

# WTO Accession Commitments: A Law and Development Perspective

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Received: 2018/06/19

Accepted: 2016/08/03

## Abstract

Regardless of the debates concerning the impact of the world trading system on developing countries' "policy space," evidence shows that a handful of these economies have been able to take advantage of the rules of the game to pursue their development objectives. The case of accession to the World Trade Organization is not an exception. However unruly and unfair, WTO accessions can either contribute to or hamper development depending on the details of accession commitments as well as the level of serious engagement on the part of the applicant country. Those acceding countries that were able to locate accession in their pre-determined development strategy, rather than an aim in itself, utilized this opportunity as a driver of sensible reforms. Rather than being captured by rent-seeking globalizing/neoliberal forces, the accession policy should be used as an instrument to enforce and embed a well-designed industrial development policy in a world of globalized production.

**Keywords:** World Trade Organization, Accession Commitments, Development.

## I. Introduction

Thirty-six countries have so far joined the group of hundred and twenty-eight original participants in the Uruguay Round which was the 8th round of multilateral trade negotiations (MTN) conducted within the

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This article is part of a research project supported by the Institute for Trade Studies and Research, Ministry of Industry, Mine and Trade of I.R. Iran. A more expansive version of this paper is forthcoming in a volume by Springer.

framework of the General Agreement on Tariffs and Trade (GATT), spanning from 1986 to 1994. In addition, twenty-one countries are currently in the process of the World Trade Organization (WTO) accession, while only a handful of relatively isolated economies such as North Korea have remained completely outside the system.

While from a procedural perspective, the WTO accession involves an overly complex and lengthy process of multilayer negotiations, its substance, in terms of what it actually entails is not clear—making any estimation around the actual costs of accession quite uncertain at the outset.<sup>1</sup> This is because much of the substance depends on often one-sided “negotiations” to determine the content of the package of accession commitments. Some believe that accessions are “naturally complex” because their associated commitments are interlocked with domestic reforms—hence they should not be seen as negative.<sup>2</sup> Others have referred to the “opportunistic approach” undertaken by incumbent members to leverage certain issues against the applicant.<sup>3</sup> It has been observed that “delaying techniques” were utilized by working party members to extract more concessions from the applicant.<sup>4</sup>

Among the main reasons cited in the literature explaining why countries join the WTO are acquiring an unconditional and permanent

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1S. EVENETT, CA PRIMO BRAGA, “WTO Accession: Moving the Goalposts?” In R. NEUFARMER, ed., *Trade, Doha, and Development: A Window into the Issues*, (Washington DC: World Bank, 2006), at 227-242.

2C. OSAKWE, “Developing Countries and the GATT/WTO Rules: Dynamic Transformations in Trade Policy Behavior and Performance” (2011) *Minnesota Journal of International Law* 20(2), at 639-672. <http://minnjil.org/wp-content/uploads/2015/07/Osakwe-Final-Version.pdf>. Accessed 7 Jul 2017.

3S. LACEY, “WTO Accession from the Perspective of WTO Members: the View from the Other Side of the Table”, in J. STREATFIELD, S. LACEY, eds., *New Reflections on International Trade: Essays on Agriculture, WTO Accession, and Systemic Issues* (London: Cameron May).

4E. NEUMAYER, “Strategic Delaying and Concessions Extraction in Accession Negotiations to the World Trade Organization: An Analysis of Working Party Membership” (2013) *World Trade Review*, Vol. 12, No. 4, at 669-692. doi:10.1017/S147474561300013X.

most favored nation (MFN) status, protecting themselves against arbitrary trade measures in export markets, participating in international rulemaking, and having access to an impartial and binding dispute settlement system.<sup>5</sup> More systemic reasons cited for accessions include anchoring domestic and regulatory reforms under the banner of international trade agreements, achieving trade growth while reducing trade volatility, ensuring greater predictability, and improving market access for exporters.<sup>6</sup> This paper discusses the extent to which these objectives are achievable or have been fulfilled.

## **II. Developing Countries And The Multilateral Trading System**

Dating back to 1947, the GATT remained a rich countries' club during the first five decades of its history. Eight years of the Uruguay Round negotiations (1986-1994) realized most of its ambitious goals and culminated in the creation of the WTO<sup>7</sup>—while it was dominated by the North and especially the so-called “Quad,” comprising a group of major trading nations that included the United States, Japan, and Canada as well as the European Communities.<sup>8</sup> There is a rich literature on the low participation of developing countries during the GATT era. The most influential theory propagated by Hudec largely attributes the problem of the South's lack of engagement with the GATT to their passivity and defensive approach—their unwillingness to participate in the GATT Rounds' mutual exchange of commitments as well as their

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<sup>5</sup>See O. CATTANEO, C.A. PRIMO BRAGA, “Everything you Always Wanted to Know about WTO Accession (but were afraid to ask)” (2009) World Bank Policy Research Working Paper, at 5116. doi:10.1596/1813-9450-5116.

<sup>6</sup>C. DAVIS, M. WILF, “Joining the Club: Accession to the WTO/GATT” (2011) Paper presented at American Political Science Association (APSA) Annual Meeting, Seattle.

<sup>7</sup>PC MAVROIDIS, “Taking Care of Business: the Legal Affairs Division from the GATT to the WTO”, in MARCEAU, ed., *A History of Law and Lawyers in the GATT/WTO: the Development of the Rule of Law in the Multilateral Trading System*, (Cambridge: Cambridge University Press, 2015), at 239.

<sup>8</sup>See D. IRWIN, M.A. VROIDIS, A. SYKES, *The Genesis of the GATT*, (New York: Cambridge University Press, 2008).

exemptions-seeking attitudes, which were granted in the form of Special and Differential Treatment (S&DT).<sup>9</sup> LDCs in particular, including most African countries, were given wholesome exemptions from rules-related commitments.<sup>10</sup> Another set of reasons, on which there seems to be consensus among scholars, point to the developing countries' lack of expertise or political representation to fully participate in the system and make an effort to perhaps redress some of the biases embedded in it.<sup>11</sup> This can also explain the continued lack of engagement on the part of many developing countries in the WTO system.<sup>12</sup>

Alternative reasons for developing countries' invisibility in the GATT system have also been offered. One is the heavy influence of former colonial authorities through which the GATT was *de facto* applied to a number of developing countries.<sup>13</sup> Another has to do with the so-called "Principal Supplier Rule" that essentially excluded developing countries not among such suppliers from commodity-on-commodity basis tariff negotiations in the GATT era.<sup>14</sup> One can point to additional factors associated with petroleum exporting countries' lack of engagement in the GATT. Having their particular concerns regarding the potential impact of the GATT rules on sovereignty over their resources, these countries either did not become GATT members or were latecomers to the system. Iran, for instance, participated in

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9R. HUDEC, *Developing Countries in the GATT Legal System*. (London: Trade Policy Research Center, 1987; Cambridge University Press, 2010).

