CHAPTER III
AID FOR TRADE IN SERVICES AND INCREASING THE CAPACITY FOR EXPORTING SERVICES

Aid for Trade and services has become a focus for increased attention by policymakers and development organizations only recently.[19] The three most operationally urgent needs for either developing or transition economies in the context of trade in services negotiations are: (a) the ability to negotiate from a more informed position; (b) the capacity to better manage the process of market opening; and (c) the ability to supply newly opened foreign markets (Sauvé, 2007). However, the scope for extracting commensurate binding commitments from negotiating partners (particularly developed country partners) in the context of any given PTA negotiation may be limited. In practice, such commitments – if they are at all forthcoming – will almost inevitably break down into: (a) financial and institutional support to build domestic regulatory capacity; and/or (b) commitments to aid or facilitate in the development of export capacity in a few hand-picked service sectors. This chapter discusses these and other options that have been raised by development experts as part of the Aid for Trade debate.[20] In addition, some case studies are highlighted from existing PTAs that have attempted to explicitly incorporate pro-development commitments.

A. Aid for Trade to improve negotiating capacity

Negotiating capacity has both an institutional and a process-oriented side to it, meaning that the institutions that conduct and provide input into services trade negotiations can and should be the direct recipients of any Aid for Trade commitments extracted from a developed country negotiating partner (particularly when such aid is intended to improve a country's negotiating capacity). These areas are discussed in more detail in subsection 1. In addition to the institutional aspects, however, processes can also be improved in manners that can have a perceivable effect on outcomes. Securing operational Aid for Trade commitments that can improve these processes is almost as important at commitments directed towards improving institutional capacity. These are discussed in subsection 2.

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19 See, for example, the materials produced in the context of a WTO workshop on Aid for Trade in Services, which took place on 11 July 2012 (available at www.wto.org/english/tratop_e/devel_e/a4t_e/wkshop_july12_e/ wkshop_july12_e.htm; accessed 6 August 2012).

20 The term "Aid for Trade" is used here to encompass not just development assistance aimed at addressing supply-side constraints to boosting export capacity in developing countries but also donor initiatives that provide trade-related technical assistance and capacity-building as have long been provided under various programmes and frameworks. The authors posit that this broader definition is not inconsistent with those used by various international organizations. See for example, www.imf.org/external/pubs/ft/survey/so/2007/POL0523A.htm (accessed 6 July 2012), which states "Aid for Trade refers both to a subset of development assistance that is seen as promoting international trade and a number of international initiatives to promote trade-related development assistance. As generally defined, Aid for Trade comprises aid that finances trade-related technical assistance, trade-related infrastructure and aid to develop productive capacity".

1. Aid for Trade and institutional negotiating capacity

The first two chapters of this training manual address the various aspects of preparing for negotiations resolutely and conducting them with the proper focus. The reader should by now have an understanding of the scope of institutional backstopping that these two activities require. Put simply, negotiating on trade in services requires well-educated and professionally skilled human resources, who themselves have access to the type of basic infrastructure required to conduct targeted policy research. The actual physical task of conducting negotiations also comes with a price-tag attached, since negotiating teams need to travel (and subsist) and afford available adequate facilities in which to conduct negotiations.

The type of Aid for Trade commitments that can be imagined here might include some upfront capacity-building aimed at building and supporting national or regional negotiating capacity. This could be extracted from developed country partners at the time that official announcements are made that PTA negotiations are to be launched, but some months prior to actual negotiations starting. A good example of this was the European Union-funded Hub-and-Spokes Programme, which was implemented by the Commonwealth Secretariat (ComSec) and the Organisation Internationale de la Francophonie (OIF) in the run up to, and during the Economic Partnership Agreement (EPA) negotiations between the European Union and the Asia-Caribbean-Pacific (ACP) countries that were intended to usher in a new generation of trading arrangements to replace the Cotonou Agreement as its WTO waiver was set to expire on 31 December 2007. Boxes III.1 and III.2 document the Hub and Spokes Programme as an example of Aid for Trade targeted specifically to building institutional negotiating capacity.

Although the Hub and Spokes programme was admittedly a very large project, providing trade-related technical assistance (TRTA) and capacity-building to more than two dozen developing countries in different regions, any developed country anticipating the launch of PTA negotiations with a developing country might be convinced to either launch its own similar, albeit smaller and more targeted, TRTA programme, or to contribute financially to existing TRTA efforts in order to avoid duplication. Many multilateral donor agencies already have ongoing TRTA programmes in developing countries. There is no reason why an agreement to launch

Box III.1. Building trade policy capacity: Hub and Spokes Project

What is Hub and Spokes?

The Building the Capacity of ACP Countries in Trade Policy Formulation, Negotiations and Implementation ("Hub and Spokes") Project is a joint initiative concluded by the European Commission (EC), the Commonwealth Secretariat (ComSec) and OIF with the support of the ACP Secretariat. The project, which forms part of the European Commission's TradeCom Facility, will seek to promote the effective participation of ACP countries in international trade negotiations and to strengthen their capacity to formulate and implement trade policies.

The project has three main components:

- The establishment of trade negotiation networks at the and regional levels to be actively used to define trade policy and negotiation positions;
- The establishment of national and regional participatory mechanisms for improved stakeholder consultation and involvement in trade policy formulation;
- The establishment of appropriate mechanisms for notification of trade policy measures to WTO.

Box III.1. Building trade policy capacity: Hub and Spokes Project *(continued)*

To achieve these aims, the Project will place Regional Trade Policy Advisers (RTAs) in the following regional bodies:

- African Union (AU);
- Common Market for Eastern and Southern Africa (COMESA);
- Economic Community of West African States (ECOWAS);
- Economic and Monetary Community of Central Africa (CEMAC);
- West African Economic and Monetary Union (UEMOA);
- Caribbean Community (CARICOM);
- Southern Africa Development Community (SADC);
- Organisation of Eastern Caribbean States (OECS);
- Pacific Islands Forum (PIF); and
- East African Community (EAC)

The services of up to 48 Trade Policy Analysts (TPAs) will be made available at both the regional and the national levels. ComSec will be responsible for the implementation of the Project in ACP member States of the Caribbean, Pacific, Eastern and Southern Africa regions and the African Union (AU). AIF will be responsible for the implementation of the project in West and Central Africa.

