

TRAINING PROGRAMME ON “NEGOTIATING PREFERENTIAL TRADE AGREEMENTS”

Session 5: Overview of the process of negotiations and implementation

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Presentation Structure

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

PREPARATION

**Is preparation for
negotiations
necessary?**

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.**

EXERCISE

EXERCISE – 10 minutes

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

STAKEHOLDERS

Identification of the stakeholders

Within government:

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

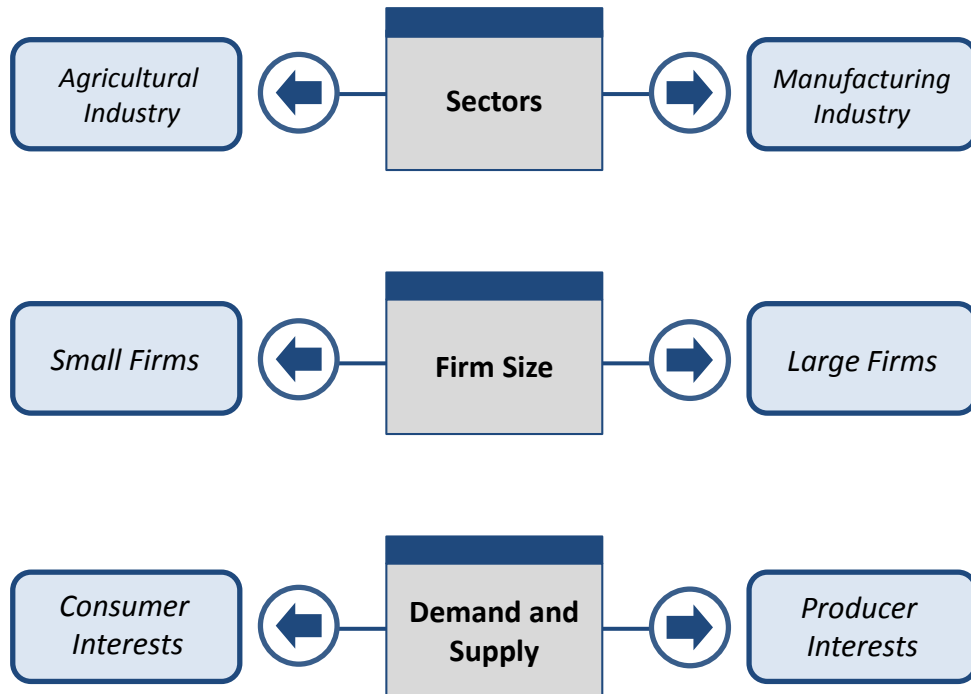
Identification of the stakeholders

Outside Governments:

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

Managing Stakeholder interests

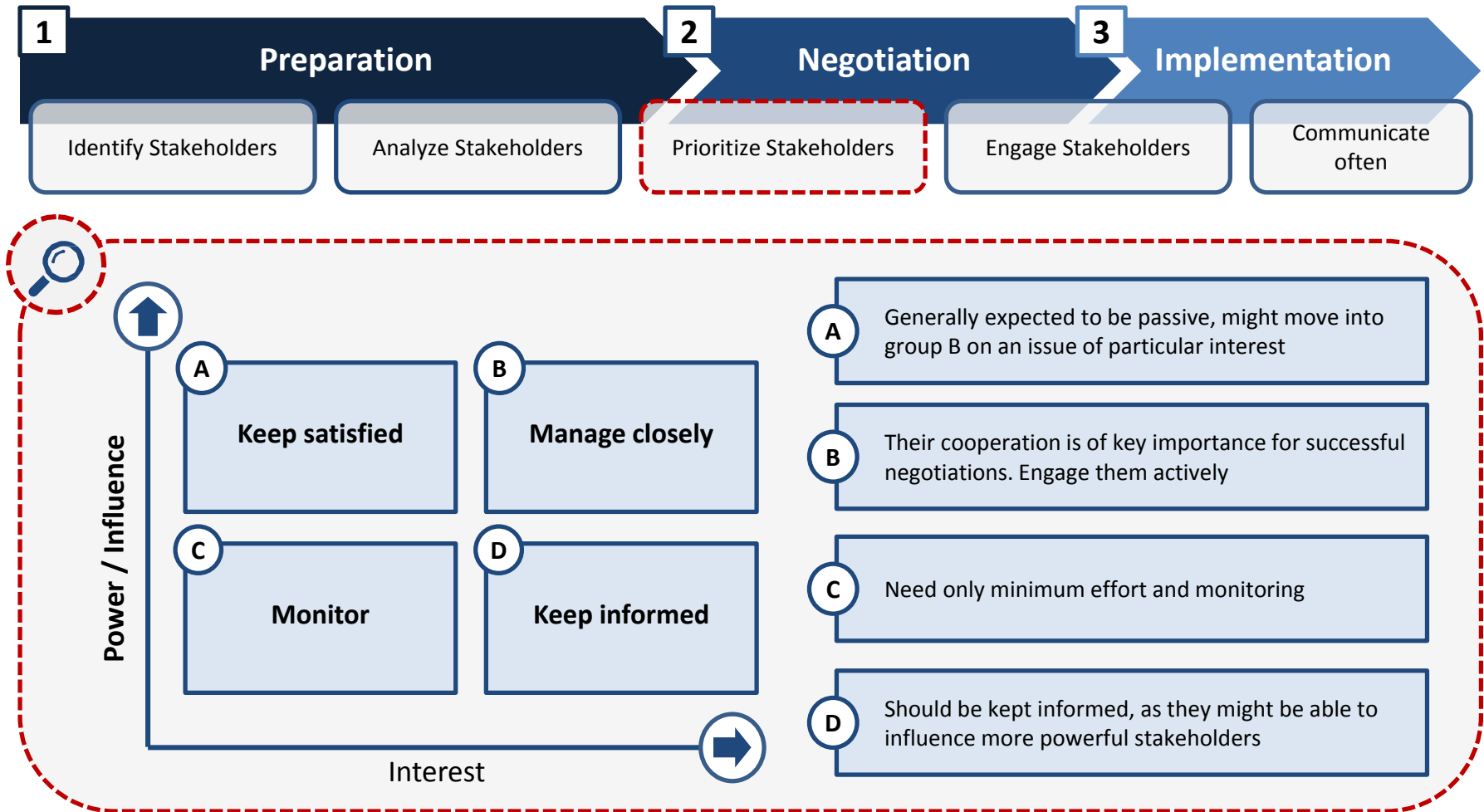
Complex Web of Domestic Interests



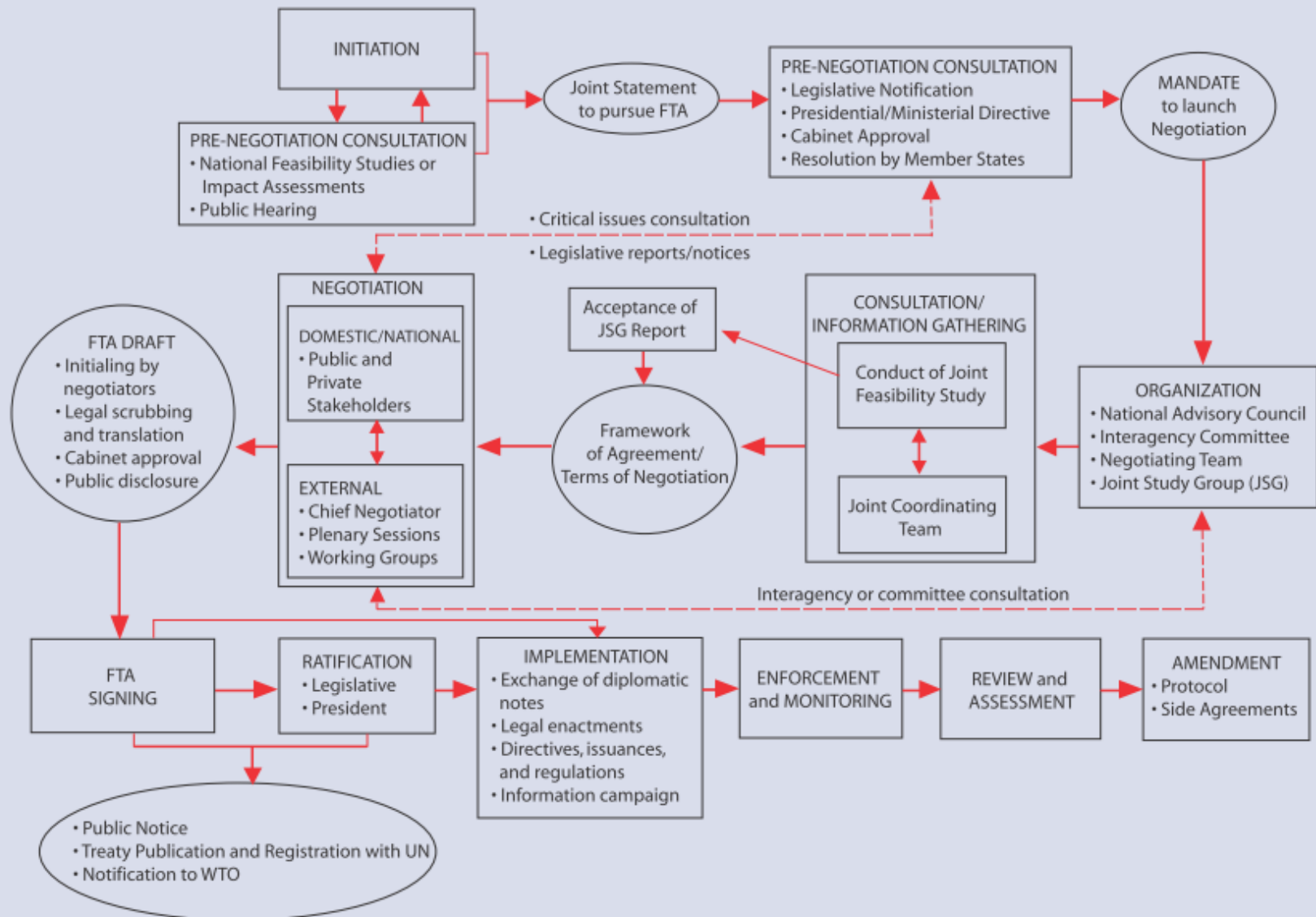
Considerations

- With special-interest groups free to rent-seek, PTA outcomes could be less efficient
- Especially actors who will suffer losses have strong incentive to lobby
- Structural change in PTA can be facilitated through a compensation mechanism
- Compromises will have to be made across groups
- Importance of establishing channels of communication with different groups before and during negotiations

Prioritizing Stakeholders



Model FTA Process



FTA = free trade agreement, JSG = Joint Study Group, UN = United Nations, WTO = World Trade Organization.
Source: ADB Staff.

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.**

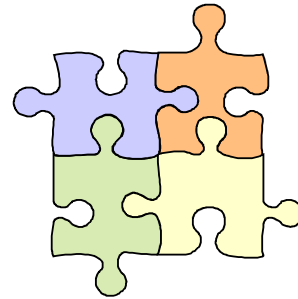
Negotiation step

- **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**

RESEARCH



CONSULTATIONS



Rajan Ratna

NEGOTIATIONS



Post Negotiation Implementation

Negotiations Process

Framing the negotiations and issues.

- Analysis of the issues involved

Create negotiating team

- Exploration of Stakeholders Interests
- Establishing a Negotiating Strategy
- Start negotiation

Consultations and seeking mandate

Implementation

National Law and International influence

National law needs to be in conformity with international obligations

Care to be taken while making international commitments

Experience in negotiations a crucial factor

Negotiating skills

Networking with like-minded states

... International influence...2

First stage of using trade positions

Identify national priority and objectives on the issue (SWOT)

Harmonise the laws across borders irrespective of the stage of development

Second stage

Stress on effective enforcement of harmonised laws in bilateral negotiations

Third stage

