WTO ACCESSION IN THE ETHIOPIAN CONTEXT: A BITTERSWEET PARADOX

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Introductory remarks

Trade liberalization may be unilateral, bilateral, sub-regional or multilateral. The end of the cold war has witnessed an increasingly growing wave of unilateral trade liberalization accompanied by a regulatory framework that facilitates and enhances the momentum. Although the impact of unilateral trade liberalization undertaken in many countries including Ethiopia deserves discussion, the theme of this article has necessitated focus on multilateral trade liberalization under the WTO system.

There has been much concern about the impact of Ethiopia's prospective accession to the World Trade Organization (WTO) and the resultant commitment to the multilateral trade agreements (that constitute *a single undertaking*[1]). The concern is whether Ethiopia's accession to the WTO multilateral trade agreements would facilitate economic development.

Ethiopia's major drawback pertains to the production or supply side of goods and services and the resultant gap between our imports and exports. Upon first impression, therefore, accession to WTO doesn't seem to make sense because we haven't yet been able to make use of our own local market and haven't significantly made use of the preferential treatments accorded to our products under schemes such as AGOA[2] (African Growth and Opportunity Act) and the EBA (Everything but Arms) Initiative.[3]

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[1] According to Art. XII/1 of the WTO Agreement, accession shall apply to the 1994 Agreement Establishing the WTO *and the Multilateral Trade Agreements annexed thereto*, i.e Annex 1A- (Multilateral Agreements on Trade in Goods; Annex 1B- General Agreement on trade in Services; Annex 1C- Agreement on Trade-Related Aspects of Intellectual Property Rights and others.

[2] AGOA is an expansion of market access under the *Generalized system of preferences* (GSP) program so that imports into USA can be allowed duty-free from least developed countries of Sub-Saharan Africa. The Generalized System of Preferences is one of the exceptions to the Most Favored Nation (MFN) principle that requires WTO members to extend the terms in favor of the 'most favored' trading partner to imports from all other WTO members.

[3] The Everything But Arms Initiative is applied in EU countries to grant duty-free access to imports from least developed countries (LDCs) (Continued)

The immediate thought that captures one's mind (in relation to ***goods***) is thus the assumption that WTO Accession in the Ethiopian context might merely give freer ride to imports of foreign industrial and agricultural products. And, in the realms of ***services***, critics consider liberalization of the service sector (pursuant to the General Agreement on Trade in Services -GATS) might be disadvantageous to Ethiopia under current realities, particularly in spheres such as banking, telecommunications and others. It is however to be noted that GATS does not oblige but merely encourages liberalization. Moreover, critics contend that the Agreement on ***Trade Related Aspects of Intellectual Property Rights*** (TRIPS) can adversely affect technology transfer to Ethiopia, an opportunity which nearly all developed economies had during the infancy of their industrial development.

There is also an optimistic view which emphatically poses the question whether we are better off as a non-member of WTO. According to this view, Ethiopia has one of the lowest import tariffs in the world [4], and WTO membership may not require bound tariffs lower than current rates. Supporters of accession to WTO also forward long-term optimism in the realm of services and intellectual property rights despite inevitable difficulties in the short-run. Ethiopia's integration with the international trading system, enhancement of credibility and guarantee against perceptions of high risk of policy reversals, review of various policies to make them conducive to foreign investment, guarantee to market access in contrast to the non-contractual schemes such as AGOA … are among the benefits forwarded in support of Ethiopia's multilateral trade liberalization under the WTO system.

This article attempts to present an overview of these perspectives, and it highlights the contending lines of thought. The first section presents background overview and the rationale of trade liberalization. Section 2 briefly states some critical opinions on WTO accession of LDCs followed by the third and fourth sections that summarize views on the costs vis-à-vis benefits of accession to the WTO, the commitments of newly acceding countries and the issue of optimizing benefits. Sections 5 and 6 discuss Ethiopia's status in the accession process and lessons from the experience of Nepal, Cambodia and Vietnam whose accession to WTO has been recently finalized. Section 7 and the concluding remarks briefly discuss the path ahead and Ethiopia at

[3] …(cont.) without quantitative restrictions, except to arms and munitions. There are however, certain products (Sugar and rice) that have not been granted the EBA duty-free access until the expiry of the periods stated in the EBA (Everything But Arms) Regulation" (Regulation (EC) 416/2001).

[4] http://stat.wto.org/CountryProfiles/ET_e.htm

crossroads. These last sections attempt to identify factors that may contribute towards rendering multilateral trade liberalization ultimately beneficial.

1. Background overview and the rationale of trade liberalization

1.1- Background

In ancient and medieval societies, trade was predominantly domestic, and only a few types of foreign products found their way into local markets. It was under rare circumstances that the magnitude of commercial activities of foreign merchants needed a consul (as was known to Ancient Greeks and Romans) "to watch over the interests of the citizens of his State engaged in commerce in a foreign port." [5] During the centuries following the renaissance and the industrial revolution, however, international trade has gradually engulfed countries, cities, towns and villages despite the alternating prevalence of protectionism and free international trade depending on the interests and needs of states.

Ever since countries have been engaged in international trade (of a significant magnitude) they have been using tariffs and non-tariff measures to regulate the volume and types of imports in addition to the supplementary function of tariffs as sources of revenue. Higher import tariffs apparently result in higher prices and thus reduce the demand for imported goods. Moreover, tariffs are believed to protect infant local industries.

This policy of protectionism has steadily encountered challenges by the competing concept of free international trade. The doctrine of free international trade has also been subject of heated debate and controversy. That was why the negotiations that started at the Bretton Woods (1944)[6] failed to establish the International Trade Organization (ITO)[7] that was meant to be the institutional framework of GATT 1947.

[5] D.W Bowett, *The Law of International Institutions*, 4th Edition (Univesal Law Publishing Co. Ltd, 2003.) at 1

[6] "As a result of the *Bretton Woods Conference* (1944) three main international institutions were established which form the backbone of the current international economic legal system: the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD) better known under the name World Bank), and the General Agreement on Tariffs and Trade (GATT), which was replaced by the World Trade Orgainzation (WTO) in 1995" G.Loibl, '*International Economic Law*' in Malcolm Evans (ed) *International Law* (Oxford University Press, 2003) 690

[7] "In addition to creating financial institutions, there was also need to establish an international system to abolish trade barriers. Following the Second World War, a charter for an International Trade Organization (ITO) was drafted to deal with trade in goods. (Continued)

The end of the Cold War in the early 1990s marked a breakthrough to the triumph of the doctrine of free multilateral trade as the mainstream mindset among academics and policy makers. And it was an impetus to the Uruguay Round culminating in the Marrakesh Agreement (1994) that brought about the Establishment of the WTO (in 1995) and the corresponding implementation of the multilateral agreements annexed thereto.

There is much debate regarding the inconsistency between the promises enshrined in the Marrakesh Agreement and the actual reality. In spite of sustained economic growth at the global level, the gap between developed and least developed economies is increasingly widening, and in effect, there is sharp criticism against the shortcomings of the multilateral trading system. However, there is a steadily increasing application for accession to the WTO. And, many academics who strongly criticize multilateral trade liberalization under the WTO system tend to suggest reforms, technical assistance, longer transition periods and preferential treatment to Least Developed Countries (LDCs) rather than recommending abstention from the multilateral trading system.

