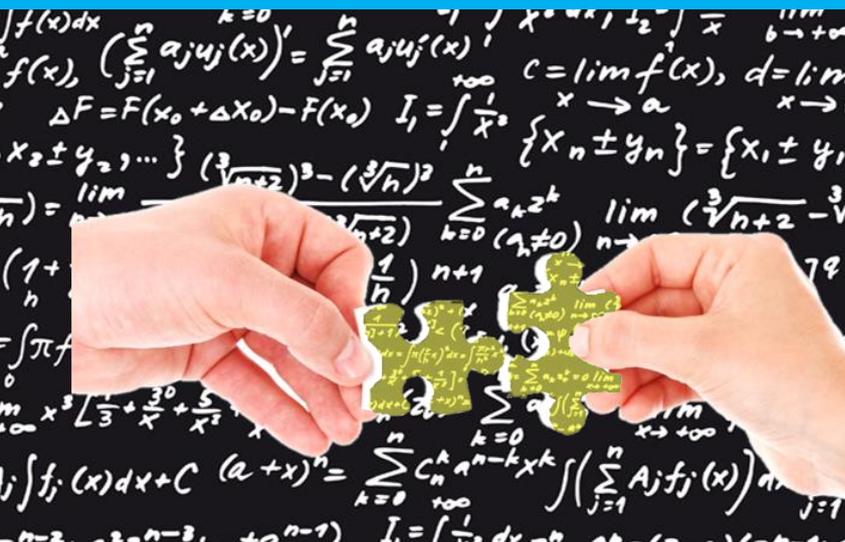




Negotiating strategies for LDCs to make the most of Aid for Trade



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Negotiating strategies for LDCs to make the most of Aid for Trade

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Abstract

This paper explores the kinds of demands governments in Least Developed Countries (LDCs) could and should be formulating and submitting in the context of the e-commerce negotiations at the World Trade Organisation (WTO) as well as any current or proposed Free Trade Agreements (FTAs) they are engaged in with advanced industrialized countries.

It begins by discussing the differences between Special and Differential Treatment (S&D) and Aid for Trade (AfT) and affirms that in today's environment, developing countries and LDCs should never miss an opportunity to engage in trade negotiations with more economically advanced trading partners, since even if limited market access gains are on offer, the prospect of obtaining other concessions in different parts of the AfT agenda could still make for tangible and significant negotiating outcomes for these countries.

This paper focuses on negotiating strategies with respect to two kinds of broadly formulated AfT commitments. The first is infrastructure to alleviate supply-side constraints across transport infrastructure, testing and certification capacity and communications network infrastructure for online connectivity. The second set of AfT commitments this paper seeks to provide developing country negotiators advice on is in the area of trade finance, which has become such a prevalent problem for small and medium-sized enterprises (SMEs) in developing countries that even the WTO Secretariat has started to refer to this as a non-tariff measure.

As in all negotiations, the key to success here is preparation. This paper provides some advice on how best to prepare, formulate and substantiate any AfT requests in order to both maximize the chance of success as well as maximize the difficulty for negotiators from developed countries (who must decide on whether to grant an AfT request) to decline any reasonable requests that are tabled.

Keywords: Trade and development, Aid-for-Trade, Negotiations, Least Developed Countries

JEL Codes: F02, O19, O24

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1 Introduction

This paper explores the potential for trade negotiators in developing countries and LDCs to engage in ongoing negotiations happening for example on the side-lines of the WTO on e-commerce, or in potential future negotiations on investment facilitation, and a number of ongoing FTAs, in order to extract the best possible set of concessions to advance their own development interests. It argues that the optimal strategy for trade negotiators in developing countries and LDCs is to engage whole-heartedly in these talks, formulate a carefully crafted set of demands and extract the best possible concessions from developed countries, who depend on the participation and acquiescence of developing countries and LDCs to afford legitimacy to any negotiated outcomes.