Source: www.thecommonwealth.org/Internal/191502/159353/what_is_hub__spokes/ (visited on 6 July 2012).

Box III.2. Jamaica: Aid for Trade case study

Commonwealth Hubs and Spokes Project: Building the capacity of ACP countries in trade attachment of a trade policy analyst in Jamaica

2. Appointment and activities of the Trade Policy Analyst

A Trade Policy Analyst was assigned to the Ministry of Foreign Affairs and Foreign Trade in Jamaica in April 2006 in accordance with the project specific Memorandum of Understanding concluded between the Commonwealth Secretariat and the Government of Jamaica in March 2006. The contract of the Analyst would be extended for a further two years in 2008.

The guiding principle in the deployment of TPAs was that they had to be non-citizens of the host country and preferably of the region. Hence, the Spoke for Jamaica was a national of Zimbabwe, living in South Africa, whose qualifications included a Masters Degree in International Law and Economics from the World Trade Institute in Bern, Switzerland. The Commonwealth Hubs and Spokes Project thus allowed for cultural exchanges between regions – where Caribbean nationals were posted to Africa and vice-versa; and Africans posted to the Pacific. It also underpinned South-to-South cooperation.

This project involved counterpart training and thus Foreign Service Officers in the Ministry were assigned to work with the TPA. Equipment was also provided in the form of a laptop computer and printer/scanners.

Box III.2. Jamaica: Aid for Trade case study *(continued)*

During the four- year assignment, the TPA, who was found to have a keen interest in trade in services, assisted the Ministry in ongoing work for the negotiation of the CARIFORUM/EU Economic Partnership Agreement (EPA), which concluded in December 2007, and with the preparations for the negotiations for the Canada/CARICOM Trade and Development Agreement, which commenced in November 2009. He also assisted with the WTO Services negotiations and Services implementation in the context of the Caribbean Single Market and Economy (CSME).

This work included organizing trade in services consultations with stakeholders utilizing the Ministry's existing consultative mechanism which includes representatives of the public and private sectors and civil society. The TPA improved the working relationship with the services stakeholders.

The TPA was actively engaged in organizing seminars and workshops on trade policy issues such as trade in services, rules of origin and analysis of trade with trading partners. A major training activity was undertaken in collaboration with the University of the West Indies at Mona and the Overseas Development Institute (ODI) of the United Kingdom in 2010 to train 29 government officials in conducting sustainability impact assessments.

5. Assessment of the project

The legacy of this project is assessed, among other things, as the equipment received, the training provided, the strengthening of the services outreach and network, and the contribution to services negotiations.

Conclusion

Overall, the assignment of the TPA to Jamaica has generally been evaluated as a success. As shown, the TPA made it possible for the Ministry of Foreign Affairs and Foreign Trade to continue to: (a) participate effectively in trade in services negotiations with the involvement of all stakeholders; (b) undertake a number of training initiatives to further build capacity not only in the Ministry, but also in the wider public service; and (c) improve trade policy analysis. The Analyst TPA positively contributed to work on the CARIFORUM/ EU EPA.

Source: www.oecd.org/dataoecd/7/62/47803894.pdf (accessed 6 July 2012).

trade negotiations with a view to concluding a PTA between a developing and a developed country should not be accompanied by financial commitments on the part of the latter to help the former prepare for and conduct these negotiations. Doing so could well be interpreted as a sign of the developed country's good faith in achieving a balanced and development friendly agreement.

The institutional capacity of a government to prepare for, and conduct negotiations on trade in services will also depend heavily on the type of budgetary resources it is able and willing to allocate to this issue. This factor determines the quantity of human resources that can be dedicated to such negotiations as well as the quality of physical infrastructure they have to work with. As the Jamaican case study makes clear, assigning a foreign expert to assist in the building of domestic capacity may represent a welcome starting point. However, it was only when the Ministry of Foreign Affairs and Foreign Trade started recruiting its own trade policy experts who were themselves graduates of specialized programmes set up at a regional university (the University of the West Indies), that the country was able to avail itself of effective in-house capacity and more fully appropriate the conduct of its services negotiations.

2. Aid for Trade and process-related aspects of improving negotiating capacity

The processes involved in preparing for, and conducting services negotiations have been discussed in some detail in previous sections of this manual. The focus here is now on how Aid for Trade can be harnessed to help developing countries improve these processes. An important aspect of preparing for negotiations is determining the potential benefits of a PTA as well as examining in what sectors the negotiating partner economies share complementarities. Once identified, such complementarities could be exploited as an outcome of the PTA under discussion. In this context, one Aid for Trade commitment that developing countries could reasonably be expected to request, even before any announcement to launch negotiations has been formally made (i.e., in the purely exploratory phase of talks), is that the developed country partner assist in performing a joint feasibility

Box III.3 Australia-India Joint Free Trade Agreement feasibility study

1.1 Background and objectives of study

The economic relationship between Australia and India has developed rapidly in recent years, particularly under the impetus of India's far-reaching process of economic reform and the resulting rapid globalization of the Indian economy. In recognition of the growing synergies between the two economies, and the commitment on both sides to further enhance the economic partnership, Australia and India agreed in April 2008 to undertake a feasibility study for a possible bilateral FTA. This would help inform a subsequent decision by the two Governments about whether to proceed to FTA negotiations. In doing so, the study is without prejudice to whether possible future FTA negotiations between Australia and India would take up all issues in the forms considered in the study.

The terms of reference (TOR) for the study were developed and [….] key elements of the TOR were to:

- Identify the benefits that India and Australia would derive from a WTO-consistent FTA;
- Assess the feasibility of a comprehensive FTA covering goods, services and investment as well as other cross-cutting issues such as intellectual property, sanitary and phytosanitary issues, technical barriers to trade, competition policy and government procurement;
- Assess prospects for expansion of trade in goods through liberalisation of tariffs and non-tariff measures;
- Explore how to create a favourable environment for investment in both directions;
- Produce a report for consideration by the Governments in the first half of 2009 or earlier;
- Assess prospects for expansion of trade in services across a substantial range of sectors, including through labour mobility and encouragement of mutual recognition arrangements.