10See P. LOW, "Is the WTO Doing Enough for Developing Countries?" in G.A. BERMAN, P.C. MAVROIDIS, eds., *WTO Law and Developing Countries*, (Cambridge: Cambridge University Press, 2007) at 324-357.

11See J.N. BHAGWATI, "Reshaping the WTO" (2005) *Far Eastern Economic Review* 168(2), at 25-30. doi:10.7916/D8XK8N79.

12See C.P. BOWN, *Self-enforcing Trade: Developing Countries and WTO Settlement*, Washington DC: Brookings Institution, 2009).

13Laker J. APECU, *African Participation at the World Trade Organization: Legal and Institutional Aspects, 1995–2010*, (Leiden: Brill Nijhoff, 2014), at 8.

14Ibid.

Havana Charter negotiations but made a strategic decision to limit its participation at the time to that of an observer. The situation was more or less the same with Saudi Arabia and most OPEC members. Venezuela, for instance, became a GATT member in 1990. It may be generally argued that the GATT's "classic agenda" mostly excluded issues that were central to the interests of developing countries—including those related to agriculture, textile, and clothing sectors.<sup>15</sup> With the inclusion of the Agreements on Agriculture, and the Agreement on Textile and Clothing in the WTO package, this systemic bias was partly addressed—mostly in terms of scope rather than content—during the Uruguay Round. Yet, the problem has persisted in a fundamental way, leading to the dead-end reached in the WTO Doha negotiations as a result of the North-South conflict of agendas.

It is also important to note that during the 1970s, and in the spirit of the "New International Economic Order," the United Nations Conference on Trade and Development (UNCTAD) was most prominent as "the developing country institution." It was the main platform where developing country interests were promoted and pursued. This explains the much higher and more active participation of developing countries in UNCTAD as opposed to the GATT.<sup>16</sup> The declining role of the UNCTAD coincided with the emergence of the WTO in 1995 and its subsequent preeminence in the multilateral trading system. By the mid-1980s, some developing countries had already started to take a more proactive approach to the GATT, while pursuing unilateral trade liberalization reform policies at home.<sup>17</sup> Yet, more than twenty years into the WTO's existence, the majority of developing countries, including almost all LDCs, have maintained their passive and exemption-seeking attitudes.<sup>18</sup> Some analysts argue that such lack of

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<sup>15</sup>Ibid.

<sup>16</sup>Ibid.

<sup>17</sup>Ibid.

<sup>18</sup>Ibid.

willingness to engage with international trade rules might be the result of a “rational behavior,” at least as far as smaller economies are concerned, to be able to focus their limited resources on internal issues (such as infrastructure and human development) rather than external issues such as foreign trade.<sup>19</sup> At the same time, the situation has radically changed with respect to a number of developing countries, especially the emerging economies, which have been as active in the WTO negotiations and dispute settlement processes as the largest economies of the North. The critical issue for developing countries, including recently acceded members and acceding countries, is to learn lessons from the more pro-active WTO members of the South in order to best utilize the system in their pursuit of development goals.

Hudec’s classic diagnosis with respect to the low level of participation in the GATT is plausible to the extent that providing wholesome exemptions would likely result in the lack of serious engagement on the part of developing countries. The argument would rarely hold in the context of the WTO where developing countries are subject to the same set of rules and obligations, except for a limited set of mostly procedural flexibilities and transitional periods known as S&DT. Yet, any invitation to phase out these randomly determined transition periods to encourage more serious engagement by developing countries might lead to imposing undue restrictions on the “policy space” necessary to pursue development objectives. To be sure, the fuzzy “policy space” is linked with the question whether global trade rules are unduly restrictive vis-à-vis development policies. According to the classic view, while the WTO is not and shall not be regarded as a “development organization,” the trade liberalization agenda embedded in its objectives and rules should “naturally” lead to

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<sup>19</sup>See J. DUNOFF, “What is wrong with Inactivity? Comment on Nordstrom’s Developing Countries in the WTO”, in G.A. BERMANN, P.C. MAVROIDIS, eds., *WTO Law and Developing Countries*, Cambridge: Cambridge University Press, 2007), at 186-194.

economic development.<sup>20</sup> Under this mainstream view, the role of governments of developing countries in pursuing industrial development should be limited to the so-called horizontal policies such as the provision of macro stability, enhancing rule of law, and infrastructure development—all of which are considered to be consistent with WTO rules. The S&DT, in this view, would mostly revolve around the provision of “aid for trade” and other options to assist resource-constrained developing countries to build sufficient capacity to move towards full implementation of what is considered as essentially development-friendly WTO rules.<sup>21</sup>

Yet, a strand of critical development scholarship regards some of the substantive WTO rules as constraining the ability of developing countries to pursue what they advocate as a more pro-active industrial policy aiming to address prevalent market failures.<sup>22</sup> Beside criticizing the unequal market access side of the WTO bargain (in terms of goods such as tariff reductions and bindings as well as services liberalization), the main areas of concern cited in the critical scholarship include the prohibition of the use of export subsidies as well as certain domestic subsidies; the provisions of the Agreement on Trade-Related Investment Measures (TRIMS), banning the use of local content requirements; and the Agreement on Trade-Related Intellectual

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20See J.M. FINGER, *The Doha Agenda and Development: a View from the Uruguay Round*, (Manila: Asian Development Bank, 2002); B. HOEKMAN, “Strengthening the global trade architecture for development: the post-Doha agenda” (2002) *World Trade Review* 1(1) at 23-45. doi:10.1017/S1474745601001008.

21See B. HOEKMAN, “Operationalizing the Concept of Policy Space in the WTO: Beyond Special and Differential Treatment” (2005) *Journal of International Economic Law*, Vol. 8, No. 2, at 22 doi:10.1093/jielaw/jgi027.

22N. SERRA, J.E. STIGLITZ, eds., *The Washington Consensus Re-considered: Towards a New Global Governance*, New York: Oxford University Press, 2008); D. RODRIK, *One Economics, Many Recipes: Globalization, Institutions, and Economic Growth*, (Princeton: Princeton University Press, 2007).

