WEBINARS on WTO ACCESSIONS

ACCESSIONS WEEK

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Session 3

BILATERAL MARKET ACCESS NEGOTIATIONS

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This presentation has been prepared by the Secretariat under its own responsibility and is without prejudice to the positions of Members and to their rights and obligations under the WTO and to the establishment of modalities.

Outline

- **Market Access – definition**
- **Market Access Negotiations – the technical aspects**
- **Getting prepared for the negotiations**
- **Members requests – evidence from past accessions**
- **How to successfully conduct the accession process**

What is Market Access?

- **General definition:**
  Extent to which goods or services are accessible to foreign exporters and can compete with locally-made products.

- **In the WTO framework, the term stands for the totality of government-imposed conditions (regulations/measures) under which a product from one country may enter another country under non-discriminatory conditions.**

- **Market access in the WTO sense is regulated most of the time through border measures including, inter alia, tariffs, tariff rate quotas, quantitative restrictions and other non-tariff measures.**

WORLD TRADE ORGANIZATION

GATT Art. I

- **Article I: (MFN treatment)**
  … any advantage, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

- **Article II: (Schedules of Concessions)**
  (a) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate Schedule annexed to this Agreement.

  In common language: The schedule lists all the commitments taken by a country not to raise the applied duty (or any other concession) to other WTO Members above a determined (negotiated) level, the bound duty.

Bilateral Market Access Negotiations

- Market access refers to the totality of conditions and measures for entering specific goods (and services) into Members' market
- Negotiations on tariff concessions are conducted bilaterally, on the basis of offers and requests.
- Results of negotiations are consolidated and multilateralized through inclusion in the accession package.
- Bilateral negotiations are confidential and take place without the presence of the Secretariat.
- Conducted on the basis of members' trade interests

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Goods schedule, what do we negotiate?

Example: Part 1 – Section 1 – A: Tariffs

Schedule Roman numeral – COUNTRY

PART I - MOST-FAVOURED-NATION TARIFF
SECTION I - Agricultural Products
SECTION I - A Tariffs

Notes:

1. The "final bound rate" of duty, if differing from the "bound rate at date of accession", will be implemented on 1 January of the year specified in the "implementation" column.

2. Country XXX shall maintain its applied rates:

a) …

HS	Description	Bound rate at date of accession	Final bound rate	Implementation	INR	ODCs
01.01	Live Horses, asses, mules and hinnies					
	- Horses:					
0101.21.00	- - Pure-bred breeding animals	5			CHN	0
0101.29.00	- - Other	20				0
0101.31.00	- Asses	7	5	2017	PAK	0
0101.90.00	- Other	22	20	2018	EU	0

Examples of offer and request

An initial offer may look like:

National HS tariff line code	Product description	Current applied rate*	Bound duty	ODC
0101 21 10	xxx	10	15	0
…				
0102 29 00	xxx	20	25	0
…				
9706 00 00	xxx	20	25	0

* The current applied rate will not appear in the final Schedule but WTO Members expect to see them as a reference point for the negotiations.

A request may look like:

National HS tariff line code	Product description	Request	INR
0101 21 10	xxx	10	Yes
…			
0101 29 00	xxx	15	Yes
…			
9706 00 00	xxx	25	

A revised offer may look like:

National HS tariff line code	Product description	Bound rate upon accession	Final bound rate	Implementation period	INR	ODC
0101 21 10	xxx	10	10	0		0
…						
0101 29 00	xxx	20	15	5	Yes	0
…						
9706 00 00	xxx	25	25	0		0

Principle of Consolidation of bilaterals

(Bilateral concessions are multilateralized)

- **General principles:**
  the most favorable offer that Members can get is retained
  or, the best offer that the acceding country has given is selected (no request made)

