



## WTO TWENTIETH ANNIVERSARY ACCESSIONS PROGRAMME

### SECOND GLOBAL SEMINAR ON WTO ACCESSIONS SAUDI ARABIA 10-YEAR WTO ACCESSION SPECIAL ANNIVERSARY SESSION ACCESSIONS BOOK LAUNCH BY WTO DIRECTOR-GENERAL ROBERTO AZEVEDO

*Statement BY Mr. Arif Hussain, Former Director, Accessions Division, WTO*

*Panel 1: WTO Accessions: A Rules and Market Access Perspective to Growth*

**Geneva, Monday, 28 September 2015, 11:00 – 11:15, Room D**

1. I am extremely happy to be invited here on this important occasion. I thank the organisers, specially my successor, Chiedu Osakwe, for doing me the honour.
2. This assembly marks a number of mile-posts in the evolution of the WTO and the multilateral trading system. Among these there are two which we are specially celebrating today. These are the establishment of the Accessions Division along with the creation of the WTO in 1995 and the 10<sup>th</sup> Anniversary of the accession of Saudi Arabia to this Organisation. Both events have defined my own career during my last 13 years in the WTO Secretariat.
3. I turn first to the Kingdom of Saudi Arabia. I recall vividly that their accession was a passionate journey for all of us. Even in the early days of my experience of the accessions dossier, it became evident that the political and cultural barriers were more difficult to overcome than the economic or commercial ones. This was especially true in the case of Saudi Arabia. I wish to thank the Saudi authorities for the complete trust reposed in the Division during the most politically sensitive periods of their negotiations. The support we received from member delegations and our partnership with the Chairmen, Ambassador Weekes and later Ambassador Munir Akram, went a long way in resolving issues which had seemed insurmountable. A special experience for me personally was my private audience with His Majesty the late King Abdullah with the then Foreign Minister, the late Prince Saud Al Faisal in attendance. I remember His Majesty's patience in hearing out my proposed strategy for the difficult end-game, his interest in all the minor details of the negotiations and his political courage in accepting my ideas as to next steps. It was gratifying that very soon after his intervention we saw the conclusion of Saudi Arabia's accession process. The excellently coordinated negotiating team led by the then Trade Minister Yamani was an asset in the key capitals and in Geneva.
4. As to Accessions, I can only congratulate WTO Members, those seeking accession, the Chairpersons of Working Parties and the Accessions Division for consolidating and expanding the foundations laid by us during the first 14 years. I am sure the impact of their work will be there for all to see in the book soon to be launched by the Director-General. The book will replace the Handbook on Accessions we released in 2008. At the time, it was a pioneering attempt at institutionalizing the experience and results gained from the 25 odd negotiations completed during my stay in the Accessions Division.
5. I count it a privilege to be sharing this panel with some very able accessions negotiators. I see in the list Maxim Medvedkov of the Russian Federation, Ms Khemmani Pholsena of Lao PDR and Ms Svetlana of the Ukraine. Each one of these guided their country's negotiations with political sagacity. Each had a very special relationship of trust with us. Each has participated in endless negotiating sessions in my office which was the venue for the drafting and finalization of Working Party texts. I count each as a friend and thank each for so readily accepting the Division in its role as "honest broker".



6. I must mention, at this stage, how crucial the role of Chairpersons of Accession Working Parties has been in keeping negotiations moving and ensuring political leadership and commitment in the capitals of Members and Acceding Governments. By virtue of their status as formally appointed representatives of the General Council, Chairpersons had direct access to the highest policy making levels, and since we participated in their meetings as active partner, the Division was always well placed to help overcome blockages and propose compromise texts.

7. I referred earlier to Ambassadors John Weekes and Munir Akram. I now see the names of Ambassador Clyde Kull of Estonia and DDG Dave Shark listed in various capacities in panels scheduled for tomorrow. Among the others that come to mind are Ambassadors Pierre-Luis Gerard of Switzerland, Eirik Glenne of Norway, and Stefan Johannesson of Iceland and their roles in negotiating and concluding the entry of China and Vietnam and Russia into the WTO. All these gentlemen have been outstanding Chairpersons. Cabo Verde, led by Dave, was completed just before my departure in December 2008. I shall be ever thankful to Dave for being so good for my morale.

8. Our collaboration with them and their trust in us are good examples of how vital it is to have a sound functioning relationship between the Membership and the Secretariat. I believe neither can function without the other. While it is true the WTO is "member-led", it is also evident that a vehicle with 150 people trying to control and direct the steering wheel, is likely to go nowhere.

