

## **WTO ACCESSION FOR COUNTRIES IN TRANSITION**

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## **WTO MEMBERSHIP FOR COUNTRIES IN TRANSITION**

### **I. Introduction**

Countries in transition have viewed membership in the World Trade Organization, within which the rules for the conduct of international trade are set and administered, as essential to their full integration in the international economy. Accordingly, in the aftermath of the collapse of central planning and the breakup of the Soviet Union, most countries in Central and Eastern Europe (CEE) and the former Soviet Union (FSU) which were not members applied to accede to the GATT and then the WTO.<sup>1</sup> Those like Hungary, Poland and Romania, which had joined GATT under special Protocols, renegotiated them in the early 1990's and joined the WTO at its establishment.<sup>2</sup> Almost a decade later, most countries in CEE are WTO members, but none from the FSU.

The objective of this paper is to analyze the WTO accession process, with a focus on the countries of the FSU. The next section of the paper summarizes briefly the main benefits that countries in transition can expect from WTO membership. The third section discusses the process and strategies for accession as well as the main issues that have arisen in the cases of countries in transition and the FSU. The fourth section reviews the progress made on accession by the various countries in the FSU, as well as the causes for the delays which have been common in the accession of most countries. The final section draws the main conclusions from the analysis and presents a number of recommendations aimed at facilitating and expediting the process of accession for all countries, whether transition economies or not, which have already applied and for those which have not.

### **II. The Benefits from Membership**

The benefits from WTO membership fall in three main categories: (a) strengthening of domestic policies and institutions for the conduct of international trade in both goods and services which is needed

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<sup>1</sup>The WTO was established as a successor organization to the GATT in 1995. The only transition countries which have not applied for accession to the WTO are Bosnia, Turkmenistan, Tajikistan and Yugoslavia.

<sup>2</sup>For a detailed discussion of the accession process and conditions regarding these three countries, see Haus, 1992. Czechoslovakia was an original GATT member and continued its membership despite the central planning characteristics of its economy (as for that matter did Cuba). Slovenia became a member of WTO in 1995, while Croatia and Albania are currently applying to accede (see below Table 1).

before accession into the WTO can be accomplished; (b) improvements in the ease and security of market access to major export markets; (c) access to a dispute settlement mechanism for trade issues (Drabek and Laird, 1997).

As there were considerable differences in the institutional and policy environment of countries emerging from central planning, it is natural to expect differences in the opportunities and challenges that WTO membership offers for individual countries or groups. For example, many of the transition economies of Central and Eastern Europe either were already members of the GATT (e.g. Hungary, Poland) or moved quickly to establish market oriented policies and institutions. For several of these countries, membership in the European Union is a real possibility which has created opportunities, as well as complications and challenges for strengthening institutions and streamlining policies which are not present for other countries. For them issues of membership in the EC have been in most recent periods of greater priority than issues related to WTO membership.<sup>3</sup> The focus of this analysis however, is on countries where the EC option is not available in the near future.

Domestic Policies and Institutions. Under central planning the government controlled trade through state trade enterprises and the institutions governing other aspects of international exchange of goods and services, such as intellectual property rights, standards, phytosanitary provisions, procurement etc. were either different or non-existent. WTO membership requires that these policies and institutions be brought in line with the provisions of the main international agreements administered by the Organization regarding trade in goods (General Agreement on Tariffs and Trade, GATT), trade in services (General Agreement for Trade in Services, GATS) and trade related aspects of intellectual property rights (TRIPS). This involves dramatic and profound changes in the way trade was conducted by these countries. Perhaps most important of these changes is the need to introduce the laws and institutions for the operation of private enterprises and markets free from government controls and state trading practices.<sup>4</sup> Equally important is the introduction of greater stability in commercial policy which is a consequence of adherence

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<sup>3</sup>See Pietras, 1997. As we note in section IV however, for countries pursuing both WTO and EU membership simultaneously, some special problems arise.

<sup>4</sup> During the cold war, the issue of compatibility of central planning with the WTO and GATT was heavily influenced by political considerations: Hungary, Poland and Romania were admitted to the GATT, essentially for foreign policy reasons under special protocols and despite serious concerns as to whether their commitments, for example regarding tariffs, were meaningful in the context of central planning (Haus, 1992). At the same time Czechoslovakia and Cuba maintained their original membership in GATT although their central planning systems made their commitments relatively meaningless.

to WTO rules and legally binding agreements. There is little doubt that adherence to the WTO provisions in these areas would improve efficiency and productivity of countries in transition at the same time as it enhances their integration into the international trading system (Drabek, 1996).

WTO membership also offers the opportunity for new members to lock in present relatively liberal trade regimes. While trade regimes in transition economies vary considerably, many have established regimes with relatively low tariffs and not encumbered by significant non-tariff barriers. For these countries, membership provides the opportunity to lock in these regimes by assuming legally binding obligations regarding tariff levels and other practices. This not only permits them to enjoy the benefits of liberal trade but also gives them a first line of defense against domestic protectionist pressures that are on the rise in many countries and which inevitably are present in all market economies.