1.1 Special and Differential Treatment and Aid for Trade

In the context of the WTO, the term “Special and Differential Treatment” (S&D) refers to a set of preferential provisions and flexibilities that allow developing countries to deviate from a number of the WTO’s core legal obligations and principles, such as Most Favoured Nation (MFN) or reciprocity (Tempone, 2014). These provisions and flexibilities have evolved over time as first General Agreement on Tariffs and Trade (GATT) contracting parties and later WTO members grappled with the need to find ways to make the system of rules and disciplines that make up the multilateral trading system function in a way that provides more favourable outcomes to developing and least developed countries. According to a typology proposed by the WTO Secretariat, under the WTO agreements, S&D provisions can be divided into six broad categories: (1) provisions aimed at increasing trade opportunities; (2) provisions that require WTO members to safeguard the interests of developing country members; (3) flexibility of commitments; (4) transitional time periods; (5) technical assistance; and (6) differential and more favourable treatment of the least-developed countries (WTO, 1999)

Aid for Trade (AfT) as a negotiating paradigm first entered the multilateral arena at the 6th WTO Ministerial Conference, which took place in Hong Kong, China in December

2005.² Today AfT is a catch-all phrase that encompasses all and any official development assistance directed at improving the trade capacity of developing countries, helping them to overcome supply-side constraints or improving developing countries' capacity to produce and export. The AfT Task Force³ identifies six distinct categories of assistance, some of which will be discussed in more detail in this paper. They are the following:

- a) Trade policy and regulations: which includes training trade officials, helping governments implement trade agreements, and complying with rules and standards;
- b) Trade development: which includes providing support services for business, promoting finance and investment, conducting market analysis and e-commerce;
- c) Trade-related infrastructure: which includes building roads and ports and connectivity infrastructure such as telecommunications networks;
- d) Building productive capacity: improving the capacity of a country to produce goods and services;
- e) Trade-related adjustment: which includes financial assistance to meet adjustment costs from trade policy reform, including balance of payment problems resulting from lost tariff revenues or from the erosion of preferential market access;
- f) Other trade-related needs.

The 2013 WTO Trade Facilitation Agreement (TFA) represented something of a watershed for the traditional concept of Special and Differential Treatment (SDT) and saw technical assistance commitments built into the Agreement as part of quid-pro-quo that developed countries would provide to developing countries in order to support them in moving towards more comprehensive implementation of the trade facilitation commitments set out in the TFA.

² See paragraph 57 of the WTO Ministerial Declaration adopted on 18 December 2005 in Hong Kong, China available at: https://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm#aid_for_trade.

³ The Director-General of the WTO announced the composition of the Task Force at the General Council meeting of 7 February 2006; the Task Force was charged with operationalizing Aid-For-Trade, and submitted its recommendations to the General Council on 27-28 July 2006; see: https://www.wto.org/english/tratop_e/devel_e/a4t_e/implementing_par57_e.htm.

1.2 The future of AfT as the best tool in the toolbox

For all intents and purposes, the Doha Development Agenda (DDA) can be assumed to be dead and buried, even though some WTO members resist this diagnosis. The failure to achieve a breakthrough in 2008 in Geneva, despite the best efforts of then Director General Pascal Lamy, are the closest the WTO came to concluding the round (Blustein, 2009). What happened at the 10th WTO Ministerial Conference in Nairobi in 2013 was an admission by the Organization that there were strong disagreements among the membership as to what to do about the DDA, and in the absence of any consensus on continuing the round, negotiations would cease (Financial Times Editorial Board, 2015)⁴. Even though the DDA is effectively over, there are other areas where negotiations are continuing, such as between a large group of interested members under the Joint Statement Initiative which may culminate in potential new rules on electronic commerce. There are also discussions being held in the WTO General Council on the utility of launching negotiations on investment facilitation. In addition to this, there are various fora in which developing countries and least-developed countries are joining negotiations on future market access commitments, as well as trade and investment rules with developed countries.

Aid for Trade arguably now offers one of the most effective instruments for governments in developing countries and LDCs to engage with developed countries in the context of both sectoral negotiations such as those on e-commerce on the one hand (and perhaps in future on investment facilitation) and FTAs on the other, in order to exchange limited and carefully sequenced liberalization concessions as a quid pro quo for targeted and well-thought-out AfT commitments. Policymakers in developing countries and LDCs need to consider carefully what AfT commitments to include in negotiating proposals and to ensure such proposals are supported by data, hard evidence and a track record of good-faith efforts at implementing domestic reforms that can ensure maximum “bang for the AfT buck”.