9. The early years of the Accessions Division were challenging of course, but also exciting. We had to charter new territory with very few landmarks to guide us. The history of accessions during 4 decades of the GATT had, at best, been patchy. This was an area of little interest to the vast bulk of the GATT Membership. For one, in the pre-Tokyo Round days, the main problem with the new aspirants was seen to lie not in the tariff area but in n.t.b.s which were difficult to handle or, even, detect. And second, the volume and value of Members' trade with the potential acceders was marginal and prospects of future growth were poor due to their state- controlled systems.

10. As an Indian delegate to the Tokyo Round, I had heard stories about the Protocols of Accession negotiated in the 60s. One of these, for example, set an arbitrary target of a 7% annual increase of imports from GATT members - an approach clearly at variance with the fundamental GATT principles of transparency and free trade through undistorted competition. This same Protocol also mandated a periodic review of the country's trade relations within the GATT. To the best of my knowledge, these reviews were never carried out.

11. These stories were very much in my mind when the Director-General created the Accessions Division 15 years later in 1995 together with the creation of the WTO and the conclusion of the Uruguay Round.

12. As the WTO came into being, it had become clear that the absorption of the ambitious results of the most wide-ranging multilateral round of negotiations ever conducted would be a long and arduous process. The perils of the Uruguay Round's success lay in the tremendous challenges posed in its implementation. I recall a "victory lunch" hosted by an Ambassador of a key member country, where an experienced negotiator invited the guests to join in a toast of celebration before the euphoria of success faded away in the desert sands of implementation!



13. The birth of the Accessions Division came about largely because of the realisation that in the absence of any new negotiations in the foreseeable future, the defining task of the WTO would be to conclude China's entry into the Organisation. But by 1995, the adhoc approach to Accessions had become entrenched. Acceding members tended to regard the negotiating process as being politically driven and the demands being made on them by their WTO counterparts as exorbitant and unfair. These perceptions were strengthened because there were no agreed negotiating procedures to serve as uniformly applicable guidelines for either the acceding governments or WTO members. There was also no nodal point within the Secretariat to service all accessions under one wing. In 1995, China's accession negotiations, for example, were lodged in the Legal Division as was the accession bid later made by Chinese Taipei. The reason for this arrangement was entirely to accommodate political sensitivities.

14. Almost all the governments in line for accession were looking at membership in political terms rather than in terms of economic and legislative reform and modernisation. (meetings with Mr. Li Peng and Mr. Chermonyrdin)

15. There were other complicating factors. The Uruguay Round, which lasted for more than 7 years, had dominated the GATT almost entirely causing most other work, including on-going accession negotiations, to be virtually put on hold. Neither members nor acceding governments wanted to negotiate against a moving target and in anticipation of a new organisation dealing with new subjects like services, TRIPS etc and new legal ramifications. At a procedural level, the former GATT bodies had either faded away or assumed different forms under the WTO. Accession negotiations had to recommence under a new WTO mandate and report to new bodies like the General Council and the biennial Ministerials.

16. 1995 was a period of transition and metamorphosis. The new Accessions Division was required to put together a new accession procedure under Article XII of the WTO Agreement or, in other words, a framework for negotiations, acceptable to members and acceding governments alike. Of necessity, such a framework had to be transparent, predictable, and comprehensible! It also had to have two other qualities.

17. First, it had to be flexible enough to be able to deal with accessions on a case-by-case basis taking into account the special needs of each acceding government. For this same reason, each negotiation would have to have its own momentum and be conducted on its own merit.

18. Second, it had to be seen to be "fair". Accession negotiations had an inherent imbalance in them because they involved "outsiders" seeking entry into a kind of club whose qualifications for membership tended to become more onerous with each passing year. It was also true that Article XII had no limits to the terms of entry that may be agreed in individual accessions. Some newly acceded members have, in deed, accepted more stringent commitments than original members e.g. in areas like privatisation programmes, Civil Aviation and Agricultural Subsidies.

19. It was also true that WTO negotiations were invariably hard-nosed and mercantilist and could be more sensitive than even the UN negotiations. Clayton Yeutter, the brilliantly creative USTR during some of the most difficult phases of the Uruguay Round, summed it up very well when he called the GATT the only international system capable of ensuring the "irreversibility" of domestic reform because of its legally binding rules backed up by enforceable dispute settlement procedures. This ensured what he referred to as "ratchetting" i.e. national economies always having to move forward from their existing commitment levels and never backwards. The implications for this in the context of accessions may be well imagined. Acceding governments were rightly nervous or suspicious particularly because it was well known that the GATT system was not a panacea for all ills or an automatic trigger for growth and job creation. Entry was a leap of faith and hence required strong and committed political leadership at home. Competition demanded change and difficult reform. It was a scary word for powerful vested interests



accustomed to guaranteed, often monopolistic, access in the domestic market. The fact that a very large number of aspirants were still willing to take on fairly onerous commitments bears testimony to the respect enjoyed by the GATT/ WTO System and its perceived value for all national economies, big or small.