Market Access. There are two main dimensions of market access of importance to transition economies: first, is the extension of permanent and unconditional MFN status, that comes with WTO membership. At present, transition economies which are not members of the WTO have been granted MFN treatment voluntarily by major trading partners. But there is nothing that guarantees that they will be continued to be awarded such treatment. For example, in the US, extension of MFN to Russia and eleven other members of the Commonwealth of Independent States (CIS) is subject to annual renewal, contingent on these countries' adherence to the provisions of the Jackson-Vanik amendment to the 1974 Trade Act regarding freedom of emigration.

Second, WTO membership could help terminate the designation of some these countries as "non-market economies" by major trading partners such as the EU and the US. This designation is used to apply different, less transparent and potentially discriminatory practices in the determination of anti-dumping and, in the case of EU safeguard actions, against imports from a number of these countries, including all the CIS members and China, (Michalopoulos and Winters, 1997). It has been a major cause of trade friction between Russia and the US and the EC. These practices were fully justified when practically all trade was controlled by state trading enterprises and prices could not be taken to reflect "normal value". Countries in transition, however, have made great progress in introducing market forces and eliminating state trading in

recent years. Continuation of the traditional EC and US anti-dumping practices in the new setting no longer appears justified.<sup>5</sup>

The WTO agreements have no explicit requirement that a member must have fundamentally a market economy.<sup>6</sup> Thus, WTO membership would not automatically terminate the designation of countries in transition as non-market economies. Moreover, because the anti-dumping provisions of the GATT accept national legislation and practices to be deciding, it is possible in theory to have the odd situation of countries becoming new members of WTO which are still designated as non-market economies for anti-dumping purposes. On the other hand, the requirement that a new member have fundamentally a market economy is being imposed *de facto* by existing members as part of the leverage they have in the accession process (see below section III). It can be reasonably assumed that transition economies would not secure WTO membership unless they could demonstrate that their trade was fundamentally based on market transactions. Thus, in practice, WTO membership undoubtedly would tend to create pressure to terminate the non-market designation in national practices of antidumping and permit all WTO members to be treated the same in major markets.

Dispute Settlement. Access to an impartial and binding dispute settlement mechanism whose decisions have a significant chance of being enforced is a very important potential benefit for all small countries participating in international trade. Most transition economies are small and heavily dependent on international trade. The dispute settlement mechanism under the WTO, in the short time since its establishment, has proven to be a major success in providing opportunities for any member, large or small to get satisfaction on grievances stemming from practices of other members that cause injury to its trade. WTO membership provides transition economies with access to this dispute settlement mechanism which can be very valuable to their future trading relationships, especially with large trading partners.

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<sup>5</sup>Michalopoulos and Winters, 1997. In late 1997, the EU Commission announced proposals for liberalization of EU policy on this issue vis a vis Russia and China, which would terminate their designation as "non-market" economies at the country level and would permit determinations to be made on a case by case basis, that would take into account the market conditions prevailing in each commodity in which dumping has been alleged (Croft 1997).

<sup>6</sup>The only explicit provision regarding this matter is GATT Article XVII which calls for notification of enterprises engaging in state trading practices. However, Article XVII had never been intended to address problems that come up when the bulk of external trade was controlled by the state. Indeed the old GATT accommodated under special protocols several countries, e.g. Romania and Czechoslovakia which at the time had centrally planned economies, and Cuba was a member of the GATT and became a founding member of the WTO.

### **III. Accession Process and Strategy**

The process of accession to the WTO is demanding and has been very lengthy for most countries. It can be divided into an introductory phase of formalities and three substantive phases. The three substantive phases involve: (a) the applicant's preparation of a Memorandum on the Foreign Trade Regime (hereafter referred to as the "Memorandum") describing in detail its policies and institutions that have a bearing on the conduct of international trade; (b) the members' fact finding phase; (c) the negotiation phase. The last two phases, while conceptually separate, in practice tend to overlap considerably in time. Throughout, the applicant is faced with meeting the requirements and provisions of the WTO and demands from its existing members. Negotiation is in one direction only: The applicant is asked to demonstrate how it intends to meet the existing WTO provisions; it can not change them. Existing members can ask the applicant to reduce the level of protection in its markets; but the reverse is not usually the case.

The Formalities. After a country sends a letter to the Director General of the WTO expressing its desire in acceding to the Organization, the request is considered by the WTO General Council, which consists of representatives of all members and which meets frequently during the course of the year. The General Council routinely decides to set up a working party (WP) with appropriate terms of reference to consider the accession application and nominates its chairman<sup>7</sup>. Membership of WP is open to all members of the WTO. In the case of large countries such as China or Russia, a large number of countries participate, in the case of smaller countries, usually only the "quad" countries, Canada, EC, Japan and the US, plus Australia, New Zealand, Switzerland, a few of the larger trading developing countries as well as some neighbouring countries which are significant trading partners. This phase can be quite short and would normally take no more time than that needed to translate and distribute the accession request and a ten day period before the next meeting of the General Council.

The Memorandum. The first substantive phase, involving the preparation of a Memorandum on the Foreign Trade Regime by the applicant explaining its policies and institutions, can be a very demanding task, because of the range of issues that the memorandum has to address and the degree of detail required. The issues include much more than simply trade in goods and services -- although the latter, which

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<sup>7</sup>Usually an Ambassador, permanent representative to the WTO of one of its members. Countries frequently request and obtain observer status at the WTO, which permits them to familiarise themselves with the institution and its procedures, prior to a formal request for accession.

encompasses the financial sector, insurance, telecommunications, professional services etc. is a large task in and of itself. They range over various aspects of macroeconomic policy, especially related to foreign exchange management and controls, investment and competition policy, protection of intellectual and other property rights, as well as enterprise privatization. The preparation of this report is the sole responsibility of the applicant -- and so are any delays in its preparation.