⁴ See also paragraph 30 of the Ministerial Declaration adopted on 19 December 2015 in Nairobi, available at: https://www.wto.org/english/thewto_e/minist_e/mc10_e/mindecision_e.htm

1.3 AfT commitments to address trade infrastructure bottlenecks

Some of these commitments need to address existing infrastructure constraints in terms of roads, ports, but also laboratories for testing and certification of products for conformity with international standards, so they can be exported to global markets. In the context of the e-commerce negotiations in particular, developing countries need to think hard about advancing negotiating proposals that seek to address supply-side constraints in the area of communications network infrastructure (see Section 2 below for more on this).

1.4 AfT commitments for trade finance

Trade finance is consistently listed as one of the constraints limiting the ability of SMEs in developing countries and LDCs to export, and this is undoubtedly one area where AfT commitments can be directed to bridge the considerable gap that exists between the limited availability of trade finance and the huge demand from SMEs to obtain easier access to this instrument. These commitments should be sought as a quid pro quo for any liberalization concessions offered in the context of the Joint Statement Initiative e-commerce negotiations at the WTO, but also for any similar concessions offered in FTA negotiations (see Section 3 of this paper for further explanation on this).

The following two sections of this paper focus on these two areas specifically (infrastructure and trade finance) where officials from developing countries and LDCs need to carefully consider the kinds of requests they table in trade negotiations with their developed-country counterparts.

2 Aid for Trade and infrastructure

This section discusses the importance of infrastructure in overcoming supply-side constraints to connecting with global value chains, in particular in the area of transport, quality infrastructure and communications networks. It finds that many donor agencies have an established track-record in this space and that developing country officials should be able to achieve a measure of success in securing commitments from their developed country counterparts in the context of trade negotiations if any AfT requests tabled are accompanied by sufficient supporting economic data and analysis.

2.1 Transport infrastructure

The role of adequate transport infrastructure in addressing supply-side constraints to trade is well documented (Nordås and Piermartini, 2004). Road and rail networks play an important role in not only moving goods but also people, thereby connecting poorer rural areas with more productive urban centers. The linkages between adequate connectivity, low logistics costs and economic competitiveness are likewise well established and are increasingly being cited in the growing literature on global value chains (Neilson, Pritchard and Wai-Chung, 2014). Donor-funded support for transport infrastructure under the AfT initiative have been an important focus for many donors since the launch of AfT (Sheperd, 2013). There is adequate funding to address these kinds of constraints by multilateral agencies such as the Asian Development Bank, or the Asian Infrastructure Investment Bank, which provide concessional loans in support of road infrastructure projects in many countries throughout the region.

As the 2019 edition of the bi-annual joint Organisation for Economic Co-Operation and Development (OECD)/WTO publication *Aid for Trade at a Glance* points out, the importance of transport (and logistics) infrastructure in alleviating supply-side constraints in developing countries is well-recognized by the donor community, so that in 2017, some 50% of Official Development Assistance (ODA) commitments to trade related infrastructure went to fund transport and storage projects (OECD/WTO, 2019). China's Belt and Road Initiative also focuses very strongly on addressing infrastructure constraints. Overall, growing awareness generally of the importance of adequate transport infrastructure in poverty alleviation programs has led to an increase in funding allocations, the prioritization of addressing these constraints by both developing country governments and the donor community alike, as well as tangible improvements in the quantity and quality of infrastructure development in developing countries (Gurara, Klyuev, Mwase and Presbitero, 2018).

This is good news for trade negotiators in developing countries, because it means that any requests they table in the context of trade negotiations for more support towards alleviating transport infrastructure bottlenecks will be easily understood (although not necessarily readily accepted) by their counterparts from developed countries. Requests of this nature should be accompanied by economic impact studies or at least credible estimates as to the positive economic impact that any such funding is likely to

have. In addition to this, any such requests are likely to be bolstered if partial funding commitments have already been received from either multilateral lending agencies or other bilateral donors, so that in effect, a given developed country is not being asked to fit the entirety of the bill of a planned transport infrastructure project, but rather merely contribute matching funding. This means that trade negotiators have to work together with national development agency colleagues in order to lay the groundwork for such requests to be made in a credible and serious manner, and thus with any chance of being positively received by their developed country counterparts.

