

Pursuing WTO accession: Advantages and disadvantages for South Sudan

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1. Introduction¹

The World Trade Organisation (WTO) is the international forum for establishing and policing the rules for international trade. As a result of the 'single undertaking,' where all terms are part of an indivisible package, attaining membership requires signing all WTO agreements that cover trade in goods, both agricultural and non-agricultural, and services, such as banking, transport, tourism and telecommunications.² It also includes an agreement on trade-related intellectual property rights that will be of interest to South Sudan. Recent experience suggests that it can take up to ten years to complete the accession process from the point of obtaining observer status.

Accession to the WTO will result in a variety of benefits for South Sudan. Most countries in the world are members of the WTO and trade between members makes up 95% of total world trade.³ It will also open doors beyond the WTO itself. Therefore, following their accession to the East African Community in April 2016, applying for WTO membership is a logical next step in South Sudan's process of engaging with the international community. By joining the WTO, South Sudan can benefit from most-favoured-nation treatment; it will signal its commitment to applying pro-growth policies, which may have positive effects on the growth of national income; it can facilitate South Sudan's development of trade policy through the adoption of internationally accepted best practices; and it will provide a forum where South Sudan can settle its trade disputes with other countries. Overall, South Sudan will become more visible on the

¹ This Policy Note was prepared following South Sudan's accession to the EAC in April 2016. The note is predicated on the successful implementation of the *Agreement of the Resolution of the Conflict in the Republic of South Sudan* (August 2015).

² http://www.wto.org/english/thewto_e/whatis_e/tif_e/utw_chap2_e.pdf

³ https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr02_e.htm

international stage and its policy makers will be able to actively engage, both learning and contributing to international trade policy.

The largest short-term cost of South Sudan joining the WTO will be the accession process itself, as it is long and complicated and will be very demanding on South Sudan's limited human resource capacity. Furthermore, although the adoption of many of the WTO's agreements will be beneficial, experience from other least developed countries (LDCs) has shown that their application can be difficult and costly. Applying these rules and regulations will also leave less space for the Government of South Sudan to engage in strategic trade policy to foster currently nascent industries. Although this may not necessarily be a cost to the economy, and could be a benefit, it will be a politically unpopular measure. This is particularly the case as other short-term benefits of joining the WTO are limited. Finally, the current climate for trade negotiations may also make it difficult for South Sudan to actively engage, illustrated by the current stalled Doha Development Round of negotiations.

These drawbacks notwithstanding, **an aggressive push towards WTO accession is in South Sudan's interest as it moves forward in defining its trade policy, as the benefits of WTO membership will outweigh the costs.** WTO accession can also provide the foundation for many of South Sudan's other engagements within the international trade arena. Therefore, given the length of the process, it is important, if not urgent, for South Sudan to embark on this now.

2. Potential advantages of accession

Trade facilitation

The overall aim of the WTO is to facilitate and foster increased trade between its members. Through its various provisions, the WTO assists in lowering the barriers to trade. Furthermore, membership also ensures access to the markets of other members through the guaranteed application of most-favoured-nation (MFN) tariff rates. Analysis of bilateral trade data has shown that accession to the WTO has had a larger impact on the extensive trade margin, i.e. new products or new destinations of existing products, than on the intensive margin, i.e. existing products or partners. Dutt et al. (2011) estimate that WTO membership increases the extensive margin of exports by 31% while it has a negligible impact on the intensive margin. If South Sudan applies for observer status, they will still have access to the trade facilitations facility, which is a benefit in itself as well.

Development of pro-growth trade policies

Experience suggests that a country like South Sudan, with fledgling institutions, could expect to gain from WTO membership as it represents a relatively strong external commitment to institution building and pro-growth policies. This positive signal can attract foreign direct investment (FDI) flows, including capital and technology transfer to a country. From an examination of data for all developing countries between 1980 and 2001, Tang and Wei (2008) find that GATT/WTO accession tends to raise income

temporarily; growth and investment accelerate for 5 years leading to an economy permanently larger by 20%, but only for those countries with poor governance.

As South Sudan is currently in the process of drafting and developing many of its laws, it has the opportunity to learn from and adopt WTO-consistent laws from the outset. For example, South Sudan will have to adopt the Sanitary and Phytosanitary (SPS) Measures. Although as an LDC, they will be given time to implement these, these measures will be key for South Sudanese products to access other markets. Therefore, joining the WTO will support domestic institution building, even if in many cases, the necessary policies may not yet be relevant for South Sudan. Furthermore, this will also result in greater openness, transparency and predictability within their trade regime, as well as a wider and more open discussion of trade-related issues. Therefore, for South Sudan, working up to accession will help provide a road map on how to elaborate and, where necessary, expand on all the relevant laws.⁴

Dispute settlement mechanism

Membership with the WTO also provides countries an arena in which they can settle their trade disputes, through the Dispute Settlement Mechanism. Some developing countries have struggled to access this, as it requires specialised legal expertise. However, there is extensive assistance through the Advisory Centre on WTO Law (ACWL).

