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Accession to the World Trade Organisation: Challenges and Prospects for the Least-developed Countries (LDCs)^{*}

Mussie Delelegn

*Economic Affairs Officer, Special Programme for LDCs, LLDCs and SIDS, United Nations Conference on Trade and Development^{**}*

A significant number of countries – many of which are least-developed countries (LDCs) – are not members of the multilateral trading system (MTS) as yet, and for many the accession process has taken an undesirably long period of time to complete. This lack of participation has important implications for national and global policy making in the field of international trade. However, there is a growing tendency to disregard accession challenges and difficulties facing the weakest members of the international community – the LDCs. The main purposes of this article are to a) discuss the substantive, normative and institutional complexities and requirements surrounding the WTO accession process from the perspective of LDCs, b) assess the possible costs and benefits of joining or not joining the WTO and c) reflect on the challenges facing poor countries in initiating, managing and negotiating their terms of accession in a manner that protects and promotes their developmental and trade interests. The objective of accession should be viewed from the perspective of the long-term trade and development interests of acceding countries. Hence, every effort should be made not only to ensure the “universality” of the MTS but also to enhance informed and effective participation of acceding LDCs so they will be able to pursue their trade and development agendas in an increasingly complex and overly entrenched multilateral trading system.

Keywords: WTO accession, challenges, integration, LDCs, marginalization

Editorial Office: 410 22nd St. E., Suite 820, Saskatoon, SK, Canada, S7K 5T6.

Phone (306) 244-4800; Fax (306) 244-7839; email: kerr.w@esteycentre.com — 181

I. Introduction

Accession to the multilateral trading system is not new. In fact, the early phases of multilateral trade negotiations (MTNs) under the General Agreement on Tariffs and Trade (GATT) were dominated by accession negotiations.¹ However, with the transformation of the GATT into the World Trade Organisation, accession processes have become more challenging, complex and costly. This is mainly due to significant differences between the GATT and the WTO even though the ultimate objective of the multilateral trading system (MTS) under both systems remains the same.² Irrespective of the growing criticism of and public discontent with the WTO, and despite the complexities surrounding the agreements it oversees, there has been an increasing recognition of the importance of the “universality” of the MTS, as evidenced by an unprecedented expansion of membership. Currently, developing countries form two-thirds of the WTO membership despite complex and costly accession negotiations confronting them.

The difficulties facing least-developed countries (LDCs) in WTO accession are especially challenging in part because of structural, technical and institutional weaknesses inherent in their economies and in part due to a growing complexity of the trading system and cumbersome accession requirements. Out of the current 50 countries within the LDC group, 18 are not members³ of the WTO, and of the 18 countries that have acceded to the organisation since its establishment in 1995, only 2 are from the LDC group (Cambodia and Nepal). Currently, about 24 countries are in the process of accession; of these, 8 are LDCs. Ten other LDCs have not yet submitted their accession requests to the organisation.

This article assesses the process of WTO accession from a historical perspective as well as with regard to the institutional and technical complexity of the process; it also attempts to provide economic and political rationale for joining the WTO, reflects on the challenges facing LDCs in the process and puts forward policy conclusions for consideration at the national and international levels. The basic argument of the article is that accession to the WTO could be beneficial even to LDCs if they are allowed to join the multilateral trading system on terms and conditions that fully take into account their diverse levels of development. Lack of membership and absence of meaningful participation will only intensify further the marginalization of these countries from the MTS and the global economy. The article further argues that accession to the WTO should not be cumbersome to poor countries nor should it be unduly accelerated: there should be a reasonably sufficient time for accession initiation, preparation and learning. Also, the pace of accession negotiations should be determined by and take into consideration the diverse levels of institutional, financial

and technical capacities of acceding countries. Generally, countries that are in WTO accession negotiations should confront several questions: Why would a country or countries opt to join the WTO? What are the implications and impacts of specific WTO agreements⁴ for the economic prospects of acceding countries? What is the balance between advantages (benefits) and disadvantages (costs) of joining or not joining the WTO? What are the possible institutional and normative implications of acceding to the WTO? And how can accession commitments and obligations be made consistent with national development policies, strategies and priorities? Serious accession preparations at the national level should make attempts to respond to these questions before countries submit their accession applications to the WTO.