1.2. Approach of the study

The feasibility study was undertaken by the Joint Study Group (JSG) which held its meetings, with co-chairs from the Indian Department of Commerce and the Australian Department of Foreign Affairs and Trade. The JSG met four times between April 2008 and September 2009. It conducted much of its work through inter-sessional contacts and exchanges of material between the two departments. Both sides undertook consultations with business and other stakeholders. Written submissions were invited and received. Economic modelling was conducted by both India and Australia, with details provided in Annexes B and C.

Source: www.dfat.gov.au/fta/aifta/Australia-India-Joint-FTA-Feasibility-Study.pdf (accessed 9 July 2012).

study of a future PTA. Such studies can be of enormous benefit for developing countries in their efforts to assess the potential costs and benefits of a future PTA as well as in helping them identify potential offensive and defensive interests. In short, such studies can provide a jump-start to the extensive homework and research that is inevitably required in the run up to formally starting trade negotiations.

Box III.3 provides excerpts from such a joint feasibility study performed in the context of Australia's current ongoing negotiations with India towards the conclusion of a Comprehensive Economic Cooperation Agreement (CECA).

Of course, there are various other ways in which Aid for Trade commitments may be harnessed to help the actual process of preparing for, and conducting services trade negotiations. Recalling that an essential element to these dual processes is stakeholder consultation, developed country negotiating partners could be prevailed upon to provide funding to assist and support in various consultation activities since this is usually something that developing country governments often do not have the experience, proper institutional architectures or the budgetary scope for carrying them out. Again, these are typically commitments that will be obtained before negotiations actually start, so developing country negotiators should ideally have a fairly well-defined concept of what type of specific assistance they are requesting as well as the specific activities for which such assistance should be used.

3. Other considerations on improving negotiating capacity and Aid for Trade

As noted above, the act of engaging in negotiations not only imposes its own (non-negligible) costs in terms of the time and energy it requires of negotiators, but also the financial costs of fielding a suitably sized and competent team, and paying their travel and subsistence over the course of several negotiating rounds. Although it is probably not a good idea to request that a future PTA partner contribute directly to bearing the burden of the above costs (since it may be perceived as reducing the recipient country's independence in negotiations), it is not unreasonable to seek such assistance from third-party or multilateral development agencies. Although this may not result in any commitments from a potential PTA partner, it should nevertheless be part of a developing country's contingency planning in the lead up to negotiations. An example of such assistance has been repeatedly seen in donor assistance to least developed countries to attend working party meetings and bilateral market access negotiations in Geneva in the context of their WTO accession talks. For example, Cambodian negotiators were not in a position to fully fund their own travel and accommodation costs during their relatively frequent accession-related missions to Geneva, so third-party donors provided assistance in this regard. Such assistance from third-party donors has also been a common feature at WTO accession negotiations for a number of small Pacific Island nations.

Box III.4 offers another excerpt from the case study produced by Professors T. Koh and C. L. Lin (2004) of the United States-Singapore FTA. Although its rightful place is in the context of inter-ministerial cooperation, this excerpt also shows the type of funding mechanisms that can and should be set up to pay for the actual cost of assigning negotiators as well as covering their travel and accommodation expenses.

There is no reason why the establishment of a fund similar to the one the Government of Singapore set up for itself should not be done with budgetary support from various regional or multilateral development agencies or specialized United Nations agencies that are tasked with assisting developing and transition economies in their efforts to better integrate into the global economy. Indeed, ESCAP's commissioning of this manual offers a case in point. There is, similarly, no valid reason why a future PTA partner that is a developed country should not be asked to contribute to such a fund as part of an initial commitment to launching

Box III.4. Funding participation in FTA negotiations

"[…] One small idea which helped a great deal was the FTA Fund. It is a S$ 5 million one-off fund granted by the Ministry of Finance and administered by MTI [Ministry of Trade and Industry]. Through this fund, MTI paid for all the travelling and hotel expenses of all members of the negotiating team, and reimbursed various agencies the salaries of their offices involved in the negotiations (since it was almost a full-time assignment for many members)."

Source: Koh and Chang, 2004.

negotiations with a developing or transition economy partner. Such a contribution could even be considered a "down payment" on the development-friendly outcomes of the future PTA.

B. Aid for Trade to improve the management of market opening

As several commentators have pointed out, the incremental, progressive liberalization often inherent to successful service sector reforms is something that trade agreements are uniquely well-placed to promote.[21] In addition, services liberalization in the context of multilateral or preferential trade negotiations can form a political economy framework in which developing countries are essentially "given something" in exchange for undertaking far-reaching economic reforms, which are more often than not in their own interests.[22] It is assumed here that coupling engagement in services trade negotiations with the opening of services markets is not the primary challenge negotiators need to prepare for when facing the prospect of upcoming PTA negotiations. Rather, opening domestic services markets in a way that is conducive to and supportive of pro-competitive reforms, and thus development-friendly outcomes, is in fact the most difficult challenge. The increasingly accepted understanding in this context appears to be that opening services markets, particularly by focusing attention on barriers to new entry, is most likely to lead to greater competition, increased choice for consumers and, consequently, net welfare gains for the economy as a whole if such liberalization is properly sequenced.

Another equally accepted perception in this context is that the key to effective competition is making sure that liberalization is accompanied by effective regulation, and that the private sector should ideally be invited to play a leading role. However, in order for this to occur requires that proper frameworks are in place to prevent negative externalities such as market capture or information asymmetries from undermining the pro-competitive change that privatization and market liberalization can otherwise induce. Therefore, the focus of the discussion here is on the issue of sequencing – i.e., liberalizing in accordance with an agreed timetable, as well as the interplay between good regulation and pro-competitive market opening. The discussion also deals with the role of adjustment assistance in services liberalization and how Aid for Trade commitments might be harnessed to facilitate and promote such assistance.