1.2- The *Raison d'etre* of Free Multilateral Rrade: An Overview

According to the doctrine of free multilateral trade "nations achieve the most efficient economic balance when all nations mutually agree to liberalize trade consistently, removing prohibitions or restrictions such as regulatory quotas (and) self-imposed restrictions." The doctrine holds that a nation is "best served if it specializes in and exports what it produces most efficiently compared to other producing nations. Similarly, the nation must import what it produces least efficiently." [8]

Advocates of free international trade believe that policies and trade laws of countries ought to be reconcilable and free from trade barriers, and contend that all forms of barriers to trade "have a negative effect on exporters because they interfere with the normal supply and demand and make international trade more complicated." Such barriers are believed to negatively impact im-

[7] (cont.) This was adopted in Havana in 1948, but it failed to enter into force since the United States Congress did not approve it and other States did not want to establish a global trading system without the largest economy in the world. Instead, International trade after the Second World War was based on the General Agreement on Tariffs and Trade (GATT), a multilateral treaty that was designed to operate under the umbrella of the ITO. It entered into force on a provisional basis in 1948 and stated in force until 1995 and was known as GATT 1947." Ibid, 700

[8] Aleah Borghard, *Free Trade, Economic Rights, and Displaced Workers: It works if you work it,* Brooklyn Journal of International Law (2006), pp. 165-167

porters and ultimate consumers owing to their interference with competitive sourcing thereby resulting in higher prices. “The global trend in recent years has been to eliminate as many trade barriers as possible.” And, “....[I]n comparison, *liberal* trade policies (i.e.- policies that allow the unrestricted flow of goods and services regardless of particular policies) sharpen competition, motivate innovation, and breed success.”[9]

The doctrine of free international trade has its roots from David Ricardo’s theory of comparative advantage “which instructs countries to concentrate on creating the product(s) they produce most efficiently, and then to trade with each other to obtain the products they desire.” The theory of comparative advantage advises a country to “import certain products even though it could produce them more efficiently than the country of origin if the importing country has a comparatively greater advantage in producing some other specialty.” [10]

Mattew Tuchband illustrates the doctrine of comparative advantage:

> “Although Colombia has the materials and technology to produce automobiles, it may choose to specialize in coffee production and import automobiles from Japan; the United States, though rich in domestic oil fields, may specialize in producing wheat and import most of its oil from ... the Middle East”. The factors that determine include “differing conditions of production (a coastal nation's fishing advantage, for example), the decreasing costs associated with economies of scale, and differences in ‘tastes,’ (that may) allow a country to increase its overall consumption (and welfare) by specializing in what it does best.”[11]

2. Views against WTO accession of LDC’s

2.1- Unilateral –versus– Multilateral Trade Liberalization

The desirability of free trade in light of the basic needs of the public at large is self-evident because it avails goods and services at the lowest possible price and at optimal quality. This aspect of free multilateral trade positively contributes to the welfare of consumers and enhances the purchasing power of every household’s disposable income. There is, however, difference in opinion regarding the impact of free trade in the economic development and overall balance of payments of developing countries in general, and least developed countries (LDCs) in particular.

[9] *Ibid*

[10] Matthew Tuchband, The Systematic Environmental Externalities of Free Trade: A Call for Wiser Trade Decision-Making, 83 Georgetown Law Journal 2099 (June 1995) 2102

[11] *Ibid*, 2103

The long-term advantage of free trade has gained acceptance by most academics and policy makers. But there is the view that the WTO multilateral trading system (that imposes a single undertaking as an inseparable package for industrial goods, agricultural products, services and intellectual property rights) doesn't pay enough attention to problems and needs of vulnerable economies of least developed countries.

As stated in the introduction, trade liberalization may be unilateral, bilateral, sub-regional or multilateral. Most critics do not argue against unilateral, bilateral and sub-regional trade liberalization whenever the realities warrant so that least developed countries can go through a pace based on their own particular economic realities. However, they usually oppose untimely multilateral liberalization under the WTO system and instead recommend prudent unilateral liberalization which developing countries can monitor and manage. And nowadays, the criticism has sharpened because newly acceding LDCs are facing wider commitments beyond what is embodied in the GATT, GATS and TRIPS, and are also entitled to lesser rights (with regard to basic issues such as transition periods) as compared to countries who are founding WTO members.

2.2- Bigger concerns beyond lower price benefits

Opponents of the WTO multilateral trading system admit that there is reduction of price, but they strongly contend that the cost that it entails in least developed countries outweighs the advantages. According to this view "we can buy our T-shirts for 25 cents less, so on average we are richer, but at what cost? The slight economic advantage in price is not enough, and (we need to focus on) the bigger concerns." [12]

According to Global Exchange, "WTO would like (us) to believe that creating a world of 'free trade' will promote global understanding and peace" while "on the contrary, the domination of international trade by rich countries for the benefit of their individual interests fuels anger and resentment that make us less safe."[13] *Global Exchange* contends that "Free trade is not working for the majority of the world", and that "inequality worsened both internationally and within countries" during the period of rapid growth in global trade and investment …" *Global Exchange* substantiates its position by UN Development Program reports which state that "the richest 20 percent of the

[12] *Supra* Endnote 8, FN 27

[13] Global Exchange, *Top Reasons to Oppose the WTO*, http://www.globalexchange.org/campaigns/wto/OpposeWTO.html

world's population consume 86 percent of the world's resources while the poorest 80 percent consume just 14 percent."[14]

2.3- "Equality" Among Unequals

The preamble of the 1994 Marrakesh Agreement (Establishing the World Trade Organization) emphatically declares WTO's objective of "raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development" The preamble further declares that "there is need for positive efforts designed to ensure that developing countries and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development."

Nsongurua J. Udombana discusses the gap between the *vision* of WTO and the *reality*. [15] He contrasts the preamble of the Marrakesh Agreement with the facts on the ground and recalls George Orwell's satire with regard to those that are 'more equal than the others'.

> "…WTO trade regime has not benefited … all parties because it operates like the Animal Farm. In Orwell's classic, animals take over the running of a farm, and everything is wonderful for a while--until the pigs get out of hand and take most of the power for themselves, thinking that they are the best administrators of government. Power ultimately corrupts them, as it does humans, and they turn on their fellow animals, eliminating competitors through propaganda and bloodshed. Though written to reveal the hypocrisy of communism, as practiced in the then Soviet Union, Animal Farm is surprisingly relevant to an understanding of contemporary international trade relations. Although all animals are equal under the WTO regime, based on the concept of sovereignty and equality of states, the practice of trade reveals that some animals--the industrial countries--are more equal than others. …" [16]

According to Udombana, "Africa has witnessed a near stagnation in the last three decades and continues to be vulnerable to globalization and trade liberalization for several reasons." The reasons "include key problems in the

[14] Global Exchange, www.globalexchange.org/campaigns/fairtrade

[15] Nsongurua J. Udombana, *A Question of Justice: The WTO, Africa, and Countermeasures for breaches of International Trade Obligations*, 38 John Marshall Law Review 1153 (Summer 2005) 1157

[16] *Ibid*, 1160

'*supply side*' issues of market access, such as Africa's low capacity to produce and trade competitively in commodities, manufactured goods, and services." Udombana underlines that "The composition of Africa's exports has essentially remained unchanged, with over-dependence on primary production and resource-based sectors …." [17]

Udombana further discusses the marginalization of Sub-Saharan Africa (SSA) and suggests drastic reforms of the WTO "to address current trade injustices" so that it can "refute the charge that globalization is another word for colonization". According to Udombana, "Some developing countries have benefited from the vast growth that the manufacturing sector has experienced in the last two decades and where global levels of protection have reduced significantly."

