

Do as I say, not as I do

The unfair terms for Viet Nam's entry to the WTO

9 May 2005

In 2005, its tenth year of accession negotiations, Viet Nam hopes to achieve full WTO membership. After 15 years of implementing legal, institutional, and economic reforms, together with the gradual liberalisation of international trade, Viet Nam has achieved macroeconomic stability, solid economic growth, and a halving of the incidence of poverty, from 58 per cent in 1993 to 29 per cent in 2002. However, significant numbers of Vietnamese people still live in great hardship. A large part of the population has an income only just above the poverty line, and could easily be pushed back below it by external economic shocks.

A bad accession agreement could make future economic growth less beneficial for poorer sectors, and could involve economic restructuring that leads to a major loss of livelihoods. Member states on the accession Working Party, particularly the industrialised countries, are making 'WTO-plus' demands (that go beyond the demands made of existing WTO members) in even the most sensitive sectors, such as agriculture, where 90 per cent of the country's poor live and work.

The next Working Party meeting, where the Draft Report on the terms of entry will be further discussed and revised, is likely to take place in May or June of this year. Now is the time for the Vietnamese negotiators to focus on what they need to get out of the accession process, and resist external pressure to make further WTO-plus commitments. More importantly, Working Party members must look beyond their own short-term commercial interests and, in the spirit of the Doha Round, allow Viet Nam to accede to the WTO on pro-development terms.

Current threats

The Draft Report on the Accession of Viet Nam was revised at the last Working Party meeting in December 2004. The report contains considerable evidence that WTO members are continuing to push Viet Nam towards a comprehensive WTO-plus accession package that could have damaging consequences for its development.

Viet Nam is not only fighting its corner in the multilateral arena but also in high-pressure negotiations with individual members, in which WTO-plus demands are rife. Bilateral negotiations linked to WTO accession should be more transparent, allowing applicant countries to seek technical advice and support on the demands that are made of them.

Despite the importance of farming for the rural poor, Viet Nam is being denied the ability to regulate agricultural imports and import surges after accession, even if these have the potential to destroy the livelihoods of tens of thousands of poor families. Reportedly, apart from tariff reduction commitments, countries led by the United States, Australia and New Zealand are asking Viet Nam to renounce the use of Tariff Rate Quotas (TRQs) and the existing WTO Special Safeguard (SSG), as well as the new Special Safeguard Mechanism (SSM) and Special Products provisions currently under negotiation in the Doha Round. Products of particular importance to poor farmers include sugar, maize, and a number of animal products. Farmers growing sugar and maize are especially at risk from cheap imports, since these crops are heavily subsidised in the USA and the EU. US maize farmers receive subsidies of as much as \$10bn a year, while EU sugar farmers gain €833m of hidden support annually, on nominally unsubsidised exports.

The USA, Australia, and New Zealand are asking Viet Nam to phase out export subsidies upon accession to the WTO, while existing WTO members including the EU, the USA, and several developing countries are not under the same obligation and continue to provide export subsidies. Given the fact that developed countries have only just agreed to eliminate their own agricultural export subsidies, within a timeframe yet to be agreed, the three-year phase-out period sought by Viet Nam should be granted without further negotiation. It should also be remembered that the WTO's July 2004 interim Framework agreement states that: 'Developing-country members will benefit from longer implementation periods for the phasing out of all forms of export subsidies'.

Some Working Party members are questioning the compatibility with WTO membership of Viet Nam's export management controls on rice, which include the regulation of foreign companies exporting rice in cases of national emergency. The management of rice exports is vital to the food security of many Vietnamese people. Rice makes up 90 per cent of total staple food production, it is farmed on over 60 per cent of agricultural land, and more than two-thirds of Vietnamese households grow it. Existing measures should not be discontinued after accession.

Whilst negotiations on textiles and clothing remain open, the way has been prepared for a possible 10-year, post-accession phase-out of the quotas allocated to Viet Nam. The EU has agreed to abolish textile quotas for Viet Nam in 2005 but the United States remains intransigent. Given that USA and the EU between them account for 70 per cent of the annual export value of Viet Nam's textile and clothing sector, a continuation of quotas for the US market post-accession would seriously inhibit the growth of one of the country's most competitive export industries, which has the potential to greatly increase the employment opportunities of Vietnamese men and women. Viet Nam should be able to benefit fully from an immediate end to textile and clothing quotas, since they were abolished for all other member states at the end of 2004.

Viet Nam's latest offer to bind industrial tariffs at an average level of 17 per cent should not be lowered any further. As a developing country, Viet Nam should be able to choose which tariff lines it wants to bind and at what level, to ensure that sectors not

yet prepared for liberalisation can receive a degree of protection and are gradually liberalised, in accordance with development priorities.

WTO members are also claiming that investment incentives for enterprises operating in disadvantaged areas are export subsidies and should therefore be phased out upon accession. These incentives represent a lifeline to some of the most remote and impoverished areas of Viet Nam, where companies operate in extremely difficult conditions. Such incentives should be allowed within the accession package, on the basis that they represent non-actionable subsidies for regional development.