To the extent that the original Memorandum is done quickly but is incomplete in its details or the legislation and practices inconsistent with WTO provisions, the more protracted is the subsequent question and answer period. Sometimes, members have asked the WTO Secretariat to review draft Memoranda before their circulation so as to prevent incomplete documentation from being circulated. But the Secretariat does not assume any responsibility regarding the contents of the Memorandum.

Questions and Answers. Once the memorandum has been circulated to the WP members, the accession process enters the second and, in most cases, the most time consuming process, which consists of members asking questions and obtaining clarifications on the applicant's policies and institutions, either based on the memorandum or on independent evidence about the situation gathered by the members. The first part of the process involves the initial questions and answers regarding the policies and institutions based on the applicant's Memorandum. This typically takes several months, but in the case of Russia, it took more than a year (Table 1). The Working Party typically does not meet until the Memorandum and the initial questions and answers have been distributed. It is followed by further questions and answers of clarification which can take several working party meetings sometimes covering a period of several years.

The WTO treaties contain very few provisions regarding the countries in transition. The major exceptions are that such countries are given more time to implement GATT provisions regarding the elimination of export subsidies as well as the implementing legislation under Trade Related Intellectual Property Rights (TRIPS). Thus, the major challenge faced by each country in the process of accession is to enact the laws, develop the institutions and apply the policies that would enable it to conform to the fundamental rules and disciplines of the WTO. This is a major challenge for the FSU countries which have to make fundamental changes in the laws, institutions and policies governing international trade.

The purpose of the detailed review that takes place during this phase of accession is to make sure that the legislation and institutions of the applicant are in conformity with the provisions of the WTO. One of the reasons why the process is so time consuming is because the review is exhaustive in its details. The

applicant is requested to submit for the consideration of the WP members relevant legislation on a variety of issues covered by the WTO which is reviewed in detail for its consistency with the provisions of WTO agreements. Delays during this phase are frequent: If a member feels that the answers submitted to a question or the actions taken to remedy an inconsistency are inadequate, it simply resubmits the question for the next round.

While the issues raised in each accession WP vary somewhat depending on the country, there are some common themes that emerge in the discussions of accession of countries in transition in general and those of the FSU in particular that are worth highlighting.

First, there is a general concern that the laws and regulations of the acceding country are in conformity with WTO provisions. These extend far beyond the obvious such as the Law on Customs, the Tariff schedule and related regulations on imports and exports. They include such items as the laws on joint stock companies, the Central Bank and credit institutions, licensing of economic activity, domestic taxation, regulations on food and alcoholic beverages, veterinary medicine and quarantinable pests, patent and copyright protection, consumer protection etc. Just the listing of the laws reviewed by a recent WP of a small FSU country ran into two single spaced pages involving more than sixty laws and regulations.

Second, within the context of laws and the operations of government institutions, there are two broad issues that typically receive special attention: The degree of privatization in the economy and the extent to which government agencies involved in the regulation of economic activity do so on the basis of transparent rules and criteria as opposed to administrative discretion. Both of these concerns emanate from the dominant role that the state previously played in the centrally planned economies of these countries.

Third, there are issues that relate to the jurisdiction and capacity of national agencies to implement policies on which commitments are being made. The fundamental concern is one of governance: Do the government agencies have the authority and capacity to implement the commitments that they are making in the context of WTO accession regarding the laws and regulations that concern the conduct of international trade? A related concern arises about the role and jurisdiction of local authorities and whether they have the right and opportunity to nullify the commitments made by the national authorities in the context of accession negotiations.

Fourth, countries are frequently urged to join plurilateral agreements such as the Government Procurement Code and the recently signed agreements on Telecommunications and Information Technology.

Finally, there are some issues that are particular to countries of the FSU: First, is the question of the VAT. Following independence most CIS countries established VAT laws which imposed the tax on imports from the rest of the world, but not on imports from the rest of the FSU; such products were taxed at the point of origin. This is contrary to international practice and all countries acceding to the WTO are being asked to change their laws accordingly. A related issue that has led to a large amount of questions pertains to the free trade arrangements and custom union agreements signed by several CIS countries. The concern has been whether (a) these agreements are actually operative; (b) whether they are consistent with the provisions of the WTO contained in Article XXIV of the GATT and Article V of the GATS.

Negotiations. At some point during the question and answer phase, after most, but frequently before all the points raised by WP members have been answered the applicant is requested to submit its, so called, initial schedule of "offers" in goods and services. This consists of: (a) The detailed schedule of tariffs the applicant proposes to impose on goods and the level at which the tariffs are "bound". This is the tariff level beyond which a prospective member can not increase tariffs except in well defined circumstances (e.g. following negotiations with principally interested suppliers and then, only if it offers compensation in the form of liberalization in other tariffs, or, as a temporary safeguard or in a balance of payments emergency); but a country's applied tariff can be lower than its bound level. (b) The commitments it makes to maintain free access to its market for services.<sup>8</sup> In addition the applicant is requested to make commitments regarding the level of support it plans to provide to its agriculture relative to a base reference period ( usually the three years before the application for accession) as well as other aspects of its support for agricultural trade (e.g. export subsidies).

