

Nepal's Accession to WTO : Nepal's Experiences

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Presentation outline

- ▶ Accession process
- ▶ Nepal's preparations
- ▶ Overview of Nepal's commitments
- ▶ Some suggestions and tips

Accession process

‘Any State of 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. Such accession shall apply to *this Agreement and the Multilateral Trade Agreements annexed thereto.*’

Article XII, Marrakesh Agreement

- ▶ For rule-based system, there is no established rules for membership
- ▶ Single undertaking
- ▶ *Status quo* for members

Accession procedures

- ▶ Submission of the Application [21 November 2004]
- ▶ Establishment of a Working Party [13 December 2004]
- ▶ Submission of a Memorandum outlining the features of the trade regime [31 March 2009]
- ▶ Follow-up questions on the trade regime [26, July 2010; 28 October 2011]
- ▶ Meetings of the Working Party
- ▶ Multilateral Negotiations on Rules
- ▶ Bilateral negotiations on market access (and sometimes on rules)
- ▶ Preparation of a Protocol of Accession, Report of the Working Party, and Schedules
- ▶ Approval of the Application

Nepal's accession timeline

Nepal's Accession Timeline

16 May 1989	Applied for membership under GATT
21–22 June 1989	Established a Working Party under GATT
26 February 1990	Submitted the MoFTR
5 December 1995	Submitted written request showing Nepal's interest to join the WTO
31 January 1996	Decided to continue the GATT Working Party for the accession of Nepal to the WTO; Nepal given observer status.
10 August 1998	Submitted the MoFTR
17 September 1998	Submitted supplementary documents on agriculture
8 June 1999	Submitted replies to the questions on the MoFTR
9 July 1999	Submitted documents on services
12 April 2000	Submitted documents on SPS measures, TBT and TRIPS
8–24 May 2000	Held first round of bilateral negotiations with 10 WTO members
22 May 2000	Held the first formal meeting of the Working Party
21–27 Sept 2000	Held second round of bilateral negotiations with 10 WTO members
21 May 2002	Submitted the Legislative Action Plan
July 2002	Submitted schedules on goods and services
9–13 September 2002	Held third round of bilateral negotiations with seven WTO members
12 September 2002	Held the second formal meeting of the Working Party
20–23 May 2003	Held fourth round of bilateral negotiations with seven WTO members
4–18 July 2003	Held fifth round of bilateral negotiations with three WTO members
11–15 August 2003	Held sixth round of bilateral negotiations with five WTO members
15 August 2003	Concluded Nepal's accession protocol by the third meeting of the Working Party
11 September 2003	Accession Package approved by the Fifth Ministerial Conference in Cancun, Mexico
24 March 2004	Nepal ratified the WTO treaty and its agreements
23 April 2004	Nepal became the 147th Member of the WTO

Source: Adhikari *et al.* (2008): 27

Areas to be negotiated

- ▶ Negotiation on rules : economic policies, framework for making and enforcing policies, policies affecting trade in goods, trade-related intellectual property regime, policies affecting trade in services, transparency etc.
- ▶ Negotiation on tariff concessions: offer and request, preparation of single consolidated draft Goods Schedule,
- ▶ Discussion on agricultural support and export subsidies: WT/ACC/4, discussion generally plurilateral level
- ▶ Negotiation on specific commitments on services : WT/ACC/5

How commitments are made?

- ▶ Statements of fact
- ▶ Obligations to abide by existing rules
- ▶ Obligations to abide by rules created by accession commitments (WTO-Plus): UPOV, transparency, national treatment to foreign investor, government procurement, privatization
- ▶ Obligations not to have recourse to WTO provisions (WTO-Minus): abolition of ODCs, not to introduce TRIMs in future, not to provide export subsidies etc.
- ▶ Transitional periods for bringing policies into compliance
- ▶ Authorizations to depart temporarily from rules or commitments

Nepal's accession: criteria for the identification of negotiation positions

Nepal recognized that WTO membership is not an end in itself but it could be means for overall development

- ▶ Democratic accountability: national consensus
- ▶ Development needs : protection of domestic industry, protection of farmers, attraction of FDI, and employment generation
- ▶ Policy flexibility: no WTO plus/minus commitments
- ▶ Institutional capacity: transition period