2.2 Testing and certification infrastructure

Developing countries and LDCs often lack harmonized systems to perform local certifications or conformity assessment procedures that would be recognized by their trading partners. At the same time, these countries often lack the capacity to implement a standardized set of practices and procedures that are aligned to international market requirements and that act to ensure compliance with international standards. This affects the export competitiveness of their products and results in lost economic opportunities for the private sector and higher transaction costs, while also undermining their ability to connect with regional or global value chains. Any country that wants to leverage international trade and an export-led economic growth strategy to eradicate poverty and increase economic inclusion will need to enhance the ability of domestic producers to reach international food and product standards but also of national testing facilities and conformity assessment bodies who can certify that domestic production conforms to international standards and do so in a way that is quick enough, cost effective enough, and sufficiently credible to meet market needs.

There are already many instances of trade-related donor assistance projects supporting the establishment and improvement of national quality infrastructure in developing and least developing countries, even prior to the launch of AfT. Because the needs of each country vary considerably, and because the appropriate quality benchmarks also differ from product to product, these kinds of interventions tend to happen on a country and commodity specific basis. This was the case for example in Ethiopia, where a small cohort of donors led by the Swiss Economic Cooperation Office (SECO) pursued a multi-year effort to upgrade the country's testing and certification

capacity for coffee, the vast majority of which is grown on smallholder and family farms (International Trade Center, 2011).

For trade officials preparing for or already engaged in negotiations, this is another instance where having a well-prepared plan will be the difference between success and failure at the negotiating table. This means having a clear understanding of the constraints local producers are facing in this regard, what they need to overcome those constraints, and how technical assistance under Aid for Trade can be leveraged to address these constraints. What's more, developing countries need to pick their battles wisely here, meaning that officials should prioritize those commodities and sectors that have the greatest potential of achieving the desired economic and social outcomes (i.e. maximizing outcomes in terms of growth and inclusion). It also pays to work with the private sector and have them support efforts to both identify constraints and formulate strategies to overcome said constraints. This is because private sector buyers and producers will have a much more detailed understanding of the technical specifications producers need to meet in order to comply with international standards, as well as the costs, delays and other bottlenecks imposed by a lack of sufficient national quality infrastructure. In addition to this, when negotiators and their national donor agencies see that any AfT requests presented to them have the backing of the private sector, and even international buyers, this will only raise the credibility of such requests when they are tabled by developing country officials.

2.3 Information and communications network infrastructure

Lack of digital connectivity and the high price of internet access are often cited as major constraints to economic diversification by Aid for Trade recipients. In addition to this, digital connectivity has been recognized as one way in which Aid-for-Trade can contribute to the economic empowerment of women. The 2017 joint OECD/WTO *Aid for Trade at a Glance* report discusses the positive impact Information and Communications Technology (ICT) can have on firm-level productivity, labour mobility and service-delivery by governments (OECD/WTO, 2017). In fact, the 2017 Aid for Trade at a Glance publication even went so far as to recommend treating the digital divide as a market access issue, which would only increase the ability of developing country negotiators to seek commensurate AfT commitments to close the digital divide from their developed country counterparts as a quid pro quo for market access

requests. What's more, the 2020-2022 Aid-for-Trade Work Program has upheld the centrality of this issue by affirming that a key question to be addressed under the Work Program is "how to ensure that digital connectivity supports economic and export diversification objectives, in both goods and services trade" (WTO, 2020). This bodes well for developing countries looking to obtain AfT commitments in this area.

There are a number of ways in which AfT can be leveraged to improve connectivity outcomes in developing countries. For one, it can support domestic reforms aimed at improving the policy, business and investment environments and thereby make it easier to attract the FDI needed for the build-out of ICT infrastructure (Roy, 2017). Another is by supporting capital raising to finance the heavy capex bill that inevitably comes with building communication networks. In the 2019 joint WTO/OECD *Aid for Trade at a Glance* report, it was noted that Chinese Taipei had extended a loan to Belize Telemedia Limited to finance the country's National Broadband Plan. The loan went towards upgrading and future-proofing Belize's dated connectivity infrastructure with fiber optic cables (OECD/WTO, 2019). In Monrovia, Liberia, the city's metro fiber ring infrastructure build was supported by an initial grant from the United States Agency for International Development (USAID) to a public-private partnership comprising USAID itself, Google and the Government of Liberia, known as Connectivity Squared or C-Squared (USAID, 2018). Another example of a public-private partnership is the World Bank's Caribbean Regional Communications Infrastructure Program (CARCIP), which saw the Bank partner with Digicell to roll out high speed broadband networks across three Caribbean countries St Lucia, Grenada and St Vincent & the Grenadines (Galegos, 2019).