Once these offers are tabled, the accession process enters its final phase, which involves specific bilateral negotiations between the applicant and each WTO member who wishes to hold them, regarding the tariff level or the degree of openness of the service sector proposed by the prospective member. The actual timing of the original offers varies considerably, and sometimes they are tabled very early in the

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<sup>8</sup>The commitments countries make regarding market access on services are typically more general and open ended than in the sphere of goods. For a discussion see Hoekman, 1996.

question and answer phase, as e.g. in the case of Georgia. Often bilateral negotiations are taking place in parallel with formal meetings of the WP that continue to deal with deal questions and answers regarding the foreign trade regime. The negotiations phase can also be lengthy, depending on the degree of openness the applicant proposes and the demands for market access made by members.

When these negotiations are in the process of being finalized and the applicant has provided assurances that the legislation and institutions that would permit compliance to the WTO provisions are in place, a draft report on accession is prepared by the Secretariat for consideration by the WP, which includes the schedule of agreed commitments on goods and services. After WP approval, the report is forwarded to the General Council. Following a favourable decision by the General Council (usually a formality), the country is invited to sign a protocol of accession.

Strategy and Tactics. Within the rules and disciplines of the WTO, each country has considerable scope as to how restrictive or liberal its trade regime will be. There are no specific rules as to the maximum level at which a country has to bind its tariffs, or how many services it will liberalize; or whether to establish anti-dumping legislation or not; or how fast it will liberalize its agricultural trade. Countries thus have a strategic choice to make during the negotiations phase: How liberal their trade regime will be, consistent with the overall WTO disciplines.

The key decisions countries have to make relate to the level at which countries bind their tariffs, the support they provide to agriculture and the range of commitments in the liberalization of the service trade. One strategy that some countries have pursued in their accession negotiations is to try liberalize as little as minimally necessary to ensure accession. According to this strategy, since at accession applicants can not negotiate improvements in their own market access, it would be desirable to try to maintain significant levels of protection, which they can use as bargaining chips to obtain improved access in future negotiating rounds. In a similar vein, some transition economies which have already established relatively low tariffs and otherwise liberal trade regimes -- partly because deep devaluations of the exchange rate at early stages of transition provided protection to domestic industry -- have presented initial offers that propose to bind tariffs at rates much higher than those currently applied and/or offered to make few commitments in maintaining their service sectors open.

There are significant dangers to such a strategy, however. Individual countries, especially small transition economies, have little leverage in market access negotiations; hence the potential benefits they

may be able to obtain through such a strategy may be very small. At the same time, maintaining protection through relatively high tariffs and protected agriculture and service sectors, simply means that they impose costs to their own economies, by foregoing the benefits of a more liberal trade regime, which, in the first instance accrue to the country itself. If, on the other hand, countries bind tariffs at levels higher than those applied and assume few commitments regarding agriculture and services, both of which are possible under WTO rules, they are subject to another risk: They create the opening for domestic interests to exert political pressure for additional protection in the future.

A better strategy for transition economies seeking accession to the WTO is to bind tariffs at the usually low currently prevailing levels (or to agree to reduce and bind tariffs at low levels as part of the accession negotiations) and to agree to a liberal trade regime in agriculture and services-- and for that matter agree to participate in such agreements as the government procurement code which increases competition and transparency in the operation of their markets. Such a strategy, in addition to providing the countries with the benefits of liberal trade, has a number of other advantages: It would facilitate the negotiation part of the process of accession; it would provide governments political cover against domestic protectionist interests which may otherwise succeed in subverting an existing liberal trade regime; and, the legally binding WTO commitments would make it more difficult for future governments to reverse the liberalization. Increased protection to "safeguard" against serious injury to domestic industry is permitted under WTO rules-- but it is supposed to be decided on the basis of a detailed and transparent investigation to demonstrate injury which is then notified to the WTO and subjected to the scrutiny of other members. This is far more difficult to do than for a powerful domestic industry to simply seek government support to raise tariffs beyond the applied level but below the higher bound level-- which a government can do almost without any constraint. The point about WTO is not that it prohibits protection, but rather that it permits it only according to certain rules; and that obeying these rules makes protection more transparent as well as more difficult to initiate and spread.

It is fair to ask whether countries should not maintain some flexibility in their initial offers, as they are bound to face some demands to liberalize by existing members, almost irrespective of the level of protection they initially propose. While there is merit to this point, it probably should not be pushed too far. Experience in recent accession negotiations suggests that countries with initial offers to bind their tariffs at levels significantly different from the applied level, encounter serious difficulties in accession -- although the practice is quite widespread among existing developing country members many of which also have not bound at all large portions of their tariff schedule. When such an initial offer is put on the table -

- as it has happened with several FSU countries as well as other applicants for accession, WP members basically refuse to consider it or enter negotiations on that basis. They simply ask the country to submit a revised offer with bound rates closer to applied ones before serious negotiations occur.

