

**ACCESSION TO THE WTO.
CASE: THE RUSSIAN FEDERATION**

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ABSTRACT

The purpose of the paper is to discuss process and procedures of WTO accession in the context of universal membership. This is done by looking at the experience of the Russian Federation (Russia). With a notable exception of the Russian Federation, all major trading nations are WTO members. One of the challenges confronting WTO will be to manage the process of integrating Russia and other acceding countries into the trading system. It could be reasonable to ask why the WTO accession process takes so long and is inherently time consuming, despite the fact that it is complex due to the requirements that need to be met. This article identifies the weak points in the accession process and makes some recommendations.

Keywords: *Accession, WTO, Membership, Applicant, the Russian Federation (Russia), Multilateral Rules, Negotiations*

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INTRODUCTION

The World Trade Organization (WTO) is an international organization, established in 1995. It is responsible for administering multilateral trade agreements negotiated by its members. It facilitates and provides the framework for the implementation and operation of the rules and principles of multilateral trade relations. The WTO also co-operates with the International Monetary Fund and with the IBRD with a view to achieving greater coherence in global economic policy-making. The central concept underlying the WTO disciplines is that open markets, nondiscrimination, and global competition in international trade are conducive to the national welfare of nations (WTO, 1995). Moreover, efforts to increase transparency at the multilateral and national levels are essential to reduce pressures for protection and a major factor of enforcing agreements. This philosophy results that the WTO is a code of conduct for trade policies and a tool to

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examine members trade policies. The WTO requires that all trade laws and regulations are published. This approach also leads to a conclusion that for the sake of lowering of protectionism all trading countries are WTO members, especially those with a significant influence on world's markets situation.

OVERVIEW OF CURRENT WTO MEMBERSHIP AND ACCESSION

With a notable exception of the Russian Federation, all major trading nations are WTO members. As of November 2009, there were 153 member countries of the World Trade Organization¹, representing approximately 91% of the world's population, 98% of world GDP, and 96% of world trade, including over 94% of the foodstuffs (Jones, 2009; Tarr, 2007). The World Trade Organization, however, according to all who has govern as Director-General (D-G), seeks to achieve universal membership (WTO, 1997, 2007)². And yet, there are still 26 countries, with a total population of 565 million (app. 8,1% of world total population, 2,1% of world GDP, and 3,4% of world trade), currently under review of accession (Table 1). Moreover there are 17 countries with a total population of 64 million (app. 1% of world total population, 0,16% of world GDP, and 0,18% of world trade), listed as United Nations members, that are not even applicants for membership (Table 2).

The Russian Federation is the most prominent in the group of applicant countries with population of 143,85 million, GDP of \$328,81 billion and merchandise trade valued at \$289,54 billion as August 2008³ (Jones, 2009).

To sum up, one of the challenges confronting the WTO will be to manage the process of integrating Russia and other countries in accession into the trading system. The author explores procedures of WTO accession and what has been accomplished and can be expected as Russian WTO accession is concerned.

¹ Since WTO establishment twenty-five countries have joined the organization through its formal accession process.

² See, D-G Renato Ruggiero, who declared in 1997 the priority for the WTO "to continue momentum towards universal membership" (1997). All other D-Gs since then continued to refer to universal membership as a goal. For example, Pascal Lamy's reference to universal membership in WTO (2007).

³ Excluding the Russian Federation, among the most populated acceding countries there are: Ethiopia, Iran, Afghanistan, Sudan, Algeria, Uzbekistan, Iraq, Yemen, Kazakhstan, Belarus, Azerbaijan, Serbia and Tajikistan.