1. Sequencing of market opening and Aid for Trade

Research directed to studying the policy implications of opening services markets in the context of a PTA rather than on an MFN basis has indicated that the benefits of incumbency may result in inferior foreign service suppliers being able to entrench

21 Marconini and Sauvé, 2010 and Sauvé, Pasadilla and Mikic, 2012.

22 Discussing this in a related context, Mattoo and Subramanian (2008) referred to this dynamic as "[the] genius of the GATT".

themselves in a given services market in a way that could ultimately prove self-defeating for policymakers if and when multilateral liberalization is eventually undertaken (Mattoo and Fink, 2002). Thus, sequencing can be important, and the risks of preferential liberalization of services markets needs to be weighed against its benefits. Ultimately, the "right" approach to this problem will depend on the efficiency – in global terms – of the services providers of the PTA partner economy as well as the urgency of increasing efficiency in domestic service markets.

In services markets that play an important supporting (or infrastructural) role for all other areas of economic activity, such as financial services, telecommunications and logistics, the urgency to improve efficiency will likely be greater, depending on how poor or inefficient the domestic markets currently are for these services. In other sectors that predominantly affect consumer choice and utility, the urgency to improve the efficiency of these services markets might still be present, but not felt as strongly in terms of policymakers' desire to achieve relatively rapid and tangible improvements to national economic welfare.

In any event, the Aid for Trade dimension in sequencing the opening of services markets by developing country negotiating partners generally does not manifest itself in the form of explicit and actionable commitments from the developed country negotiating partner, but rather in the latter's willingness to exercise restraint in pushing for too rapid or pervasive liberalization. The Aid for Trade dimension in this context also manifests itself in the degree to which developed and developing country negotiating partners are willing to work together to achieve an economically viable consensus on how quickly and extensively the developing country partner should open its services markets in a manner that allows:

(a) Domestic service suppliers to gear up for the coming wave of competition; and

(b) Regulators to put domestic legal and institutional frameworks in place that will enhance, promote and enforce competition.

Box III.5 contains an excerpt from the PTA concluded between Australia and Thailand. The provision featured is Article 812, which is found under Part V of the Agreement, "Progressive Liberalisation and Development of Rules". Box III.5 also includes language from a side-letter to the FTA in which the two Governments agreed to meet at a subsequent date in order to commence negotiations on the liberalization of financial and telecommunications services.

Box III.5. Australia-Thailand FTA – Chapter 8 and Side Letter on Services

Part V. Progressive Liberalisation and Development of Rules

Art. 812 – Review of Commitments

1. In pursuance of the objectives of this Chapter, the Parties shall enter into further negotiations on trade in services within three years from the date of entry into force of this Agreement with the aim of enhancing the overall commitments undertaken by the Parties under this Agreement.

Side Letter on Services

Thailand and Australia shall enter into negotiations on financial services and telecommunication services as part of the review of commitments provided for in Article 812 (1).

Source: www.dfat.gov.au/fta/tafta/tafta_annexes_sideletters_index.htm (accessed 9 July 2012).

The language cited in box III.5, in the context of the Australia-Thailand FTA, demonstrates that Australia showed itself to be a willing development partner of Thailand, exercising restraint in demands for immediate liberalization in two key services sectors and agreeing to postpone negotiations in these sensitive sectors to a specified future date. Many such examples abound. The Bilateral Trade Agreement between the United States and Viet Nam, which preceded the latter's entry into WTO by several years, featured a detailed timetable for progressive liberalization of various service sectors. Some commentators from the Government of Viet Nam have pointed out privately that it was the successful implementation of these preferential commitments that emboldened the Vietnamese leadership to finally complete their WTO accession negotiations. Likewise, many WTO accession schedules of specific commitments in services feature staggered liberalization of specific service sectors, opening them up gradually and on a city-by-city or region-by-region basis.[23]

2. Aid for Trade, market opening and adjustment assistance

Aid for Trade commitments can also manifest themselves in a developed country's willingness to provide commercially meaningful market opening opportunities to service suppliers of the developing country partner, particularly in modes of supply of priority interest to the latter. This may notably be the case of Mode 4 (temporary movement of natural persons). Because Mode 4 commitments brokered in trade agreements typically focus on high-skilled labor movement, this often entails a commensurate willingness to negotiate mutual recognition agreements with regard to qualifications and licensing procedures for professionals and other skilled worker categories. We revert to this particular development-friendly outcome in Section III below.

Yet another area where meaningful Aid for Trade commitments can be requested and offered relates to adjustment assistance. Trade liberalization being inherently redistributive in nature, it is likely to create both winners and losers. The issue of adjustment assistance addresses government initiatives to soften the potentially adverse impact of trade and investment liberalization for workers and firms in import competing sectors. Despite the reservations expressed by some about the predominance of *status quo* commitments in PTAs (and even less than *status quo* commitments when negotiations proceed on a GATS hybrid list approach) in services trade (Sauvé, 2007), there can nevertheless still be a very clear services dimension to preferential liberalization, as was discussed above in the context of NAFTA's impact on the US nursing sector (see Box I.9), as well as for any service sector that competes with service suppliers from the PTA partner economy.

A WTO study (Bacchetta and Jensen, 2003) discussed many of the options available to policymakers in the context of adjustment assistance, including improving credit markets and social safety nets, labour market reform, improving access to education and training, reducing transaction and information costs (particularly for firms), improving the quality and availability of information on prices and market opportunities for individuals and firms, and coordinating domestic macroeconomic policy with trade liberalization. There are many ways in which Aid for Trade commitments might conceivably be requested and offered in terms of preparing domestic institutions and policies for the demands that are likely to place on an economy by adjusting to impending trade liberalization.