Immediate compliance with WTO agreements such as the Agreement on Sanitary and Phyto-Sanitary Measures (SPS), as requested by some members, will place an enormous financial and technical strain on Viet Nam. Viet Nam needs technical assistance to help it to adjust to higher standards and to be able to spread the costs of implementation.

Viet Nam's Non-Market Economy (NME) status looks set to become a focal point of accession negotiations from now on. Viet Nam has already agreed to a 'market disruption' safeguard in its bilateral trade agreement with the USA, similar to the 'transitional product-specific safeguard' that China has agreed to, which blocks increases in Chinese exports that could cause or threaten to cause market disruption to US domestic producers. Members have asked Viet Nam to clarify how provisions in this agreement would be applied in relation to other members of the WTO. If such a safeguard was agreed, the potential of Viet Nam's growing manufacturing industries, such as textiles and clothing, could be considerably restricted, and with it the employment opportunities for thousands of Vietnamese workers. Members of the Working Party should not include 'non-market economy' provisions that restrict Most Favoured Nation (MFN) rights within the terms and conditions of Viet Nam's accession.

There is growing evidence of demands being made of Viet Nam which go beyond the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPs). Requirements such as membership of the 1991 International Convention for the Protection of New Varieties of Plants threaten food security. Furthermore, it is likely that restrictions of clinical test data for approving drugs will delay the introduction of generic equivalents. Members must desist from using accession negotiations to ratchet up patent protection without regard for development concerns.

Finally, given the extensive liberalisation commitments that Viet Nam has already made within the accession negotiations, it should not have to make further concessions once it becomes a member of the WTO. The current provisions that exist within the July 2004 Framework state that the particular concerns of recently acceded members will be effectively addressed through specific flexibility provisions. This text must go further: recently acceded low-income and Least Developed Countries (LDCs) countries should be absolved from making further commitments under the Doha Round of negotiations.

Recommendations

WTO members should stop setting onerous WTO-plus conditions in negotiations with Viet Nam that may have a negative impact on the lives of poor people. Oxfam believes the accession package should include the following elements:

- Agricultural tariffs should not be bound at an average rate of less than 25 per cent, which is Viet Nam's latest offer and which is a rate that already threatens the livelihoods of farmers and rural workers.
- Viet Nam should be able to use all the instruments available to other developing country WTO members to further protect vulnerable farm sectors. These measures include Tariff Rate Quotas, the current WTO Special Safeguard (SSG) provision and the new provisions now under negotiation at the WTO (Special Safeguard Mechanism and Special Products).
- Upon accession, Viet Nam should be able to maintain its current WTO-compliant export management controls on rice in order to protect food security.
- Viet Nam should not be asked to make greater commitments on the scale and timing of reductions in domestic support and export subsidies, either for agricultural or industrial products, than those made by other developing countries in the WTO or those agreed in current WTO negotiations. More specifically, investment incentives for enterprises operating in disadvantaged areas should be granted on the basis that they represent non-actionable subsidies for regional development.
- Industrial tariffs should not be bound at an average rate of less than 17 per cent, which is Viet Nam's latest offer and which may already mean the loss of manufacturing jobs.
- The United States should abolish textile and clothing quotas for Viet Nam upon accession, since they were abolished for all other Member States at the end of 2004.
- Viet Nam should not be asked to renounce policy instruments that enable it to increase the development impact of foreign investment, such as requiring the transfer of technology.
- Compliance with the agreements on Sanitary and Phyto-Sanitary Measures, Technical Barriers to Trade and Customs Valuation must be tied to the provision of technical assistance, in order to spread the costs of implementation and build the required technical capacity.
- Members of the Working Party should not include non-market economy provisions that restrict Most-Favoured Nation (MFN) rights.
- WTO-plus provisions on intellectual property and trade safeguards in the US bilateral trade agreement should not become part of the accession package.

Given the concerns raised by Viet Nam's WTO accession negotiations and the harsh experience of other recently acceded countries, Oxfam believes the accession process should be reformed in the following ways:

- The WTO should establish clear guidelines regarding the rights and obligations of new members, based on objective development indicators.
- Developing country entrants should enjoy the 'special and differential treatment' in WTO agreements that is granted to existing developing country members.
- An independent panel of experts should decide whether an applicant's trade regime complies with existing WTO rules, and when the Non-Market Economy (NME) provisions for acceding countries should be revoked.

- WTO-plus commitments already agreed in bilateral trade agreements, which pose a threat to development, should not be automatically 'multilateralised' in accession packages.
- Recently acceded low-income countries and LDCs should be absolved from making further commitments under the Doha Round of negotiations.
- Bilateral negotiations linked to WTO accession should be more transparent, allowing applicant countries to seek technical advice and support on demands that are made of them.

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