II. Cost-benefit considerations: How should costs and benefits of WTO accession be assessed?

It is difficult to quantify accurately the economic benefits and costs associated with membership in the WTO. One of the difficulties arises from the fact that political considerations have, in most cases, been more the driving forces for accession requests than have calculations of economic costs and benefits. As noted by Hoekman and Kostecki (1997), the fact that trade policy makers are driven as much by internal and national political concerns as by economic considerations affects their choice of criteria and thus decision outcomes in accession negotiations.⁵ It is in this context that one must contemplate how to provide qualitative assessment of potential benefits and possible costs of WTO membership.

a. What are the potential benefits of joining the WTO?

Proponents of WTO accession argue that there are several good reasons for or benefits from joining the World Trade Organisation. According to these views:

1. Upon accession, like any member countries, LDCs are entitled to full WTO treatment, as countries that maintained discriminatory trade measures are obliged to remove such measures after the conclusion of accession negotiations and the ratification of the protocol of accession. Through membership, acceding countries will have unrestricted access to most-favoured-nation (MFN) treatment and benefits, which are the outcomes of several previous rounds of multilateral trade negotiations. However, it is important to note that in the current circumstances LDCs, irrespective of their membership in the WTO, face relatively less trade discrimination in the markets of their major trading partners.
2. A predictable and transparent multilateral trading system could provide security to international support measures granted to weaker trading partners (e.g., special and differential, or S&D, treatment and full access to MFN provisions), as such measures

could not be easily or unilaterally revoked (or withdrawn). In this regard, a predictable and stable multilateral trading system is better than unilateral or bilateral trade relations. Acceding countries could also have access to trade policies of and related information about their trading partners through mechanisms established in the MTS such as the Trade Policy Review Mechanism (TPRM).⁶ One problem, however, is that the S&D treatments contained in the WTO agreements are, by and large, bestendeavour clauses (not binding commitments).

3. Weaker trading partners such as the LDCs could benefit from a rule-based and predictable multilateral trading system, which could in turn engender more transparency and predictability in domestic policies and strategies. Predictable and stable domestic policies can help foreign and domestic investors to engage in the production and supply of goods and services. However, empirical and historical evidence suggests that China was the second largest destination, after the United States, for foreign investments before it joined the WTO, whereas LDCs that have been members of the WTO for several years have attracted insignificant foreign investment flows to their economies.

4. Membership in the WTO allows countries to design their development strategies and trade policies in a more predictable international trading environment that can provide them with expanded trading opportunities. Many of the trading opportunities created by the WTO, such as market access for goods and specific commitments on agriculture and services, are contingent upon membership in the organization; this entails high opportunity costs for non-members (UNCTAD, LDCR, 1998). However, there are still high tariffs maintained by LDCs' trading partners on exports of interest to these countries. Similarly, market entry is always a problem for LDC exports due to a number of non-tariff measures, especially in developed-country markets, although market access conditions for poor countries in developed-country markets are supposed to be relatively favourable for their exports. Moreover, LDCs have limited productive and supply capacities, constraining their ability to take full advantage of market access offers and expanded trade opportunities created by the WTO.

5. Least-developed countries need constant interactions with the international community in general and with their trading and development partners in particular. This is because their national policy-making and development processes are closely linked to and heavily influenced by international policies and strategies (Helleiner, 2002). For WTO sceptics this is more a problem than an advantage, in part due to excessive "dependency syndrome" and in part because the national policy-making space of LDCs is crowded by international policies and related external factors. For

instance, trade rules that result from long and protracted negotiations will eventually impose obligations on countries that accede to the organisation at later stages.

6. Membership can provide countries with the opportunity to participate in multilateral trade rule-making and standard-setting processes. This is important, as member countries, including LDCs, are expected to comply with international rules and standards in their trading and other economic relationships with the world community. In the process LDCs could also improve their trade-negotiating and rule-making capacities and benefit from the exchange of best practices with member countries in the implementation of WTO agreements. However, the participation of LDCs in trade negotiations is limited by lack of financial resources and limited technical capacities in their domestic institutions.