Yet, he states that "Africa has benefited little because of its focus on agriculture, where growth has been slower and where significant protection still remains" in developed countries. "Prices of primary products hardly move up due to a variety of factors, including the fact that demands for such products do not usually correlate with increase in income." The article further discusses the "general decline in the share of agricultural products in global trade and, on the other hand, a permanent world oversupply of virtually everything that Africa could offer. There is very little extra room for absorption of African exports." [18]

With regard to Africa's role in its own marginalization through wrong-footed economic and regulatory policies and strategies, Udombana criticizes many African governments for having failed to address "the imperatives of globalization, which require utilizing imaginative policies and strategies necessary to compete favorably in a growing competitive international environment" and remove "numerous obstacles (and pointless regulations) that many governments place in the way of private investments."[19] According to the Economist (11 September 2004), "businesses in poor countries … have to struggle through twice as many bureaucratic procedures as their counterparts in rich countries." [20] Unless African countries rectify their contribution towards their own marginalization, they can't benefit from their relatively less expensive labor, proximity of local markets, and the potential for foreign direct investment.

[17] *Ibid, 1167*

[18] *Ibid*, 1168

[19] *Ibid*, 1169

[20] *Measure First, Then Cut*, **The Economist**, Sept. 11, 2004, at 77 (reviewing a World Bank study showing that bad regulations are a huge brake on global growth).

Hugo Grotius had remarked that "[a]s the seventeenth century unfolded, conflict between European merchants in the East Indies escalated."[21] At present, the conflict has evolved from crude conflict to competition among producers to ultimately win the demand at national and foreign markets. Thus, WTO accession seems to have retained some traits of such conflicts 'with civility' in the form of intense negotiations that target at optimum benefits with minimum concessions. True, the Preamble of the Marrakesh Agreement had promised to "ensure that developing countries and especially the least developed among them" deserve a share in the growth of international trade "commensurate with the needs of their economic development." In view of the widening gap between words and deeds, however, policies and strategies of African countries should not worsen their currently growing marginalization.

3. The benefits and costs of accession to the WTO

In a working paper presented to Kiel Institute of World Economics (Germany), Rolf J. Langhammer and Mattias Lücke discussed the positive and negative impacts that accession to the WTO can have on vulnerable economies. They believe that multilateral trade rules that have been included in the WTO Agreement (and mainly the General Agreement on Services –GATS—and Trade-Related Intellectual Property Rights –TRIPS--) "are of little relevance to improved export market access for vulnerable economies, while the implementation of the new rules involves a large administrative burden to them." [22]

Under a section entitled "*Benefits and Costs of WTO Membership for Vulnerable Economies"*, Langhammer and Lücke briefly discuss what least developed countries can possibly gain from accession to the WTO and the costs that are likely to be encountered. "[S]mall population, …remoteness from major markets" as in the case of landlocked states, "reliance on a small number of export goods, mostly raw materials, weak administrative capacities, large economic and ecological vulnerability, lack of market-oriented institutional infrastructure, and political instability often compounded by civil disorder" are identified as the common characteristics of most least developed countries that were candidates for WTO accession in the year 2000.

[21] Ileana M. Porras, *Constructing International Law in the East Indian Seas: Property, Sovereignty , Commerce and War in Hugo Grotius' De Iure Praedae --The Law of Prize and Booty, or 'On How to Distinguish Merchants from Pirates'*, 31 Brooklyn Journal of International Law 741 (2006) 803

[22] Rolf J. Langhammer and Mattias Lücke, *WTO Negotiations and Accession Issues for Vulnerable Economies*, Kiel Institute of World Economics, (July 2000) p. 2

In view of these characteristics, "the gains from WTO membership seem to be small if they are assessed only in terms of improved market access for the traditional exports of (least developed countries)". According to Langhammer and Lücke, "supply bottlenecks … including inadequate transport facilities (in least developed countries) seem to hamper export expansion more than policy-induced barriers on the demand side."[23] The common characteristics of most LDCs (except the population factor) apply to Ethiopia as well.

In spite of these pitfalls, Langhammer and Lücke state *five good reasons*[24] for least developed countries to join WTO. *First*, the binding commitments to reform in all trade-related policies due to WTO membership will reinforce government efforts towards liberalization. *Second*, "WTO membership, including the process of accession, leads to sizable technical assistance in the form of training with respect to the legal framework of the multilateral trading system and its economic underpinnings." *Third*, the WTO system can help withstand "pressure from powerful import markets … (including) economically powerful neighbors (in their roles) as transit countries and trading partners". *Fourth*, it encourages least developed countries to open domestic market even if they get market access "under special or preferential treatment for a certain period", and import market opening causes a considerable fall in domestic price of imports. *Fifth*, domestic regulations will become more transparent and non-discriminatory to potential foreign investors thereby attracting foreign direct investment.

After a brief analysis, Langhammer and Lücke state *four costs* that LDCs could bear as a result of accession to WTO. *First*, "sovereignty is curtailed and short-term maneuvering in trade-related policies is discouraged and also restricted." *Secondly*, there are economic "costs of employing high-skilled personnel for the implementation of WTO commitments and active participation of WTO negotiations." *Third*, the liberal multilateral trade regime "may expose companies in vulnerable economies to stronger competition from abroad, often from more advanced developing member states." And *fourthly*, reduction of import tariffs may significantly affect government revenue in many vulnerable economies. "This may be less of an issue in the early stages of trade liberalization when non-tariff barriers are tariffed and prohibitive tariffs are lowered and imports increase." But, in the medium to long run, "substantial reductions in average tariff rates require a broadening of government's tax bases." [25]

[23] *Ibid*, 4 [24] *Ibid*, 4-6 [25] *Ibid*, 6-8

4. Rising commitments and the need to optimize benefits

In *Trade Note 22* (June 6, 2005) published by the World Bank Group, an article entitled "*WTO Accession: Lessons from Experience*"[26] discusses the economic, legal and political reasons that induce nations to join the WTO. Authors of the article, Evenett and Braga, discuss the reality of the prolonged and complex WTO accession process and raise the critical question whether the rising price of WTO accession is worth its impact in the development endeavors of least developed countries.

4.1- The rationale and commitments of accession

According to Evenett and Braga, the first *economic* rationale of WTO accession is the integration of the acceding state to the world economy with the expectation of higher exports as a result of more predictable access to foreign markets. And, the second economic rationale is the use of "WTO membership as a seal of approval recognized by the international business community" thereby attracting more foreign direct investment (FDI). Moreover, lower prices, a greater variety of imports, and improvement of important components of the national business environment are stated as sizeable domestic payoffs.

The paper also states the "*legal* advantages of accessing a rules-based system and of using the WTO dispute settlement process" and the *political* reasons of transition economies (i.e. economies that move towards market economies) as verification of "their commitment to joining the international community of market-based economies." Such economies "may see WTO accession as facilitating both political and economic reform within their countries".