Property Rights (TRIPS).<sup>23</sup> Also caution is advised in the area of financial services, if it results in the liberalization of capital flows without adequate prudential regulations in place. This strand of scholarship presents a robust criticism which is useful in the context of developing countries' collective goal to try to promote development in the WTO and more generally to redefine the trade policy jargon in global law discourse. There are, however, some important qualifications to be made to these lines of argument.

To begin with, critical approaches cannot and should not be used to justify and in fact revive what was perceived during the GATT era as a passive and defensive attitude on the part of developing countries in the multilateral trading system. In fact, the modest "rule of law" that has emerged as a result of WTO system should in principle be viewed as a global public good. As Stiglitz suggests, despite being unfair, international institutions such as the WTO can and must be used by developing countries to advance their own interests.<sup>24</sup> Various rulings of the WTO Dispute Settlement Body issued in favor of major developing countries are cases in point. Market access commitments, in the areas of both goods and services, are also relatively modest with respect to the so-called "original" (i.e. founding) members of developing countries. That is, tariff ceilings were not bound in 1995 for a number of tariff lines for most developing countries and where they were, the bound rates usually stood much higher than their existing applied tariff rates. Services commitments were also modest and sporadic. The situation has remained the same as of today with respect to market access commitments made by original developing members due to the failure of the Doha Round negotiations to deliver any results

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23 See M. KHOR, "The World Trading System and Development Concerns" in N. SERRA, J.E. STIGLITZ, eds. *The Washington Consensus Re-considered: Towards a New Global Governance*, New York: Oxford University Press, 2008) at 215-259. doi:10.1093/acprof:oso/9780199534081.003.0011 at 237-240.

24 JE STIGLITZ, "The Future of Global Governance", in N. SERRA, J.E. STIGLITZ, eds. *The Washington Consensus Re-considered: Towards a New Global Governance*, New York: Oxford University Press, 2008), at 312.

in this area. Of course, the situation is largely different when it comes to the North-South Free Trade Agreements, where excessive market access commitments can become an issue of real concern. Moreover, with respect to the recently acceding countries, as will be discussed in the next section, concessions have been made at much higher levels than the other similarly situated developing countries and therefore demand a much more careful consideration.

Furthermore, there is a general tendency in the critical scholarship to over-exaggerate the constraining force of WTO “rules,” in particular in the areas directly relating to industrial policy, such as subsidies and other incentive mechanisms, export measures, and localization policies as well as intellectual property (IP). On the question of subsidies for instance, although the WTO does provide an outright ban on “export subsidies” (i.e. subsidies “contingent” upon exportation), the impact of the rules in the Agreement on Subsidies and Countervailing Measures on “domestic subsidies” are fairly limited—making it procedurally very burdensome for complainants to successfully challenge domestic subsidies in the WTO dispute settlement process. In this vein, Amsden and Hikinorightly argue that beyond export subsidies, “there is nothing in WTO law that prevents other countries from promoting their nascent industries and subjecting them to performance standards.”<sup>25</sup> Similarly, while the TRIMS Agreement provides for a flat ban on “local content requirements,” the WTO largely leaves regulations on foreign direct investment (FDI) in the hands of governments—especially in the goods sectors. Last but not least, the TRIPS Agreement provides for a number of flexibilities, which has enabled countries like India to fully implement its rules while maintaining a reasonable balance between their IP policies and an enabling technology policy. Here again, as will be touched upon later in the chapter, the so-called TRIPS-plus

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25 A.H. AMSDEN, T. HIKINO, “The Bark is Worse than the Bite: New WTO Law and Late Industrialization” (2000) *Annals of American Academy of Political and Social Science* 570(1), at 104-114. doi:10.1177/000271620057000108 at 104-110.

commitments (commitments going beyond the TRIPS Agreement), which are made in the process of accession, should be monitored more carefully. It is in this line of thought that Santos argues against the commonly-held assumption that the WTO's legal obligations overly restrict countries' regulatory autonomy.<sup>26</sup> Alluding to the concept of "developmental legal capacity," he makes a contrast between the two cases of Mexico and Brazil. Whereas Mexico relies on the WTO system to open up markets for its exporters and defend its domestic market from "unfair trade," Brazil goes beyond this by combining this strategy with domestic measures to promote economic sectors it considers valuable.<sup>27</sup> In cases where such measures are challenged in the WTO, Brazil seeks to expand its policy space within the system by using "strategic lawyering" in its defense.<sup>28</sup> What helps make these strategies work is that the WTO dispute settlement system, despite its effectiveness, does not provide for retrospective damages—leaving room for members to act inconsistently with WTO rules until the final verdict is issued by the Dispute Settlement Body.

It is, therefore, crucial to note in this context that while the sovereignty-oriented language of "policy space" might well reflect a kind of resistance against excessive demands by the North, the expression conceals the fact that what is at stake is not a binary question of "whether policy space is necessary," but rather a balancing act of a normative nature—i.e. what is the optimum regulatory space in each case and how to define the boundaries within which developing countries should be able to pursue their development policies. Seen from this perspective, the question should no longer be revolving around the utility of S&DT *per se* but how to make it more sensible and

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26 A. SANTOS, "Carving out Policy Autonomy for Developing Countries in the World Trade Organization: the Experience of Brazil and Mexico" (2012) *Virginia Journal of International Law Association* Vol. 52, No. 3, at 551-632.

27 *Ibid.*, at 631.

28 *Ibid.*

effective.<sup>29</sup> In other words, the key issue is “which obligations should not be imposed on/accepted by developing countries; which obligations should be imposed on/accepted by developing countries, how and when should these latter obligations be contingently relaxed.”<sup>30</sup> In this vein, Cottier argues how the existing S&DT should be replaced with a “graduation” approach whereby WTO rules (say the ban on export subsidies) would be fully implemented after a country’s export on subsidized goods reaches a certain share of its export basket.<sup>31</sup> These issues, like other items on the Doha agenda, have remained unaddressed and will likely remain so in the foreseeable future in multilateral negotiations. It is, therefore, up to developing countries themselves to carefully consider their development proprieties to be able to carve out an “optimum” policy space in their bilateral and regional trade negotiations. To the extent that trade agreements go too far, as they often do, in terms of limiting the ability of developing countries to effectively pursue pro-development industrial policies, they would be a source of real concern—even though they might provide short-term market access gains for some low-value added exports.