7. In the WTO, unlike the Bretton Woods institutions, decisions are taken largely by negotiation and consensus⁷ and hence consensus building is central in trade and other economic negotiations. The WTO provides “equal opportunity” for all members to negotiate multilateral trade agreements. Decision by consensus is important for at least three substantive reasons: first, at face-value, it is not economic power or trade share that determines the ultimate outcome of trade negotiations, but rather the technical and substantive implications of the issues involved as well as the levels of preparedness for negotiations. These are key requirements to guarantee, to some extent and in principle, the relative fairness of the ultimate outcome of trade negotiations. Second, all member countries have roles to play in rule- and decision-making processes so long as the challenges and key conditions discussed above are met. Hence, decisions are collective in nature and so is the responsibility to ensure objective and balanced outcomes of the negotiations. Third, decisions on which there is divergence of positions and interests are not subject to adoption, i.e., only decisions on which there are no differences of opinion or position and, consequently, which have a good chance of being implemented, are made (see Hoekman and Kostecki, 1997). Therefore, legally all members have equal rights of participation and the same level of influence on the outcome of the negotiations. It is in this connection that the quality of a country’s institutions and human capital can be of significant value in determining its effective influence and in protecting its stake in the MTNs. But the reality is far from the above intentions and principles, as power play remains a dominant face in multilateral trade negotiations (for more details see point 7 in section b. below)

b. What are the possible costs of joining the WTO?

Opponents of accession to the WTO, on the other hand, argue that the costs of such membership are substantial and disproportionate to the benefits enumerated by the

proponents, particularly for the LDCs. Their basic arguments relate, mainly, to the growing complexity of the accession process, the inability of weaker and smaller countries to balance their rights and obligations in the system, and the continuously expanding sphere and extent of influence of WTO rules on national policies and strategies. According to these opponents, the inherently weak and vulnerable economic structures and institutions at the national level in LDCs and the complexity of the MTS are responsible for the unbalanced and one-sided influence of external factors on domestic policies. The “vulnerability of LDCs and other weaker trading members to external shocks and their inability to influence the rules of the global economic system or the manner in which such rules are implemented can involve them in severe costs”.⁸ For this school of thought the possible costs (disadvantages) of WTO accession include the following:

1. Adjustment costs such as institutional set-up costs, financial outlays related to initiation, preparation and management of accession negotiations, potential costs of compliance with international rules and opportunity costs resulting from diversion of resources from other immediate priorities. Membership may also call for reforming (adjusting) existing institutions and/or creating new ones, which means additional financial and technical burdens for poor countries.
2. Loss of government revenues – specific concessions on tariff rates that the newly acceding countries are obliged to make might adversely affect government revenue and domestic industries. On the other hand, newly acceding countries are not entitled to request additional benefits or concessions in excess of those stipulated in the multilateral trade agreements including tariff concessions and commitments on trade in services from WTO members.
3. Accession may result in potential political and policy costs to acceding countries, which in particular relate to reduced policy autonomy for governments, with possible negative impacts on national development policies and priorities. For example, countries upon accession are obliged to gradually eliminate discriminatory WTO-inconsistent trade and investment measures within an agreed and specified time frame. Accession may also create social tensions at the national level resulting from inability of governments to build consensus between and among different groups (e.g., between environmentalists and reformists or between producers/sellers and consumer protection groups).
4. Sceptics also argue that acceding countries are expected to allow foreign investment in their service sectors such as telecommunications, banking, insurance and professional services, within a specified period of time, with a share of foreign ownership progressively reaching 49 per cent of the total investment (for more details

see UNCTAD, 2002). They are also obliged to go beyond Article XVII of the GATT on state-owned trading enterprises and Article III of the GATT 1994 on non-equal treatment of domestic and foreign firms and individuals.⁹ Liberalization that would open the market to international and powerful companies and individuals in the production and export (or supply) of goods and services could have direct impacts on domestic infant industries and firms.

5. Weak capacity to make full use of WTO mechanisms – LDCs after joining the WTO could face enormous challenges in making full and effective use of existing institutional arrangements of the WTO in order to protect their trade interests. For instance, in the case of trade disputes between an LDC and a major trading power, the former is unable or faces enormous challenges to initiate dispute case(s). Use of the dispute settlement mechanism involves substantial legal costs, and experience so far has shown that it takes a long time to legally initiate disputes and more than 28 months before dispute cases are settled (*ibid.*, 5). Even if the case in dispute is settled in favour of an LDC, the right of the affected country can be restored only from the time that the case is settled – there is no compensation for the trade losses resulting from unjustified trade-distorting measures.

6. Operational problems related to S&D¹⁰ provisions – as shown above, most of the S&D treatment provisions in favour of LDCs remain “best endeavour” clauses, which are not legally binding. These provisions were initially supposed to balance the rights and obligations and, hence, to address implementation problems of developing countries.