The article states that the procedure that an applicant for accession goes through is one-sided, costly, complex and lengthy. Moreover, "the price of joining the WTO now includes commitments that go beyond GATT/WTO agreements" and this price is steadily rising with "little account of the specific circumstances of applicant countries or their needs for special and differential treatment".

The commitments made by acceding countries involve "market access (on goods and services) and other commitments on rules." Evenett and Braga state that "in the areas of agricultural and non-agricultural (typically

[26] Simon F. Evenett and Carlos A. Prmo Graga, *WTO Accession: Lessons from Experience*,, Trade Note 22 (June 6, 2005) , The World Bank Group, International Trade Department

manufacturing) products there is clear evidence that the price of accession – expressed in terms of the extent of market access concessions made by acceding countries- is growing over time."

This holds true for services (commitments under the GATS) as well. The paper contrasts the 160 services sub-sectors currently identified in the WTO classification list against the 20 sub-sectors that founding LDC members of the WTO were committed to in 1995. "[T]the averages for founding Members in the developing and developed categories, in turn were respectively 44 and 108. Countries that have acceded since 1995, in turn, have on average committed around 104 sub-sectors".

4.2 Towards optimizing the benefits of accession

The critical question forwarded by Evenett and Braga is whether the rising price of WTO accession "is worth paying in terms of its developmental impact." In case the cost of accession is worth paying, "the demands made by existing WTO members of acceding countries might be characterized as 'tough love'." If, however the cost outweighs the benefits, "the WTO accession process may be seen as a one-sided power play whereby current WTO members wring commercial advantage out of weaker economic partners."

The paper reviews studies on the impact of WTO accession on national exports and imports and holds that "whether joining WTO bolsters a nation's exports depends not only on the changes in market access that are supposed to follow from accession (in terms of greater predictability), but also on the steps taken by the government and firms in the applicant country".

Evenett and Braga suggest that "[as] early as possible in the WTO accession, process, it is desirable to identify precisely how signing binding commitments at the WTO can further reform and help attain national priorities." They state Cambodia as an example for having "identified textiles, clothing, and tourism as sectors which could benefit from reform" and for having "developed negotiating priorities in its WTO accession process accordingly." The paper recommends realistic expectations of what the WTO accession involves and advises applicants to expect that the process of accession at least takes five years or longer.

In addition to the identification of national priorities, least developed countries "should at a minimum insist on technical assistance to mitigate the implementation costs". The paper reiterates the duration, complexity, and wide reaching scope of the WTO accession process, and suggests that "accession countries should develop a 'road map' that identifies the different types of assistance needs required at each stage of the WTO accession process in partnership with the financers and providers of technical assistance." In this context the paper appreciates the diagnostic tools (that provide a comprehensive assessment of national needs) "associated with the *Integrated Framework*, which have been successfully applied in Cambodia, for example, and that are currently being used in the context of Ethiopia's (efforts towards) accession." In its concluding remarks the paper underlines the concern "that the growing price of WTO accession, including forcing applicants to agree on WTO+ and WTO- commitments, is creating a multi-tiered world trading system in which recently-acceded countries have higher obligation and more limited 'rights'."

5. Lessons from Nepal, Cambodia and Vietnam

The Fourth WTO Ministerial Conference in Doha (November 2001) had expressed its concern regarding the participation of least-developed countries (LDCs) in the WTO and the multilateral trading system and had declared that accession of LDCs into the WTO system ought to be facilitated. And in December 2002, this commitment was adopted as the *General Council Decision on Accession of Least-Developed Countries*. [27]

Paragraph 42 of the Doha Declaration stated that "…Accession of LDCs remains a priority for the Membership". The Declaration recognized the need "to facilitate and accelerate negotiations with acceding LDCs" and the Declaration further instructed the Secretariat to reflect the priority attached "to LDCs' accessions in the annual plans for technical assistance…"

According to the decision of the General Council dated 10 December 2002 on Streamlining Accession, "WTO Members shall exercise restraint in seeking concessions and commitments on trade in goods and services from acceding LDCs, taking into account the levels of concessions and commitments undertaken by existing WTO LDCs' Members." Moreover, the decision had entitled acceding LDCs to offer "reasonable concessions and commitments on trade in goods and services commensurate with their individual development, financial and trade needs" in accordance with "Article XXXVI.8 of GATT 1994, Article 15 of the Agreement on Agriculture, and Articles IV and XIX of the General Agreement on Trade in Services."[28]

[27] WT/L/508, dated 20 January 2003

[28] *Ibid*

5.1- Nepal and Cambodia

The Technical Note on the Accession Process[29] applauds the Doha declaration and the Decision of the General Council: "Currently, one third of all acceding governments are LDCs. Pursuant to paragraphs 9 and 42 of the Doha Declaration, much work has been undertaken to 'facilitate and accelerate the accession negotiations with LDCs'."[30] The Technical Note calls for more consideration to the specific needs of acceding LDCs, particularly with regard to "market access (restraint from seeking concessions and commitments from acceding LDCs); WTO rules (Special and Differential Treatment, transition periods, Plurilateral trade Agreements); process (streamlined accession procedures); and Technical Assistance (priority attention to acceding LDCs)."[31] The Note cites Nepal as having been able to negotiate "average final tariff bound rates of 41.4 per cent for agricultural and 23.7 percent for non-agricultural products". [32]

The Note praises the transition periods given to Nepal and Cambodia "to implement various WTO Agreements, such as the Agreements on SPS, TBT, TUIPS and Customs Valuation." It also states that "special attention has been given to technical assistance for LDCs acceding to the WTO", and cites the Doha Ministerial Declaration, paragraph 42 that instructs the Secretariat "to reflect the priority we attach to LDCs accession in the annual plans for technical assistance" and the emphasis given in the Guidelines for the importance of "targeted and coordinated technical assistance and capacity building".

However, there are critics that consider the onerous nature of Nepal's and Cambodia's accession to the WTO. According to the Agency for International Trade and Information Cooperation (***Aitic***), "An analysis of Cambodia and Nepal's terms of accession confirms the general trend in the WTO that countries are requested to make ever-increasing accession commitments, which sometimes go far beyond what is commensurate with their level of development." The paper states that the transitional periods negotiated by Cambodia is "five years for customs valuation, four years for sanitary and phytosanitary measures (SPS), three years for both technical barriers to trade (TBT) and TRIPS, (while) Nepal negotiated a three-year transitional period for customs valuation, SPS, TBT and TRIPS." [33]

[29] *Supra*, Note 29, pp. 5-6

[30] *Ibid*, 31

[31] *Ibid*, 32

[32] *Ibid*

[33] *AITIC Information Brief:* Rethinking Accession of LDCs in the Light of General Council Decision of 10 December 2002-December 2005 (Pg. 3) www.acici.org/aitic/documents/IBs/download/IB7_eng.doc

The Agency further explained that Cambodia and Nepal "made important liberalization commitments on their trade in goods" and stated that these countries had to substantially revise their initial offers on market access in agriculture and industrial products. Both countries bound 100 per cent of their tariff lines" as indicated below:

Cambodia and Nepal's Market Access Commitments

	Cambodia		Nepal	
	Agriculture	Industrial products	Agriculture	Industrial products
Initial offer tariff rates	44%	27.44%	51%	39%
Revised offer tariff rates	30.88%	20.71%	42%	24%
Average rates (bound)	28.10%	17.70%	41.40%	23.70%
Applied rates 2003	19.5%	15.9%	13.5%	13.7%
Tariff Peaks	60%	50%	200%	130%
Minimal Rates	5%	0%	10%	0%

Source: Information Brief (IB), *Aitic* No.7, December 2005, p.3 (Agency for International Trade and Information Cooperation) Trade Profile 2005

Similar criticism is leveled against the negotiations regarding Other Duties and Charges (ODCs), i.e. taxes levied outside the ordinary tariff schedule. "Nepal … committed to eliminating them over a period of between two and ten years." Likewise "Cambodia bound ODCs at zero and transformed ODCs levied on petrol and diesel imports into a compound tariff rate. Cambodia also bound its export subsidies at zero-level, thus relinquishing its right to use them in the future."