This is an area where the International Telecommunications Union (ITU) already possesses a lot of data, expertise and experience in helping countries grapple with the many aspects of bridging the digital divide, including the hard infrastructure side. In addition to the ITU, the World Bank hosts the secretariat of the Global Infrastructure Connectivity Alliance, a G20 initiative launched in 2016 to close the gap in the availability of resources related to infrastructure connectivity generally, including telecommunications network infrastructure. Any developing country officials seeking to extract AfT commitments from developed country counterparts in the context of future or ongoing negotiations should familiarize him or herself with what has already been achieved in this space and what funding models are best suited to achieving tangible

outcomes. In the case of both the USAID and World Bank interventions described above, the provision of finance was preceded by important enabling regulatory and governance reforms, which means these will inevitably have to be part and parcel of any request tabled or should already have been successfully implemented by any country seeking financial support to help build telecommunications network infrastructure.

3 Aid for Trade finance

This section examines the considerable trade finance gap that exists and which has only grown over the last decade since banks in developed countries sought to recover from the effects of the Global Financial Crisis (GFC) and engaged in a program of “de-risking” under regulatory efforts aimed at Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT). Aid for Trade frameworks can be used to counter the negative impact of these two trends and grow the pool of trade finance sources available to firms in developing countries.

3.1 The trade finance gap

According to some estimates, some 80 per cent of global trade is underwritten by some form of trade financing arrangement (WTO/International Finance Corporation (IFC), 2019). However, the availability of trade finance is unevenly spread, with SMEs in developing countries facing the greatest obstacles to accessing the bridging credit they need to facilitate export transactions. In 2019, the Asian Development Bank (ADB) estimated that the gap between the demand for trade finance and the amount available was a staggering \$1.5 trillion, meaning that potentially up to this amount of trade was simply not taking place (Kim, Beck, Tayag and Latoja, 2019). Moreover, approximately 40 per cent of this unfulfilled demand is estimated to reside in developing countries in Asia, with another 10 per cent in Africa. Meeting this demand would have a significant impact on helping SMEs in these regions to connect with global value chains and make international trade more inclusive (WTO/IFC, 2019).

Since the 2008 Global Financial Crisis, the availability of trade finance has been trending downwards for a number of complex and inter-related reasons. In the years immediately following the GFC, a number of international banks began reducing their exposure to developing countries, including by severing ties with correspondent banks

in these countries (i.e. “de-risking”) (International Chamber of Commerce (ICC), 2018). One estimate holds that up to 200,000 correspondent banking relationships have been terminated since the GFC (about one fifth of the global total of such relationships), and that this disproportionately impacted banks in Africa, the Caribbean, Central and Eastern Europe and the Pacific (WTO/IFC, 2019). The effects of this have been particularly onerous for trade finance.

3.2 Donor-funded technical assistance

The problems posed by the acute lack of trade finance has not gone unnoticed by the international trade and development community. The WTO calls this gap a non-tariff barrier that predominantly affects developing countries. Efforts have been underway for almost a decade to document the reasons behind the decline in correspondent banking relations and to explore ways to address the underlying causes. One such way is to strengthen the capacity of actors in the financial services sector in developing countries, meaning banks and regulators, to understand and adopt the complex requirements that come with implementing AML/CFT frameworks.

Another way in which the international donor community is taking steps to alleviate the trade finance gap is by providing supporting measures intended to increase the availability of trade finance, whereby the multilateral development banks are leading on these initiatives.