7. Power play in decision-making processes – the so-called consensus decision-making process is not free from power bias. This is because, first, although consensus building has been at the centre of MTNs and the functioning of the system since its inception, there is implicit but nonetheless effective veto power where major trading and economic powers exert enormous pressures over the negotiations and their outcomes. The EU, Japan, Canada and the United States, which account for a substantial amount of world trade and output, have enormous influence not only on the outcome of but also on setting the agenda for negotiations (see Helleiner, 2002). Second, consensus decisions are collective and as such all member countries irrespective of their levels of development and participation in the process are legally bound by the outcomes of the decision-making process. Finally, consensus also means that decisions or rules that are once adopted by consensus may not be subject to renegotiation unless all member states or the majority agree to do so. In addition to the power play in trade negotiations, poor countries face financial, human, institutional and technical resource problems that hinder their effective participation in trade

negotiations. Further problems arise from the systemic and institutional complexities inherent in the WTO, which undermine potential benefits from and participation of poor countries in consensus-building processes.

III. Issues of relevance in WTO accession negotiations: Why is the WTO accession process so complex and why does it pose difficulties for LDCs?

Accession to or membership in the WTO is distinctly complex as compared to membership in other global institutions in a) the institutional, technical and substantive requirements at the national level for initiation and management of accession processes, b) the scale and magnitude of vested interests not only of the acceding countries but also of the major trading partners of the WTO, c) the level and intensity of scrutiny of national trade policies of countries involved in accession processes, d) the form and structure of accession negotiations, duration and financial costs the process requires and e) the scope and coverage of the WTO agreements that require careful and close examination by acceding countries. The confluences of these and related factors as expounded below render accession processes more complex and onerous.

1. The WTO builds upon the organisational structure that existed under the GATT auspices as of the early 1990s (see Hoekman and Kostecki, 1995). However, most of the countries now involved in accession processes had never been fully associated with the workings of the then General Agreement on Tariffs and Trade. Consequently, the existing financial, technical, institutional and regulatory gap separating these countries from GATT-associated countries is extremely wide. LDCs that have been outside of the system for so long are not familiar with the formal rules and the informal norms that are key in reshaping and expanding the MTS. These countries also lack institutions and regulations that are compatible with the MTS.

2. The rules governing the MTS and the agreements that the WTO oversees have been significantly enlarged beyond the scope of international trade. That is, the organisation has already become a global institution of unlimited influence on the national rule- and policy-making processes with regard to not only trade in goods but also trade in services as addressed by the General Agreement on Trade in Services (GATS), and intellectual property rights as addressed by the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS). The WTO itself “does not embody substantive rules regarding government policies – it is simply a formal institutional structure under whose auspices Members negotiate and implement trade agreements and the rules contained in the treaties that it oversees (GATT, GATS, TRIPS).”¹¹ The expansion of trade agreements beyond the scope of traditional trade

issues under the WTO has undoubtedly added to the complexity of the MTS and of the accession process itself. In this context, it is interesting to note that engaging in accession negotiations to the WTO under Article XII¹² is a much more complicated undertaking than was accession to the GATT 1947.

3. The complexity of the trade agreements involving several areas, in turn necessitates a critical mass of resources for building institutional and human resource capacities in acceding LDCs to equip them to handle the complex and parallel tracks of accession negotiations. Currently, acceding countries should go through multilateral, plurilateral and/or bilateral negotiations.¹³ There are technical, substantive and sometimes political problems arising from the various negotiating areas. Therefore, acceding LDCs with limited resources and expertise face daunting challenges to carry out negotiations in all the areas .

4. In addition to the enlargement of the scope and coverage of WTO agreements, the GATT and now the WTO underwent quantitative transformations – from 23 contracting parties in 1947 to 147 member states in 2003. Such an unprecedented expansion in membership is generally viewed as a sign of increasing credibility and viability of the system, which will lead to a truly universal organisation. With such an enlarged membership, accession negotiations become more complex and challenging. This is largely due to the vested systemic and economic interests of all countries on the one hand, and differences in the levels of their economic development on the other. Understanding of the diversities of WTO membership, trade interests and negotiating positions is critical for the success of accession negotiations. This is because each and every country's protocol of accession contains specific commitments that newly joining countries are expected to strictly observe. In practice this means that “each of the Protocols of Accession of the countries which are already members of the WTO (currently 147) also binds new members to observe specified commitments either set out in the text of the Protocol itself, or more frequently, in the relevant working party's commitment paragraphs which are incorporated in the Protocol of Accession.”¹⁴ This not only is cumbersome in itself but also results, for newly acceding LDCs, in the assumption of obligations, through the commitment paragraphs, that are not contained in the WTO agreements.