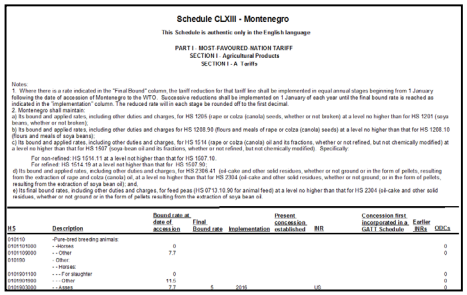
- **Initial Bound Rate (IBR)**: **lowest offer** (MFN principle)

- **Final Bound Rate (FBR)**: **lowest offer** (MFN principle)

- **Implementation period** (IP):
  - **The period associated with the lowest final bound rate**
  - **Implementation matrix may be needed for complex cases**

- **INR**: all members who were granted INRs
  - **even though they may not be associated with the lowest duties**

Consolidation in practice


Schedule CLXIII - Montenegro

This Schedule is authentic only in the English language

PART I - MOST FAVOURED NATION TARIFF
SECTION I - Agricultural Products
SECTION I - A - Tariffs

Notes:

1. Where there is a rate indicated in the "Final Bound" column, the tariff reduction for that tariff line shall be implemented in equal annual stages beginning from 1 January following the date of accession of Montenegro to the WTO. Successive reductions shall be implemented on 1 January of each year until the final bound rate is reached as indicated in the "Implementation" column. The reduced rate will in each stage be rounded off to the first decimal.
2. Montenegro shall maintain:
a) its bound and applied rates, including other duties and charges, for HS 1205 (rape or colza (canola) seeds, whether or not broken) at a level no higher than for HS 1201 (soya beans, whether or not broken);
b) its bound and applied rates, including other duties and charges for HS 1208.90 (flours and meals of rape or colza (canola) seeds) at a level no higher than that for HS 1208.10 (flours and meals of soya beans);
c) its bound and applied rates, including other duties and charges, for HS 1514 (rape or colza (canola) oil and its fractions, whether or not refined, but not chemically modified) at a level no higher than that for HS 1507 (soya-bean oil and its fractions, whether or not refined, but not chemically modified). Specifically:

For non-refined: HS 1514.11 at a level not higher than that for HS 1507.10.
For refined: HS 1514.19 at a level not higher than that for HS 1507.90;
d) its bound and applied rates, including other duties and charges, for HS 2306.41 (oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of rape and colza (canola) oil, at a level no higher than that for HS 2304 (oil-cake and other solid residues, whether or not ground, or in the form of pellets, resulting from the extraction of soya bean oil); and,
e) its final bound rates, including other duties and charges, for feed peas (HS 07.13.10.90 for animal feed) at a level no higher than that for HS 2304 (oil-cake and other solid residues, whether or not ground or in the form of pellets resulting from the extraction of soya bean oil.

HS	Description	Bound rate at date of accession	Final Bound rate	Implementation	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	OECs
010110	-Pure-bred breeding animals:								
0101101000	- - Horses	0							0
0101109000	- - Other	7.7							0
010190	- Other:								
	- - Hybrid:								
0101901100	- - - For slaughter	0							0
0101901900	- - - Other	11.5							0
0101903000	- - Asses	7.7	5	20-15		LIG			0

Three bilaterals with countries A, B and C

Product: HS 96091010 - Pencils

	Bilateral A	Bilateral B	Bilateral C
Initial bound rate	25	40	30
Final bound rate	10	10	15
Implementation	3	2	1
INR	A		C

→

Consolidation
25
10
2
A, C

Implementation	Current bound duty		
Upon accession	25	40	30
Year 1	20	25	15
Year 2	15	10	15
Year 3	10	10	15

→

Implementation matrix
25
15
10
10

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Background - Motivation

Chief motivation is not always to secure more market access as existing FTAs and PTAs already provide preferential access to many developed and developing countries

But:

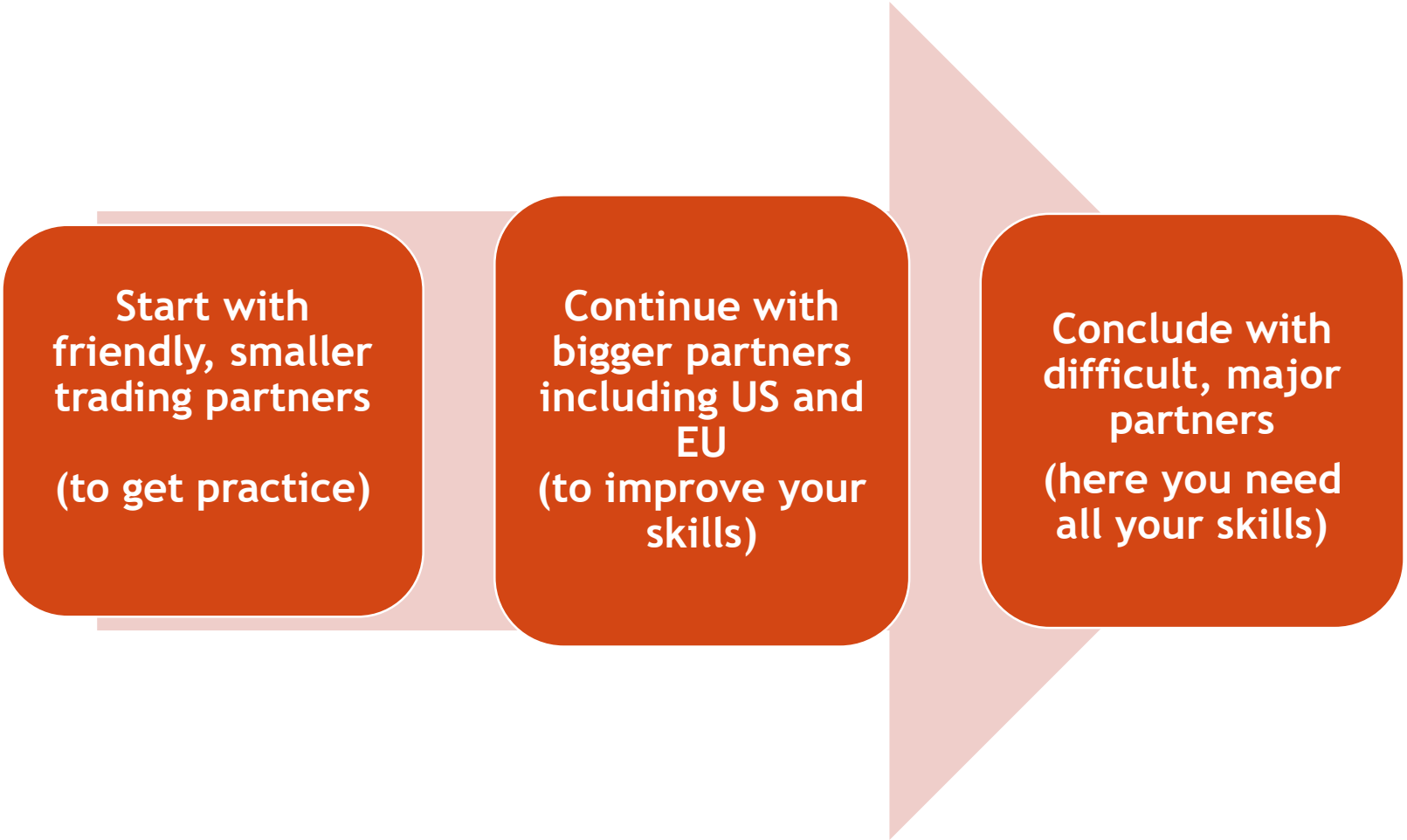
- **WTO = lock in domestic reforms, making the economic reform process a driver of growth and development**
- **Become more attractive for foreign direct investment**
- **Membership also gives a seat at negotiating table and access to the dispute settlement of the WTO**