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Table 1: Countries in WTO Accession Negotiations (26) According to Date of Application Procedure (November 2009)

Country in accession process	Application
Algeria	Jun-87
Russian Federation	Jun-93
Belarus	Sep-93
Sudan	Oct-94
Uzbekistan	Dec-94
Seychelles	May-95
Vanuatu	Jul-95
Kazakhstan	Jan-96
Iran	Jul-96
Azerbaijan	Jun-97
Lao P.D.R.	Jul-97
Samoa	Apr-98
Lebanese Republic	Jan-99
Bosnia/Herzegovina	May-99
Andorra	Jul-99
Bhutan	Sep-99
Yemen	Apr-00
Bahamas	May-01
Tajikistan	May-01
Ethiopia	Jan-03
Libya	Jun-04
Iraq	Sep-04
Afghanistan	Nov-04
Serbia	Dec-04
Montenegro	Dec-04
Sao Tome & Principe	Jan-05

Source: Author's compilation based on WTO

Table 2: Remaining Countries (17) Not Yet Applying for WTO Membership (November 2009)

Country	
Comoros	Nauru
Equatorial Guinea	Palau
Eritrea	San Marino
Kiribati	Somalia
Korea PDR (North)	Syrian Arab Republic
Liberia	Timor-Leste
Marshal Islands	Turkmenistan
Micronesia	Tuvalu
Monaco	

Source: As Table 1

Table 3: Russia's Top Export Markets and Import Sources, 2007 (\$ billion)

Export		Import	
Country	\$ billion	Country	\$ billion
1. Netherlands	42.8	1. Germany	26.6
2. Italy	27.5	2. China	24.4
3. Germany	26.3	3. Ukraine	13.3
4. Turkey	18.3	4. Japan	12.7
5. Belarus	17.2	5. USA	9.4
6. Ukraine	16.3	6. Belarus	8.9
7. China	15.9	7. Korea	8.8
8. Switzerland	14.2	8. Italy	8.5
9. Poland	13.3	9. France	7.8
10. Kazakhstan	12.0	10. United Kingdom	5.6
11. United Kingdom	11.0	11. Finland	5.0
12. Finland	10.7	12. Poland	4.6
Total exports	352.5	Total imports	199.7

Source: Author's compilation based on Foreign Trade of the Russian Federation

ACCESSION PROCESS TO THE WTO

According to the WTO Article XII, which defines in highly general terms the rules for accession "*any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations...may accede to the Agreement, on terms to be agreed between it and the WTO*" with approval by a two-thirds majority of the existing WTO membership (WTO 1995, p. 15)⁴. Only few WTO rules, however, regulate the process of accession. As Lanoszka (2001) put it: "*Article XII does not stipulate any membership criteria, and this signals perhaps the most problematic legal aspect of the accession process. ...No guidance is given on the 'terms to be agreed', these being left to the negotiations between the WTO Members and the Candidate. Furthermore, Article XII does not identify any concrete steps nor does it provide any advice when it comes to the procedures to be used for negotiating the terms of accession*".

⁴ *The Results of the Uruguay Round of Multilateral Trade Negotiations, Article XII.*

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Accession issues are also found in the Doha Declaration, in which it is stated that members: "*attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries (art. 9) ... Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs*" (art. 42)⁵.

The specific terms of accession must be negotiated between the WTO Members and the applicant country. Because each accession is a negotiation between the WTO Members and a particular country with typically different economic conditions, each accession is unique (Lanoszka, 2001). It causes that all members have joined the system as a result of negotiations. Thus, membership means a balance of rights and obligations. New WTO members enjoy the privileges given to them by other member state and the security provided by the trading rules. In return, they are supposed to make commitments to open their markets and to abide by the rules, resulting from the membership accession negotiations. Countries negotiating membership are WTO "observers" (WTO, 2008). To streamline the examination of accession requests, though, WTO Members have designed some administrative procedures.

GATT accession procedures have been carried over to the WTO. The main changes being that the WTO is a much more legalistic organization. This is because the scope of trade negotiations is extended to many new areas such as services, trade-related investment, intellectual property, and thereby increased the stakes and benefits of membership. In addition, dispute settlement is also much more formal than it was under GATT and members are subjects to its discipline. As a result the WTO accession process and accompanying negotiations have become increasingly complex, lengthy, challenging and difficult. Average accession procedure for many countries lasts five or more years⁶.