In this respect, as well as in several others, for example, agriculture, standards or sanitary and phytosanitary regulations, the demands made for newly acceding countries are greater than the disciplines on existing members (Drabek and Laird, 1997). Thus, a strategy of minimizing liberalization commitments at entry is neither desirable nor likely to succeed.

At the same time, countries need to focus far more their negotiations on a number of other issues in which institutional weaknesses make it necessary that they are given longer periods for introducing WTO disciplines. These relate broadly to aspects of the operations of a market economy, where it takes time to establish the proper institutional infrastructure that would enable them to discharge their responsibilities properly under the WTO agreements. There are many examples of such areas: The development of appropriate legislation and institutions for intellectual and other property rights protection, the establishment of a suitable regulatory environment for standards or phytosanitary controls, regulatory aspects of provision of various services etc. When such weaknesses are brought out in negotiations, members suggest that the applicant: (a) seek to obtain technical assistance (available from a variety of bilateral and multilateral donors) and (b) present a detailed plan regarding the particular aspects of the relevant WTO provisions in which weaknesses exist and how and for what time period it proposes to remedy them; rather than simply provide an extension for the application of major sections of the WTO agreements, e.g. regarding intellectual property rights.

It is politically difficult to adopt a liberal trade strategy at accession, especially when major trading partners, which are WTO members, take advantage of opportunities which are perfectly legal under the WTO to limit market access -- for example by maintaining high levels of protection in agriculture.<sup>9</sup>

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<sup>9</sup>The situation regarding commitments acceding countries have to make in agriculture is complicated by the fact that many of these countries did not provide substantial support to agriculture in their previous regimes and the requests that they frequently face to actually reduce their aggregate measures of support relative to a "representative" period, usually the three years prior to the application for accession, contain serious statistical and economic pitfalls: For example, the three years prior to the accession application frequently coincide with the early 1990's when these countries were in the midst of hyperinflation and their exchange rates were unstable and could hardly be viewed as representing "equilibrium". Similar problems arise if the late eighties are used as "representative". Thus, measures of support for such reference base periods calculated either in national currencies or in foreign exchange are not especially meaningful.

Recognizing the political difficulties involved, there are, nonetheless, strong arguments that suggest that those transition economies that are currently applying for WTO accession which adopt a liberal trade strategy at entry, will maximize the benefits and opportunities for integration in the international community that WTO membership offers. Those that do not, may be saddled with a protective trade regime that inhibits their adjustment and effective transition to a market economy (Kaminski *et. al.* 1996, Michalopoulos and Tarr 1996).

#### IV. Progress in Accession

Progress to date. As of March 1998, there were 31 working parties formally established to consider the accession applications of governments, prospective members to the WTO. Of these, 20 involve governments of transition countries (including China). In this group are 13 of the 15 FSU countries (all except Tajikistan and Turkmenistan). The remaining include a variety of governments mostly of developing countries (Table 1).

Most of the WPs have been established some time ago: The oldest are those of Algeria and China established in 1987, i.e. more than ten years ago. The newest involve Andorra (October, 1997), Azerbaijan (July, 1997) and Laos (February, 1998). On average, the working parties considering accession have been in place for 46 months, i.e. almost 4 years. If one excludes from the calculation the two oldest, China and Algeria, which can be considered special cases, and the three newest, which have not really started their work, the average life of existing working parties is 43 months. The averages for FSU countries are roughly similar, with many working parties having been established in 1993-94.

This simply means that if all these WPs completed their work by the end of 1998, a most unlikely prospect (see below) it would have taken on average in excess of four years to complete a WTO accession. In practice, it is likely to take much longer on average: The four most recent cases of WTO accession based on working parties (Bulgaria, Ecuador, Mongolia, Panama) took on average 73 months, i.e. a little in excess of six years from the time the working party was established to the time WTO membership entered into force. If we apply the same average to the FSU countries, it means that WTO membership on

(. . . continued)

Moreover, as during these periods most governments' policies penalized agriculture rather than "supported" it, requests to reduce the aggregate measure of support may be completely unwarranted.

average for those that applied in 1993-1994 can not be expected before 1999; for some, it may come somewhat earlier and for some, especially those that applied most recently, it is likely to be much later.

Looking at the specific situation regarding the progress made in the accession of FSU countries, Table 1, shows the following:

- Two countries, Tadjikistan and Turkmenistan have not applied for accession.
- Two countries, Azerbaijan and Uzbekistan are at the very early stages in the process, as they have not yet submitted a Memorandum of the Foreign Trade Regime.

**TABLE 1**  
**Timetable of Accessions to the WTO**

Government	Date of WP Establishment	Date of Circulation of Memorandum	Date of Circulation of First Q. & A's	Suppl Informati
<b>Countries in Transition - Former Soviet Union</b>				
Armenia	December 1993	April 1995	September 1995	
Azerbaijan	July 1997	-	-	
Belarus	1. October 1993	January 1996	January 1997	
Estonia	March 1994	March 1994	October 1994	
Georgia	July 1996	April 1997	September 1997	
Kazakstan	February 1996	September 1996	January 1997	
Kyrgyz Republic	April 1996	August 1996	January 1997	
Latvia	December 1993	August 1994	February 1995	
Lithuania	February 1994	December 1994	September 1995	
Moldova	December 1993	September 1996	May 1997	
Russian Federation	June 1993	March 1994	June 1995	
Ukraine	December 1993	July 1994	February 1995	
Uzbekistan	December 1994	-	-	
<b>- Other Countries in Transition</b>				
Albania	December 1992	January 1995	September 1995	
Cambodia	December 1994	-	-	
China	March 1987	February 1987	November 1987	
Croatia	October 1993	June 1994	August 1995	
FYR Macedonia	December 1994	-	-	
Laos	February 1998	-	-	

