question by stating that the WTO membership accession process is conducted by the will of former acceded member countries and the one who is in the process of accession. Every country becomes a member to the WTO by its own free consent .Each country decides to join the WTO by itself and there is no special case for Ethiopia also. The country is in the process of accession by its own will and the full consent of the Ethiopia and its officials. So the country has a freedom to be a member or not to be. Once the country gives it consent to join, there are no questions of violation of state sovereignty .This also the same effect on the international Law. Every country whose gives consent to some agreement of International Law, The country is obliged to respect that specific law.

The director stated that a country also has the right to accept the WTO member ship process with conditions and time framed base agreements. He said “ WTO membership even if it has negative disadvantages we are part of the globe and so we have to participate on the international trade regime so as to sale our products & services to the world “ .

He finally stressed that the joining of the WTO has no relation with the sovereignty of a country.

The second person whom I interviewed was Ato Germew Ayalew, director for Trade Relation and Negotiation directorate with the ministry of trade and industry.

The director said “Our country Ethiopia is a part of the world Trade chain and due to this we are participating with the world trade transaction. Thus we are faced to engage in world trade market, other wise it will give your right to others who have the access and power to trade. Due to this, Ethiopia has requested membership of the WTO in January 13, 2003 G.C on its will so as to have a deserved place in the international Trade status.”

He stated that this doesn't mean that the issue that raised to be in the process of WTO membership is finalized because this agreements to be viewed with different economical, social cultural and other related issue which has to be compatible for a country to became a member, compatible with every Law and rules of our country in this regard has to comply with the WTO member countries.

Though sovereignty may come in to picture, the country has to balance the need to be membership of the WTO and its sovereignty right and the implication of both issues in the country. Here we can participate in the WTO rule by having developmental policy to be the best media for competitiveness of the trade area.

For getting advantage to membership, the economic performance of the country will be supported by Technology transfer, for its industry and service, agricultural sector to have effective, quality and quantity oriented exported based products and services so by doing this our country can protect its National interest By this it may also safe guard the country's sovereignty .

The third person to be interviewed was Ato Lesanwork Gorfu Team Coordinator of Multilateral Trade relation & Negotiation with the same directorate at ministry of trade and industry.

The Team Coordinator stated that the question of sovereignty is the demarcation that can and must be addressed in special trade relationship and this issue be addressed before the decision to ask to WTO membership.

In relation to WTO Laws and regulations, every member has to change to its Laws and regulations to be compatible the WTO Laws & regulations but in specially for LDC countries there is a privilege like to have a Transitional period for plurality negation and it also get many exemptions as considering the development agenda/objective of the country's economic solution.

An LDC country also gets capacity building support like personnel training and institutional capacity program. Because further WTO Laws, regulations and rules are strong to implement by the member country for example in the dispute settlement mechanism the country who has infringed the WTO rules will get a penalty by other members who sustained damage or lose their right due to the other country who may lose market access & other international influence to become isolated.

Even if the country is accepting the membership by giving consent this doesn't mean its sovereignty is in danger. This scenario of globalization has economic effect on one country who can not cope to this trade system so I can say that WTO membership has negative effect on sovereignty but still country have to search their comparative advantage in the international trade participation so that that country can get a balance between both sides.

Still from the ideas stated above from all of the three chief negotiators for the WTO accession team we can conclude that there is no impact to join WTO or has minimal impact compared to the sovereignty of a country.

Chapter Three

3. Conclusion and Recommendations

3.1 Conclusion

Since the establishment of the WTO as the only organization dealing with rules of global trade a number of countries, including few LDCs, have acceded to it either because of the real benefit of the multilateral trading system or due to lack of a better alternative in spite of more favorable terms of accession process is still lengthy and complex. Although the global trade under the auspices of the WTO is generally considered as beneficial and a step towards integration in to the global market these is a general shift in the GATT/WTO's role from mere trade liberalization on the basis of non-discrimination to trade regulation through harmonization rules (standards) intruding in to those areas which used to be under the exclusive benefits from its WTO membership depends on its economic competitiveness more than ever before.

One of the principal features of the modern state is its ability to exercise full control or sovereignty. Our issues with in its jurisdiction many opponents of the WTO argue that the organization limits member states from full exercise by their sovereignty rights given the relative dominance of economic and trade issue in global affairs in recent years it is not surprising that the issue of economic sovereignty is particularly resonant with respect to the WTO Nevertheless the issue of sovereignty is not unique to the WTO this topic is relevant whenever a country enters into an international agreement with one or more countries such agreements invisibly restrict a nation's ability to act unilaterally. When becoming a signatory of multilateral agreements, a country binds itself to conform to the basic tents of each agreement or treaty.

Ethiopia accession process of membership to WTO is not yet finalize but some conducted studies were found Ethiopia Law related foreign Trade

Regime, Investment Law, Transport Law, Commercial Law, mining law other related Law are compatible to WTO rules, regulation and Law.

The WTO rules, regulation and Laws were permissive in there nature and it has a room for freedom of contracting party which any country seek membership it foolows deep procedure to get chance for negotiations the accession process has three major phases.

The accede country wishing to become a member of the WTO submits an application to the general council of the WTO. The general council establishes working party of all interested WTO members the applicant then submits to the working party of all interested WTO members. The applicant then submits to the working party a detailed memorandum on its foreign trade regime describing among other things its economy economic policies domestic and international trade regulations and intellectual property polices.

In the next stage, the working party members submit written questions to the applicant to clarity aspects of its foreign trade regime. After all necessary background information has been acquired.