The African Development Bank (AfDB), the ADB, the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IDB), the International Islamic Trade Finance Corporation (ITFC, a subsidiary of the Islamic Development Bank), and the World Bank Group’s International Finance Corporation (IFC) all run programs to support trade finance, often in cooperation with one another to encourage direct relationships between banks from different regions and to alleviate some portion of the trade finance gap as it affects different exporting and importing counterparts from developing countries (WTO/IFC, 2019). Mostly this is done by the different regional development banks providing credit guarantees to the issuing and confirming banks respectively, which allows parties to these transactions to obtain expedited endorsement of letters of credit. Other approaches, for example by the ITFC, provide direct Sharia-compliant financing to various partners such as banks,

government agencies or private sector actors, thereby extending them direct financial support, including pre-export financing.

Although maybe not of relevance in the kind of time frames that typically characterise trade negotiations but rather intended to provide more urgent relief to support trade transactions in essential goods, a consortium comprising seven multilateral development banks and the WTO released a joint statement on 1 July 2020 addressing the deterioration in available trade finance that has accompanied the global economic downturn which followed on the heels of the COVID-19 pandemic (Multilateral Development Banks and WTO (2020)). These organizations have pledged various actions the most tangible of which is stepping up trade finance programs to support essential imports and key exports by allocating new funding to this effort. The experiences and lessons these efforts provide could have important long-term implications for improving the availability of trade finance and thus the ability of developing country negotiators to extract corresponding commitments from their counterparts in developed countries in the context of future trade negotiations.

3.3 Framing Aid for Trade finance requests

In the context of bilateral trade negotiations, the capacity of individual donors may be somewhat limited since these efforts are being led predominantly by the multilateral development banks as outlined above. Nevertheless, there may be opportunities for developing country officials to table requests and successfully prevail when dealing with large trading partners or in the context of trade negotiations involving several advanced industrialized countries. The kinds of requests that could be tabled here include: (1) commitments to fund and/or deliver capacity building and technical assistance to improve the regulatory regime and the ability for banks to comply with AML/CFT requirements; (2) commitments to provide institutional and financial support to the developing country's export finance institutions and programs; (3) organizational and financial support for matching financial institutions from advanced industrialized nations with those of developing countries in order to either creating new or revive redundant correspondent banking relationships that can underpin trade finance.

As already outlined in previous sections, these requests are best tabled only after sufficient preparation and groundwork has been undertaken. This would in particular involve obtaining relevant data on the scale of the trade finance gaps currently

impeding exporting or potentially exporting SMEs in the requesting country and producing credible economic modelling on how the requests being tabled, if actioned, would alleviate these gaps. These could be accompanied by well-formulated arguments and estimates on the kinds of beneficial economic and social outcomes support of this kind would be likely to produce. What's more, enlisting the support or citing data, studies and estimates by the multilateral development banks themselves, or enlisting them as potential partners in administering, overseeing or monitoring any proposed schemes aimed at addressing trade finance gaps, would lend greater credibility to any requests of this nature and also make them harder to refuse. There is a lot of scope here for creative thinking by developing country officials, since the trade finance gap has been recognized by the entire trade and development community as a significant problem, and it has been singled out by the G20 as far back as 2011, for urgent action.

4 Conclusion and recommendations

The main recurring theme here is that preparation is important when formulating and tabling AfT requests in the context of trade negotiations with advanced industrialized countries. This preparation also consists of knowing what requests are likely to resonate the most effectively with the respective developed country given its existing track record on AfT. This means that developing country negotiators have to do their homework in this respect, to know what AfT programs the developing country or countries they are negotiating with already have in place. Providing assistance under an existing program is easier after all, than setting up something completely new.

Preparation also involves carefully considering what AfT requests are likely to produce the biggest results and “tick the most boxes” in terms of achieving recognized economic and social objectives, including of course the Sustainable Development Goals (SDGs). Aid for Trade requests that demonstrably would go a long way to reinforcing efforts to achieve a significant number of SDGs are harder to turn down for developed countries who have publicly professed their support for these outcomes.

Preparation likewise involves enlisting the support of multilateral development or lending agencies who can endorse and partner with the requesting country to oversee or monitor the implementation of any proposed AfT programs but can also lend

credibility to any requests by providing supporting economic data or analysis to substantiate the claimed benefits that these requests would produce if granted.

In this way, tabling Aid for Trade requests with realistic prospects of success is similar to engaging in trade negotiations generally: the more prepared negotiators are, the more likely they are to achieve their targeted results and avoid undesired outcomes in those areas of key offensive or defensive interest to them.

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