5. The increased number of players in the MTS not only results in an increase in “transaction costs” associated with accession negotiations but also creates further challenges, especially in determining the optimal choice of issues for decision in relation to parties in accession negotiations. This choice entails trade-offs between the number and types of players and the possibility of achieving comprehensive and balanced agreement.¹⁵ For example, in accession negotiations and subsequent WTO

ministerial conferences,¹⁶ several WTO members have consistently argued that “they have the right to expect that acceding countries, irrespective of their level of development, observe a standstill on WTO-inconsistent trade measures and on tariff increases during accession negotiations and that applicants should not wait until completion of such negotiations to bring their legislation into conformity with the WTO rules.”¹⁷

6. Attempts to strike a balance between the special socio-economic conditions of acceding countries (such as the LDCs) and the need to maintain the credibility of the WTO system constitute another factor that complicates accession negotiations. For example, there is an increasing level of apprehension among countries that are already members of the WTO and that do not wish to entertain any possibilities of “bending” the rules for the sake of accommodating the unique circumstances of the weakest members of the international community – the LDCs. This group of countries not only intend to defend the credibility of the WTO rules but also fear possible “erosion or diversion” of the benefits entitled to them by the WTO agreements. There are countries (including many from the developing world) that have explicitly stated their opposition to “automatic granting” of the special and differential treatment (S&D) provisions, particularly those related to transition periods for newly acceding LDCs and others. Recall that during the Uruguay Round of trade negotiations developing countries persistently advocated the need for S&D provisions including transition periods,¹⁸ which are found in the current WTO agreements.

7. Lack of clear terms of accession and cut-off dates for completion of membership negotiations is a further challenge facing countries in the accession process. It is surprising to note that, despite the fact that accession has been part and parcel of multilateral trade negotiations since 1947, there are no standard and clear terms of accession or deadlines for completion of accession negotiations. It has taken close to 20 years for China to complete its accession process. Nepal and Cambodia completed only after a tortuous process that took them, respectively, 15 and 10 years. The Sudan, Vanuatu and Lao PDR have not finalised their accession negotiations after spending 9, 8 and 7 years, in that order (for more details see WT/ACC/11/Rev.3, 29 August 2003). The terms of accession for each of these countries are also substantially different from one another. Cambodia obtained a total of 15 years transition period (5 for customs valuation, 3 for technical barriers to trade, 4 for sanitary and phytosanitary measures and 3 for TRIPS), whereas Vanuatu, which is at a relatively advanced stage of accession negotiations, got only 3 years (1 for customs valuation and 2 for TRIPS). With regard to tariffs, other duties and charges, Cambodia and Vanuatu agreed to implement tariff offers immediately upon accession but Nepal delayed full

implementation of this until 2006. (On differences in terms of accession, see UNCTAD, LDCRs, 2004). In recognition of this inconsistency, efforts have been made to address this particular problem in recent years. After the establishment of the WTO in 1995, the “Guideline for the Accession of LDCs”¹⁹ was adopted in December 2002 for the first time in the history of the MTS. There was a general guideline on accession procedures developed under the GATT 1947²⁰ including the complementary Procedure on Accession adopted by the council of the GATT in 1993 and the note of the secretariat of the WTO (WT/ACC/1) of 25 March 1995 on accession procedures; however, these were not LDC-specific and none of these was actually negotiated by member states.

There are two contradictory views on the lack of agreed standard terms of WTO accession. The first is the view, consistently identified by “opponents”, that the absence of clear terms of accession and cut-off dates for completion is a systemic weakness of the WTO agreements. Accordingly, absence of standard terms of accession prevents the organisation from becoming universal in its membership and imposes additional burdens on acceding countries. The second group of arguments (by “proponents”) holds that since the terms of accession and the cut-off dates are not imposed by the trade rules, there is flexibility for acceding countries to develop the terms and conditions of accession through negotiations with WTO members. This, it has been argued, will ensure a balance between rights and obligations for acceding countries. However, as LDCs lack technical and substantive capacities to influence the outcome of negotiations, they are unable to strike the right balance between obligations they are expected to assume upon accession and the potential benefits (the rights) that accrue to them from joining the MTS.