Summarizing, the procedure involved is as follows (WTO, 2008; Hoekman & Kostecki, 1997)⁷:

First, the applicant sends a communication to the Director-General of the WTO indicating its desire to accede to the WTO. Working Party (WP) consisting of interested WTO members is established by the General Council to examine the application. Applying government must then submit a memorandum describing all aspects of its trade regime. On this basis

⁵ Doha Declarations, p. 4 and 28.

⁶ For example, by comparison, accession to the IMF and World Bank takes on average less than a year.

⁷ The complexity of the negotiations can be also revealed in 20-step procedure for accession. See, Jones 2009, p. 291, Table 3.

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members of the Working Party will check consistency of its trade measures with multilateral rules and submit questions regarding the functioning of trade regime. WTO inconsistent rules should be removed or be subject to negotiated special provisions.

Second, parallel bilateral talks are undertaken between the prospective new member and individual WTO members on concessions and commitments on market access for goods and services. These talks cover tariff rates and other policies. The talks determine the benefits of the new member's commitments which apply equally to all WTO members under non-discrimination rule (Most-Favored-Nation - MFN)⁸.

Third, specific terms of accession are agreed in a draft Decision and a draft Protocol of Accession containing commitments to liberalize access to markets of aspirant country ("accession package").

Finally, the report of the Working Party with a draft of the accession package is being approved by the General Council or Ministerial Conference. Accession must be approved by a two-third majority of existing members. After the protocol is ratified by own legislature of the acceding country membership is complete.

Thus, negotiations to join the WTO are potentially lengthy and complicated. As mentioned above, procedure is framed into two demanding institutional factors. First, the applicant's trade rules are subject to exhaustive scrutiny by the working party. And the second factor, WTO accession protocol requires the need to complete several detailed bilateral agreements regarding additional rules and concessions of applicant country.

The record of WTO accessions has also revealed the bargaining asymmetry within the process. While the applicant is asked to adjust its trade regime for the purpose of acceding, no reciprocal concessions are offered by the incumbent members. It is understood that their benefits in the WTO were already "paid" in earlier trade negotiations. Additionally, the number of negotiated rules commitments has generally grown with each new accession and countries have few means of leverage or influence to reach more favorable terms of WTO accession (WTO, 2004; Jones, 2009)⁹. Newly acceding countries may also be required to lower tariffs to levels lower than those of incumbent members, for example, at the average tariff level not higher than double import levels to those of OECD countries (10%). It may also be noticed that aspirant countries must often make concessions that go

⁸ In some cases these talks can be very complicated similarly to round of multilateral trade negotiations.

⁹ Even large countries, such as China and Russia, have had little room for negotiating demands. More details on WTO commitments contained in the protocols of accession are found in Annex 3.

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beyond the existing WTO obligations of members at comparable levels of development, in other words must often accept "WTO-plus" terms of accession. As a result these membership criteria lead to lengthy and costly negotiations to join the WTO as well as to some controversy¹⁰.

On the other hand, however, these terms of accession imply also that new members are required to make concrete commitments to bring their economies into compliance with the WTO trading system.

As a result declarations of Director-Generals, seeking to achieve universal membership, are still not met. Chinese accession process took 15 years (1987-2002), similarly Ukrainian accession lasted 15 years (1993-2008). Some important economies, such as the Russian Federation and other former Soviet Union states, which applied to accede to the GATT and then the WTO, almost two decades later are not WTO members. The benefits from WTO membership would be essential for many reasons. It may strengthen domestic policies and institutions conducting international trade, and improve security of market access to major export markets. It establishes access to a dispute settlement mechanism for trade issues. It may be argued that it is essential to full integrate those remaining countries in the international economy and slow accession procedure is not a way to achieve it.

OUTSTANDING ACCESSION CASE: THE RUSSIAN FEDERATION

The Russian Federation (Russia) applied for accession to the GATT in 1993. The Working Party on accession of the Russian Federation was established June 16, 1993 and was transformed into a WTO Working Party in July 1995. It is the largest Working Party in the history of the WTO, comprising of 60 member states (with the addition of two new members, Vietnam and Cambodia).

