

Cambodia's Accession to WTO

Lessons Learned

I. History

1. Cambodia submitted to WTO its Memorandum on the Foreign Trade Regime in June 1999. This marked the beginning of the accession process.
2. Cambodia and its WTO Working Party reached agreement on Cambodia's terms of accession in July 2003. Cambodia was the first LDC to complete accession negotiations.
3. Cambodia was invited to become a WTO Member at the Ministerial Meeting in Cancun, in September 2003.
4. Cambodia became a Member of WTO on 13 October 2004. It was the second LDC to accede to WTO.

II. Early Steps

Cambodia took the following steps very early in the accession process, before any serious discussions or negotiations had begun.

1. Securing the necessary technical assistance. There are two types of assistance that are required.
 - a) Assistance with the accession process itself. Cambodia was fortunate in having secured the assistance of UNCTAD in guiding us through this complicated process.
 - b) Assistance with the legal reform required to bring laws and regulations into compliance with WTO rules. Cambodia benefitted from assistance from a number of development partners in this regard, but additional assistance during the accession process itself would have allowed us to accomplish more before accession, and would have resulted in a smaller post-accession work program.
2. Putting in place internal coordination mechanisms
WTO accession requires a government-wide effort. An acceding country's chief negotiator needs to be able to mobilize and coordinate a number of line ministries in order to formulate the necessary negotiating positions. In Cambodia we established the "Inter-ministerial Coordinating Committee on Cambodia's WTO Accession" which was made up of senior officials from about 18 line ministries and agencies.

3. Formulating an accession strategy

The WTO accession negotiating team needs to have in mind a strategic approach to its task. The hundreds of individual requests that have to be responded to and the multiplicity of detail cannot be dealt with properly unless there are guiding principles and overall objectives that reflect the acceding country's trade and development strategy. I will discuss the main elements in Cambodia's strategic guidelines in the next section.

4. Placing a moratorium on unilateral tariff reductions.

Applied tariff rates are used by WTO Members as a benchmark in negotiating bound rates. If a country reduces its applied rate on some tariff lines near the beginning of its market access negotiations it will end up with a lower bound rate on those tariff lines than would otherwise be the case. There may be valid economic reasons for reducing applied rates, but to the extent possible the reductions should be postponed until after the market access negotiations have been completed. Cambodia had re-organized its tariff structure in the years preceding the beginning of its WTO negotiations and did not change its import duties during the negotiation.

III. Formulating the elements of a negotiating strategy

1. Outward orientation

Like most LDCs, Cambodia is a very small economy. Rapid growth in output and employment cannot occur by relying on the domestic market alone, but requires access to larger markets abroad. Expanding exports was (and is) thus at the heart of our trade policy. A key strategic concern was to be able to maintain in place mechanisms that would allow export industries to import necessary raw materials and other inputs at world market prices. When WTO Members declared that our policy of providing export industries with an exemption of import duties on inputs was a prohibited export subsidy, we knew that we had a major negotiating issue to deal with.

2. Trade and Investment

The development of exports requires investment. Foreign direct investment is particularly important. Throughout the accession process we had the link between WTO membership and investment very much in mind. We saw three important links:

- a) Joining WTO ensured MFN treatment for Cambodia's exports by all WTO Members. Investors wishing to use Cambodia as an export platform would have assurances as to how their exports would be treated in WTO Member markets. By binding our own rates, investors would also be clear on the maximum duty that could be charged on the imports necessary for their business.

- b) Joining WTO would accelerate the reform of Cambodia's trade regime, and help create a legal environment that was attractive to investors.
- c) Joining WTO would allow us to take commitments with regard to trade in services. Business and financial services, transportation, telecommunications and a number of other services sectors are important factors examined by investors in making their investment decisions. We believed that strong market access commitments in these services sectors would help us put in place world class services and thereby enhance our attractiveness to investors. Because of this view we did not try to minimize our services commitments, but rather made case-by-case judgments as to which commitments would advance our overall strategy. The result was a fairly extensive set of services commitments.

3. Tariff concessions

Cambodia's strategic goal was to ensure that all bound rates were significantly above applied tariff rates. This would allow us to reconcile our legal commitments with flexibility in the management of import duties. We also understood that we would be prevented by the terms of our accession from using any trade remedies until we had notified WTO-compliant laws and regulations to WTO. Such laws and regulations are difficult to put in place. It is more than seven years since Cambodia's accession, and we are still in the process of preparing such legislation. In the absence of trade remedies, the only option available for dealing with situations in which trade is imposing serious injury on a domestic firm is to increase applied rates. Most LDCs will be in the same situation as the one we are in. They should ensure that they retain the ability to increase significantly their applied rates without coming up against the bound rate ceiling.