Box 3.6 refers to the above-mentioned WTO study and provides a brief overview of three adjustment assistance schemes in different developing countries, i.e., Chile, Costa Rica and Mauritius. It is not difficult to conceive of various Aid for Trade commitments that might be requested and offered in the broad set of policy and institutional frameworks that governments

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[23] See, for example, China's commitments in the mobile telephony sector as contained in document WT/MIN(01)/3/Add.2, available at www.mac.doc.gov/China/servicesschedule.pdf (accessed 11 July 2012).

use to assist displaced workers and firms to move into more competitive sectors of the economy in the wake or in anticipation of trade liberalization. Developing country and transition economy governments need to think very carefully about what type of adjustment assistance policies they wish to adopt as well as how Aid for Trade commitments could best be harnessed to respond to these needs. This is yet another aspect of “doing one’s homework” in the run-up to impending trade negotiations, and using economic modelling to better understand the likely displacement effects of any possible liberalization outcomes on various service sectors.

Once policymakers have a better grasp of the likely or possible displacement effects, and provided they have the political courage to confront these effects pro-actively, they can start formulating adjustment strategies to soften the impact of these effects, and tie these strategies into possible Aid for Trade requests. An interesting paradox of service sector reforms is the predominant tendency for countries to enact them unilaterally rather than in the context of trade negotiations, which more often than not serve as periodic harvesting chambers as the World Bank’s Aaditya Mattoo once remarked. Decoupling pro-competitive reforms from the trade negotiating sphere arguably deprives developing countries of the technical assistance that is now routinely embedded in services negotiations.

Box III.6. Adjustment assistance in Chile, Costa Rica and Mauritius

Chile

Chile’s National training and Employment Service has implemented two programmes to support the movement of labour. One programme began in 1990 to assist displaced labour throughout the country and is managed by the municipalities. The second programme, begun in 1995, assists workers in the coal, textiles and clothing sectors. Chile also has special programmes, such as the Technical Assistance Fund and Development Projects to assist small and medium-sized enterprises. These programmes are intended to assist such enterprises, in all sectors of the economy, to adopt more efficient managerial and marketing techniques, and more up-to-date technology.

Costa Rica

Credit programmes operated exclusively by state-owned banks provide loans with alleviated guarantee, documentation and procedural conditions for small manufacturing firms. These loans are directed to companies presenting proposals aimed at raising their productivity, quality and competitiveness. In 1993, loans amounting to some US$ 30 million (about 27 per cent less than requested) were approved for 54 firms, located mainly in the San José Greater Metropolitan Area. These firms were involved in the production of foodstuffs, beverages, chemicals, clothing, paper and leather articles, and the processing of wood, minerals and metals.

Mauritius

A Technology Diffusion Scheme was introduced in Mauritius in 1994. The programme, managed by a private contractor, is designed to offset the initial costs to the private sector of acquiring technology support services to improve productivity, product quality, design or manufacturing response time. Costs are to be shared equally by the Government and the private sector.

Source: Bacchetta and Jensen, 2003.

3. *Aid for Trade and sound regulatory practices*

Much of the trade-related technical assistance and capacity-building that is offered by the multilateral development institutions, specialized United Nations agencies and bilateral donor agencies is directed specifically towards improving institutional and regulatory frameworks in developing and transition economies. In fact, because many of these countries receive so much TRTA and capacity-building help from so many multilateral and bilateral donors the problem is often not getting it, but absorbing it in a way that leads to genuine improvements in trade policy formulation and attendant organizational structures. To give just one example, in the three years immediately preceding Viet Nam's accession to WTO in 2006, there were reportedly more than 30 different donor organizations providing TRTA and capacity-building help to various parts of the Government of Viet Nam in Hanoi as well as to various government agencies and private-sector groups throughout the country. Indonesia offers another prominent example, as no less than five development agencies were maintaining permanent offices and full-time staff within the country's Ministry of Trade premises itself in 2006.[24]

Because of the ubiquitous nature of TRTA, the focus here is on (a) the potential for PTAs to specifically address the goal of achieving improvements in the regulatory environment of the developing country partner and (b) discussing ways in which such treaty commitments might be implemented by using Aid for Trade as a vehicle to improve underlying institutional and regulatory frameworks.

Trade rules that address issues such as transparency, judicial review and due process, and which generally seek to enhance predictability in the trading environment for foreign economic operators, are nothing new. Even GATT 1947 contained Article X entitled "Publication and Administration of Trade Regulations". GATS itself has provisions on transparency that require the establishment of so-called enquiry points (Article III) as well as setting out detailed minimum standards of regulatory conduct (Article VI). By the same token, many PTAs also feature GATS-plus provisions on important regulatory issues such as transparency, reviews of laws and regulations, administrative procedures, and even measures against corruption and improvement of the business environment. Supporting such commitments is generally a separate chapter or side-agreement setting out a loose institutional framework for development cooperation between the developed and developing country negotiating partners. Although some of these provisions relate to trade in general between the two partners (rather than just trade in services), others are specifically tailored to address perceived regulatory shortcomings and to strengthening the competitive environment on specific services markets.

Box III.7 contains a summary of the development cooperation provisions of the EPA between Japan and the Philippines, both in general as well as those pertaining to financial services in particular. This PTA, signed in September 2006, contains a number of the provisions referred to above that are intended to strengthen and improve the efficiency and predictability of the prevailing legal and regulatory regimes. In particular, the EPA has a dedicated chapter, "Improvement of the Business Environment", that – together with the provisions contained in the Implementation Agreement to the EPA – sets out a detailed institutional structure for the two Parties to consult extensively and in-depth on ways to improve the business climate in both countries. (However, in this context, it was arguably the business environment in the Philippines that was intended to be addressed). The Japan-Philippines EPA also contains numerous provisions on regulatory cooperation in various spheres, including – for the purposes of this publication – financial services. Even the casual reader will notice that the commitments in this part of the agreement are

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[24] These were projects commissioned and funded by the following donors (in alphabetical order): AusAid; EuropeAid; Japanese International Cooperation Agency (JICA), USAID and the World Bank.