Russia has started its negotiations with WTO members countries on July 17-19, 1995. The first meeting was dedicated mainly to Memorandum on Foreign Trade Policy that was submitted in March 1994. The second

¹⁰ In reporting on discussions in the General Council, Naray noted that "*....a number of developing countries delegations recalled that in the accession process unreasonable conditions were required of, and imposed on, applicants because developed country members had requested that acceding countries accept more stringent conditions and a higher level of commitment than was required from members themselves ('WTO-plus' requirement)...the requirement...to guarantee full transparency and objectivity and that markets access commitments should be about the same as those made by countries at similar level of development...*" (Naray, 2001).

meeting of the Working Party was held on December 1995 and was focused on discussing the supplement to the Memorandum. Throughout the 1990s talks on Russian accession to WTO were slow and formal. Soon after Vladimir Putin became president in 2000, he made a commitment that Russia would accede the WTO in 2003 (Aslund, 2007). He made accession a priority in his term. In the course of the Internet-conference on July 06, 2005 Vladimir Putin said that "*The contemporary WTO facilitates global trade development. It is a kind of quality certificate, that provides favorable conditions for investment, increases the country's credibility, and it is obviously an advantage*"¹¹. It resulted in energizing Russia's half-hearted attempts to enter the WTO and the process began to move.

Initial meetings of the WTO Working Party on Russia's accession were then focused on the review of Russia's existing trade legislation relevant to WTO obligations. Russia has undertaken the principal reform commitments as a part of its WTO accession discussions. As negotiations continued its economic system has been reformed and trade regime drafted to be brought into conformity with WTO provisions (a first draft of a report was already circulated in 2002). The results of the individual negotiations into consolidated schedules have been combined by the WTO Secretariat in form of a multilateral memorandum.

Russia has successfully concluded and signed bilateral agreements with all but the two new members, and Georgia (Tarr, 2007). For example, Russia reached bilateral market access agreement with the United States in November 2006. The EU had agreed to complete talks by the end of 2009. No significant difficulties are anticipated in the case of Vietnam and Cambodia. However Georgia, which has signed its bilateral agreement on Russian accession in 2004, then withdrew it first, due to a deep dispute on establishing legal customs posts and a ban on the import of wines from Georgia, and then due to military incursion into Georgia. Moreover, Georgia has objected to the programme of the multilateral meetings what resulted in blocking talks resolving Russian WTO accession.

Russian accession also stalled after the United States put the issue on ice over its opposition to Russia's military incursion into Georgia in 2008. Additionally the Russia's WTO bid was hampered over a Russian ban on some American beef imports due to health concerns related to the outbreak of the AH1N1 virus. Russian WTO aspirations were also hurt by the still existing EU objections. It regards Russia's threats of introducing export duties on timber as well as import tariffs on cars, and other goods such as raw materials, clothing, shoes, furniture, and agricultural products. Imposition of such measures could cause retaliatory duties on Russian

¹¹ Author's translation.

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exports into the whole bloc and further delay to WTO membership. On the other hand, however, there have been also positive discussions on railway fees, food safety and sanitary rules. Nevertheless, in June 2009, both the EU and the US determined the Russian bid to join the WTO should be completed in 2009 (Hudson, 2009).

Yet, long process threw the WTO accession of Russia into doubt. In August 2008 Vladimir Putin, in a capacity as the prime minister, said that Russia should not resign from its strategic bringing closer to the WTO, but it requires transparency, and predominant elementary fairness. Additionally, in June 2009 Putin announced that it would only join the WTO as part of a trade bloc with Kazakhstan and Belarus. He suggested that negotiations for all three countries would begin anew on the basis of the customs zone (*"Our priority remains WTO entry...but already as a customs union and not as separate countries...the three countries had formed a single working group to negotiate entry and would join the WTO simultaneously and on equal terms"*) (Belton, Williams 2009). There were no precedents for negotiating the simultaneous WTO accession of all members of a customs union as yet. Countries pursue WTO membership separately, not in tandem with other countries. Thus, Russia is committed to joining the World Trade Organization despite confusion caused by its plans to bid for membership in partnership, but they will speak jointly on some issues (Gorst, 2009)¹².

