

## IMPLICATIONS OF THE ACCESSION TO THE WTO OF ENERGY EXPORTING COUNTRIES

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### Introduction

The Uruguay Round, which led to the creation of the World Trade Organization (WTO), GATT 1994, and various other agreements and Ministerial Decisions, resulted in strengthened and more comprehensive rules to deal with traditional international trade concerns. New rules were set up for areas of international economic relations previously not addressed by the GATT, including trade in services and protection of intellectual property rights. Many of the countries which became contracting parties to the GATT shortly before the conclusion of the Uruguay Round, or which are currently in the process of acceding to the WTO, are petroleum-producing and exporting countries, some of which are also Member countries of the Organization of the Petroleum Exporting Countries (OPEC). This fact underlines the need to explore the 1 implication that the WTO Agreements will have for the flexibility of such countries in framing and implementing their petroleum-related

policies. There is also a need to consider the consequences of this new international trade regime more generally for international trade in, and market access opportunities for, petroleum

-based products and derivatives, including opportunities for export diversification. Conversely, these issues are equally important to developing and developed countries that rely on petroleum imports to power their economies.

At the same time, new issues have arisen which will influence trade in petroleum and petroleum products. The trade impact of environmental protection measures in this sector was the subject of the first case resolved under the dispute-resolution provisions of the WTO, and future negotiations on “trade and environment” issues will be of crucial interest to exporters in this sector. Investment and competition policy, which are also on the proposed future international trade agenda, also have important implications for producers and exporters of petroleum and petroleum products. It follows that a range of energy-related issues will be explored in the accession negotiations, including: governmental controls on production and exports of petroleum-based products, including in the framework of OPEC

- domestic prices and pricing policy
- export tariffs and taxation
- operations of state trading enterprises and monopolistic practices in this sector;
- “unfair” trade practices (e.g. subsidies and dumping)
- investment; and
- Trade in services related to the exploration, extraction, transportation and processing of petroleum.

All these issues are prominent in the WTO accession process of major petroleum-exporting<sup>2</sup>

Business enterprises directly benefit when their countries become a member of the World Trade Organization (WTO). The effects are tangible for businesses that work in both the international and national markets, but those benefits can only be used to the best advantage when companies fully understand the accession process and the changes it implies in trade.

Accession to the WTO creates a number of rights for the business community. The improved

rule-based system is designed to promote the expansion of international trade. The system's primary goal is to provide liberal, secure and predictable access to foreign markets for the goods and services of exporting enterprises. This allows business enterprises to work within the parameters of clearly identified arrangements.

WTO accession helps to ensure that enterprises can market their products internationally under competition conditions that are equitable and predictable without the disruptions caused by the sudden imposition of restrictions. The implementation of accession commitments measures can create both opportunities and challenges for the business community<sup>3</sup>

Most of countries have faced demands to modify their energy policies. Some of the applicants conceded to WTO members' demands and changed their regulations. Some others, however, vigorously insist that these demands go beyond the standard WTO provisions and represent so-called "WTO- plus" requirements. These countries refuse to undertake binding commitments upon their accession to modify their energy policies.<sup>4</sup>

Some acceding countries have faced demands to fully liberalise their energy services sector, to eliminate export taxes and dual price systems, and even unbundle energy monopolies. Acceding countries find it difficult to defend their position in the accession negotiations as there are no clear guidelines or conditions for becoming a WTO Member. The WTO Agreement itself does not contain detailed provisions on accession to the organisation. Its only provision in this respect, Article XII, states that "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." The WTO Agreement does not clarify what commitments acceding countries should undertake and the scope and extent of demands that WTO Members can present (VanGrasstek, 2001). Neither are there rules or guidelines for conduct of accession.<sup>5</sup> Thus, the WTO accession process is one of negotiation rather than agreement compliance.

WTO Members have been relatively successful in getting acceding countries to undertake obligations that go beyond existing multilateral rules that address the import side of the problem of lack of energy-specific rules. Energy-importing states are interested in addressing issues such as pricing practices, natural resource development policies, procurement in the energy sector, and restrictive practices of incumbent energy companies.

Energy-exporting states would, however, be interested in addressing issues that are of concern for them such as discrimination and market access of energy products and materials as well as downstream products, the access to market of energy services of WTO Members, transit, etc. Many energy producing and exporting countries have expressed concern that high consumption and excise taxes imposed by importing countries on energy materials and products reduce the revenues received by exporting countries for their finite resources.<sup>6</sup>

### **Regional Energy Initiatives**

The issue therefore relates more to competition in the regional service, specifically electricity trade. This is complicated by the growing influence of regional economic groupings. In that case, it is the trade of non-members of the regional customs union such as the EC, MERCOSUR, NAFTA, and ECOWAS that may suffer. Fortunately, both the GATT and the GATS prohibit higher tariffs and other restrictions against the trade of non-members than what existed prior to the formation of the

Union or Free Trade Area. In addition, the GATS calls for transparency and expeditious publication of all measures and international agreements which affect trade in services. Additionally, the GATS recognises the use of monopoly entities for trade in services, but discourages the abuse of monopoly power.<sup>7</sup>