Box III.7. Development cooperation provisions in the Japan-Philippines EPA

Cooperation in general

Chapter 14 of the EPA, titled "Cooperation", comprises some six articles that are themselves fleshed out in greater detail in Chapter 5 of the Implementation Agreement to the EPA. The EPA identified 10 sectors in which cooperation was to take place, with the goal of facilitating and liberalizing trade and investment in order to assist in the achievement of development goals, and promote the well-being of the peoples of both Parties. The 10 areas for cooperation (Article 114) are:

(a) Human resource development;

(b) Financial services;

(c) Information and communications technology;

(d) Energy and environment;

(e) Science and technology;

(f) Trade and investment promotion;

(g) Small and medium-sized enterprises;

(h) Tourism;

(i) Transportation;

(j) Road development.

The EPA established a sub-committee to oversee the implementation of this chapter (Article. 147), something that it also does for other work programmes set up under the Agreement (such as on "Improvement of the Business Environment"), but also requires that the sub-committee respect existing consultation mechanisms between the Parties for Official Development Assistance. The EPA explicitly provides that any cooperation conducted under the terms of Chapter 14 is to be subject to the availability of appropriated funds (Article 146).

Cooperation with regard to financial services

Chapter 6 of the Implementation Agreement to the EPA addresses cooperation in the field of financial services, and sets out several areas for cooperation, including regulatory cooperation, the development of financial markets and improving financial market infrastructure (Article 25). Regulatory cooperation, in particular, is to be aimed at the implementation of sound prudential policies and enhancing the effective supervision of financial institutions (Article 26.1 [a]). The Implementation Agreement provides for the establishment of a Working Group on Financial Services, which is to be a forum for exchanging views and information, identifying ways to cooperate further, and to monitor, review and discuss issues concerning the implementation of the chapter on cooperation in financial services.

Source: Authors' notes on the text of the EPA and the Implementing Agreement to the EPA.

loosely formulated and non-binding, and subjugate any provision of assistance to the availability of donor funds and existing mechanisms on official development aid. Therefore these are the softest of soft commitments, but nevertheless represent a suitable framework for the two Parties to begin to work together on improving regulatory frameworks, oversight, and enforcement of institutions and rules in the financial services sector, the improvement of which will be central to the Philippines continuing along its so-far modest but steady path of economic growth.

Many other examples of this type of Aid for Trade cooperation exist in other North-South PTAs and have been discussed in depth elsewhere.[25] Suffice it to say here that as was discussed above in the context of Aid for Trade and adjustment assistance, the onus will again tend to be on a developing country government to have a fairly well-thought out and clearly formulated set of objectives in terms of (a) the desired improvements to its domestic regulatory frameworks that it wishes to achieve, and (b) how it intends to use both the upcoming PTA negotiations and commitments in the context of Aid for Trade to support it in achieving these outcomes.

C. Aid for Trade to boost export capacity

Exporters of services from developing countries face many impediments. These include: (a) lack of access to financing for export or business development; (b) difficulty in establishing credibility with international suppliers; (c) lack of access to reliable and inexpensive infrastructure; (d) lack of access to a range of formal and informal networks, and institutional facilities necessary for trade; and (e) the financing constraints that flow from the lack of collateral that, typically, smaller service firms can put up given the intangible nature of their output (Sauvé, 2007). Some specific proposals (discussed immediately below) have been made in the context of Caribbean services exporters, which could improve market access to industrialized (OECD) economies (Chaitoo, 2008). Many of these proposals are likely to be equally applicable to developing countries as a whole.

Similarly, more recent research has been published by the World Bank summarizing several of the constraints that developing countries face in exporting services as well as the policies needed to remedy such constraints and boost exports of services (Goswani, Mattoo and Sáez, 2012).[26] Each of these are discussed in turn as well as highlighting the extent to which Aid for Trade commitments may be harnessed to address these issues. Also discussed here is the importance, for developing countries, of securing Mode 4 access from their developed country PTA partners as a specific and tangible development-friendly outcome to preferential services' liberalization. Finally, how Aid for Trade has been, and might be used in future, to address specific supply-side constraints to exporting services is discussed, particularly as such constraints relate to critical infrastructure and human capital (education and training).

1. Aid for Trade and market access

Despite the fact that PTAs tend to be used by developing countries more to bind the status quo rather than to achieve genuine (i.e., de novo) additional liberalization of services markets, it is equally true that many developed-country PTA partners will be looking for at least some improvements in market access for their service exporters, particularly in Mode 3 (Commercial Presence). This is usually handled under the investment chapter of a PTA and is normally, albeit not exclusively, an issue that affects the defensive interests of developing countries more than their offensive (export) interests. Nevertheless, there are always two sides to market

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25 See, for example, Marconini and Sauvé (2010) and Chaitoo (2008), who discuss primarily the CARIFORUM-EU EPA and the Aid for Trade initiatives taken in the context of trade in services under this agreement.

26 See subsection 2 below.

access negotiations (that which is given and that which is obtained), and there is ample scope for trade-offs and the exchange of mutual liberalization commitments across different modes of supply. Thus, commitments offered by developing countries in Mode 3 can be paid for by the developed country PTA partner in that it grants commensurate improvements in Mode 4 market access. Policymakers in developing countries need to be cognizant of the important contribution that FDI can make, not only in promoting market contestability but also in terms of employment and other welfare gains in their domestic economies, and how conditions can be improved to increase inbound FDI. Trade agreements are well placed to facilitate an increase in inbound FDI, provided that they can be credibly linked with reform efforts in domestic labour and product markets.

Some of these policy constraints are addressed in subsection 2 while other constraints are dealt with in subsection 3. In focusing on improving market access and, thus, the terms and conditions of entry of service suppliers in foreign (predominantly developed-country) markets, a number of specific suggestions have been proposed on how to boost exports from Caribbean services suppliers looking to enter or increase their presence in developed country markets. Box III.8 lists these proposals.