There is also a potential pro-development angle to trade agreements in general that deserves an equal attention. It has to do with the role of trade commitments in promoting stability, transparency, and containing domestic rent-seeking behavior as well as providing other institutional benefits, that may be realized by preventing policymakers from undoing sensible reforms. To the extent that a reform, which is “locked in” constitutionally through trade arrangements or the process of accession to the WTO, can be considered as a sensible policy and as long as a reasonable room for maneuver exists, trade commitments can enhance

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29 See E. KESSIE, Y. APEA, “The Participation of African Countries in the Multilateral Trading System”, (2006) *African Yearbook of International Law* 12(1), at 9-66. doi:10.1163/221161704X00024

30 J. TRACHTMAN, “Developing countries, the Doha Round, Preferences and the Right to Regulate”, in C. THOMAS, J. TRACHTMAN, eds., *Developing Countries in the WTO Legal System*, New York: Oxford University Press, 2009), at 113.

31 T. COTTIER, “From Progressive Liberalization to Progressive Regulation in WTO Law”, (2006) *Journal of International Economic Law* 9(4) at 779-821. doi:10.1093/jiel/jgl029.

and reinforce the country's own development objectives. In this way, trade can become a tool for sustainable development. This is a crucial point in a developing country context, where institutions are often not well placed to implement reforms that are desperately needed.

### **III. The WTO Law of Accession**

In terms of the law governing accession, Article XII and Article XIII of the WTO Agreement are the only relevant provisions in the whole WTO package of rules. Yet, Article XIII, as an ancillary provision on Non-Application of Multilateral Trade Agreements between Particular Members, refers to circumstances in which two members, due to the reasons of political and diplomatic nature, do not wish to have WTO rules apply to their trade relations, or lack thereof. Remaining as the only provision governing the main process of accession, Article XII stops short of laying out any detailed procedure on the required steps before an applicant country can become a full member. According to Article XII of the WTO Agreement,

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 WTO Members.
3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement."

Due to the lack of procedural details in Article XII regarding the process of accession, the Secretariat (especially the WTO Accession Division) has over time filled the legal vacuum by developing a complex and multilayered set of procedures governing the accession

process.<sup>32</sup> The following are the main steps that have more or less been taken so far in the previous accession processes:

1. Submission of an application for accession;
2. Establishment of an accession Working Party (consisting of all interested WTO Members) by the WTO General Council following which the applicant obtains an Observer status and formally starts the accession process;
3. Submission of the so-called negotiating inputs, consisting of a Memorandum of Foreign Trade Regime (MFTR) as well as Market Access Offers on both goods and services sectors;
4. A sort of a fact-finding process (through written questions and answers) regarding the acceding countries' MFTR, which is purported for Working Party Members to prepare negotiating positions;
5. A complex and multilayered process of actual accession negotiations.

The complex process of accession negotiations, which can last decades, mainly consisting of three layers:

1. Multilateral negotiations on “rules” taking place at the Working Party upon appointment of a Chair;
2. Bilateral market access negotiations on goods (schedules of tariff commitment) and services (schedules of specific commitments);
3. Plurilateral negotiations on matters relating to agriculture (largely subsidies but also recently Sanitary and Phytosanitary Measures (SPS) and other agriculture-related issues).

Once concluded and adopted by the Working Party in the form of an accession protocol, the results of accession negotiations will be referred to the Ministerial Conference or the General Council for approval. Despite the text of Paragraph 2 of Article XII, which only requires a two-thirds majority to be sufficient for the membership approval, in practice, not only the final approval decision but every single step,

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32 World Trade Organization, Accession to the World Trade Organization procedures for negotiations under Article XII—note by the secretariat, WT/ACC/1. (1995) [WTO]

enumerated above, have been subject to a consensus rule before the subsequent steps can be taken. This has led to the politicization of accession processes whereby certain Members (whether “original” or recently acceded ones) can, and in a few cases have, tried to block the accession process by refusing to join consensus. Prominent examples of members blocking the process of appointment of a chair for accession Working Parties include Sudan (for a period between 2009 and 2016) and Iran (persisting until today). The Russian accession was also blocked for a certain period of time by Georgia until a mediation process was launched by Switzerland between the two sides.<sup>33</sup>

#### **IV. WTO Plus/Minus Commitments**

The real complexity in accessions lies in the substance of commitments that is the nature and scope of obligations made by acceding countries. This is because Article XII completely leaves the terms of accession to be agreed upon by all members on the one side and the acceding country on the other. This practiced consensus rule, which has been followed in almost all accession cases, has resulted in a very unequal bargaining positions in which every single WTO member (or any country acceding to the WTO before the applicant country) can leverage its veto power to demand concessions from the acceding country far beyond what was made by the original/founding members. This leads to what is called WTO- plus- minus commitments. WTO-plus commitments are those that are reflected in accession protocols that go beyond the standard provisions contained in WTO Agreements.<sup>34</sup> WTO-minus commitments refer to situations in which, most acceded countries are partially deprived of S&DT granted to original developing country

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33 C. OSAKWE, “Contributions and Lessons from WTO Accessions: Present and Future of the Rules-based Multilateral Trading System”, in U. DADUSH, C. OSAKWE, eds., *WTO Accession and Trade Multilateralism: Case Studies and Lessons from the WTO at Twenty*. (Cambridge: Cambridge University Press, 2015), at 244.

34See CATTANEO and PRIMO BRAGA, *supra* note 6.

members. In a sense, acceding members receive a kind of “inverse S&DT”.<sup>35</sup> An important instance of the WTO-minus treatment is that acceded countries were not allowed to use the so-called “tariffication method” for agricultural tariffs and only a handful of them have been able to use “special safeguards” provided for in the Agreement on Agriculture.<sup>36</sup>

WTO-plus commitments may encompass both the areas of market access as well as rules. In the area of market access, acceding countries are treated like developed countries as they both have bound almost 100% of their tariff rates. This has not been the case for the founding members of developing countries. Turkey, for instance, which has only bound 50.3 percent of its tariff lines at the WTO can theoretically raise tariff rates applied to half of its tariff lines without any limits, gaining a huge policy space (although Turkey has given up this potential flexibility in the context of its agreement on forming a customs union with the European Union). Similarly, in terms of the level of protection, acceding members have had to bind their simple average tariff rates at 13.8 percent. This has been variable among acceding members, ranging from a minimum of 5.1 percent in the case of Montenegro to the maximum 39.7 in the case of Vanuatu. However, the final simple average bound rate for original members has stood as high as 45.5 percent.<sup>37</sup> True, the level of applied tariff rate—the average tariff rate actually *applied* by original members—stands at much lower rates (around 9.5 in the year 2014) than the bound rate (the maximum level to which members can raise their tariff rates).<sup>38</sup> Yet, as mentioned

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35 D. BIENEN, M.E. MIHRETU, “The Principle of Fairness and WTO Accession—an Appraisal and Assessment of Consequences. Society of International Economic Law (SIEL), Second Biennial Global Conference, University of Barcelona, 8-10 July 2010. doi:10.2139/ssrn.1633043.