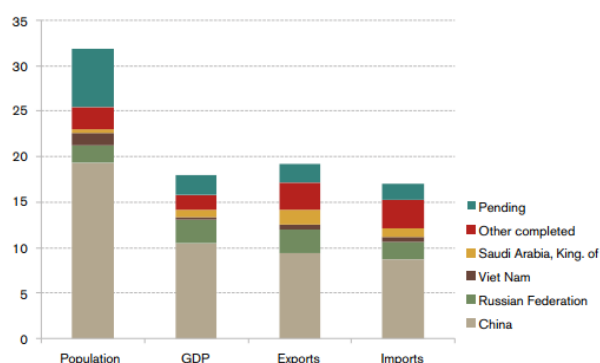


Figure Relative size of acceding WTO members: shares of global totals, in %  
 Notes : Data on exports and imports are for goods and services. Members as of 2012 based on 2011 data. “Pending” = aggregate data for all other members whose accessions were pending at the end of 2012. “Other Completed” = aggregate data for all other members that completed accessions by the end of 2012. Source: <https://www.wto.org/>

### Outward looking: a better integration into the world economy

Accession to the WTO is, for most candidates, a way to further integrate the world economy and to better harness the benefits of international trade. This is true, in particular, for countries which for historical (e.g. transition economies), geographical (e.g. landlocked countries), or economic (e.g. least-developed countries, LDCs) reasons have stayed at the margin of major trade flows. WTO membership comes with its privileges, which include a permanent and unconditional MFN status and the protection against arbitrary protectionist measures of major trading partners. WTO membership guarantees certain conditions of access (most-favored nation treatment, MFN) to foreign markets, and contributes to promoting domestic exports. The gains are not so much in foreign tariff cuts, because most WTO candidates had already been granted MFN or preferential treatment (e.g. under the general system of tariff preferences, GSP, or any other preferences scheme) before accession. The reduction of the cost of trade negotiations WTO membership gives access to the largest (so-called multilateral) trade negotiations forum. Market access improvements agreed at this level automatically benefit all members. By contrast, non-members have no choice, but to negotiate further market access or any other trade-related rights at the regional or bilateral levels. This can be costly, and many countries don't have sufficient administrative, human or budgetary resources to simultaneously negotiate a number of bilateral/regional trade agreements. - The participation to international trade rule-making The WTO mandate is broader than the one of the GATT. It includes the reduction of both tariff and non-tariff barriers to trade not only in goods, but also in services. The rules of conduct elaborated in this forum tend to govern most trade flows, among members, but also among members and non-members. The countries staying outside the WTO give up their right to participate to rule-making, and nonetheless are affected by the enforcement of the rules adopted by WTO members. Participation to this rule-making process makes sense at all levels of development: (i) for leading trading powers, it is about trying to disseminate one own standards and norms to the largest possible community; (ii) for smaller countries, it is about participating to and trying to influence the norm setting exercise in one's best interest (Cattaneo, 2002). As Ostry (1997: 193) observed, “the middle powers recognized that the alternative to a rule-based system would be a power-based system, and lacking power, they had most to lose.” - The access to an impartial and binding dispute settlement mechanism According to Article of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), “the dispute settlement system of the WTO is a central element in providing security and predictability

to the multilateral trading system.” The WTO dispute settlement system has several functions: first, it protects members against abusive uses of unilateral trade sanctions, such as the US Section 301 second, it restores some equity in the settlement of trade disputes, offering the smaller WTO members access to credible enforcement and sanction mechanisms; third, it creates a watch mechanism, where third parties are informed of violations of the agreements and automatically benefit from their remedy (Maggi, 1999). In particular when there are strong power imbalances in bilateral trade relationships, a multilateral approach to enforcement is just as important as in rule-making<sup>8</sup>

### **Energy resources and trade opportunities.**

The differences in the endowments and the historical development of energy resources, resulting in the surpluses of the electricity (and gas) in Central Asia and Iran and in the deficits in the adjacent South Asian countries, provide the basic rationale and the opportunities for an economically sound regional trade in electricity and gas. These opportunities, also potentially extending to India.

Leaving aside oil, which is traded globally, of particular interest for regional energy trade are endowments of natural gas, hydropower, and coal, which can be traded directly (especially natural gas) or indirectly, through electricity (all three forms). Turkmenistan and Iran have significant natural gas resources and are looking for diversification of their export markets.<sup>9</sup>

### **Need and scope of cross-regional trade projects**

Possible evolution of regional energy trade within the SAARC region and between the SAARC region and its neighbors: toward one of the largest integrated markets in the world. Broadly, there are two geographic clusters centered on the countries with significant energy import needs, India and Pakistan, which could serve as pillars of regional integration in the eastern and western SAARC areas, respectively, with subsequent firmer integration of the two clusters into a region-wide integrated energy market.<sup>10</sup>

### **What should be done?**


Promoting regional energy trade: what should be done. Policy makers in the public sector need to look upon trade as diversifying the forms of energy and their sources of supply, thus enhancing energy security, rather than focusing on the costly and ill-affordable goal of full national energy self-sufficiency. Today, the idea of staying out of global communication is impossible due to the increasing global scope of exchange. Therefore, the WTO has put in place laws and regulations to increase its ability to control international trade and to legislate on the admission and membership of the organization, so that all countries can establish their own status with membership. If we look to the laws related to agreements and trade, which are the bulk of the materials and instructions of the WTO, we find that the basis of these laws is on the liberalization and competition of production and trade between the countries of the form in order to provide the conditions for the acquisition and Organizational and economic work is provided for business.

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