20. While these negative factors had to be mitigated, we also had to maintain the integrity the rules- based system. Entry terms had to be aimed at attaining a workable and politically acceptable balance between these two ends. While market access negotiations could be dealt with flexibly, the requirement for WTO-related legislation and executive acts to be in place at the time of membership could not be put aside as this would make it impossible for new members to participate in the rules- based WTO system

21. Our omnibus WTO document, WT/ACC/1 and its Annexes were drafted in this background. Through these, we sought to set out all the steps and procedures for Accession in as transparent a manner as possible. This was a first for our system. The documents were painstakingly crafted and the final versions reflect the collective outcome of our extensive consultations with WTO Members and numerous acceding delegations. The fact that we succeeded in completing and circulating them in just over two years of the creation of the Division is testimony to the work done by governments and their confidence in our Division. I understand were updated and replaced last year by WT/ACC/22 and Addenda.

We also reached an agreement with Members not to submit the documents to the Ministerial Conference or the General Council for formal endorsement but rather to let them serve as a practical guide for WTO Members and acceding governments, leaving room for future evolution in the light of experience. The wisdom of this approach became evident very soon. In August last year, WTO/ACC/1 and Annexes were up-dated and replaced by WTO/ACC/22 and Addenda which take into account the evolution of accession practices since 1995. These latest documents are a very welcome contribution to keeping accession procedures relevant to our present times.

22. The accession process took a couple of years to gather steam.

23. As I said, acceding governments had apprehensions that they would face an inquisition with demands for a complete and unconditional opening up of their national economies. The Memorandum of the Foreign Trade Regime posed serious problems as well. Its drafting required a government to draw up a comprehensive description of all aspects of the Trade Regime and, for most, this was a new experience. We stressed the need for an effective Coordinating Agency at Ministerial level in Capitals, preferably reporting to the Head of Government, whose task would be to create an integrated national approach to policy making and evolve a strategy for tackling the accession negotiations. The contents of the Memorandum were also problematic. There were gaps in information or insufficient details or too laboured an effort to prove that all existing measures and practices were WTO consistent. It took time to sink in that the quality of the Memorandum and the authenticity of data would be critical factors in ending the "question and answer" process as quickly as possible and getting down to the hard core of the negotiations i.e. the terms of entry.

24. On the other hand, there was some tendency among WTO members to "over-negotiate" that is, try to obtain commitments which went beyond what the system demanded or on subjects which had yet to be brought into the multilateral negotiating process. In the initial phase, there was also an exaggerated fear of "setting precedents" from one accession to another which often resulted in the same set of demands being made on a Least Developed Country as on the large economies. I recall this happening in some LDC accessions and we had a hard time convincing people to back off.

25. Equally important, like everything else in the WTO, there have been the often over-riding political factors operating on both sides. In some cases, these have made even straight forward matters like the selection of a Chairperson for a Working Party unduly



prolonged and messy. Regretfully, this remains the case even now. The commencement of negotiations in the case of a very important accession remains stalled for this reason.

26. The importance of the political dimension in all GATT/ WTO work reminds me of the comment made to me by a legendary US negotiator at the height of tension in the textile negotiations in the concluding phases of the Uruguay Round. With his arm over my shoulder, he bent down to me from this tall gaunt frame and whispered " My friend, you seem to believe we are talking law here! It is politics: Articles I, II, III etc are just excuses- for political friendship or for political rivalry". Wise words that came to guide me later in my "accessions phase" as we laboured over solutions for issues like export duties on raw cashmere from Mongolia or Harley Davidson imports into Vietnam or Turkey Tails in Samoa!