IV. Accession to the WTO is not integration into the multilateral trading system, or is it?

Given the above challenges and difficulties facing weaker trading partners, accession to the WTO is not an end in itself, but it can be a means to enhance trading opportunities and trade expansion. Accession is a formal legal commitment by the acceding country to comply fully with multilateral trade rules in order to benefit from “gains” resulting from previous rounds of multilateral trade negotiations – it is a first step in the long, challenging and costly process of full and beneficial integration of LDCs into the multilateral trading system. The end of the accession process marks the beginning of the enforcement of commitments and concessions as well as compliance with WTO rules. The challenges discussed above, which are responsible for the unbalanced outcome of accession negotiations for LDCs, will also continue to severely constrain their capacity to fully implement commitments and concessions

they have assumed upon accession. Furthermore, because LDCs are poorly equipped in terms of national institutions and human and financial resources, their leverage to influence the outcome of trade negotiations and their capacity to implement commitments and concessions therefrom is severely limited. As a result, they are unable to translate trade opportunities arising from MTNs into concrete trade advantages.

In addition to the weak institutional, financial and human resources capacities at the national level, the structural complexity of the WTO itself contributes to the weak integration of LDCs into the MTS. Currently, there are over 30 established bodies such as councils and standing committees and more than 20 ad hoc working groups and working parties in the WTO. Most of them are responsible for overseeing trade policy-related issues that will have direct ramifications for all member countries and their citizens and enterprises. This complexity presents a big challenge for LDCs as there is no strong technical or policy backstopping from domestic institutions for their disproportionately minimal representation in trade negotiations abroad. As practical experience shows, those who represent small and poor countries in multilateral trade negotiations have been working on their own – with little or no instruction from their respective national capitals. Moreover, the relatively secretive nature of trade negotiations and the way significant decisions are taken also contribute to the lack of meaningful participation of these countries in rule-making processes of the WTO.²¹

The reasons and problems highlighted above clearly indicate that, in the case of LDCs, accession to the WTO does not automatically guarantee immediate economic benefits. Neither does it ensure their beneficial integration into the MTS and the global economy. Therefore, accession to the WTO and meaningful participation of these countries in WTO decision-making processes require a) careful assessment of the rules, regulations and norms and their short- and long-term implications; b) putting in place necessary institutions to implement the rules not only in a manner consistent with the WTO obligations but also in a way that promotes and protects trade and development interests of acceding countries; c) building human and institutional capabilities to make full use of existing instruments and mechanisms such as the dispute settlement mechanism²² in case of violations of trade rules; d) improving productive and supply capacities of these countries to take advantage of market access and trading opportunities created by the MTS; and e) effective participation in the decision-making process, including in the design and development of new rules so as to balance rights and obligations.

V. Conclusions

This article attempts to show the complexities involved in WTO accession negotiations particularly from the perspective of the least-developed countries. Although the WTO accession process is undesirably long, costly and complex, any alternative to participation in the multilateral trading system could be more costly, insecure or unpredictable in the long run. Least-developed countries can pursue bilateral, plurilateral or regional trade agreements with their trading partners. Such agreements not only entail much higher transaction and administrative costs but also are easily reversible, most of the time on the basis of reasons that are beyond trade or economic spheres. Also, unlike multilateral trade agreements, regional or bilateral trade treaties have been increasingly characterized by requests for full reciprocity. Hence, for LDCs, bilateral or regional approaches to trade agreements cannot substitute for joining the multilateral trading system. In order to balance their rights and obligations in the MTS and fully benefit from the system, LDCs should a) improve their capacities to evaluate and link key provisions of the WTO agreements of particular interest to them to their specific circumstances; b) carefully assess the impact of WTO agreements on their socio-economic development; c) take into account political realities of domestic constituents and interest groups that can play important roles in terms of both assistance during the accession process and the eventual implementation of commitments; and d) have a realistic expectation of the economic benefits from their membership in the WTO. Moreover, the complexities of accession negotiations imply the need for, *inter alia*, increased allocation of resources including from donor budgets for supporting accession initiation and negotiations at the national level, revamping of domestic institutions and enhanced technical and capacity-building efforts including through assistance from relevant multilateral organisations. Donor support should also go beyond accession negotiations, as post-accession (implementation) challenges are crucial in determining how the agreements are embodied in a country's laws and procedures and how they are enforced by relevant national institutions. At the implementation stage, any departure from the commitments and concessions contained in the terms and conditions of accession (as defined) in the protocol of accession could be subject to the surveillance mechanisms established in the WTO. This makes the surveillance or dispute settlement procedures of the WTO essential and the precise formulations of commitments and terms and conditions of accession crucial.