Government	Date of WP Establishment	Date of Circulation of Memorandum	Date of Circulation of First Q. & A's	Suppl Informati
Vietnam	January 1995	October 1996	March 1998	
<b>others</b>				
Algeria	June 1987	July 1996	July 1997	
Andorra	October 1997	-	-	
Nepal	June 1989	February 1990	November 1990	
Oman	June 1996	October 1996	March 1997	
Saudi Arabia	July 1993	July 1994	November 1995	
Seychelles	July 1995	August 1996	January 1997	
Sudan	October 1994	-	-	
Chinese Taipei	September 1992	October 1992	March 1993	
Tonga	November 1995	-	-	
Vanuatu	July 1995	November 1995	May 1996	

x = Ongoing; <sup>1</sup> = Late stages

Source: WTO

- One country, Belarus, is in the question and answer phase, without serious negotiations yet.
  
- Ten countries, Armenia, Estonia, Georgia, Latvia, Lithuania, Kazakhstan, the Kyrgyz Republic, Moldova, Russia and Ukraine are at various phases in the negotiations process. Of these countries, five, including the three Baltic countries, Armenia and the Kyrgyz Republic are at a late stage in the negotiations, with WTO membership a possibility in 1998.

Why does it take so long? Although achieving WTO membership for five FSU countries, and possibly others, in 1998 -- which for some would be five years after the initial application, and for others somewhat less -- would be a significant accomplishment, it could be reasonably asked why does the WTO accession process take so long, and are there measures that can be taken by the governments themselves, the WTO and its members to expedite the process. For example, by comparison, accession of the FSU countries to the Bretton Woods institutions took on average less than a year. There are of course many differences between these institutions and the WTO, which need to be considered. But to understand why it takes so long to accede to the WTO, one has to look first at the various phases of the accession process and the reasons why delays may occur:

First, there are several cases where a government has taken the initial step to apply for accession and have a working party set up, but then does not follow up the accession process by preparing a memorandum on its policies or take subsequent steps or does so after a long interval. The reasons may have to do either with uncertain commitment to follow through on the initial decision, or because internal political conflict has delayed the process: Included among the former are the working parties on Nepal and Uzbekistan, among the latter the working parties on Albania, Cambodia and Sudan. It should be noted in this context that in the case of Algeria, the working party was set up in 1987, but the government did not produce a memorandum until 1996. For FSU countries, the WP for Uzbekistan was set up in 1994, but a memorandum has not been submitted yet.

Second, there are a few cases where political issues between an applicant and one or more influential WTO members have introduced delays in the process: Arguably, this had been the case in the past to some extent with the accession of China ( and that of Chinese Taipei which is linked to it), and continues to be the case regarding the accession of the FYR of Macedonia.

Third, even if the above problems were not present, the inherent process of accession is a time consuming one, for a variety of reasons which can best be analyzed by decomposing the overall process in the various phases described above and the factors affecting each.

The preparation of the Memorandum presents serious difficulties to governments which typically do not have human or material resources to address the issues that have to be discussed in detail in the memorandum. In some cases there is even a lack of familiarity with the concepts and legal and economic issues involved. This has been true both countries in transition and many developing countries. Most have had to seek assistance from outside experts funded by bilateral aid agencies as well as from the WTO itself and the World Bank. Despite this assistance, it has taken on average about 10 months to prepare the initial Memorandum (even excluding the extreme case of Algeria). Experience with the FSU countries suggests that most have been able to complete the report in under a year's time, from the date of the WP establishment, but in the case of Belarus and Moldova it took more than two years. In these two cases it is unclear whether the delays were caused by difficulties encountered in preparing the memorandum or by a country decision to delay the process (see Table 1).

The question and answer process is time consuming, most fundamentally, because institutional weaknesses in applicants result in long delays for governments to ascertain consistency between existing legislation and regulations and WTO requirements as well as to design and put in place the amendments or new legislation or regulations needed. This is compounded by the range and extent of the legislation needed, and by the fact that legislative processes are inherently time consuming. At the same time, the process of interaction between the applicant and the members regarding the facts is itself time consuming: It takes on average nine months from the time of circulation of the Memorandum, for the first questions and answers on it to be distributed.

The subsequent fact finding process can also be time consuming stretching in some cases to several years. In part, the problems here arise again because of weaknesses in the institutional capacity of the applicant. The WTO secretariat can be of assistance only in a very limited way in the accession process: The WTO budget allocates very limited resources to accession of new members. The five staff in the WTO Accession Division (first established in 1995 -- as the GATT had no explicit secretariat resources devoted to the processing of new members) are extremely thinly stretched to service even the procedural needs and paperwork generated by more than twenty five active accession working parties. On the other

hand the members themselves do not apply large resources to the support of the accession process.<sup>10</sup> Finally, delays occur because fact finding about policies merges into negotiations about how existing policies need to be changed to ensure conformity with the WTO.