Nepal's accession : internal preparations

- ▶ Establishment of formal committees:
 - High Level Committee chaired by the Secretary Ministry of Commerce comprising of Secretaries of Ministry of Finance, Agriculture, Health, National Planning Commission, Governor, Central Bank, among others.: better coordination at policy level
 - Technical Committee chaired by Joint Secretary, WTO Division, Ministry of Commerce : reflection of ground reality in negotiation
 - Strong negotiation team : ceiling binding, conditional service binding, transition period and technical assistance, rejection of data protection etc
 - Communication between capital and Mission
- ▶ Technical supports from inter-governmental organizations, UNCTAD, UNDP

Nepal's accession : internal preparations (contd..)

- ▶ Channelization of diplomatic resources: bilateral, regional, WTO groups- LDC, G77
- ▶ Consultation with stockholders- (UPOV), service commitments, smooth ratification
 - Business organizations / professional associations
 - Farmer's organizations
 - Politician (Members of Parliament)
 - Civil society / academics/Experts

Nepal's commitments

- ▶ **Systemic issues:** accepted **all** mandatory provisions but with transition period, few examples:
 - Pricing policies : no government intervention except in essential goods and services
 - Prompt review of administrative decisions- establish or designate tribunal
 - Charges commensurate with cost of service rendered: import license fee, export service fee
 - Elimination of other duties and charges
 - Anti-dumping, countervailing and safeguard measures applicable only after notification of the legislation
 - No Trade Related Investment Measures (TRIMs)
 - Non-enforcement of laws, regulations prior to publication
 - Notification of FTA

Nepal's commitments (contd...)

► Goods Sector:

phasing out of ODCs in 10 years

Non-agriculture sectors

- 99 per cent plus binding tariff
- phasing out of custom duties on IT : 5 years
- maximum bound tariff : 80 percent
- unweighted average bound rate: 39-23: 10 years

Agriculture sectors

- 100 per cent tariff binding and no reduction commitments
- unweighted average bound rate: 51-42: 3 years, with maximum of 200 percent

Nepal's commitments (contd...)

► *Services*

conditional commitments

- incorporation : be incorporated in as per Nepalese law
- equity participation : minimum of 20 per cent reserved for Nepalese investors
- foreign employee : unskilled job reserved for Nepalese
- subsidies : government not obliged to provide subsidies to service providers owned by foreigners

commitments on about 70 sub-sectors

Some suggestions and tips

- ▶ Coordination among government agencies is must,
- ▶ Consultation with stakeholders pays off,
- ▶ Prior identification of negotiation position helps: negotiable and non negotiable issues,
- ▶ Channelization of diplomatic capital is crucial : mobilize SAARC, LDC group, G77,
- ▶ Seek technical assistance, whenever needed,
- ▶ Never accept WTO plus and WTO minus commitments: risks of labour and environmental standards, privatization progress and conditions; invoke Decisions in Favour of LDCs, General Council Guidelines for LDC Accession, risk
- ▶ Never accede to plurilateral agreements or sectoral initiatives

Some suggestions and tips (contd...)

- ▶ Always look for policy space to:
 - exploit mineral resources, including natural gas, petroleum, coal, copper, chromate, talc, barites, sulphur, lead, zinc, iron ore, salt, silver, precious and semi-precious stones and marble (investment measures, subsidies))
 - promote and protect traditional handicrafts sector producing carpets, rugs, flooring and karakul (ceiling binding, subsidies)
 - protect rural livelihood, including production of wheat, corn, barley, rice, cotton, fresh and dry fruits, nuts, wool and mutton
 - ensure food security and environment protection
 - generate employment (reserve for own nationals)
- ▶ Try to carve out commitments in services sector: avoid full commitments
- ▶ Seek transition period for the implementation of WTO agreements and use it for the development of institutions

Some suggestions and tips (contd...)

- ▶ Seek technical assistance/aid for trade for implementation of commitments,
- ▶ Defer actual negotiation, both bilateral and multilateral, until July 2012- Eighth Ministerial Meeting, Geneva Decision on

Thank you

