

# PREPARING FOR NEGOTIATIONS

TRAINING COURSE ON  
“ENVIRONMENTAL GOODS AND SERVICES NEGOTIATIONS”

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# **Presentation Structure**

- **Preparation**
- **Exercise**
- **Consultation with stakeholders**
- **Performing regulatory audit**

# PREPARATION

**Is preparation for  
negotiations  
necessary?**

# THE FOUR MAIN QUESTIONS



# Prepare for.....

- **Identify players/actors**
  - Coordinator
  - Stakeholders
- **Learning by doing or doing by learning?**
- **Examine the benefits and challenges/risks of engagement.**
- **Offensive and defensive interests – identify.**
- **Build consensus within the country.**

# Preparedness

- **Who sets the agenda for negotiations?**
  - You or your trade partner?
- **Coherence with the existing domestic policies?**
- **Stock taking before start of negotiations**
- **Fix up the desired goal that you want to achieve.**

# EXERCISE



# **EXERCISE – 10 minutes**

- **Desired goal(s) that you want to achieve.**
- **Discuss and identify the agenda for negotiating EGS agreement:**
  - **Good or Services or both**
- **Identify stakeholders in your country**
- **Any other issue(s) that your delegation would like to raise?**



**Discussions**

**15 minutes**

# STAKEHOLDERS

# Stakeholders

- Define as per your experiences:
  - Who are the ‘Stakeholders’?
  - How do you identify?
  - Why in any negotiation identification of and consultations with stakeholders is very important?

# Identification of the stakeholders

## Within government:

- **Parliament**
- **Executive agencies**
  - Cabinet
  - Ministries/Departments
  - Agencies – regulators
- **Provincial or local government**
- **Municipality and other agencies**

# Identification of the stakeholders

## Outside Governments:

- **Private sector**
  - Companies
  - Persons
  - Associations
  - Chambers
- **Civil Society Organisations**
- **Think tanks / research organisations**
- **Ethnic groups**

# What do stakeholders bring to the table

- **Commercial interests**
- **Economic impacts**
- **Policy issues**
- **Politics**
- **Legal dimensions**
- **Institutional considerations, legacy and hierarchy**
- **Public opinion, morals and cultural values**
- **Environmental considerations**
- **Social considerations**

# **What are the consequences stakeholders are affected by**

- **The commercial impact**
- **The Policy outcome**
- **Bureaucratic changes**
- **Political consequences**
- **Legal precedents**
- **Macroeconomic consequences**
- **Environmental changes**
- **Social reforms**



# The consultation steps

- **Before starting the negotiations**
  - Study the benefit of engagement
  - Inter-governmental consultation – discussion on study
- **Decide to start negotiations – internal process**
  - Mandate
  - Approach
  - Time frame
- **Start negotiations**
  - Consult private sector as well as other agencies in government

# The consultation steps (2)

- **During negotiations:**
  - **Legal Text**
    - Inter-government
    - Regulators
    - Law ministry or lawyers
    - Think tanks
  - **Request and offers**
    - Inter-government
    - Regulators
    - Private sector
    - Civil society

# Industry's preparedness

- **Who sets the agenda for negotiations?**
- **To help successfully in policy making process**
- **Feedback during negotiations**
- **After implementation:**
  - Trade defense measures
  - Circumvention
  - Any other issues

# **Sum up: key negotiating strategy**

- **Frame the issue for negotiations**
- **Identify of win-win solutions**
- **Evidence based research and analysis**
- **Identify potential supporters among domestic and foreign stakeholders**
- **Outline message to potential supporters**
- **Identify opposing stakeholders & the means for reducing or deflecting opposition**
- **Establish the utility, legitimacy and fairness of proposed outcome**

# REGULATORY AUDITS

# **Regulatory audit**

- **Various sources within and outside Government**
- **During WTO Trade Policy Review Mechanism**
- **However, changes do happen!**
- **Useful in negotiations:**
  - **Prepare for better understanding of trade partner's policies and regulations**
  - **Enhances quality of dialogue between negotiators, sectoral regulators and private sector stakeholders.**

# **Regulatory audit: usefulness**

- **Better understanding among the negotiators and regulators of the implications of commitments being offered**
- **Benchmarking the national regulatory regime in terms of its effectiveness and compliance with international best practices**
- **Anticipating and preparing for requests that are likely to ensue from negotiating partners once the negotiations have started**

# Pre-negotiation step

- **Cost benefit analysis : Study**
  - Patterns of trade
  - Modeling
  - Identify gains and losses
  - Vulnerable sectors
  - Regulatory audit
- **Evaluation of maximum gain:**
  - PTA or FTA, BIT or RTA, WTO, Autonomous?
- **Wide consultations: stakeholders**
  - Strengths and weakness
  - Sensitive sectors
  - Market access benefits
  - Rules of Origin – Juridical or natural persons



# **Negotiation step**

- **Decide modalities first**
- **Negotiations are held in different Rounds**
- **Positive/Negative list approach**
- **Request is made to other Parties on export interest sectors**
- **Other Party then offers – items & level**
- **Negotiations are then held on expanding the sectors and domestic regulations**

# **What countries do presently?**

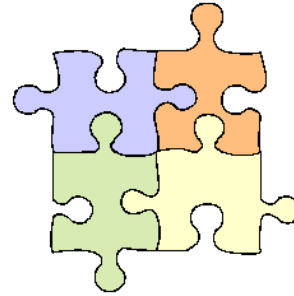
- **First stage: In-house analysis – trade & tariff**
- **Second stage: Studies on purely economic parameters**
- **Third stage: Findings – stakeholders consultations**
- **Fourth stage: Finalising study**
- **Fifth stage: Share study in inter-governmental consultations**
- **Final stage: Final consultations with all stakeholders and firm up its negotiating position**
- **Time to time information is also posted online**



# RESEARCH



# CONSULTATIONS



Rajan Ratna

# NEGOTIATIONS



# Conclusion

- The importance of proper research and stakeholders consultations in the design of trade agreements – very important and essential
- There can be several problems associated with:
  - Conflicting interests
  - Domestic policies
  - Inefficiencies
  - Large industry vrs. SME

**THANK YOU**