The negotiations phase is thus partly about existing policies pertaining to various aspects of the WTO agreements and partly about the specific tariff bindings and commitments in agriculture and services. Delays can occur from both sides: The acceding government may be unwilling to make needed liberalization commitments e.g. by offering to bind tariffs at levels much higher than presently applied ones or members may be unwilling to accept delays in bringing the laws and institutions of the applicant in conformity with WTO provisions. Sometimes, as in the case of some of the Baltic countries, the delays have resulted not so much from the accession to the WTO *per se*, but from the links between commitments related to the WTO, e.g. in the area of agriculture or services and the possible future association of the countries with the EC. For example, Estonia, with a currently very liberal trade regime in agriculture, had to review its WTO policy commitments in that sector, in the light of its interest in joining the EC and phasing in the latter's more interventionist agricultural policy. Both Estonia's and Latvia's accession have had to come to grips with EC-US disagreements over the appropriate commitments in some of the service sectors.

A Comparison with the IMF and World Bank . It might be useful, in concluding this analysis to compare briefly the WTO accession process for FSU countries, or for that matter for any others, to that of membership in the Bretton Woods institutions. The speed of accession of FSU countries to the Bretton Woods institutions can be explained by three major factors:

First, compared to the WTO, there are fewer issues on which proper legislation and regulations need to be in place before membership in the Bretton Woods institutions can be achieved. As introduction and enactment of new legislation is a time consuming process, this by itself explains why obtaining membership in the WTO is likely to be more time consuming than membership in the Bretton Woods institutions.

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<sup>10</sup>The EC for example has six staff assigned to support the accession process in Brussels; the US has a similar number in Washington -- to deal with the accession issues arising in more than twenty active working parties. Many WTO members however, notably the EC, the US, and Switzerland support the accession process through technical assistance from their aid programs (see below page 18).

Second, there is much less negotiation about policies at the time of membership in the Bretton Woods institutions and certainly there is nothing comparable to the negotiations that occur over specific tariff bindings or commitments in services in the WTO. It can be argued that policy conditionality is introduced later after countries have become members and it is linked to their access to IMF drawings and World Bank loans. This is likely to be only a small part of the explanation why membership negotiations in the Bretton Woods institutions were so much more quickly concluded. IMF membership is actually very extensively conditioned on the establishment of appropriate institutional arrangements for the conduct of monetary and foreign exchange policy, suitable legislation about the Central Bank and its relationship to the financial sector etc. World Bank membership is less extensively conditioned both at membership and later on as only a small proportion of its loans (usually no more than 25%) are actually conditioned on policy performance. A more important factor for the delays associated with WTO negotiations is that the political economy of international trade policy is dominated by particular commercial interests in all countries: Thus, while at a general policy level WTO members might agree that accession of a country to the WTO is of paramount importance to their national interest -- and for some large countries to the very operation of the international trade system -- accession can not occur until the particular commercial interests in all countries are satisfied; and that takes time.

Third, the developed countries, whose governments play a decisive role in determining the budgets of both the Bretton Woods institutions and the WTO, ensured that large incremental resources were made available to the Bretton Woods institutions to expedite membership of the countries emerging following the break-up of the Soviet Union. For example, in the summer of 1991 the World Bank Board allocated \$30 million for technical co-operation activities with the Soviet Union and its then republics; and an additional about \$15 million were budgeted later that permitted the expansion of the operational staff working on these countries from about 20 to 150 in a matter of months. Most of this staff and resources were devoted to fact finding and advisory pre-membership activities, i.e. helping prepare analyses of the overall economic situation and policies, preparing the first Economic Memorandum (similar to the Memorandum on the trade regime prepared for the WTO), advising governments on the design of needed legislation etc.<sup>11</sup> By contrast, while the WTO budget devoted to accession matters has been increased, the burden on

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<sup>11</sup>See World Bank, 1995. Over the period 1989-1990 and 1991-1993, the author was part of the World Bank management team directing the implementation of pre-membership activities, first in Eastern Europe and later the FSU, and led the preparation of the World Bank Economic Reports in three countries, Bulgaria, Moldova and Ukraine. These Reports are analogous to the Memorandum on the Foreign Trade Regime, but broader in scope and coverage, and prepared by Bank staff rather than the government.

preparing for accession falls primarily on the acceding countries, supported by a number of usually uncoordinated multilateral and bilateral assistance efforts funded by aid agencies as the trade ministries in all countries do not have as a mandate the integration of other countries in the international trade system, but the protection of national commercial interests.<sup>12</sup>

UNCTAD, the World Bank, the EC, Switzerland, the US as well the WTO, all have programs to provide technical assistance on various aspects the accession process and especially in the preparation of the initial country Memorandum. Anecdotal evidence about these programs suggests a somewhat uneven performance: Many countries report very helpful contributions by foreign consultants and advisors in the preparation of the Memorandum. In some cases, however, it appears that advice provided by outside experts has actually slowed the accession process, because the consultants suggested and the country agreed to a "bargaining" strategy of bindings of tariffs at high levels and limited offers on services. As with other kinds of trade related technical assistance, the problem does not appear to be the lack of financial resources, but lack of co-ordination among the various donors as well as between the bilateral aid agencies providing the assistance and their colleagues in the trade ministries who are negotiating the accession.