Least-developed countries that are undergoing the WTO accession process and their trading partners should also take the following realities into account: a) Accession to the WTO is necessary but not sufficient in itself to ensure economic

well-being in the countries concerned – membership in the WTO alone is not a panacea for all development problems facing LDCs. Complementary policies such as investment in physical, human and organisational capital, and structural transformation including industrialization are required. b) WTO accession negotiations should not be cumbersome to poor countries nor should the process be “accelerated”; there should be a reasonably sufficient time for accession preparation and learning. c) The pace of accession negotiations should be determined by the institutional, financial and technical capacities of acceding countries, and any obligations therefrom should take into account the specific socio-economic conditions and needs of countries in the process of accession. d) Membership in the WTO should be viewed from the perspective of “qualitative integration” of acceding countries into the MTS but not on the basis of an implicit quest for the “universality” of the trading system only.

Interested readers will find the informative example of Ethiopia’s accession experience to date in the technical annex to this article, which provides compelling and concrete evidence of the challenges and difficulties facing least-developed countries in the WTO accession process.

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Endnotes

- * The opinions and views expressed in this paper do not necessarily reflect the views of UNCTAD, and the designation and terminology used are those of the author.
- ** I am grateful to Messrs. Habib Ouane, Director, Special Programme for LDCs, LLDCs and SIDS, Marcel Namfua, Interregional Advisor (UNCTAD) and Taffere Tesfachew, Chief, Investment and Technology Policy Reviews Section (UNCTAD) for their time in reviewing the manuscript and for their extremely valuable comments on the subsequent versions of the paper.
- 1. The GATT, which had only 23 contracting parties (signatories to the GATT) in 1947, embraced about 91 countries in 1986. In 1994, when the Uruguay Round Agreement (URA) establishing the WTO was concluded, membership grew to 124. Currently, 147 countries are members of the WTO, with about 18 countries joining the organisation after its establishment in 1995. Countries and customs territories that were contracting parties to the GATT automatically became members of the WTO with the signing of the Marrakech Agreement. Those that were not must go through established processes of accession. Upon official request, countries could also assume “observer status” – with no negotiating power – for a limited period of time, usually for five years.
- 2. The preambles to the General Agreement on Tariffs and Trade (GATT 1947) and to the Marrakech Agreement establishing the WTO (signed in 1994) state that “relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development.” (For details see the legal text.) This important objective of the multilateral trading system, which was supposed to inject a “developmental perspective” into the system, should be seen as part of the strategic objectives of acceding countries, although the extent to which this provision has been taken into account in trade negotiations remains debatable.
- 3. Currently, Afghanistan, Bhutan, Cape Verde, Comoros, Equatorial Guinea, Eritrea, East Timor, Ethiopia, Kiribati, Liberia, Laos PDR, Sao Tome and Principe, Samoa, Somalia, Sudan, Tuvalu, Vanuatu and Yemen are LDCs that are not members of the WTO.
- 4. WTO agreements consisting of the rights and obligations of members are contained in various annexes. Annex 1 in its three distinct parts contains multilateral agreements on trade in goods (the General Agreement on Tariffs and Trade – the GATT 1947 as amended by the Uruguay Round Agreement and the GATT 1994), services (the General Agreement on Trade in Services, or GATS) and intellectual property (the Agreement on Trade-related Aspects of Intellectual Property Rights, or TRIPS). Annex II contains the Dispute Settlement Understanding (DSU), which consists of rules and procedures governing disputes arising between and among member states. Annex III contains the Trade Policy Review Mechanism (TPRM). The TPRM is a mechanism through which member