3. Potential disadvantages of accession

Significant resource investment

Accession to the WTO can be a long and time-consuming process, drawing on specific resources and expertise from an already stretched human resource sector in South Sudan. A case in point is Liberia, which started the accession process in June 2007 and is yet to attain WTO membership (but currently scheduled for July 2016). Although the guidelines for accession were revised in 2012 to streamline the otherwise complex negotiation process for LDCs, the new set of guidelines displayed very few changes. In effect, the LDCs gained very little beyond a binding for agricultural goods and manufacturing goods at a higher rate than the average for recently acceded LDCs.⁵ In terms of monetary resources, the annual fees for WTO observer and member states can be expensive for an LDC like South Sudan. There are

⁴ Should South Sudan first acquire membership in EAC or COMESA, it could be that that adoption of EAC or COMESA laws would have to be amended to eliminate inconsistencies, as was the case with several East European countries when they became WTO members subsequent to signing the Europe Agreements with the EU. This is why countries participating in the EU Eastward enlargement have been urged to first become WTO members. For South Sudan, this sequencing issue should not present a practical problem because of its negligible economic weight in the World Trading System.

⁵ See IDEAS (2012) 5% of tariffs could be exempt from binding with average commitments for AG products at 50% instead of 32% and for NAMA at 35% instead of 23%. No benchmarks were established for Services and no progress was made on increasing the transparency of the bilateral negotiations or on S&D treatment or transition periods.

resources available to assist countries like South Sudan with the human resource requirement, through the Enhanced Integrated Framework (EIF). South Sudan is already receiving some of this assistance on a small scale. However, the EIF notwithstanding, the resource requirement and its opportunity cost will have to be major consideration for South Sudan when considering whether to pursue WTO membership.

Cost of implementing WTO agreements

Although the application process can provide an impetus for many important and valuable domestic institutional reforms, conforming to existing agreements will also be costly. For example, the Customs Valuation agreement, which is based on the principle that the declared value of imports should be the basis for valuation, requires a series of demanding steps to be followed before the use of a different price can be justified. This will require extensive training for South Sudanese customs officials in valuation methods, and access to data on pricing information, which currently does not exist in South Sudan.⁶ Additionally, the experience from many other African and LDC countries suggests that it will be difficult and costly to implement this agreement effectively in the short term. In any case, South Sudan would still have to invest in and adopt the WTO Customs Valuation system, given its interest in the EAC as the region embraces the same.

Political opposition to accession

In the short-term, it is unlikely that there will be major visible benefits from accession to the WTO. On the contrary, South Sudan may need to further open sectors to foreign ownership, which may be politically sensitive in a country with a nascent domestic private sector. Furthermore, in the five to ten years it will take to complete the accession process, it is also unlikely that rule-sensitive FDI will be forthcoming to South Sudan. FDI will continue to be in the oil sector where deals are mostly bilateral, long-term and outside the scope of the WTO. As the short-term benefits of accession are limited, generating internal political will and buy-in to the process may be challenging. This is particularly since a large portion of the public is still questioning the wisdom of joining the EAC at this time. Therefore, there may be less willingness to accept additional resource diversion towards international trade negotiations.

Limited participation on a world stage

Although joining the WTO would allow South Sudan to contribute to and benefit from engaging in the international trade agenda, these have been stalled over the past years. In particular, the current Doha Development Round negotiations, which started in 2001, are still not moving forward, even on trade facilitation, which is viewed as relatively uncontroversial. Negotiations on Article V on Freedom of Transit are of particular interest to countries like South Sudan. These rules are allegedly to safeguard the interests of the transit country from potential fiscal and other losses, but are viewed as particularly

⁶ Article VII of the GATT requires WTO members to apply customs duties on the value of an imported item based on the price paid or payable in the market, known as the “transaction value.” The rule is meant to block the use by governments of artificially high or low “reference” prices.

burdensome to many developing countries. However, Article V rules have never been interpreted by a WTO panel and the negotiations on this continue to be at a standstill.⁷

Conclusion

The advantages provide good reason for South Sudan to press on with the process of membership accession. However, in the short-term, since most trade (except oil) is likely to be regional for years to come, these gains would be in the relatively distant future. Overall, it is also important to note that WTO accession will not be a panacea for several of South Sudan's urgent problems, including trade facilitation and attracting FDI. In fact, WTO membership has been found to increase the spread of trade but not necessarily its intensity. The long accession process will be demanding on South Sudan's scarce human capital resources. However, the process itself will help develop these needed capabilities, as well as boost much needed external commitment to implement pro-growth policies. Therefore, becoming a fully-fledged member of the WTO will be of benefit to South Sudan, particularly in the medium and long term.

⁷ Among others, there is a need to clarify the provisions, for example "...to further expedite the movement, release and clearance of goods, including goods in transit."

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