Information Brief of the Agency expressed its concern in the sphere of services. It stated that "both countries agreed to a larger number of commitments than those of the original WTO developing country members. Cambodia scheduled specific commitments on more than 60 sectors and subsectors" that include professional services, "telecoms (seven out of 15 subsectors), distribution, financial, transport services (air transport, road and maritime), and other entertainment services" The commitments of Nepal "cover 11 sectors (business services, communications, construction, distribution, educational, environmental, financial, health, tourism, recreational and transport) and 70 sub-sectors (including some of them fully liberalized and others with partial commitments)." It is to be noted that both countries "included audiovisual services (production and distribution of motion pictures and television programmes) in their List of Article II MFN Exemptions."

With regard to Special and Differential Treatment, "the TRIPS-consistent measures already in place would not benefit from any transition period, and national treatment and MFN would apply from the date of accession." Both countries conceded "to provide data protection, as well as protection for pharmaceuticals and agricultural chemical products immediately after accession", while on the contrary, "the *Doha Ministerial Declaration on TRIPS and Public Health* stated that LDCs need not provide for, nor enforce, patents and data protection with respect to pharmaceutical products until 1 January 2016." The period given to Nepal and Cambodia, in exchange for these concessions was very short. Both countries should fully implement the obligations of the TRIPS Agreement (as of 1 January 2007) "whereas LDCs were granted under the TRIPS Agreement a transition period of a total of eleven years (from 1995 until 1 January 2006), with the possibility of an extension."

The Agency sums up that the guidelines embodied in the Decision of December 2002 do not seem to have softened the hardships of the accession process for LDCs. "It may be argued that Cambodia's and Nepal's deep and painful economic restructuring, and the commitments and concessions arising from their WTO accession process, will assist them in anchoring economic reform under international obligations", but this can be achieved at a very high price.[34]

Ratnakar Adhikari and Navin Dahal[35] strongly criticized the negotiation process that is very disadvantageous to LDCs, and they discussed the problems encountered by Nepal and Cambodia. They have also forwarded recommendation that can[36] facilitate and accelerate the foreign trade and developmental endeavors of Least Developed Countries.

5.2- Lessons from Vietnam

After eleven years of negotiations, the WTO General Council approved Viet Nam's membership on 7 November 2006. On 12 December 2006 Viet Nam

[34] *Ibid*, 4 [35] *Supra*, Note 28, pp. 5-6 [36] *Ibid*, 11

informed the WTO that it has ratified its membership agreement. It has thus become the WTO's 150th member on 11 January 2007. Carin Zissis's notes highlighted in the following paragraphs are indeed informative.[37]

> "More than three decades after a communist offensive reunified Vietnam, the party's hold on power and civil society remains unchallenged. But twenty years of liberal economic reforms have brought sweeping changes and foreign investment to a nation characterized by increasing industrialization and a reduction in poverty. … Despite the Communist Party of Vietnam's continued grip over the country's politics, central planning has given way to a market-based economic system and a marked decrease in the number of state-owned enterprises."

Vietnam has a population of 84 million and it has a booming economy. As a WTO member, "it will benefit from elimination of quotas limiting textile exports to the United States and Europe." The major factors behind its economic boom are its shift from agriculture to manufacturing, Foreign Direct Investment and remittances from about 3 million Vietnamese living abroad.

> "Agriculture's role in the economic output of an increasingly industrialized Vietnam decreased from 25 percent in 2000 to 21 percent in 2005. But exports of coffee, tea, and pepper have soared in recent years. And Vietnamese fish exports grew by 12 percent in the past year, despite antidumping actions taken by the U.S. and Japanese fishing industries. Aside from making shoes and apparel, Vietnamese manufacturing of electronic goods is on the rise because of large investments from companies such as Intel and Canon, the latter of which built the world's largest laser printer factory in northern Vietnam. …"

In the realm of investment, the Vietnamese government "has eased limits on foreign ownership of businesses," and cheap land and low wages in Vietnam "attract foreign investors. As Foreign Domestic Investment rises—it increased by 41 percent to $5.8 billion in 2005—the number of state-owned enterprises shrinks, down from 5,600 in 2001 to 3,200 in 2005."

6. Ethiopia's status in the accession process

6.1- Procedures and requirements towards WTO membership

Article XII of the WTO Agreement provides that, "Any state or customs territory having full autonomy in the conduct of its trade policies is eligible

[37] Carin Zissis, Council on Foreign Relations, October 30, 2006 http://www.cfr.org/publication/11846/surging_vietnamese_economy.html?breadcrumb=%2Fissue%2F7%2Feconomic_development

to accede to the WTO on terms agreed between it and WTO Members". The phrase that reads "*on terms agreed between it and the WTO*" has left the door wide open for the ever increasing list of commitments and negotiations towards eligibility to accession.

According to Paragraph 3 of the Note by the WTO Secretariat on March 1995:

> The procedures for accession to the WTO under Article XII require the examination of the foreign trade régime of the acceding State or separate customs territory; the negotiation and establishment of a schedule of concessions and commitments to GATT 1994 and a schedule of specific commitments to the General Agreement on Trade in Services (GATS) for such State or separate customs territory; agreement on the Report of the working party; and agreement on a Decision and a Protocol setting out the terms of Accession. [38]

Unlike the predictable terms and the automatic process of membership upon accession to other international institutions, accession to the WTO involves a series of bilateral and multilateral negotiations and decisions of the Working Party by consensus. The following summarizes the process:

> "The WTO accession process can be divided into three phases. In the first stage, a country wishing to become a member of the WTO submits an application to the General Council of the WTO. The General Council establishes a Working Party of all interested WTO members. The applicant then submits to the Working Party a detailed memorandum on its foreign trade regime, describing, among other things, its economy, economic policies, domestic and international trade regulations, and intellectual property policies. In the next stage the Working Party members submit written questions to the applicant to clarify aspects of its foreign trade regime. After all necessary background information has been acquired; the Working Party begins meetings to focus on issues of discrepancy between the applicant's international and domestic trade policies and laws and WTO rules and laws. The final stage of the accession process consists of series of bilateral negotiations between the applicant and WTO members. When the bilateral talks conclude, the Working Party sends an accession package, which includes a summary of all Working Party meetings and the Protocol of Accession to the General Council or the Ministerial Conference. Once the General Council or the Ministerial Council approves of the terms of accession, the applicant must accept the protocol of accession. Thirty days after

[38] *Accession to the WTO, Procedures of Negotiations under Article XII* (Note by the Secretariat, 24 March 1995) WT/ACC/1

the applicant accepts the protocol of accession it becomes an official member of the WTO. "[39]

6.2- The current status of Ethiopia's request

The Technical Note on the Accession Process [40] issued by the WTO Secretariat (28 November 2005), explains the various steps of the accession process. The shortest accession process stated in the document is 2 years and 10 months (Kyrgyz Republic) while the longest was China's that took 15 years and 5 months. The period that took Nepal and Cambodia to complete the process was 14 years & 11 months and 9 years & 10 months respectively.

