

Least Developed Countries (LDCs) Roundtable on WTO Accession

“Best Practices in the WTO Accession Process”

29 May – 1 June 2012, Beijing, China

Session 2: How to drive and conclude an Accession Process: perspectives of former chief negotiators

Lead Speaker (†): Hon Fonotoe Nuafesili Pierre Lauofo, Deputy Prime Minister of Samoa (15 minutes)

To drive and conclude a WTO accession process requires an understanding of the challenges and stumbling blocks of progress; and then to identify and implement solutions to overcome these challenges, giving way for the process of accession to move forward towards conclusion. The driving force behind all this, of course, is the acceding government

I will draw from Samoa's WTO accession process experience, highlighting key challenges we encountered; and how we addressed these challenges to drive the accession process to conclusion.

There are two key factors that must be well established by the acceding country before commencement of the accession process.

The first is to have a clear understanding of the WTO and the accession process itself.

Understanding the WTO and the process of accession from the beginning is crucial. Article XII of the Marrakesh Agreement Establishing the World Trade Organization is the primary legal provision governing accessions. The key part of this provision is ‘terms to be agreed’. It must be well understood by the acceding government that the terms and conditions of their WTO membership is achieved through process of negotiations. While WTO law itself does not provide rules for the conduct of negotiations nor benchmarks for the outcomes, the accession process of Samoa has benefitted from the evolution of the processes and adoption of best practices. Documented in the Director General's the WTO's 2011 Annual Report, the accession

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The functions of the Committee were expanded in 2010 to include support for other trade arrangements that Samoa was also negotiating and was accordingly renamed the National Working Committee on Trade Agreements (NWCTA). As the Minister responsible for Trade Negotiations, I took over the Chairmanship of the NWCTA also in 2010 and prioritized the conclusion of Samoa’s WTO accession negotiations. Under my authority, the political commitment of the Government of Samoa to accede to the WTO was effectively put into play. This involved day.

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However, in retrospect, the Guidelines impacted positively in driving the conclusion of the remaining bilateral negotiations in Samoa's accession process. In fact, with Samoa's pending graduation from LDC status, the conclusion of the WTO accession process under the flexibilities accorded to LDCs was imperative. I recommend LDCs remaining in the process of accession to aggressively take advantage of the Guidelines including the right of implementing the recent Decision of the 8th Ministerial Conference to further simplify the accession procedures for LDCs.

The accession process is complex. The acceding country will require assistance at various stages of this resource – demanding process. This is an undeniable fact. Technical and financial support is absolutely necessary to build capacity to negotiate, engage in negotiations, prepare for negotiations; and to undertake awareness outreach programs.

The first challenging task of the accession process was the compilation of Samoa's

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negotiating in a formal setting. This arrangement was also necessary given the absence of a

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As Williams remarked, “The accession process is designed to ensure that new Members emerge as full and effective players from their date of membership. It is a process of learning and preparation for membership. Each accession is conducted and completed on its own merits”.

I fully agree. Samoa has already benefitted from the experience and lessons learnt in the 13 years we spent negotiating the terms and conditions of our WTO Membership. One of these is the opportunity to review outdated measures and legislation; and recognizing reform where necessary; to ensure that our policies and laws are current and relevant in today’s global trading economy.

Session 4: Best Practices – The Negotiating Process

Lead Speaker (2): Nella Tavita-Levy, MFAT, Samoa (20 minutes)

(Moderator: H.E. Ambassador Xiaozhun Yi, Permanent Representative of China to the WTO / Working Party Chairperson for Lao PDR)

[to be updated]

I will refer only to key lessons learnt from Samoa’s experience in the negotiating process following the suggested discussion points for this session:

(i) Working Party Chairperson

The chairmanship of the Working Party on the Accession of Samoa has remained with the delegation of Japan since the establishment of the Working Party in 1998.

Mr. Yoichi Suzuki (Jan 1999 — May 2009)

Ms. Kuni Sato (May 2009 — July 2010)

H.E. Mr. Shinichi Kitajima (July 2010 — Feb 2011)

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Mr. Atsuyuki OIKE (Feb 2011 - Oct 2011)

It was important that the chairmanship remained in Japan to ensure continuity of the work that had been undertaken. The Working Party completed its mandate on 28 October 2011, under the chairmanship of Mr. Atsuyuki Oike. His active engagement and management of the work of the members of the Working Party, the Secretariat and the officials from Apia was a key contributing factor to the conclusion of our work.

(ii) Bilateral Negotiating Track:

a. initial/revised market access offers & Secretariat consolidation of concluded Bilateral Market Access Agreements

- Initial offers in goods and services were submitted on 30 August 2001
- All goods negotiations were completed and signed in May 2011
- All services negotiations were completed and signed in October 2011
- Note: negotiations of goods and services were not done in isolation of each other. Members (US) used one to leverage the other. Important therefore to find compromise which can be achieved if one has a clear understanding of national priorities and interests versus WTO rules.
- The consolidated schedules were circulated to Members in November 2011
- It was not possible for Samoa to have undertaken negotiations on goods and services without assistance. The consolidation of the schedules requires the expertise of the Secretariat

b. strategy and management

- early conclusion with close trading partners (ANZ); and the use of their High Commission Offices in Apia to facilitate negotiations;
- electronic communication used to an extent; exchange of letters and occasional meetings in Geneva;
- informal meetings

c. "good offices"/ facilitation of Working Party Chairpersons and the Director-General;

- absolutely necessary

(iii) Multilateral Negotiating Track:

a. managing multilateral discussions/dialogues on trade regime

- early conclusion with key partners and have them as allies at the multilateral level

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b. meetings of Working Party

Samoa has only had two formal WP meetings. The first meeting in 2001 under the chairmanship of the first chairperson; and the second and final meeting under Mr Oike's leadership. All other

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meetings were held on an informal basis. This informal arrangement proved useful to progress work and we would encourage this for remaining LDCs in accession where relevant.

c. documentation: Q&R, commitment paragraphs, legislative action plans

For the most part of the 13 years of our accession, Samoa had gone through a cycle of “Questions and Answers” which provided the basis of updating the Working Party Report, each time the Q&A were formally circulated to Members. The answers provided in these documents are not only crucial in shaping the text of the report but also determines the next cycle of questions from the Members.

(iv) regular contact with the WTO Secretariat

- Accessions division
- Experts for Goods, Services & Intellectual Property

(v) observership of other Accession Working Parties

Samoa did not participate as an observer in other accession parties except on two occasions on the accession of Vanuatu, one of which was the final meeting of the reconvened working party in October last year.

Sources:

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