36 J. BUTKEVICIENE, M. HAYASHI, V. OGNIVTSEV, T. YAMAOKA, “Terms of WTO Accession”, in UNCTAD, ed., *WTO Accession and Development Policies*. United Nations, New York and Geneva, at 156.

37 OSAKWE. *supra* note 34, at 232.

38 See World Trade Organization (2014) World tariff profiles. [https:// www.wto.org/ english/ res\\_e/booksp\\_e/ tariff\\_profiles14\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/tariff_profiles14_e.pdf). Accessed 5 Aug 2015

previously, these countries do maintain their “policy space” to raise their tariffs within the bound rate while acceded countries have little flexibility to do so due to the fact that their bound rate is usually at a level close, if not even identical, to their applied rate.

WTO-plus associated with market access is also commonly found in the area of services. Out of 161 service sub-sectors, the average number committed by Article XII reaches 103 members. The corresponding number for developed members stands at 94, while developing members and LDCs (excluding Article II members) have only made commitments for 33 service sub-sectors on average.<sup>39</sup> In terms of sector coverage, out of 12 main service sectors, original members have mostly made market access commitments in tourism followed by infrastructure services (namely, financial, business, communications, and transport services) while the lowest level of commitments are made in public services such as health and education (Ibid.) When it comes to Article XII members, however, exactly the same number of specific commitments are associated with all sectors—excepting environment, transport, education, health, and recreational services with lower levels of commitments on average.<sup>40</sup>

In addition to these super commitments made by acceding countries in the area of market access, the WTO-plus obligations have also been prevalent in the area of “rules”—commitments that go beyond the rules entailed in the WTO agreements. First and foremost, the trade legal regime of Article XII members (acceded countries) are screened carefully in the process of accession to detect rules that are deemed inconsistent with WTO requirements. Countries are usually not given a green light before they bring their laws and regulations in line with

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39 A. CARZANIGA, A.H. LIM, J. LEE, “Services Market Opening: Saliency, Results, and Meaning” in U. DADUSH, C. OSAKWE, eds., *WTO Accession and Trade Multilateralism: Case Studies and Lessons from the WTO at Twenty*, Cambridge: Cambridge University Press, 2015), at 643-644.

40 Ibid.

these requirements. This is why Article XII members such as China and Russia were required to introduce reform or make amendments in 2300 and 1166 pieces of their laws and regulations respectively.<sup>41</sup> Secondly, as the nature of WTO-plus/minus suggests, these countries have been asked to make specific obligations, which, in many cases, go far beyond the legal parameters of the existing agreements.

Acceding countries have always considered the WTO-minus-plus aspect of accessions to be unfair and have consistently objected to such practices. It not only seems to entail amendments to the WTO agreements, but also violates the non-discrimination principle embedded in the so-called WTO constitution—as these commitments only apply to acceded countries. Regardless of the inherent unfairness of the WTO-plus/minus as a matter of principle, however, these obligations can be evaluated and factored in as the potential “cost” of accession, which has been variable in every case and subject to particularities associated with each accession negotiation. From this rather realistic standpoint, the accession-specific commitments can be divided into three loose categories as explained below. Depending on the nature of these commitments and their (non-) suitability to each case, some of these commitments are not generally in line with developmental objectives whereas others can be considered as being conducive to the kind of institutional reforms usually pursued in the context of development policy.

#### **A. WTO-plus Obligations in the Rules Area that Directly Affect Market Access**

The main instances of this category include the following:

1. Specific obligation on the investment regime: Five members accepted obligations in this area.<sup>42</sup> Estonia, for instance, accepted a national treatment obligation on direct taxation. None of the original

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<sup>41</sup>OSAKWE, *supra* note 34, at 229.

<sup>42</sup> *Ibid.*, at 252.

WTO members has accepted such obligations due to the lack of a comprehensive investment agreement in the WTO.

2. Liberalizing trading rights: Thirty-nine commitments were made by acceding members on trading rights and registration requirements for import/export operation.<sup>43</sup> China, for instance, granted the right to trade to all enterprises in its protocol of accession.<sup>44</sup>
3. Joining zero-for-zero industry initiatives as a precondition for accession: These initiatives cover sectors such as pharmaceuticals and chemical intermediaries. Similarly, the plurilateral Agreement on Trade in Civil Aircraft requires signatories to eliminate tariffs on civil aircraft and related parts and components. The Information Technology Agreement (ITA) of 1996 and lately the so-called ITA Expansion of 2015 are voluntary agreements aiming at eliminating tariffs on a number of designated products in the area of information and communication technology.
4. Adopting import regulations other than customs formalities such as elimination of tariff-rate quotas (TRQs) and tariff exemptions: Osakwe enumerates thirty-four specific obligations on TRQs and tariff exemptions, although many countries maintained some flexibility in this area.<sup>45</sup> For instance, Russia was allowed to keep a few TRQ measures with respect to agriculture products.<sup>46</sup>
5. Adopting export regulation especially with a view to liberalize exportation of raw materials, including restrictions on export taxes, export duties and related fees and charges.<sup>47</sup>
6. Liberalizing public procurement markets by setting a precondition for acceding countries to join the plurilateral Agreement on Public

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43 *Ibid.*, at 256.

44 WTO [World Trade Organization] (2001) WTO document—Protocol of accession (Working Party Report), China, WT/ACC/CHN/49 at para 83.

45 OSAKWE, *supra* note 34, at 258.

46 WTO [World Trade Organization] (2011) WTO document—Protocol of Accession (Working Party Report), Russian Federation, WT/MIN(11)/24, WT/L/839 para. 338-366.

