

PREPARING FOR NEGOTIATIONS

TRAINING COURSE ON
“ENVIRONMENTAL GOODS AND SERVICES NEGOTIATIONS”
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Presentation Structure

- **Preparation**
- **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.**

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?

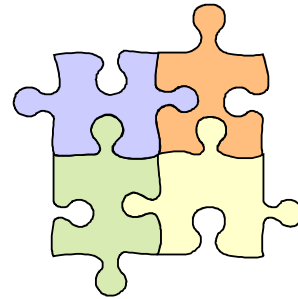
- **First stage: In-house analysis – trade & tariff**
- **Second stage: Studies on purely economic parameters**
- **Third stage: Findings – stakeholders consultations**
- **Fourth stage: Finalising study**
- **Fifth stage: Share study in inter-governmental consultations**
- **Final stage: Final consultations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



RESEARCH



CONSULTATIONS



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NEGOTIATIONS



Conclusions

- 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