

# TRAINING COURSE ON TRADE IN SERVICES NEGOTIATIONS

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# Points to cover

Concluding negotiations – is that the end?

Implementation and enforcement

Review? Who, why, when?

# Concluding negotiations – is that the end?

Technical finalization

WTO transparency mechanism

Legal scrubbing

Initialing

Signing

Ratification

Public awareness, advocacy

Private sector capacity

# Preparation for implementation, monitoring and evaluation

- consider capacity of implementing departments – do they need strengthening?
- joint committees
- are the targeted beneficiaries aware of the opportunities?
- trade adjustment programme?

# Implementing negotiated outcomes

There are potentially significant recurring costs that new trade rules typically bring in their wake in many sectors prone to high regulatory intensity.

Such costs may range from setting-up or strengthening regulatory agencies following service sector liberalisation or establishing independent regulatory agencies in the financial, telecommunications or energy fields.

The administrative and financial burden of complying with WTO obligations will tend to be particularly acute for WTO-acceding economies, especially the LDCs, as accession is almost certain to involve far-reaching commitments to substantive legal and institutional reforms and the setting up of judicial review mechanisms.

# Implementing negotiated outcomes (2)

For other WTO Members, as for members to PTAs, the scope that exists for making commitments at or below the regulatory *status quo* will almost certainly influence (and potentially lessen) the nature and extent of the implementation costs flowing from negotiated outcomes.

In resource-constrained environments, these costs and requirement need to be assessed and prioritised within the scope of the country's developmental and negotiating strategies.

# Addressing regulatory weaknesses

To engage meaningfully in services negotiations, a country needs to feel confident in its ability to manage the regulatory, sectoral and economy-wide implications of liberalised competitive conditions.

**Sound domestic regulation is critical to realising the full benefits of open service markets and in mitigating or responding to potential downsides.**

Regulatory institutions are costly and require staff with sophisticated legal and economic skills.

If there is one area where TRTA assistance can make a decisive contribution in the services field, it is in strengthening regulatory agencies and their staff in developing countries.

# Addressing regulatory weaknesses (2)

That is why efforts directed at assisting developing countries...

- To acquire and adopt best practice regulatory regimes; and
- To benchmark their regulatory regimes with prevailing international standards;

...may be of considerable benefit to recipient countries in the services field, with likely positive externalities in terms of:

- Facilitated trade and investment;
- Improved investment climates; and
- The adoption of pro-competitive regulatory stances.



# Addressing regulatory weaknesses (3)

Service sector liberalisation more often than not requires significant doses of new regulation. It is for this reason that countries, particularly those with weak regulatory capacities, may be reluctant to undertake far-reaching liberalisation commitments in the context of trade agreements.

In engaging in services negotiations, governments need to have some idea of the desirable length of transition periods towards greater market openness.

Liberalisation cannot be achieved or decreed overnight but is typically best pursued in a progressive, orderly and transparent manner. This enables incumbents to prepare for greater competition, anticipate and mitigate possible distributional downsides and, concurrently, put in place the proper regulatory framework governing newly competitive market conditions.

# Addressing regulatory weaknesses (4)

Proper sequencing, for instance in financial services as between various market segments (banking, insurance and securities), shorter- and longer-term financial transactions, current and capital transactions, retail and wholesale markets or as regards the geographical scope of market opening, can go a long way towards assuaging the legitimate concerns of host countries over the readiness of domestic service providers to face greater competitive challenges in the home market.

Recourse to progressive liberalisation may also buy needed time, allowing host country regulatory authorities to acquire the expertise required to properly regulate more open domestic markets and anticipate and manage the new market risks such openness can entail.

# Key questions in implementing negotiated outcomes

Are negotiating offers and proposed new and/or improved commitments informed by an assessment of the possible implementation costs (including recurring costs) relating to regulatory enforcement activities?

Has a proper assessment been made of the capacity-strengthening needs of key regulatory agencies prior to scheduling new and/or improved commitments?

Has the government given thought to formulating requests of needed capacity-strengthening as a pre-condition or *quid pro quo* for new and/or improved commitments?

What considerations weigh on the government's decision to pursue liberalisation in a progressive manner and sequence such liberalisation with strengthened regulatory and implementation capacities?

# Key questions in implementing negotiated outcomes (2)

Has an attempt been made to benchmark the country's regulatory practices and institutions against those of key trading partners or of countries at similar levels of development and regulatory sophistication?

To what extent can regulatory harmonisation or the pursuit of mutual recognition initiatives help countries address weakness in domestic regulatory practices, help overcome the potentially trade-inhibiting effects of regulatory diversity and move domestic regulatory regimes in the direction of “best” regional or global practices?

Is the government confident in its analytical capacity to conduct the various impact assessments linked to service sector liberalisation or does it require dedicated technical assistance to this end?

Have attempts been made to learn from the post-liberalisation implementation experience of neighbouring countries or countries at similar levels of development through targeted training?

# *Enhancing the capacity to supply newly-opened foreign markets*

The last pillar of a coherent approach to services needs to target the very real constraints that many developing country exporters face in attempting to supply newly-opened markets.

Capacity building in respect of supply-side constraints is an area where greater private sector involvement could be useful.

There are several challenges in enhancing services-related supply-side capacities in developing countries.

Thank you!  
Q&A