47 OSAKWE, *supra* note 34, at 264-266.

Procurement (GPA). The GPA currently has 47 members. Seven acceded members (Armenia, Bulgaria, Chinese Taipei, Croatia, Estonia, Latvia and Lithuania) joined the GPA upon accession. Nine acceded members are in the process of acceding to the GPA including China, Oman and Ukraine. Five other Article XII members, including Russia and Saudi Arabia, have provisions regarding the GPA accession in their respective Protocols of Accession.<sup>48</sup> Ten acceded members, mostly small economies and LDCs, confirmed that they would join the Agreement on Civil Aircraft.<sup>49</sup>

7. Eliminating the total agriculture measure of support (AMS) in agriculture sector: Eighteen out of thirty-two acceded members—notable among them China—bound their AMS at zero. Yet, major Article XII members such as Russia and Saudi Arabia were allowed to maintain large amount of Amber Box (subsidies that distort production) subsidies.<sup>50</sup>

#### **B. Obligations that Apply More Restrictive Rules on Trade and IP Regimes, while having an Indirect Impact on Market Access**

These obligations include the following:

1. State Trading Enterprises (STEs): Thirty-three Article XII members accepted seventy-two specific obligations on state-owned or state-trading enterprises and privatization. Rather than forcing commitments regarding privatization *per se*, commitments in this regard have revolved mostly around transparency of the process and notification.<sup>51</sup>

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48 Ibid., at note 157. Also see WTO [World Trade Organization] (2005) WTO document—Protocol of accession (Working Party Report), Saudi Arabia, WT/L/627.

49 Ibid., at note 179.

50 Ibid., at 272.

51 Ibid., at 252-3.

2. Pricing policies: Most commitments, in this regard, include transparency requirements to publish information on state price controls, imposing certain explicit binding and enforceable requirements for non-use of price controls to protect domestic industries, defining a list of non-discrimination requirements, and specific constraints on pricing policies of natural monopolies regarding what constitutes “normal commercial considerations”.<sup>52</sup>
3. Marco policies, notably foreign exchange payments and balance of payment measures: Out of thirty-three Article XII members, fourteen members “reconfirmed adherence to GATT Article XII and the Understanding on Balance of Payments requirements.”<sup>53</sup>
4. Precedence of the WTO agreements over national law: Six out of thirty-three Article XII members (Estonia, Jordan, Croatia, Armenia, Viet Nam, and Vanuatu) have accepted such commitments.<sup>54</sup>
5. Customs formalities—customs valuation, rules of origin, pre-shipment inspection, trade remedies, technical barriers to trade (TBT) and SPS, etc.: This mostly includes confirmation and clarification of existing WTO commitments as well as improving existing provisions on rule-of-law type commitments, such as setting up appeal procedures and independent administrative tribunals.<sup>55</sup> Exceptions of odd commitments exist, such as precedence of the WTO Customs Valuation Agreement over national law or elimination of consularization/notarization by consular officers in the country of export.<sup>56</sup> There are rather extensive WTO-plus commitments in the TBT and especially SPS areas, most of which are about strengthening transparency and rule of law. Important instances of substantive WTO-plus commitments in the TBT area

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52 *Ibid.*, at 254.

53 *Ibid.*, at 254.

54 *Ibid.*, at note 23.

55 *Ibid.*, at 257-264.

56 *Ibid.*, at notes 75 and 81

include replacement of mandatory standards with voluntary standards or technical regulations.<sup>57</sup> Significant substantive commitments were made by Article XII members such as Russia in the SPS area including the extension of existing requirements for harmonization of SPS measures with international standards, requirement of soliciting public comments on SPS proposals prior to adoption of SPS measures, and various other additions (plus) to basic requirements of the WTO SPS Agreement.<sup>58</sup>

6. Free zones and transit: Most obligations in free zones and especial economic zones include clarification and confirmation of existing WTO rules and principles as well as notification requirements.<sup>59</sup> The situation is mostly the same on accession obligations for issues relating to transit, but notable exceptions of WTO-plus exist, such as specific obligations of Ukraine, Russia, Montenegro, and Tajikistan on the inclusion of energy transit under the Article V coverage.<sup>60</sup>
7. TRIPS: Apart from accession commitments regarding transparency and clarification, TRIPS-plus commitments mostly include the strengthening of IP enforcement for large Article XII members such as China and Russia.<sup>61</sup>
8. Services regulation: Apart from accession commitments regarding transparency and clarification, WTO-plus obligations in the area of services mostly include the strengthening of General Agreement on Trade in Services (GATS) Article VI on domestic regulation.<sup>62</sup>

### **C. Transparency, Rule of Law and Institution-building, and Clarification of Existing Rules**

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57 *Ibid.*, at note 137.

58 *Ibid.*, at 268-9.

59 *Ibid.*, at 270-1.

60 *Ibid.*, at note 169.

61 *Ibid.*, at 274-5.

62 *Ibid.*, at 275.

Apart from accession commitments that mostly cover clarification and confirmation of existing commitments rules as well as strengthening of enforcement mechanisms, there are large numbers of separate commitments on transparency made by Article XII members. Overall, twenty-two Article XII members have undertaken thirty-three specific transparency commitments.<sup>63</sup> Some of the important commitments in this area include:<sup>64</sup>

1. Publication of all relevant laws, regulations, decrees, judicial decisions and administrative rulings;
2. Confirmation of existing transparency provisions in the WTO agreements;
3. Provision of prior notice before implementation of certain laws and regulations;
4. Identification of modes of publication, i.e. an official website, journal/gazette, etc.
5. Establishment of inquiry points in certain issue areas;
6. Specification of what information needs to be included in publications;
7. Making available translations of relevant legislation and regulations;
8. Provision of trade data to the WTO Integrated Data Base.

Apart from excessive market access commitments which warrant a case-by-case evaluation, a more thorough analysis of the three loose categories discussed above demonstrates that the vast majority of accession commitments in the rules area concern clarification of existing rules, rules-of-law type commitments, and transparency requirements. Few exceptional cases of negotiated WTO-plus-minus commitments can be found to be putting an undue restriction on policy space. Two significant examples include obligations regarding elimination of certain production or infrastructure subsidies, especially

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<sup>63</sup> *Ibid.*, at 276.

<sup>64</sup> *Ibid.*, at 276-8.

in the agriculture sector (the so-called amber box subsidies, which are linked to production<sup>65</sup>) and the elimination of export taxes on raw materials.