## **V. Conclusions and Recommendations**

For a variety of reasons, the process of WTO accession has been lengthy, complex and challenging for all countries, including FSU countries in transition. After several years of discussions and negotiations however, it is reasonable to expect that in the course of 1998 five FSU countries, the three Baltics, Armenia and the Kyrgyz Republic and perhaps a number of others will complete the process for WTO accession. The remainder will take longer.

The amount of time it is taking to process the applications of FSU countries is not substantially different from the average for recent applicants for WTO accession. Indeed, if the negotiations for the five countries are concluded this year, their applications would have been processed more rapidly than the average. Probably, the main reason for this is that the five countries involved have the most liberal trade regimes among the FSU countries.

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<sup>12</sup>There is another difference as well: The increased allocations to assist in the preparation of FSU countries for membership in the Bretton Woods institutions, did not require increased budgetary appropriations, but could be obtained through the reallocation of existing resources, or in the case of the World Bank reallocation of profits.

Even if these negotiations are concluded successfully in 1998, the WTO would be faced with the processing of a backlog of another 26 applicants for accession. At the current pace of processing it would take another 5-6 years to work through the existing backlog of applications for WTO accession. If one adds to this another 20 or so governments, mostly least developed countries, a number in the Middle East and some economies in transition which have yet to apply for accession, it would probably take a decade or more to achieve the goal of universal membership in the WTO.

Recognizing that the process of WTO accession is inherently time consuming because of the legislative requirements that need to be met and the negotiations on specific aspects of the foreign trade regime that characterize accession, there are a number of steps that acceding countries and WTO members could take that would facilitate and expedite accession.

Governments seeking accession need first, to establish a central co-ordination point to provide direction and manage the multiplicity of legislative and regulatory changes in their foreign trade regime that are necessary for accession. Second, they need to adopt liberal trade policies, because such policies will both contribute to their effective integration in the international economy and facilitate WTO entry. Third, governments need to focus on and identify those areas of the WTO agreements in which weaknesses in their institutional infrastructure require that they delay implementation of WTO provisions. They should actively seek to obtain technical assistance to help remedy the situation, prepare a realistic plan for implementing remedial actions, as well as seek agreement to obtain suitable delays in the implementation of the agreements as part of the accession process.

WTO members can also take steps to help expedite the accession process. Such steps are predicated on the assumption that it is in the interest of WTO members for the organization to achieve universal membership sooner rather than later, as they would also benefit if all countries adhere by the rules and provisions of the WTO.

WTO members, first, need to consider the institutional weaknesses of acceding governments and moderate demands for adherence to WTO provisions by agreeing to suitable, time bound extensions in meeting WTO obligations. This should not involve lowering the requirements, but providing more time to

meet them.<sup>13</sup> If such extensions are not provided, either the negotiations are stalled or the acceding country ends up accepting obligations which it can not implement.

Second, they need to continue to provide assistance to developing countries and countries in transition which are not members to strengthen their institutional capacities so that they are better able to meet the requirements for WTO accession; and they need to co-ordinate this assistance better. The recent establishment of the Integrated Program of Trade Related Technical Assistance to the Least Developed Countries ( WTO, 1997) is a welcome initiative in this regard. But it is important to recognize that technical assistance, while potentially useful, does not by itself guarantee institutional development.

Third, consistent with preserving WTO as a member driven institution, they can take steps to help expedite the procedural aspects of accession. At the very least, they need to ensure that their own institutions are adequately staffed so that they are not themselves responsible for delaying accession. In addition, they should consider increasing very substantially the resources made available to the WTO secretariat in assisting acceding governments in the preparation of the original memorandum and in the design of legislation and regulations that would enable them to meet WTO obligations. This need not entail large increases in the WTO secretariat staff. It can be done by setting up a special trust fund earmarked for technical assistance in support of accessions, say of the order of \$4- 5 million for the next three-five years. Such an allocation would represent only a small portion of what some members already spend through their aid programs to assist countries to accede but would result in more than doubling the resources the WTO itself currently allocates for accession.<sup>14</sup> Channelling more resources through the WTO would permit the Secretariat to play a more active role in co-ordinating the assistance efforts in support of accession as well as give greater assurance that the outside experts who assist governments in the preparation of the needed documentation and in the modification of legislation and regulations, do so in ways that more effectively meet WTO requirements.

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<sup>13</sup>For a discussion of the needs for time extensions for countries in transition acceding to the WTO, see Drabek, 1996.

<sup>14</sup>A rough calculation of the orders of magnitude involved is as follows: Assuming that each staff year of consultant work costs \$200,000, an additional annual budget of \$1.6 million for three years, would result in an additional eight staff years of work on accession compared with the five staff years devoted to this purpose at present.

Such an initiative should aim at cutting significantly into the time of processing the existing backlog of accession applications and those that are likely to be forthcoming in the near future, as more developing countries and transition economies apply for accession. A reasonable objective should be to cut the processing time of accessions to no more than two years, a time frame that is feasible provided the above steps are taken. If it were attained by all acceding countries, it would enable the WTO to achieve universal membership in the next five years, a worthwhile objective for the international community to aspire to.

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