According to the Summary Table of Ongoing Accessions to the WTO (updated in January 2007),[41] there are 29 pending requests including Algeria, Ethiopia, Libya and the Sudan. Ethiopia acquired an observer status in 1997 for a period of five years until 2003. The request of Ethiopia for accession was circulated in 13 January 2003. Ethiopia's Memorandum of Foreign Trade Regime (MFTR) has been circulated in January 2007. There are yet upcoming phases[42] of questions and replies, meetings of the Working Party, series of documentations, market access negotiations, factual summary and Working Party Report before the completion of the accession process.

7. The Path Ahead

Enhancing the Role of Trade and Development is among the commitments embodied in Ethiopia's Status Report on the Brussels Programme of Action (BPoA) for Least Developed Countries (LDCs) prepared by the Ministry of Finance and Economic Development in January 2006.

The Status Report states that Ethiopia has initiated the process of its accession to the World Trade Organization (WTO) which, according to the Report "facilitates the integration of the Ethiopian economy with the international trading system through developing skills in bilateral and multilateral trade negotiations." The report also raises the efforts "that are being strengthened to gain from African Growth Opportunity Act (AGOA) and Everything But Arms (EBA) initiatives." The Report further expresses the Government's

[39] *Ratnakar Adhikari and Navin Dahal*, LDCs' Accession to the WTO: Learning from the Cases of Nepal, Cambodia and Vanuatu, South Asia Watch on Trade, Economics and Environment (SAWTEE), Kathmandu, Nepal http://www.un-ngls.org/SAWTEE.doc

[40] Technical Note on the Accession Process, Note by the WTO Secretariat, 28 November 2005 (WT/ACC/10/Rev 3)

[41] Source: http://www.wto.org/english/thewto_e/acc_e/status_e.htm#fnt2

[42] Source: http://www.wto.org/english/thewto_e/acc_e/a1_ethiopia_e.htm

plans to implement the findings of the Diagnostic Trade Integration Study (DTIS), which include "recommendations in the areas of diversification, removal of trade constraints, and strengthening the capacity of trade support organizations."[43]

7.1- Integrated Framework (IF) for Trade Related Technical Assistance

Accession to the WTO and the subsequent integration into the multilateral trading system is not an easy process. Apparently, it entails costs that require proactive measures and precautions so that short-term problems can be minimized and the accession can be beneficial with regard to its medium and long -term effects. One of the good practices in this regard is the Integrated Framework for trade-related assistance to least-developed countries (IF) that was launched in 1997.

> "The IF is a partnership between the IF core multilateral agencies (IMF, ITC, UNCTAD, UNDP, the World Bank and WTO), other agencies, bilateral donors and the LDCs themselves to ensure that LDCs' national trade policies are integrated into their respective development strategies. The IF facilitates the coordinated response provided by the various agencies and development partners, each in their own area of expertise, to the trade-related assistance and capacity-building needs identified by each of the LDCs. It has been recognized that there could be a strong link between the IF and accession, as the IF process identifies the impediments to effective integration into the multilateral trading system and proposes follow-up action to address the specific country's accession needs. This has been the case of Cambodia and Nepal where the IF has contributed positively to the accession process. As for the LDCs currently engaged in the WTO accession process, Ethiopia and Yemen have already benefited from the IF process while Lao PDR and Sao Tome and Principe are currently in various stages of the IF process". [44]

Ethiopia's Integrated Framework (IF) for Trade-related Technical Assistance pursues the action plan stated under the Diagnostic Trade Integration Study (DTIS) that was issued in December 2004. "The DTIS identifies key issues related to Ethiopia's integration into the multilateral trade system and the global economy." Ethiopia's primary objective upon trade integration into the global economy "is to reap the benefits of transforming its subsistence agricultural economy into a modern commercial and industrial economy."

[43] Ethiopia: Status Report on the Brussels Programme of Action (BPoA) for Least Developed Countries (LDCs), Ministry of Finance and Economic Development (MoFED) January 2006, page 10 http://www.un.org/special-rep/ohrlls/ldc/MTR/Ethiopia.pdf

[44] *Supra*, Note 29, pp. 32, 35

and "greater participation in world trade could provide additional opportunities to address the challenging issues of economic growth and poverty reduction, provided that it is complemented and supported by poverty-alleviation interventions."

The DTIS "looks at both supply and demand factors that influence the present level of trade with the rest of the world and identifies the key constraints to the country's integration into the multilateral trade system and into the global economy." The DTIS further "proposes a program of technical assistance needed to remove these constraints in order to enhance Ethiopia's participation in world trade by improving its competitiveness to derive larger benefits from trade"[45]

The Validation Workshop hosted by the Ministry of Trade and Industry on November 10-11 2003 "identified issues and constraints and proposed recommendations to address them under each thematic area with the following specific objectives:

a) Creating a conducive incentive structure for trade
b) Improving market access for Ethiopia's exports
c) Poverty reduction through trade, particularly export growth
d) Increasing Foreign Direct Investment (FDI)
e) Creating a conducive legal and regulatory framework for trade and investment
f) Improving trade facilitation services and thus removing 'at the border' constraints
g) Building the capacity of trade support institutions
h) Increasing agricultural productivity and diversifying and enhancing the volume of exports from such sub-sectors as horticulture, livestock, and meat, sugar, leather and textiles as well as enhancing the performance of the tourism sector".[46]

The National Technical Committee that oversees technical issues of the IF/DTIS process has identified thematic areas and the tasks therein along with the corresponding agencies that are in charge of implementation. Its recommendations include priorities under:

a) trade reform and incentive structure
b) market access – 'beyond the border issues'
c) trade and poverty
d) foreign direct investment and trade

[45] *Integrated Framework (IF) for Trade-related Technical Assistance, Diagnostic Trade Integration Study (DTIS*), December 2004, Page 5
[46] *Ibid*, 6-7

e) legal and regulatory structure and trade and investment
f) trade facilitation
g) institutions and institutional support
h) agriculture and trade
i) livestock and meat
j) manufacturing sector, and
k) tourism.