Needless to say, countries applying for accession have to exercise utmost caution in making liberalizing commitments as well as accepting the WTO-plus-minus rules—taking account of their macroeconomic and development objectives and priorities as well as their sectoral specificities. Mistakes can be made. In a notable case of a miscalculation, China made a specific accession obligation in the area of export taxes for certain raw materials, without thoroughly envisaging the applicability of general policy exceptions (GATT Article XX) to such measures. Years after accession and in pursuit of an industrial policy of developing its downstream sectors while trying to preserve the environment around the mining sector by using export restrictions and tax measures, China found itself in a fragrant breach of its accession commitments in a stream of WTO disputes brought by the US, the EU and other members.<sup>66</sup> Regardless of sporadic mistakes or miscalculations, however, the Chinese accession overall is rightly considered as a model example of a successful exercise and a right policy direction, resulting in enhanced levels of growth and development for the country.<sup>67</sup>

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65 Not all acceded members have eliminated their AMS. While China has done so, for instance, Russia and Saudi Arabia have managed to reserve a large sum in the magnitude of billion dollars for their agriculture amber box. For those left with no tolerance for amber box support, they can still use green box subsidies as well as *de minimis* support. For definitions see the WTO Agreement on Agriculture and Annex 1 thereof.

66 See China—Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum (DS – 431, 432, 433); China—Duties and other Measures concerning the Exportation of Certain Raw Materials (DS – 394, 395, 398); China—Export Duties on Certain Raw Materials (DS – 508, 509)

67 According to the *Economist* (2011), “The price of re-entry was as steep as the wait was long. China had to relax over 7,000 tariffs, quotas and other trade barriers. Some feared that foreign competition would uproot farmers and upend rusty state-owned enterprises (SOEs), as to some extent it did. But China, overall, has enjoyed one of the best decades in global economic history.

## **V. Development Impacts Of Accession Commitments**

The development impacts of accession can be discussed from two angles: first, the impact of market access commitments on both import as well as export levels of acceding countries; second, the impact of accession commitments on rules and the acceding country's institutions. With respect to the rules aspect, Osakwe opines that the impact of higher level commitments has been decidedly positive tightening loopholes and modernizing existing multilateral rules in areas that lack clarity.<sup>68</sup> Seen from the perspective of developmental "policy space" however, clarity of rules by definition entails less flexibility for making interpretations in a favorable light. In this line, acceding countries ought to exercise utmost caution in making the WTO-plus/minus commitments in the areas which had been identified before as imposing potential constraints in the first place. As discussed before, potential areas for concern include industrial policy and export strategy measures, local content requirements, government procurement and TRIPS.

A number of studies show that there are real gains to be made from the sort of institutional reforms, as associated with accession commitments, on enhancing the rule of law and transparency in trade policy. Tang and Wei posit that institutional impacts have been more positive and significant for countries with a system of poor governance as well as those that undertook most rigorous accession-related (institutional) reforms.<sup>69</sup> According to this study, countries, which undertook substantial reforms in the accession process, achieved higher

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"Economist (2011, Dec 10) China's economy and the WTO—all change. <http://www.economist.com/node/21541448>. Accessed 7 Jul 2017

68 OSAKWE, *supra* note, at 3.

69 MK TANG, SJ WEI, "The Value of Making Commitments Externally: Evidence from WTO Accessions" (2009) *Journal of International Economics* 78(2) at 216. doi:10.1016/j.jinteco.2009.01.008 at 216.

growth and investment on a faster pace than other countries. In the same vein, a recent comprehensive study shows that for almost all developing countries acceding to the WTO, the country risk, measured by a composite indicator of political, financial and economic risk called the International Country Risk Guide, as well as the policy and institutional indicator measured by the World Bank Country Policy and Institutional Assessment, significantly improve when a country achieves the WTO membership as compared with the time the WTO accession process begins.<sup>70</sup> Compiling trade performance data of thirteen countries (including China) recently acceded to the WTO, the study finds that exports and imports of these countries grew faster than the years before their accessions.<sup>71</sup> What is interesting is that while Chinese exports outperformed the world average upon accession, the other twelve acceded countries were simply caught up and converged with the world average performance upon accession. It is also found that the WTO accession is correlated with higher import growth rates not only above those experienced prior to accession but also above world averages. The import growth rate observed for these countries upon accession accelerates more significantly when taking account of Chinese imports, but it is still higher than the world average even without China.<sup>72</sup> The data for FDI inflows into acceded countries is even more dramatic than the one for imports and exports. In a sample of ten countries including China, an average net FDI inflow increased in the year prior to WTO membership and continued to grow strongly thereafter. This trajectory is even more pronounced when excluding Chinese FDI data showing

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70 M. HADDAD, C. HOLLWEG, A. PORTUGAL-PERZE, “The Structural Reform Implications of WTO Accession”, in U. DADUSH, C. OSAKWE, eds., *WTO Accession and Trade Multilateralism: Case Studies and Lessons from the WTO at Twenty*, (Cambridge: University Cambridge Press, 2015), at 81.

71 *Ibid.*, at 88.

72 *Ibid.*, at 90.

that the rate of net FDI inflows in nine selected acceded countries has been dramatic.<sup>73</sup>

Accessions can be expected to have a powerful and positive, albeit uneven, impact on trade.<sup>74</sup> A cost-benefit analysis of accessions is not an easy task and requires a different assessment for each case depending on inherent characters of the pre-accession and the post-accession commitments especially in areas of market access and the WTO-minus/plus rules. Overall, one can safely assume that the less open an economy is (higher tariffs and non-tariff barriers [NTBs] or less open services sectors), the more likely that an import surge will pursue upon the implementation of accession commitments. The more export-ready an acceding country is in terms of supply-side conditions, the more likely that it will benefit from the market access it is provided mainly as a result of the removal of NTBs in export markets as well as potential attraction of export-oriented FDI. The macroeconomic implications of WTO accession can be broadly divided into the following categories:

1. *Real Effects*: On the positive side, the WTO accession is expected to enhance predictability, security, and transparency. Exports can be expected to increase overall as part of aggregate demand and investment including private sector investment will possibly increase as a result of greater predictability in tax policies. At the same time, an increase in aggregate demand will likely result in a sharp increase in imports, while the supply side may experience serious constraints in uncompetitive industries. In these sectors, however, there will likely be long-term efficiency gains, but short-term adjustment costs must be seriously taken into account.<sup>75</sup> This

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73 Ibid., at 93-94.