4. Agriculture

Most Cambodians depend on agriculture for their livelihood and we were naturally anxious to ensure that WTO membership would advance—or at least not impede—the development of this sector. Our analysis was that the WTO Agreement on Agriculture would not impact our agricultural sector. We provide support to agriculture solely through mechanisms that fall under the “green box” and that are not subject to WTO disciplines. In the event that we should ever wish to use mechanisms that do fall under WTO rules, the 10 per cent de minimis would be adequate. We have not subsidized agricultural exports and such subsidies are not part of our policy. We had no problem in binding these subsidies at zero.

We were not concerned by WTO rules relating to agriculture and this issue did not take up much time during the accession negotiations.

5. TRIPs and public health

This is obviously a very important issue. Some muddled language regarding the use of test data slipped into our Working Party Report, and had to be clarified after the adoption of the Report. It is important to vet carefully the language in the TRIPs section of a Working Party Report to ensure that it is fully compatible with the Doha Decision of TRIPs and Public Health.

6. Pace

Cambodia's accession negotiations lasted four years. Since garments were our major export product, it was imperative that we become a WTO Member before January 2005, when WTO members would eliminate import quotas on garments originating in other WTO Members. Cambodia could not afford to be still subject to quotas when most of our competitors were not. Consequently, we had a deadline for accession, and this deadline drove the process.

Negotiating an accession is a bit like learning to ride a bike. If you are cautious and go very slow, the process actually is more difficult than if you go a bit faster. In a slow accession it is difficult to keep ministries and others mobilized, and the priority attached to accession will be questioned. On the other hand if you go too fast before you have mastered the mechanics of the process, you may crash. Each acceding country must find the right pace.

IV. The Negotiation Process

This is a complex process, and, as mentioned above, an acceding LDC needs competent technical assistance to help it navigate successfully through the various steps. I would like to comment briefly on two issues.

1. The examination of the foreign trade regime

Most acceding countries come into the process having some idea of the legal reform that will be needed if they are to join WTO. However, it is the examination of the acceding country's trade regime by members of the Working Party that allows the acceding country to come to a full and authoritative view of its reform agenda. This is one of the most valuable aspects of the accession process.

A modern, WTO compliant trade regime does not come easily, quickly, or cheaply, however. Cambodia had been receiving some technical assistance on WTO-related issues prior to and during the negotiation process. We tried our best to accelerate our WTO legislative agenda, but the inherent complexity of the undertaking and inadequate technical assistance limited the extent to which we could effect reform during the negotiation period. Consequently, we ended up with post-accession "action plans" in four areas: TRIPs, Customs Valuation, TBT, and SPS. I will discuss this further below.

2. LDC flexibilities

Many Members take the view that the various flexibilities for LDC and/or developing countries do not automatically apply to acceding LDCs, but need to be negotiated. There are two different approaches that an acceding country may take in the face of this position. The first is to insist on securing through negotiation every flexibility available to LDC Members. Cambodia did not follow this approach. Rather, we examined the actual and potential usefulness to Cambodia of each flexibility, insisted on securing those that are actually useful to us, and were prepared to give up those that were not useful in the context of negotiating other matters of interest to us.

V. Post Accession

1. Organizing the post accession work program

Immediately following the conclusion of the work of our Working Party, we reviewed its report and drew up a work program based on the Report. The work program included, of course, all legal commitments spelled out in the commitment paragraphs of the Report. This included all items in the “action plans” referred to earlier. We also included in our work program many items that were not legal commitments, but which were needed if we were to benefit fully from joining WTO. In all, we had about 100 items in our post-accession work program, organized by ministry and agency. The work program was endorsed by our Cabinet, and progress was regularly monitored.

2. Deadlines

The “action plans” identified the steps that we were to take to come into compliance after accession, and the deadline for accomplishing each task. These deadlines were totally unrealistic, and we were not able to meet any of them. At our recent Trade Policy Review, Members took note of the considerable progress that we had made since accession, and encouraged us to continue with the remaining elements in the work program. There was no mention of missed deadlines.

3. Technical assistance

During the years immediately following accession, Cambodia’s progress with its WTO work program was seriously constrained by limited technical assistance. More recently, international attention to aid for trade has led to a significant increase in assistance.

The Integrated Framework and the preparation of our first and second DTIS were important building blocks in setting the stage for increased aid for trade. Further important steps were the establishment in Cambodia of a Sector-Wide Approach to trade (trade SWAp), and the re-organization of the Ministry of Commerce to allow it to better manage trade-related

assistance. Following the analysis of our DTIS, the trade SWAp focuses on legislative reform, on the development of export products, and on improving skills.

A further significant development was the establishment by three development partners of a substantial trust fund dedicated to advancing Cambodia's trade agenda. The Trust Fund focuses on legislative reform. Because of these positive developments, we can no longer say that reform efforts are held back by a lack of funding. The funding is available; however learning to access it and utilize it effectively within the framework of our trade SWAp has been a challenge.