Priorities under *Market Access* aim at enhancing the "negotiating capacity of institutions to overcome tariff-and non-tariff barriers imposed in both developing and developed countries on Ethiopian export bundle", and at measures towards the diversification of Ethiopia's export bundle, "which is relatively small and concentrated to mainly agricultural products and which also faces negative growth in world markets, through bilateral and multilateral agreements such as COMESA and the implementation of EBA …." [47]

The priorities under *Foreign Direct Investment* and Trade have (*inter alia*) the objective of ensuring "that the legal and regulatory framework is conducive to attract Foreign Direct Investment and strengthen the institutional capacity (and performance) of the Ethiopian Investment Commission …" The recommended priorities under this thematic area include considering "fast accession to WTO to enhance credibility and overcome perceptions of high risk of policy reversals and uncertainty" and "(reviewing) the present land lease system to make it conducive to FDI by making it more affordable, accessible and by enhancing tenure security." [48]

7.2- Ethiopia's Accession Roadmap

Ethiopia's Accession Draft Roadmap indicates the list of activities, expected support from donors and accomplishments/ descriptions with regard to the work done, ongoing activities, delays and risk factors. The activities have been classified into phases. The submission of Memorandum of Foreign Trade Regime (MFTR) to the WTO Secretariat with all relevant legislation was a major activity planned for the last quarter of 2006.[49] The Ministry of Trade and Industry has been able to accomplish this task and Ethiopia has submitted its MFTR to WTO in January 2007.

Tasks that have been planned for 2007 involve certain assumptions and risks that are beyond the control of the Ministry of Trade and Industry. For in-

[47] *Ibid*, 11
[48] *Ibid*, 12
[49] Ethiopia's Accession Draft Roadmap, 11 Oct. 2006 (4th Quarter 2006, Activity No. 1)

stance, activities such as participation in first Working Party meeting, conducting multilateral discussion and bilateral negotiations, and response to questions from the working party members require not only the due preparation on the part of Ethiopia, but also the smooth progress of the accession process at WTO where the process usually takes beyond anticipated schedules. In view of such factors that may prolong the pace of these phases, Ethiopia's formal accession to WTO may go beyond the year anticipated in the revised roadmap, i.e: 2010/2011.

7.3- Costs of membership to GATT, GATS and TRIPS

a) Trade in Goods

The effect of Ethiopia's WTO accession may not be as costly as it seems with regard to *trade in goods*. Tariff rates are indeed low, and yet, WTO members may still demand for lower tariffs than would have been the case had our tariffs been higher. Tariff rates lowered under unilateral trade liberalization can be raised upon the economic realities and changing needs. Bound rates under multilateral trade liberalization, however, are inflexible, and in effect Ethiopia's negotiating stance with regard to agricultural and industrial products needs precaution so that we can strike a balance between attracting WTO members and avoiding bottlenecks.

Ethiopia's macroeconomic indicators clearly show a very wide gap between export and import of goods. In the short run, lower tariffs would clearly mean rise in imports because significant rise in exports seems to require some time in view of our apparent inability to utilize very advantageous schemes such as AGOA and EBA. Reduced revenue as a result of lower tariffs may in the short-run be partially compensated by the aggregate tariff revenue from increased volume of imports. However, inability to invigorate economic development and enhance exports would ultimately affect the tax base and internal tax revenue.

As Ethiopia's accession process is underway, it is thus necessary to optimize special preferential opportunities (under AGOA and EBA), strengthen the unilateral liberalization process, and enhance Ethiopia's regional trade performance in COMESA. Such concerted efforts will apparently enhance the entrepreneurial culture and productivity of all sectors engaged in the production, transportation, trade and export of industrial and agricultural products.

The transition can indeed be difficult. Even the booming Chinese economy had encountered negative effects of WTO accession as a price to the benefits thereof. China has conceded to substantial commitments for WTO entry, "and the liberalization of international trade will undoubtedly cause negative effects for China's relevant industries. Such effects may include decreased earnings, plant closings, higher skill levels for workers, and layoffs." [50]

b) Trade in Services

The difficult part of the negotiation process in Ethiopia's accession can be in the realm of *trade in services*, and in particular, the pressure on the part of negotiating WTO members for liberalization of sectors such as banking, insurance and telecommunications. "The trend towards fuller participation by a large number of developing countries in the multilateral trading system has gained further momentum in the extended negotiations on financial services and basic telecommunications." [51]

Under the General Agreement on Trade in Services (GATS) market access and national treatment are granted "if and to the extent pertinent specific commitments have been entered into by members: Without such commitment, a member is free to not grant foreign services (and service providers), the treatment enjoyed by their domestic counterparts. …"[52] However, acceding countries are at a disadvantage because in big markets such as Ethiopia negotiating WTO members will apparently incline towards obtaining significant specific commitments in financial services, telecommunications and similar vital sectors.

c) Trade in Trade-Related Intellectual Property Rights (TRIPS)

Much criticism has been forwarded in the realm of Trade Related Intellectual Property Rights. Professor Joseph Straus cites the comment made by Nobel Prize winner Joseph Stiglitz against the structure of intellectual property rights that has become so extreme that "it is … especially harmful to developing countries… Institutional mechanisms should be established 'so that we can go back and recognize the need for developing countries, for instance, to have some technology transfer." [53] Professor Straus also underlines his con-

[50] Heng Wang, *Chinese Views on Modern Marco Polos: New Foreign Trade Amendments after WTO Accession*, 39 Cornell International Law Journal 329 (Spring, 2006) 349

[51] Michael Hahn, *A Clash of Cultures? The UNESCO Diversity Convention and International Trade Law'* Journal of International Economic Law (September, 2006), page 52

[52] *Ibid*

[53] Joseph Straus, *The Impact of the New World Order on Economic Development: The Role of Intellectual Property Rights System*, .6 John Marshall Review of Intellec-

cern about the prevention of "multinational biotechnology firms from exploiting developing countries."[54]

The criticism against multilateral trade liberalization with regard to Intellectual Property Rights (IPRs) is shared by many scholars. Yet, "[d]eveloping countries that initially opposed the inclusion of an agreement augmenting protection of IPRs in the WTO ultimately accepted it". They had probably expected "to gain important concessions from developed countries on agricultural export issues. Those countries, however, may lose more by protecting IPRs than they gain from the developed countries' concessions." Developing countries disfavor TRIPS because "paying increased royalties for protected works would create significant cash outflows." To developing countries, technology transfer is crucial to development. Developed countries, on the contrary, view it as piracy and "robbery of property (that the author or patent owner) has acquired through … expenditure of effort." [55]

Under Ethiopia's realities, we are yet unable to imitate the technology that developed countries strive to protect through the TRIPS Agreement. Thus in the short-run we don't seem to have much at stake in this regard. However, accession to TRIPS may, for example, ultimately entail stiff copyright commitments to the extent of hindering schools and colleges from their current practice of photocopying published (expensive) materials for classes.