74 A. SUBRAMANIAN, S.J. WEI, "The WTO Promotes Trade, Strongly but Unevenly" (2007) *Journal of International Economics* 72(1), at 151-175. doi: 10.1016/j.jinteco.2006.07.007.

75 KIREYEV, "The Macroeconomic Implications of WTO Accession", in U. DADUSH, C. OSAKWE, eds., *WTO Accession and Trade Multilateralism: Case Studies and Lessons from the WTO at Twenty*, (Cambridge: University Cambridge Press, 2015), at 122.

finding is in line with mainstream trade theory. The most vulnerable sectors in recent accessions include agriculture, food processing, auto industries, civil aircrafts, and pharmaceuticals.<sup>76</sup> Cattaneo and Primo Braga also highlight the reallocation of capital and labor to more competitive sectors, which would involve, like any trade liberalization reform program, social costs and pressure on the government's budget.<sup>77</sup>

2. *Fiscal Effects*: The impact of accession on government budget is not clear as it can lead to revenue increases or shortfalls depending on the pre-accession circumstances.<sup>78</sup> According to Kireyev, the effects of accession on customs revenue have been negligible on balance.<sup>79</sup> On the one hand, accessions may lead to a drop in customs revenue if pre-accession tariff rates were already at the optimal place on the Laffer curve maximizing revenue and also if there were no quotas in place to be transformed into tariffs as a result of accession. On the other hand, customs revenue may increase upon accession as it expands the tax base especially due to the "tariffication" of NTBs. Streamlining customs procedures may also lead to more imports and hence, more revenue if properly taxed. On the export side, accession may well be expected to result in a decline in export taxes. This can be considered as a positive thing since, according to Kireyev, export taxes in principle should only be used temporarily to absorb windfall profits from exceptionally favorable shifts in terms of trade.<sup>80</sup> Accessions have had a negative but small impact on internal tax revenues because acceding countries, facing limitations to impose higher taxes on imported products, may be forced to lower their direct tax rates (e.g. VAT) for their domestic producers as a result of

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76 Ibid., at 144.

77 CATTANEO and PRIMO BRAGA, supra note 6.

78 See L. EBRILL, J. STOTSKY, R. GROPP (1999) Revenue implications of trade liberalization. IMF Occasional Paper 180, International Monetary Fund; KIREYEV, supra note 76, at 145.

79 KIREYEV SUPRA, note 76, at 145.

80 Ibid., at 147.

the implementation of the national treatment obligation. In terms of the impact of accession on the expenditure side, there may be, on the one hand, direct budgetary savings due to the elimination of (some) subsidies, most notably export subsidies and import substitution subsidies. On the other hand, there may be an increase in budgetary costs associated with accession requirements such as training of personnel, procurement of new equipment and technology, redrafting of domestic regulation, strengthening enforcement capacity, and generally rebuilding trade infrastructure. Reduction of subsidies will most probably not be enough to offset these costs, because export subsidies are rare in acceding countries, while the reduction of agriculture subsidies is usually phased in over time.<sup>81</sup> This is why a cost-benefit analysis of accessions has always been viewed as being very complex.<sup>82</sup>

3. *Monetary Effects*: If the WTO accession liberalizes capital flows in a country with a fixed exchange rate regime, this can well limit the authorities' ability to conduct monetary policy. Yet, if the acceded country maintains a flexible rate regime, the liberalization of capital flows will not have a meaningful impact on monetary policy.<sup>83</sup> It is also critical for acceding countries to maintain a robust framework for applying prudential regulations in the financial sector as permitted in the GATS.
4. *Balance of Payment Effects*: In the area of goods trade, as mentioned above, exports may increase as a result of better market access but

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81 Ibid., at 149.

82 See KAVASS II, "WTO Accession: Procedure, Requirements, and Costs" (2007) *Journal of World Trade* 41(3):453-474.; Z. DRABEK, W. WOO, "Who Should Join the WTO and Why?: a Cost-benefit Analysis of WTO Membership" in Z. DRABEK, ed., *Is the World Trade Organization Attractive Enough for Emerging Economies*, (New York: Palgrave, 2010); S. LAIRD, "Cost of Implementation of WTO Agreements", in Z. DRABEK, ed., *Is the World Trade Organization Attractive Enough for Emerging Economies?: Critical Essays on the Multilateral Trading System*, (New York: Palgrave Macmillan, 2009), at 333-347.

83 KIREYEV, *supra* note 76, at 152-153.

may also decline if the export base is eroded by reduced protection from more efficient imports, elimination of export subsidies, reduced domestic support, etc. Imports, however, will most probably increase unless they face constraints by collapsing domestic demand if the overall impact of accession turns out to be negative. Exports of services will most probably not be affected while imports of services may substantially increase. However, in service sectors with a strong export potential (such as transport, travel, financial services, and information technology) a substantial increase in exports can be expected in the medium term.<sup>84</sup>

Viewed from an institutional perspective, the WTO accession can help improve trade governance<sup>85</sup> by allowing governments to distance themselves from domestic lobbies likely to push against the structural reform policy or attempting to reverse them.<sup>86</sup> Apart from technical details that complicate an accurate assessment of the costs and benefits associated with any accession, one important part of the equation—which has always been on the radar screen of acceding countries—has to do with the unobservable but huge costs of “exclusion.” With close to 98 percent of world trade covered by the WTO rules, non-WTO members increasingly fear to be left behind. This forces them to consider accession as the lesser of two evils, despite the costly and asymmetrical admission process.

## **VI. Conclusion**

Regardless of the debates concerning the impact of the world trading system on developing countries’ “policy space,” evidence shows that a handful of these economies have been able to take advantage of the rules of the game to pursue their development objectives. The case of accession is not an exception. However unruly and unfair, accessions can either contribute to or hamper development depending on the

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84 Ibid.

85 TANG, WEI, *supra* note 70, at 216.

86 G. MAGGI, A. RODRIGUEZ-CLARE, “The Value of Trade Agreements in the Presence of Political Pressures” (1998) *Journal of Political Economy* 106(3), at 601. doi:10.1086/250022.

details of accession commitments as well as the level of serious engagement on the part of the applicant country. Those acceding countries that were able to locate accession in their pre-determined development strategy, rather than an aim in itself, utilized this opportunity as a driver of sensible reforms. Rather than being captured by rent-seeking globalizing/neoliberal forces, the accession policy should be used as an instrument to enforce and embed a well-designed industrial development policy in a world of globalized production.

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