COSTS AND BENEFITS OF RUSSIAN ACCESSION

Several studies to assess the consequences of Russian WTO membership indicate substantial gains from WTO accession, especially to Russian households and its regions. According to World Bank assessments welfare gains to Russia will be equal to 4.3 percent of Russian GDP and 6.7 percent of consumption. It is also estimated that the average gain in the welfare as a percent for the GDP for three regions will be considerably more; Northwest (6.2 percent), St. Petersburg (5.7 percent) and Far East (5.2 percent) while the Urals will gain only 3.3 percent, what means less than the national average. The principal reasons for these differences are connected with the largest share of multinational investments in the services sectors, due to ability to benefit from a reduction in barriers against foreign direct investment, as well as in creating a good investment climate which helps to

¹² Russia's negotiations with the WTO halted briefly after Vladimir Putin, the prime minister, said in June the country would join the organization with the other two countries with which it is forming a customs union, expected to be implemented in January 2010. This customs union will create common tariffs and a single market of 165 million people until June 30, 2011 (Gorst, 2009).

attract more FDI (Rutheford & Tarr, 2006). Thus, by far the most important effect derives from the reduction in barriers to FDI in services in order to increase Russian productivity, competitiveness and welfare.

It is emphasised that Russia will benefit significantly from its internal reforms. WTO accession is a crucial historical opportunity to introduce key reforms, although there have been some already implemented unilaterally. Most likely the external pressure of WTO accession process has had the largest impact on deep and widespread reforms that had been made¹³. It should be stressed that without that process these reforms would not be probably achieved so quickly. Benefits to Russia of WTO membership will also come from the fact that the WTO requires that permanent MFN status be granted to all members. Once Russia becomes a WTO member, the U.S. will almost certainly remove Jackson-Vanik amendment¹⁴ due to a commercial pressure on the U.S. from its own exporters and investors to remove this provision. Accession will also allow Russia to use the WTO's dispute settlement mechanism to protect its trade interests (antidumping proceedings).

By 2003 Russia was very close to join the WTO. The Russian Federation achieved a major breakthrough in its trade relation and was recognized a market economy by the United States and the EU. Thus, an accession to the WTO required to resolve the not very significant outstanding issues.

Meanwhile, however, the priorities in Russian policies, have changed profoundly and therefore perception of the need of the WTO membership has declined. Historically high commodity prices and internal resistance against Russia's entry to the WTO have contributed to the cooler Russian attitude to the WTO. Commodity exports have driven the growth of Russia's GDP from \$200 billion in 1999 to approximately \$960 billion in 2006 (Aslund,

¹³ In the recent several years Russia has adopted a number of basic laws and decrees, relating regulation of the external economic activities, among which there are the following: On the foundations of government external activities regulations, On the specific protective, antidumping and compensative measures while importing, On the exchange regulation and the exchange control, On the technical regulation and a number of the laws, concerning the IPR protection (See, Vrevskiy 2007).

¹⁴ The Jackson-Vanik Amendment of the U.S. (an addition to the U.S. Trade Act of 1974) was crafted to put pressure on the Soviet Union for human rights abuses. It requires an annual review of Russian emigration policies in order for the U.S. to grant MFN status to Russia (and Azerbaijan, Belarus, Kazakhstan, Tajikistan, Turkmenistan, and Uzbekistan as well as Moldova which is already the WTO member). Many experts assert this jurisdiction may be considered as irritant to Russia and has overgrown its relevance. See more Ginsberg 2009.

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2006). The Russian Federation trade and investments policy still mainly depends on natural resources content, which is dominated by minerals (81 percent¹⁵): mainly exports of oil and gas, metal and metal products, chemical products, wood and timber. The main importing goods are: machinery, transport equipment (51 percent), agricultural products (14 percent), and chemicals and related products (14 percent). As a consequence Russia does not suffer much from exports barriers and has suffered a little from protectionism in recent years. It was also recognized as evidence that Russia is strong enough on its own. Yet, almost one-quarter of its exports consists of metals, chemicals, and forestry products, which are highly sensitive to protectionism.