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- states have authority of surveillance of the trade and related policies of another member.
5. For instance, there is a perception that accession to the WTO can offset domestic social and political tensions that may result from open trade and investment policies (see Hoekman and Kostecki). It may also diminish the chance of disenfranchisement of nascent industries that need excessive protection from external competition resulting from liberalization. Membership can also create political support for governments on the part of exporting industries that could obtain greater access to foreign markets.
 6. TPRM is an established means of surveillance by member states of the trade and related policies of other members; it provides detailed information on trade and development policies of member countries (see also footnote 4).
 7. Although decisions have been taken mainly by consensus since the GATT era, to date there is no clear definition of “consensus”. In fact, GATT rules allow for formal vote in cases of a) amendments related to general principles such as most-favoured-nation treatment (where unanimity is a requirement), b) interpretation of the provisions of the agreement and waiver of amber obligations (three-quarters majority) and c) amendments relating to issues other than general principles such as MFN treatment. Accession decisions are in principle by vote, and two-thirds majority vote is a requirement. Where not otherwise specified decisions are by consensus (for more details see Hoekman and Kostecki).
 8. G. K. Helleiner, *Governing Globalisation – Issues and Institutions*. (Oxford University Press, 2002)
 9. While article XVII of the GATT prohibits protection of state-owned enterprises, Article III of the GATT 1994 requires the extension of the right to trade for all firms including foreign firms and offering full national treatment within a specified period of time.
 10. Special and differential treatment provisions are a set of agreed rights and privileges that are not part of legally binding commitments (except in the case of the TRIPS). They grant favourable market access, access to technology and longer implementation periods for the Uruguay Round Agreement. They therefore constitute strategic interest for developing and least-developed countries in multilateral trade negotiations, previously in the framework of the GATT, and now in the WTO, and are the result of increased participation of developing countries in the MTS.
 11. Bernard Hoekman and Michael Kostecki, *The Political Economy of the World Trading System, from GATT to WTO*. (Oxford University Press, 1995)
 12. Article XII contains three key paragraphs on accession:
 1. Any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the Agreement on the terms of accession by a two-thirds majority of the Members of the WTO.
3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.
13. Multilateral negotiations on rules refer to negotiations on issues related to trade in goods including systemic agricultural issues, trade-related aspects of intellectual property rights, and services. Statements of facts rather than commitments, obligations to abide by existing WTO obligations not to have recourse to specific WTO provisions such as transitional periods, authorization to deviate temporarily from WTO rules or commitments in the schedules, and obligations to abide by rules created by the commitment paragraphs and not contained in WTO multilateral agreements that relate to such issues as privatisation and accession to plurilateral trade agreements will fall under this category. Bilateral negotiations in general deal with market access negotiations, while negotiations on agricultural supports and export subsidies now take place largely on a plurilateral basis, usually chaired by the applicant. (For more details see UNCTAD, 1998, 2000, 2002 and the WTO note on completed accession.)
14. See the WTO note on completed accession (WT/ACC/10).
15. See Bernard Hoekman and Michael Kostecki, pp 53-83.
16. This matter was intensively deliberated during WTO ministerial conferences (Singapore, 1996; Geneva, 1998; Seattle, 1999; Doha, 2001) and in general council meetings of the WTO, especially those that took place in 1998, 1999 and 2000, and remains controversial until today.
17. See WTO documents WT/ACC/10, WT/LDCs/SWG/IF/11/Rev.2 and UNCTAD/DITC/TNCD/11, 2001.
18. The issue of special and differential treatment raised interesting points as to a) whether S&D provisions have in any way contributed to the development of developing countries, b) whether such measures were fully utilised by the developing countries and c) whether these provisions represent the right approach for developing countries to follow to advance their development interests and concerns in the various rounds of trade negotiations and in particular during the Uruguay Round.
19. See WTO document WT/COMTD/LDC/12.
20. Ibid.
21. The WTO has inherited “operational secrecy” from its predecessor, the GATT. Negotiations are shrouded in secrecy and significant decisions are taken by a small group of economically and politically powerful nations. The United States, the EU, Japan, Canada and Australia play dominant roles in such negotiations. As a result, decisions that have direct bearing on the entire membership of the WTO have been taken mainly in accordance with the influence of these powerful countries. “As long as developing countries acquiesce in the decisions made by today’s most influential global economic actors as to the agenda for change in the way in which international economic affairs are conducted and or the forums in which such change is negotiated, they will continue to face inequitable and

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- otherwise unsatisfactory outcomes.” (For more details see G. K. Helleiner et al., 2002.)
22. Dispute settlement procedures may be invoked whenever a member believes that an action by another member has “nullified or impaired” a concession that was negotiated previously (i.e., tariff binding) or broken a WTO rule and impaired the attainment of the objectives of the GATT. The complaints to be filed could be “violation complaints”, “nullification complaints” or “situation complaints”. (For more details see Martin and Winters, 1996.)

The technical annex to this paper, pages 201-209 is available as a separate document.

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