It is not hard to imagine how some of the proposals outlined above might be turned into specific commitments in the context of bilateral PTA negotiations. As shown below in subsection 3, commitments very similar to those outlined above were part of the EPA between Japan and the Philippines. Otherwise, it is essentially up to negotiators to do their homework and identify what services they are already exporting and in what modes, as well as what barriers to market entry and other competitive disadvantages foreign providers of these services face in the domestic market of their PTA negotiating partner. Once this analysis is complete, negotiators must then make sure that this knowledge translates into actual market access, national treatment, or other market entry or regulatory requests.

Another proposal put forward in this context but not listed above, is that developed countries go beyond the establishment of mere enquiry points (already an obligation under GATS) to setting up formal institutional structures that are specifically tasked

Box III.8. Market access-related Aid for Trade requirements for services

The following are some key elements, in terms of tangible market access concessions, that are needed by Caribbean service suppliers in order to take advantage of opportunities in developed country markets:

- Developed countries should remove all economic needs tests for service suppliers from Caribbean States, since they are all small, vulnerable economies and their services trade is so miniscule that it has a negligible impact on any OECD economy;
- Due to their very limited human, financial and marketing resources, small services firms are unable to service markets through commercial presence. Temporary entry (Mode 4) for Caribbean service suppliers should be de-linked from the requirement to have commercial presence. In other words, service suppliers should be granted entry as individuals. There should also be further expansion of the scope of categories covered by horizontal commitments in developed WTO members' schedules to include middle and lower level professionals (i.e., persons without university degrees), in the definition of "other persons" and "specialists";
- Developed countries such as Canada, Japan, the United States and those in the European Union should grant market access to Caribbean countries in sectors and modes of supply in which they have particular market access interests and are competitive. Some broad indicative areas are: culture and entertainment; professional services; health tourism; tour operators; building cleaning and maintenance services; ship repair and maintenance; landscaping; and finishing work for buildings.

Source: Chaitoo, 2008.

with promoting and assisting service suppliers from the developing country PTA partners to identify and exploit commercial opportunities in the services markets of the developed country partner (Chaitoo,2008). This is already something being done by some countries for trade in goods, but such programmes could and should be extended to services trade, and should also figure among tangible and actionable Aid for Trade commitments in North-South PTAs.

2. Policy frameworks for foreign direct investment and promoting services exports

Research published recently by the World Bank groups the determinants of services trade into three broad categories (Goswami, Mattoo and Saez, 2012). The first of these – referred to as the "fundamentals" – is what would normally be expected to influence trade flows under classic trade theory, including a given country's" (a) factor endowments, particularly the quantity and quality of its human capital (since services are primarily performed by humans); (b) natural resources and cultural endowments (important for tourism services); (c) infrastructure; and (d) the quality of existing institutional structures (the regulatory environment). The second category of determinants of services trade identified is "policies affecting trade, investment and labour mobility of services". The third category is referred to as "proactive policies in services"[27]. The other two categories are discussed in this subsection. The first category is discussed to a limited extent in chapter I, (section D).

Many of the policies affecting trade, investment and labour mobility of services are more likely than not to be embedded in behind-the-border legal and regulatory frameworks that are far removed from any immediate institutional link to those policymakers directly concerned with a country's trade performance. This is where the need for strategic and visionary leadership comes into play, with the very upper echelons of government needing to lay out the preferred development course and subordinate all other policy areas to this vision. Inbound FDI can be harnessed to act as the precursor to services exports, but first the investment regime in the targeted service sectors has to be liberalized. The example of the business process outsourcing sector in the Philippines can be cited here, in which more than 90 per cent of the initial total equity investment of US$ 2 billion consists of foreign equity participations. Business process outsourcing is now one of the country's biggest services exports and a source of thousands of well-paid and safe jobs in the formal sector.[28]

Here the role of Aid for Trade is clear enough, and should comprise assistance to the developing country PTA partner in adopting regulatory best practices for the concerned institutional and policy frameworks. This could manifest itself in terms of binding commitments to dedicate commensurate monetary and other resources to this task as well as setting up institutional structures for the exchange of information and the transfer of knowledge.

Proactive policies to promote services would necessarily include those that are intended to promote exports and/or investment. Here, the age-old and well-used tool of Special Economic Zones (SEZs) or (in India) Software Technology Parks (STPs) serve as examples of this type of industrial and development policy that favours services trade. Other policy examples in this category include tax holidays or other preferential fiscal treatment as well as waiving otherwise prevalent restrictions on land use, zoning regulations and labour laws. Such treatment can be linked to requirements to meet minimum export thresholds or employ targeted quantities of local labour; however, governments might also find that such restrictions go a long way to curtailing economic operators in terms of their discretion in making the necessary business decisions, and might thus be ultimately self-defeating. Because they relate to services trade, such performance requirements are not constrained by the WTO Agreement

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[27] Ibid.

[28] Ibid, p.12.

on Trade-Related Investment Measures (TRIMs), although the investment chapters of many PTAs do extend the reach of TRIMs disciplines to services trade.

Box III.9 contains an excerpt from a case study of technology parks in India. It shows the kind of policies pursued in order to ensure the success of the parks and how they became so successful that they were copied by literally dozens of countries across the developing world.

Box III.9 provides some useful insights into the sweeping nature of the pro-active policy approach that a government must take in the event that it is serious about starting or promoting a given services sector. It also gives some idea of the positive economic spillover effects and virtuous development cycles that the successful implementation of such an approach can have. Interestingly, the literature appears to point to two converging forces that made the take-off of this particular economic sector possible. One was a boom in the software industry (including the dot-com boom) of the 1990s in the United States, which saw a massive demand for software programmers. The other factor was the decision, starting in 1991 to privatize, deregulate and liberalize the telecommunications sector in India, thereby addressing severe bandwidth bottlenecks that would otherwise have inhibited the possibility of software programmers in India being able to trade across borders with their customers overseas. Finally, and equally important, is the fact that India was well-placed to meet this demand, due to several long-standing endowments it enjoyed in terms of a working population that was proficient in English as well as the fruits of a secondary and tertiary education system that rightfully placed a heavy emphasis on mathematics and science. Because services are primarily human-intensive, it also tends to be true that those countries with more rigorous education systems tend to be able to become competitive on many services markets to the point that they are ready to export.

