

# SESSION 3

## PREPARING FOR SERVICES LIBERALISATION NEGOTIATIONS

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# CONSULTING THE STAKEHOLDERS

# FIRST: THE ELEMENTS OF THE NEGOTIATION PROCESS

- Implementing the Agreement
- Negotiating the Agreement
- Preparing the Negotiations
- Establishing a Negotiating Strategy
- Framing the negotiations and issues
- Analysis of the issues involved
- Exploration of Stakeholders Interests

# STAKEHOLDERS

- In any negotiation identification of and consultations with stakeholders is very important
- For negotiations in Services EIAs: identification is equally important
- Who are the 'Stakeholders'?
- Define as per your experiences

# THE FOUR MAIN QUESTIONS



# Identification of the stakeholders

## Within government:

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

# Identification of the stakeholders

## Outside Governments:

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

# 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

# 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

## A CONSIDERATION: 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

# RECAP:

## STAKEHOLDER BUY-IN ENSURES A SUCCESSFUL NEGOTIATION 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

# REGULATORY AUDITS

# REGULATORY AUDIT

- Already done during WTO accession
- During Trade Policy Review Mechanism
- However, changes do happen!
- Useful in EIA 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



# RECAP - PRE-NEGOTIATION STEP

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

# RECAP - 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?

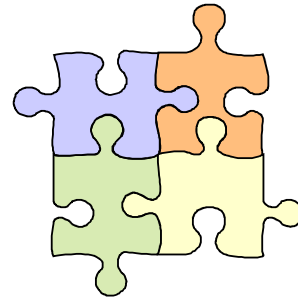
- First stage: In-house analysis – trade & tariff
- Second stage: Studies on purely economic parameters
- Third stage: Findings – stakeholders consultations
- Fourth stage: Finalising study
- Fifth stage: Share study in inter-governmental consultations
- Final stage: Final consultations with all stakeholders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



# RESEARCH



# CONSULTATIONS



# 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**