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The WTO Accession Process: Explanations and Reflections

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The World Trade Organization (WTO) has a global vocation, but not yet “world” coverage. It currently comprises 153 Members, compared to the 192 Member States of the United Nations. However, it is no longer an exclusive club either, when juxtaposed with the General Agreement on Tariffs and Trade (GATT) that started with only 23 countries in 1947. To join the WTO, the applicant country needs to undergo an often lengthy, complex and burdensome accession process. Nonetheless, WTO membership still seems to be attractive, given that since 1995, 25 countries have acceded to the WTO, and in May 2009, another 29 states are formally in that process (see Box 1).

Box 1: Countries currently in the WTO accession process, by date of application

Algeria (1987), Russian Federation (1993), Belarus (1993), Sudan (1994), Uzbekistan (1994), Seychelles (1995), Vanuatu (1995, negotiations concluded in 2001), Kazakhstan (1996), Iran (1996), Azerbaijan (1997), Andorra (1997), Lao People’s Democratic Republic (1997), Samoa (1998), Lebanese Republic (1999), Bosnia and Herzegovina (1999), Bhutan (1999), Yemen (2000), Bahamas (2001), Tajikistan (2001), Ethiopia (2003), Libya (2004), Iraq (2004), Afghanistan (2004), Republic of Serbia (2004), Republic of Montenegro (2004), Sao Tomé and Príncipe (2005), Union of the Comoros (2007), Equatorial Guinea (2007), Liberia (2007).

Syria (2001) still waits for a General Council decision on its requested application.

Source: Summary Table of Ongoing Accessions, at http://www.wto.org/english/thewto_e/acc_e/status_e.htm (consulted on 26 May 2009).

Legal foundation

Article XII of the Marrakesh Agreement (1994) forms the legal basis and provides very general conditions for the accession process. According to this only three paragraphs long article, “any state or separate customs territory” with full autonomy concerning its external trade relations may accede to the WTO “on terms to be agreed between it and the WTO”. This is an extremely vague formulation and opens the door for WTO Members to impose strict obligations on the acceding country, although detailed procedural and technical guidelines exist.¹ Moreover, WTO Members committed themselves in paragraph 42 of the Doha Ministerial Declaration (2001) to “facilitate and accelerate” the accession process of Least Developed Countries (LDCs). This led to specific guidelines for the accession of LDCs, which were approved by a General Council decision in 2002.² Yet, the three LDCs that acceded to the WTO thereafter, i.e. Nepal (2004), Cambodia (2004) and Cape Verde (2008), could not sufficiently benefit from that decision.

Process

The WTO accession process starts with the formal written request by the applicant government.³ The WTO General Council then decides upon this request and establishes a Working Party that is open to all interested WTO Members. After that, the applicant government presents a memorandum, which explains the country’s trade and legal regimes, followed by written question and answer sessions. Subsequently, a

¹ See WTO: WT/ACC/10/Rev.3 (28/11/2005).

² See WTO: WT/COMTD/LDC/12 (5/12/2002).

³ For a short introduction to the accession process, see WTO: Understanding the WTO, Geneva 2008.

process of intensive multilateral and bilateral negotiations on the terms of accession takes place. The multilateral negotiations focus on the compliance with WTO rules and disciplines. In the bilateral negotiations, each member of the Working Party brokers with the acceding country on the specific market access commitments. The strictest conditions have then to be applied on a Most-Favoured-Nation (MFN) basis. The outcome of the negotiations is the “accession package”, consisting of the Report of the Working Party, the Goods and Services Schedules, and the Accession Protocol. Once these documents are adopted by the General Council, they constitute the legal basis for the acceding country; it becomes a full WTO Member 30 days after it notifies the WTO that the accession package has been ratified as per its national legislation.

The final terms of accession reflect a balance of rights and obligations that typically result in the following opportunities and challenges:

Expected benefits and opportunities

- (i) Increased and diversified export opportunities by legally guaranteed, transparent and predictable MFN access to all WTO Members’ markets;
- (ii) Growing inflow of foreign direct investment in key sectors, leading to enhanced technology transfer, productivity and competitiveness; better paid jobs; and linkages with national enterprises;
- (iii) Access to the WTO Dispute Settlement Mechanism and multilateral trade negotiations;
- (iv) Strengthened domestic legal framework;
- (v) Eligibility for WTO technical assistance, capacity building and new Aid for Trade projects.

Expected costs and challenges

- (i) Need to reform the domestic legal framework already in the pre-accession phase, frequently opposed by a variety of national stakeholders;
- (ii) Pressure to accept legally binding “WTO Plus” conditions that limit the policy space and constrain the choice of development paths;
- (iii) Stiffer foreign competition that forces uncompetitive enterprises to restructure or even close down (with negative effects on employment), and makes it more difficult for national companies to start up;
- (iv) Increased vulnerability to external shocks due to a higher degree of openness.

Reflections and suggestions

WTO membership is an indispensable step for a country that wishes to integrate into the multilateral trading system. However, whether the expected benefits materialize and the expected costs can be minimized, depends on the negotiated terms of accession, the strength of national institutions and the existence of appropriate complementary domestic (social) policies.

A look at the 25 countries that have acceded to the WTO since 1995 under the new rules reveals that many concessions and commitments exceeded those of Members at similar levels of development. Acceding countries were even required to engage in Plurilateral Trade Agreements and/or several far-reaching sectoral initiatives (“WTO Plus”). This leads to the question: Why should acceding states accept stricter conditions than the ones for Members or equal concessions as those of more advanced Members?

The following three suggestions could be made: First, the accession process should be reformed in a way that the respective level of and prospects for development of the applicant country are more thoroughly considered. Bilateral negotiations should be prohibited, given that they are excessively power dominated; apart from that, countries have the option to conclude separate bilateral trade agreements. No “WTO Plus” conditions should be imposed on acceding states.

Second, LDCs should be granted more favorable accession conditions, as agreed upon by WTO Members. This is crucial for both their development prospects and their future negotiation potential, since trade concessions constitute the “bargaining chips” for negotiation rounds.

Third, a broader discussion on the implications of WTO membership should be held in acceding countries. All relevant stakeholders should be consulted, including parliamentarians, business and civil society. They need to be fully informed about new rules and regulations to adopt them, adapt to them and make good use of them.

It is widely acknowledged that the WTO accession process is unfair, burdensome and subject to power politics. This endangers the legitimacy of the process and the credibility of the WTO. It should be in the self-interest of the WTO and its Members to make it more development-friendly.

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