27. We were happy to see, however, that very soon, the substantive process of negotiations got seriously underway. From 1996, our second year, we began to see new members coming in at the rate of 2 or 3 or, at least, 1 a year. China's entry in 2001 at Doha, followed immediately by that of Chinese Taipei, brought definitive recognition for the Division. This success was a defining moment for the WTO and has yet to be replicated elsewhere. We saw the pace of accessions accelerate visibly. By 2008, the year I left, we had 25 new members in the Organisation. The vision of making the System truly universal in scope and coverage had come substantially nearer. Regretfully, Russia was still outside the system by the time I left as were Montenegro and others. I'd like to believe that we had worked hard to bring these accessions to their final stages. But I am even happier to see how Chiedu and his team have given a fresh momentum to Accessions work. With the entry of Seychelles, the WTO can now boast 161 members. This number will certainly be higher before the end of this year.

28. A major factor behind this success has been our effort to stick to the two priorities of Flexibility and Predictability. We were aided in this through the establishment of an Informal Group of Interested WTO members who met as frequently as needed to set meeting calendars for Working Parties and their agendas and to identify documents or information still needed from individual acceding governments. An important task was to select names of Chairpersons and forward them to the General Council for consideration and approval. This worked very smoothly in my time and enabled us to keep the numerous on-going negotiations moving forward in an orderly manner.

29. By the time of my departure, Accessions had acquired a high political profile in most capitals as well as in the WTO's work calendar. The task was, of course, far from over. One special challenge had been the inclusion of Least Developed Countries in the accession process. Negotiations were hard and often too demanding particularly in the area of legislative and administrative reform. We had to often live with public assertions that the "bar has been set too high". Suffice it on this occasion to say that LDC negotiations started moving forward more smoothly after December 2002 when the General Council adopted its decision on Guidelines for LDC Accession. We were particularly happy to have seen Nepal and Cambodia entering the WTO in 2004. This front has shown spectacular success since 2010 and both the Membership and Chiedu's Division deserve our praise.

30. Many countries are still outside the system. Each is important. In each case, the WTO needs them as much as they the WTO. Only global membership can give the WTO over-arching effectiveness. For the countries seeking membership, WTO's attraction stems from the fact that membership secures their economic sovereignty as much as U.N. membership secures their political sovereignty.

31. One other important task we focussed on was to try to ensure that new entrants become full participants in the system immediately upon membership, capable of using it to defend their rights and exploit its benefits. We knew well enough that this was perhaps too ambitious but thought it worthwhile in any case. As I look back, I believe our procedures did achieve a degree of success. I believe WTO members who came in through



Article XII are generally better equipped to exploit the multilateral system than many of their senior partners who had an easier time getting in. Thanks to the rigors of the accession process, they have in place most WTO related legislation and administrative mechanisms. Their awareness of the system's challenges and its weaknesses and strengths has been honed by the negotiating process. And more importantly, their political commitment to the WTO should normally be assured due to the difficult political choices they have had to make to meet the demands for domestic reform.

32. This having been said, more needs to be done. The importance of post-accession work and the importance of technical assistance to ensure proper implementation of commitments by governmental agencies and their private and public sectors cannot be overstressed. We had called for public awareness campaigns, for seminars and workshops. But I must confess that I personally became aware of how critical these areas are only after my association with the International Trade Centre (ITC) following my retirement from the WTO. It is the ITC, with its mandate of private sector reform that exposed me to the urgency of addressing the continuing confusion, uncertainty, and even fear that still prevails in the private sectors of several acceding countries. There were also cases of acceding governments neither initiating domestic reform measures nor informing their domestic stake-holders of all the challenges and changes that WTO entry would bring in its wake. Naturally, these governments had a rough negotiation and invariably found themselves lost within the Organisation. Thankfully, things are better now.

33. The WTO's lead in post-accession work is extremely welcome and timely. The DG's report makes this abundantly clear. Ideally, of course, accession and post-accession should be simultaneously conducted exercises. They are mutually self-supporting and their coordination is key to a smooth accession process.

34. One final point. The accession dossier has had one special systemic fascination for me. Increasing the number of members in the WTO is a constantly repeated message coming out of all Ministerial Meetings since Singapore. So our work here has always had special importance. However global membership also brings its own formidable challenges. Each new member brings with it a new culture and a new political approach. It demands change within the WTO, an adjustment to new needs and priorities, an abandonment of old habits. To remain relevant to the world, the WTO will have to address these tasks. We have done it in the past as we have seen all kinds of groupings and terms like "the Dirty Dozen" and "the Quad" fade away. The metamorphosis that the WTO is currently going through as symbolised by the state of play in Doha Round makes it clear that change will now be the only permanent feature of our lives.

35. But, in the words of Arthur Dunkel: "Change will come whether we like it or not. We can either adjust to it and try to direct it to our collective advantage, or ignore it and thereby risk being overrun by it and rendered irrelevant."

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