The working party begins meetings to focus on issues of discrepancy between the applicant's international and domestic trade policies and Law and WTO rules and law. There final stage of the accessions process consists of series of bilateral negotiations between the applicant and WTO member when the bilateral talks conclude the working party sends an accession and package which includes a summary of all working party meeting and the protocol of accession to the general council or the Ministerial Conference once the general council or the ministerial of accession thirty day after the applicant access the protocol of accession it becomes one official member of the WTO.

WTO rules operate in the same manner all members agree to be bound by the same rules regulations and guide lines particularly those related to transparency and equal treatment required by various WTO agreements.

With regard to non-agricultural products Ethiopia has comparative advantage to be used at optimum level to strive the quality and quantity the product to meet the world market with the sector.

In the case of financial sector the service is dynamic, the Ethiopia government amending financial law to permitting private bank & insurance to engaged in the service for last one decayed. The WTO agreement also require to liberalize the sector to foreign bank & financial institution

In order to assess the potential economic impact of different degrees of commitments in financial service has to considered with the benefits and national sovereignty sceneries has to be investigated.

The liberalization of the financial sectors has increased the entry of foreign banks somewhat and increased competition. The foreign banks have to focus on the most profitable segments of the market and these happen to be the largest organ centers and the bigger corporate customers.

In the Negotiation on trade in financial service will be one of the key issues of the accession process this is due to both the importance of financial services for the economy at large and the nature of trade in service. The financial service liberalization in the context of the general argument on trade in service will be discussed and how financial service liberalization under GAT can contribute to the development goal of Ethiopia and question of sovereignty become considering the benefit to decided the accession process will mandatory procedure to acced the WTO membership in quire.

The utility service Ethiopia Electric Corporation, Ethiopia Telecommunication corporation both sector were engine to the economy and it needs a lot of resource to run the business, to liberalize both sector the government has to calculate its advantage in relation to the issue.

The land holding system in Ethiopia governed by the state land is the major economical factor for investment and development of a given economy, to facilitate the opportunities attract Investor to the country the land policy of the country has to be changed in the manner that the land to be available for foreign investor with average prices to purchase and guaranteed ownership title with out reservation.

The administration of land where different in federal & regional level, Those government offices is not efficient in day to day business of the administration of land in order to encourage a foreign investor the performance of the offices has to be improved.

The compensation system & the valuation of the land and other property where built in the land has to be very well managed and consider.

The individual who aggrieved the right in relation to be expropriation the individual right should be maintained with out restriction like the right to appeal with the full Appling of the justices system.

As commentators have widely recognized, accession to the WTO has meant that the acceding country other member nations have been forced to bring their laws into compliance with standards set in the WTO agreements or with the interpretation of these agreements made by the DSB in other words observers have focused on changes to domestic laws required by some WTO directive looking at this question from the perspective of the traditional four categories of a stat's rights inherent in that state's sovereignty the right to internal monopoly on armed forces and political power the right to control.

The state's physical borders, the right of international recognition by other sovereign states and the right of non-interference in a state's domestic affairs by other states also called Westphalia sovereignty critics of the WTO's influence on member's laws generally are taking issue with the erosion of Westphalia sovereignty.

At the time of negotiation and implementation of WTO agreements, a great deal of attention given to the questions of whether the WTO would inappropriately invade member country sovereignty. This means of has been argued that when signing the WTO agreements member states eroded their sovereignty by committing to change the laws required by some, regulations and administrative procedure to conform to the WTO rules.

3.2 Recommendation

In the light of the above conclusion the following means should be taken into account to ensure that the accession works to the benefit of Ethiopia.

The government of Ethiopia is fully cognizant of the fact that the best way to accelerate economic growth and development is to integrate its economy with the multilateral trading system. It acknowledges that membership to WTO is to be part of the rules based multilateral trading system and this will create confidence for investors and serve as one of the instruments to attract foreign direct investment. The latter is of great help in diversifying the production based and expanding the supply capacity of the country membership in WTO could help secure predictable and transparent market access.

Firstly WTO accession should not be seen as a sufficient condition for integration into the global market the possible benefits from WTO membership the economic and human power of a member and good governance at home thus the government should exert an all out effort to ensure good governance at home. To ensure good governance and work to wards improvement of economic competitiveness while also focusing on equipping its officials (negotiators) with the necessary knowledge of WTO laws and procedures.

Objective of the WTO for establishing the WTO and the policy objective of this international organization are set out in the preamble to the WTO agreement according to the preamble. The parties to the WTO Agreement agree to the terms of this agreement and the establishment of the WTO for the alternate objectives of

the WTO are thus the increase of standards of living, the attainment of full employment, the growth of real income and effective demand and the expansion of production of and trade in goods and services.

The country has to be improved all international law related laws, rules and regulation compatible to the WTO by:-

Privatization need to be vigorously pursued, as it is the means to a successful transition to a market based economy.

For export, promotion requires a more hands on support service where the government can play the role of a facilitator, not favoring any activity party or persons.

The latest investment proclamation still maintains an extensive list of industries and activities reserved for domestic investors only the needs to be revised to broaden the eligibility list and less specific.,

In sum WTO accession do not have a significant effect on domestic support and export subsidies other service area thus the country should work towards boosting the quality and quality of her economic activities, and service sector. This in turn depends on curbing the supply side constraints such as poor infrastructure and back ward technology in fact the accession itself (if backed by good governance) can contributor to the government 's efforts in curbing some of the supply side constraints through foreign direct investment if inter a lia the above recommendation are taken into account the accession can benefit Ethiopia with out affecting the country sovereignty right

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Bachelors Degree of Law (LL.B) at the Faculty of Law,
St.Mary's University College.**

**ADDIS ABABA, ETHIOPIA
JULY 2010**