On the other hand, the conditions of entry were regarded even more important than an early entry. The opening of the Russian market for more imports of manufactured goods would harm domestic manufacturers ("the infant industry argument"). Among the main opponents there are representatives of aluminum company, car industry, aviation (Oleg Deripaska). The agricultural lobby also objects to the WTO, as they would rather maintain the option open for larger subsidies in the future. The same arguments are used by services lobby that are afraid of implementation of laws related to intellectual property rights, insurance and banking, telecommunications, etc.

This attitude was confirmed by survey carried out in 2007 by Sociopolitical Services Kasandra together with Moscow Centre of Entrepreneurship. The poll proved that businessmen representing SMEs are against Russian accession to the WTO. Only 16% of the poll participants find the process of the integrating into WTO as an important positive step. Complementarily 84% of surveyed were disappointed with the process. Nearly 70% of entrepreneurs regarded prompt acceding of Russia to WTO as strategic decisions. However only 32% of the questioned believe that Russia's accession will influence the growth of its competitiveness. Nevertheless half of participants decided that operating conditions for Russian companies abroad will be worst than those for foreign firms on Russian market (Kaliszuk, 2009).

CONCLUSIONS

Thus, it is difficult to be optimistic about the Russian Federation accession. On the other hand, it is difficult to believe that a country as

¹⁵ All data relate to 2007. Foreign Trade of the Russian Federation <http://www.gks.ru> (12.11.2009).

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important as Russia will not eventually become a member of the WTO and will stay outside its trade rules and disciplines.

Now it seems that the new rhetoric in the Russian Federation turns against the market economy. Russia still advocates accession to the WTO, talking about the need for "*more rational participation in the international division of labour*" to make "*full use of the benefits offered by integration into the world economy*". Contrary to this concept, Russia also "advocates industrial policy, import substitution, and state subsidies for priority industries" (Zasuń, 2008).

To conclude, since requesting in June 1993 accession to the GATT/WTO, the Russian Federation has reformed its economic system to bring its laws and trade measures in compliance with the WTO multilateral provisions. The overall trade policy of Russia has become increasingly liberalized, more transparent, and predictable. Thus, why does the WTO accession process is inherently so time consuming. We may even express doubts that Russia will join the WTO soon.

Why does it take so long? It seems we can also make general comments on accession conditions. Terms of accession are of a major concern to every acceding country. There is a perception among some observers that accession conditions may vary among countries and that these conditions may be in excess of measures that incumbents would be willing to take in their own countries. The effects of accession must clearly be dependent on the outcome of the negotiations, on the conditions which each country is able to negotiate with the WTO Members, and not WTO-plus.

The accession process is complex because of the legislative requirements that need to be met. However, there are a number of steps that acceding countries and WTO members could take that would facilitate and expedite accession. WTO should consider the institutional weaknesses of acceding countries and provide assistance to strengthen their institutional capacities. It should not involve lowering requirements, but providing more time to fulfill those (Michalopoulos, 1999).

WTO members should also channel more resources and effort to permit the WTO Secretariat to play a more proactive role in co-ordinating the assistance to support of new members' accession. The Secretariat should aim at cutting significantly the processing time of accession. Thus, it would enable the WTO to achieve universal membership in the nearest future (Żołądkiewicz, 2009).

WTO membership is significant in terms of a better market access, improved governance and recourse to better economic policies. It brings commitments to lower tariffs and other barriers backed by sanctions. The attractiveness of WTO has several dimensions for its members (Smith, 1996):

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- improvement of access to markets for their exports,
- credibility of government policies,
- beneficial effect on domestic policies and institutions involved in the conduct of international trade,
- contribution to the predictability, security and transparency of market access (MFN status, and the termination of the designation of transition countries as "non-market economies"),
- the WTO's dispute settlement mechanism,
- the opportunity for acceding countries to shape the future rules and disciplines of the WTO.

The outstanding case of the Russian Federation proves, however, that some WTO regulations require to be changed and adjusted accordingly.

Russia's road towards WTO membership presents the experience gained by various countries and gives an analysis of the recent accessions to the WTO. It may be a warning against 'accession fundamentalism' by WTO members, which may result in Russia's and other aspiring countries political and economic isolation.

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