- **Political will is critical to move forward the accession process**

How to manage bilateral goods negotiations

- **Identify what are each member's core interests?**
- **Domestic consultations: *line ministries, think tank, and businesses***
- **Case studies to better understand some sectors *e.g. rice, cement, automobiles***
- **Analyzed how WTO requests relate to existing FTAs**
- **Identify requests from different negotiating partners to assess their shared interests**
- **Identify alternative measures if tariffs would to be low/ bound at applied rates *(e.g. importing licensing, SSGs)***

Timeline of bilateral conclusions



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Common requests from WTO members

- Common general requests from Members:
  - Comprehensive binding – all products need to be bound
  - Use of non-ad valorem duties should be minimized as far as possible
  - ODCs should be bound at zero
  - Members seek commercially meaningful market access for their products
    - Special attention to tariff peaks
    - Applied tariffs used to identify sensitivities of acceding countries
    - Implementation period: if bound duties are lower than applied tariff or sensitive products
  - Members may need to take into account the demands of their (politically active) constituencies, even in the absence of market opportunities

Common requests from WTO members

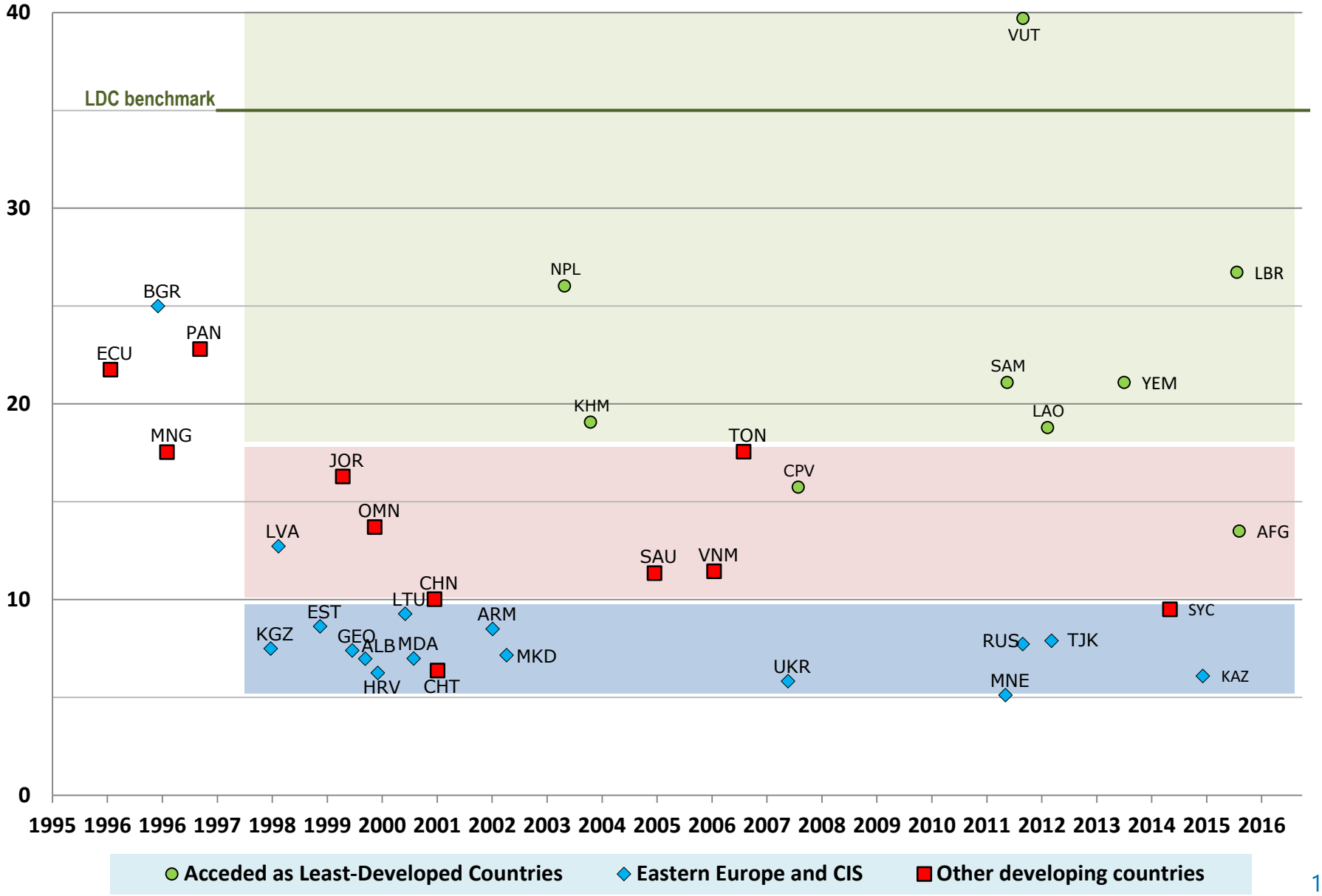
- Common requests for sectoral participation in key sectoral initiatives
  - Information Technology Agreement, (+ Expansion ??)
  - Agreement in civil aircraft
  - Pharmaceuticals and Chemical tariff harmonization
  - Construction equipment, Scientific and medical equipment, Agricultural equipment, etc.
  - Oilseeds, Distilled spirits, Pork and other meat, etc.