Ethiopia is thus expected to insist on the longest transition period possible after accession. "The November 2005 WTO decision to extend the obligation of the least-developed countries to assume TRIPS obligations (until July 2013) was clearly a decision that bowed to the inevitable" because many LDCs were unable to assume "their TRIPS obligations as scheduled on January 1, 2006. The 2005 TRIPS extension for LDCs is evidence of a fundamental flaw in the so-called 'single undertaking' approach of the WTO." [56]

Conclusion

As one of the external assessors of this article correctly remarked, "the issue of multilateral trade liberalization under the auspices of WTO is a very broad issue that can't adequately be addressed in a paper of this nature." The author of this article is also grateful to the remarks made by the assessor that

[54] *Ibid* , 9

[55] Ryan P. Johnson, *Proactive Intellectual Property Protection in the Peoples Republic of China*, Connecticut Law Review, (July, 2006) 1027, 1028

[56] Kevin Kennedy, The 2005 TRIPS Extension for the Least-Developed Countries: A Failure of the Single Undertaking Approach? International Lawyer (Fall 2006) 369

"accession to the WTO is, by its nature, a one-way process (and not multilateral trade liberalization) in which those that are already members of the Organization exercise their privileged positions to extract as much concessions as they possibly could from the candidate countries." Indeed, this is what renders the costs and benefits of WTO accession a bittersweet paradox. On the one hand it is expected to be a multilateral trading system that gives due attention to the needs and aspirations of developing countries, and on the contrary accession (unlike membership to other international organizations) is *a one-way process.*

Setting aside such gaps between the promises laid down in the preamble of the 1994 Marrakesh Agreement and the actual reality, the concept of '*multilateral trade liberalization under the WTO system*' involves three elements, namely: *trade* (i.e. exchange of goods and services for consideration), *multilateral* (i.e. inter-state commerce involving goods, services and incorporeal products of the mind from WTO Member States/customs territories), and *liberalization* (i.e. absence of restrictions, significant reduction of tariffs and avoidance of non-tariff barriers).

Exchange apparently presupposes the *production* and *accessibility* of goods, services and incorporeal products of the mind. And, it is what Ethiopia can *produce* and *export* to foreign markets with due efficiency, quality and competitive price that determine the scope of its multilateral trade.

Ethiopia's foreign trade profile (September 2006)[57] is a point of much concern. In merchandise trade, Ethiopia's exports were worth USD 883 Million, and in terms of magnitude they were worth 21.4 percent of our imports (which were USD 4,127 Million). 87.4 % of our exports were agricultural products and 11.8% manufactures. And with regard to imports, manufactures constituted 64.1%, agricultural products 22.2 %, and fuels and mining products 13.4% of Ethiopia's aggregate imports. In the domain of commercial services, exports were worth USD 802 Million, while imports were valued at USD 1,177 Million. The outcome of WTO accession (and membership to GATT, GATS, TRIPS, etc…) thus depends on the extent to which Ethiopia can addresses the factors that would enable it to be not only a consumer but also a competitive producer and exporter to the international market.

The Validation Workshop hosted by the Ministry of Trade and Industry (Nov. 10-11) has duly identified the need for increasing agricultural

[57] <http://stat.wto.org/CountryProfiles/ET_e.htm>

productivity, diversifying and enhancing the volume of exports and the need for enhancing the performance of the tourism sector. This list was not a mental fiction of policy makers or academics, but is a pragmatic recommendation of the stakeholders themselves including the producers.

We are used to gaps between words and deeds. Cases in point are piles of projects, decisions and researches that are shelved until they are outdated. However, we don't seem to have the time and the option to let the Validation Workshop recommendations hibernate towards oblivion, because Ethiopia is just a few steps away from its accession to the WTO, an event that will expose us to the real world of productivity and competition.

We have much to learn from the problems and achievements of the LDCs (Nepal, Cambodia and Vietnam) that have newly acceded to the WTO. The lessons we can learn from these countries and the booming economies of China and India are numerous. They include: due attention to tourism, strategic shift from agriculture to manufacturing, focus to information and communications technology, and transformation of oxen-driven subsistence agriculture towards commercial farming.

Increasing agricultural productivity will remain a dream as long as we stay glued to the oxen-plough agriculture, and unless we put an end to the slicing up plots of land corresponding to the population boom in Ethiopia. The possibility of reviewing the land lease policy (*supra*, Section 7.1, last paragraph) has been stated among priorities towards attracting Foreign Direct Investment. The question is whether this intention can become a reality, and if so when and how?

The shift to manufacture, ICT and tourism and the simultaneous expansion of commercial (in lieu of the current subsistence) agriculture in the bid to enhance the supply side of Ethiopia's foreign trade inevitably require revisiting our rural land policy. That doesn't, however, mean that rural land should be considered '*laissez faire*' like any other commodity, because it might bring about widespread dislocation and speculative chaos. Yet, the question whether we can devise some legal mechanism towards securing a safe percentage of the equity share of farmers in the plots of land that they possess while allowing them to enter into shareholding arrangements with commercial farming investors is an angle that can be examined.

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This article did not focus on the accession negotiation process and issues related to the extent of tariff reduction and service liberalization. Nor did it purport to address the issue whether WTO accession facilitates Ethiopia's economic development. The theme of this article is rather a comparative overview of the short-term setbacks vis à vis the eventual advantages that Ethiopia can obtain if the supply side (of goods and services) is nurtured and enhanced during the accession process and thereafter. Provided that we manage to do significant progress in this regard, the reciprocal causal effects can enable the results of accession, i.e. credibility and predictability of conducive policies to accelerate Foreign Direct Investment and in effect facilitate our development endeavours.

The preceding sections of this paper have *inter alia* highlighted various perspectives of optimism and skepticism with regard to the path and impact of multilateral trade liberalization in the Ethiopian context. The lofty objectives enshrined in the preamble of the 1994 Marrakesh Agreement are indeed encouraging while facts on the ground speak otherwise. David Ricardo's doctrine creates in us the optimism of comparative advantage in organic coffee, flower production, etc., while on the contrary, the level and instability of market prices for agricultural products, lack of control of LDCs over the market of primary products, the agricultural subsidies of the developed countries, the alleged environmental impact of flower production, the steadily increasing usage of fertilizers in lieu of organic production etc… dampen our feelings of optimism.

The tone of some of the criticisms leveled against the WTO multilateral trading system might indeed seem sharp. Criticisms from Global Exchange and Udombana are cases in point. Yet, Udombana, for example, is not against multilateral trade liberalization as such. In effect, the criticisms have not been forwarded from a nihilist perspective, but rather from a constructive standpoint with a view to stating the economic injustice that is manifest in the actual *modus operandi* of the WTO multilateral trading system. The imaginative Grotian conception of 'war and trade' further deepens our query whether the WTO multilateral trading system is a new forum of clashing vital interests with the subtlety and finesse of the 21st Century. Analogous to organic life itself, only the fittest economies seem to survive and develop.

The list of costs and benefits of trade liberalization under the WTO multilateral trading system has further been articulated by Langhammer and Lücke who meanwhile discussed the *good reasons* for LDCs to join the WTO multilateral trading system. The economic, legal and political advantages of accession to the WTO have also been discussed by various writers, and further substantiated by the objectives of Ethiopia's request for accession as articulated in official documents such as Ethiopia's Status

Report on the Brussels Programme of Action (BPOA) and the Integrated Framework (IF) for Trade Related Technical Assistance.

In light of the literature highlighted in this paper, the cost-benefit balance sheet seems to indicate short-term difficulties that can lead to eventual gains from multilateral trade liberalization. In a way, we don't seem to have a choice, because, unlike Ethiopia's legendary epoch of Prester John, our mountains can no more be 'safe havens' from regional integration, globalization and the multilateral trading system.

The path ahead is indeed difficult. The accession process might also take longer than predicted in Ethiopia's accession roadmap. Nevertheless, the years of processing Ethiopia's accession can be used as the timeframe for putting our house in order so that we can be prepared for the competence towards survival and development. ■