It is here that the Aid for Trade angle is immediately obvious, in that the developed country PTA partner could be asked to make monetary or other material commitments to assist in the establishment of such SEZs or STPs, or to provide technical assistance to policymakers on how to best go about conceptualizing and implementing such policies. By the same token, the developing country PTA partner has to be prepared to undertake regulatory reforms that may not prove easy or even popular, and which may require it to overcome entrenched bureaucratic or market-based opposition. However, more than simply being a matter for finding the right configuration of assistance under the Aid for Trade banner, this is essentially a question of visionary and strategically capable political leadership, supported by sufficient technical expertise at the policymaker level. If these two fundamentals are not a given, or are in chronically short supply, no amount of Aid for Trade is likely to produce or promote a services industry that is ready to export regionally or globally.

Box III.9. Software Technology Parks of India

Software technology parks were first established in 1990 in Bangalore, Pune and Bhubaneswar as separate autonomous societies. The establishment of STPI, a society that was set up by the Department of Communication and Information Technology in 1991 by the Government of India, merged these three societies.

STPI plays an entrepreneur role working directly with software companies. It is an export-oriented scheme integrating the concept of 100 per cent Export Oriented Units (EOU) and Export Processing Zones (EPZs) of the Government of India within the concept of technology parks. The main function of STPI is to provide an environment for developing and exporting computer software as well as professional services.

Box III.9. Software Technology Parks of India *(continued)*

The objectives of STPI are to:

- Promote development of software and software services;
- Provide statutory services to the exporters by implementing STP/EHTP Scheme;
- Provide data communication services including various value-added services, both to IT industries and corporate houses;
- Provide project management and consultancy services at the national and the international levels;
- Promote small and medium-sized enterprises by creating a conducive environment in the field of information technology;
- Promote bio-informatics/bio-technology industries by providing infrastructural statutory support.

STPI provides services that range from statutory assistance to incubation services for startups. The STPI website also lists the following as the main highlights of the STPI scheme:

- Permits only new undertakings;
- Allows only development and exports of computer software, data processing, data management etc.;
- Approval under the single window clearance mechanism;
- Permits up to 100 per cent foreign equity;
- No duty on goods imported/procured domestically by the STP units;
- Permits imports of second-hand capital goods;
- Export proceeds to be realized within six months from the date of exports;
- A 100 per cent tax holiday for export profits until 2009-2010;
- Transfer of 100 per cent of export proceeds to an Exchange Earnings Foreign Currency bank account;
- Permits sales in the domestic market up to 50 per cent of the exports.

Incubation facilities, popularly known as "plug-and-play" facilities, are made available in many centres so that firms can begin immediate operations. The incubation facilities provide ready-to-use modules, back-up power supply, telephone and fax facilities, conference rooms, training facilities and, most importantly, high-speed communication lines, and Internet and video conferencing facilities. STPI has promoted FDI and software exports since its inception. The STPI model has been considered so successful that other developing countries such as Mauritius, Myanmar, Nepal, Ivory Coast and Cyprus are using it to set up technology parks. For example, STPI played a major role in the Ebene CyberCity Project in Mauritius, and is providing consulting services for similar parks in Cyprus, Ivory Coast, Myanmar (STPI) and Nepal.

Source: Vaidyanathan, 2007.

3. Commitments on the movement of natural persons

This is clearly an important area for developing countries, which tend to favour Mode 4 exports over those achieved via Mode 3 (because presence abroad is capital-intensive), but which may lack the infrastructure or natural endowments to attract Mode 2 (consumption abroad) across certain sectors (e.g., education or health care). When it comes to scheduling commitments to open services markets to Mode 4 in the context of preferential liberalization, the evidence appears to point relatively convincingly towards a tendency for developed and developing countries to be slightly more forthcoming than was the case during the Uruguay Round or as has so far been displayed in the offers and request process under the WTO Doha Development Agenda. PTAs therefore appear to be the best way for developing countries to secure market access for their highly-skilled independent professionals, contract-based suppliers and business visitors.

Securing GATS-plus market access commitments on Mode 4 in North-South PTAs with both the United States and the European Union has so far proved elusive (and significantly more so in the case of the United States), but the Philippines and Thailand both appear to have recorded a certain measure of success for certain categories of workers in their respective EPAs with Japan. Both these EPAs include a separate chapter on the movement of natural persons, with the Philippines obtaining commitments from Japan concerning Mode 4 access for "personal contract suppliers" who simultaneously meet the definition of being "specialists in humanities/international services" as well as for nurses and caregivers – two categories under which the Philippines exports thousands of natural persons annually and which are preceded in importance only by the category of household service workers. Thailand obtained similar concessions except that rather than obtaining commitments with regard to nurses and caregivers, these were given for "instructors" (of certain art forms unique to Thai culture, such as dancing, music, cuisine, martial arts, language and spa services) as well as "personal contract suppliers" of Thai cuisine (Carzaniga, 2009). Likewise, the PTAs of Australia, Canada and New Zealand have registered novel forward movement in the area of Mode 4 trade.

The Aid for Trade implications of this are once again fairly obvious, in that binding market access commitments under Mode 4 can reasonably be expected to have direct and tangible economic benefits on developing country beneficiaries of such commitments, provided they are tailored to the specific export capacities of the developing country in question. These types of commitments can be tabled in the normal request-offer process of PTA negotiations, with the Aid for Trade dynamic theoretically obviating any need for direct and commensurate reciprocity.

To summarize, there are many and yet largely underexploited ways in which Aid for Trade commitments might be better harnessed to support and promote the export interests of developing countries in order to make their service suppliers better able to contest international markets and begin exporting or expand existing export flows. However, developing country policymakers must focus on two key considerations: (a) the need for a certain amount of strategic thinking to go into the formulation of Aid for Trade requests; and (b) Aid for Trade, like the decades of official development aid that has preceded it, is by no means a panacea. It is also certainly no substitute for sound and informed policy-making by accountable governments genuinely interested in promoting the economic welfare of the nation as a whole rather than the narrow interests of a privileged few.