Seek multilateral redress at WTO/RTA Dispute Settlement

Key negotiating strategy

- **Frame the issue for negotiations**
- **Identify of win-win solutions**
- **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**

Structure

- **Text - Definitional and legal issues?**
- **Schedules - Market access**
 - **WTO Doha Round Negotiations**
 - **FTA negotiations**
- **Goods or services – different approaches**
- **Opportunities and Challenges**

Negotiating issues

- How do you define what is “environmental goods or services”?
- Should you look at national perspective or global perspective?
- What is a ‘win-win-win’ situation?
- Is import always bad?

Negotiations

- **Goods**
 - Reduction/elimination of tariffs and non-tariffs
- **Services**
 - Market access
 - Domestic Regulation
 - Mutual Recognition
- **Investment**
- **Technology Transfer**
- **Different approaches to be followed in WTO and RTAs**

Monitoring and enforcement

- **Role of coordinating Ministry is important**
- **Ratification**
- **Ensure that all the domestic legislations are in place before the implementation date**
- **Transparency: notify to partners**
- **Preparing domestic industry as well as other stakeholders**
- **Monitor progress – annual or as per schedule and re-notify**
- **Cases of surge in imports - monitor**

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

Lessons

- Trade can be an important means of implementation for attaining SDGs.
- Tremendous potential exist for production and export of CSGT in Asia Pacific.
- Even MFN tariffs on these items are lower.
- Countries are liberalizing these items in PTAs/FTAs. But needs to be established if this is as a conscious policy to liberalise CSGT or in general.
- Non-tariff issues are not yet addressed, especially standards maintained due to environmental reasons.
- Technology transfer on these items need to be facilitated as market access is not the only solution.

THANK YOU