There is no fixed rules;
level of concession determined through negotiations

Range of products typically targeted by member and frequency of requests

Number of HS 4 digit product groups with INRs		
	Across all accessions	In more than 10 accessions
Australia	474	76
Canada	477	111
European Union	1254	111
Japan	1043	67
Mexico	210	24
USA	1252	752

Final bound rate by accession year / category



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Lessons learned

- WP chair plays a crucial role
- Be systematic and consistent with negotiating approach
  - Where to give or to reserve, and when?
  - Defend sensitive areas with reasonable justifications
- Seek external support and capitalize on a window of opportunities
  - Trade summits, regional conferences
  - Guidelines on LDC Accessions

Lessons learned

- Communicating through various channels
  - technical and informal meetings in Geneva, Ministerial Conferences etc
  - high-level visits
  - direct contacts with embassies/capitals of negotiating members
- Negotiations at home and capitals of negotiating members
- Good relationships with the persons handling the negotiations

Importance of technical assistance

Make use of capacity building support by various donors

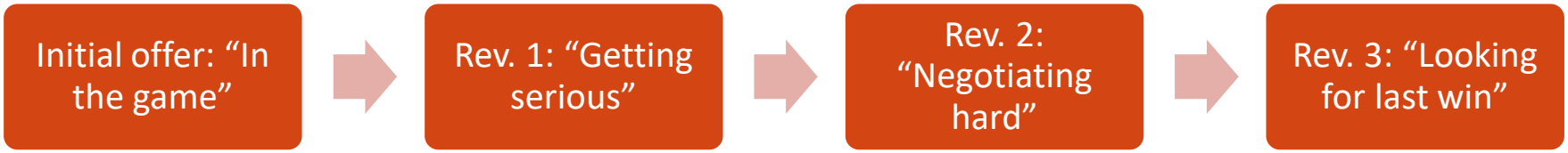
- **WTO, WIPO, ITC, World Bank, UNCTAD etc**
- **Advisory Centre on WTO Law (ACWL)**
- **Support from members and *multilateral trust funds***

Final words

- Negotiations in goods are less difficult than in other areas
- Progress should be in line with legislative reforms and services negotiations
- Plan what to give, to whom, and when?

WTO membership is only the beginning!

Summary



- Evaluate the entry ticket to the WTO
- What are your negotiating leverage; how to defend key national interests
  - Strategy with trade-offs and strong arguments
  - Understand what your partners are looking for
  - Choose your battles wisely
  - Consistently and effectively communicate your sensitivities
- Be credible – the offer and how it is communicated must be plausible
- Accession is about negotiation: Member can refuse, … so can you – define what is an unreasonable request.
- Maintain links with stake holders, including private sector to inform them about progress and seek co-operation
- Remember, everything is negotiable

THANK YOU !