

## Talking Trade: Practical Insights on the Capacity to Conduct Trade Negotiations

*Sanoussi Bilal, Geert Laporte and Stefan Szepesi*

### **Introduction: The challenge of trade negotiations**

International trade has grown at a seemingly exponential rate over the last decades and has been playing an increasingly important role in the development strategy of poor nations. For the developing countries that can develop their ability to integrate into global markets, and make effective use of the opportunities offered by new trade opportunities, the potential benefits, although difficult to quantify, are undeniably large, including for the poorer countries (e.g. Hertel and Winters, 2006; Polaski, 2006). However, trade liberalisation also entails significant adjustment costs and often necessitates profound policy and institutional changes (e.g. Bacchetta and Jansen, 2002). To effectively benefit from new trading arrangements, countries must be able to negotiate adequate provisions to their participation in the trading system (in terms of rules, institutions, technical and financial support) and appropriate conditions to ensure that the trade regime in place will contribute to their objectives of sustainable development and poverty alleviations. The way trade policy and accompanying measures are designed and negotiated plays in this respect a key role.

### ***Countering marginalisation? International trade negotiations and developing countries***

The problems faced by most developing countries in the international trade system are well documented. A large number of lesser advanced developing countries have experienced a serious decline of their share in world trade. Most of their exports are still very much dependent on a small range of commodities, which in turn suffer from worsening terms of

trade and highly volatile world market prices. Increased market access alone will not solve these problems. Major supply-side constraints at the domestic level need to be addressed to enhance trade performance and stimulate diversification. These supply-side constraints are wide-ranging and fully intertwined with more generic constraints to economic development: macro-economic instability, inadequate transport and communication infrastructure, poorly functioning public administrations, lacking credit markets, etc. In addition, complex non-tariff barriers (NTBs) increasingly take a prominent place in international trade, further hampering the export performance of developing countries. Addressing these various challenges will require huge investments and profound strengthening of institutional capacities.

The difficulties preventing developing countries from effectively participating in trade negotiations have long been neglected.<sup>1</sup>

In the particular area of international trade negotiations, capacity problems are compounded by the limited time that is available to prepare and successfully conclude trade negotiations on various fronts, while simultaneously preparing for an effective implementation of the agreements and the accompanying reforms. Many developing countries, in particular the 50 least-developed countries (LDCs), are characterised by scarcity of human and financial resources, weak trade-related institutions, a fragile and unorganised private sector, and limited experience in the area of trade negotiations. Yet, over the past few years many of these countries have become involved in multiple trade negotiations at various levels. Besides negotiations with developed countries and the multilateral negotiations in the World

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Trade Organisation (WTO), bilateral and regional integration initiatives among developing countries themselves now feature prominently on the agenda.

### ***The ACP and EPA negotiations***

On 27 September, 2002, trade negotiations for Economic Partnership Agreements (EPAs) commenced between the African, Caribbean and Pacific countries (ACP) and the European Union (EU). EPAs aim to replace, at the latest by 2008, the current non-reciprocal preferences in ACP–EU trade relations by development-oriented free trade areas. For the ACP countries that are not in a position to participate in an EPA, alternative trade arrangements must be negotiated. While the prospects of EPAs or alternative trade arrangements could offer new opportunities to the ACP economies, they also generate numerous challenges for the ACP countries and their regions.

A general characteristic of the negotiations of North–South free trade agreements, such as EPAs, is the institutional imbalance between the Northern and Southern partners. While the EU benefits from a well-developed institutional apparatus and considerable experience in negotiating trade agreements, the ACP have scarce resources and much weaker institutions. They also face many competitive demands concerning their development policies, trade constituting only one component of their development strategies. On the trade front, their insufficient resources must also be stretched to cover parallel initiatives at the national, bilateral, regional and multilateral levels, EPAs representing only one of their potential objectives.

In the trade field, one of the key challenges for the ACP countries is to develop capacity at the national, regional and group level to negotiate new trade agreements with the EU. On the one hand, this requires plain input into the negotiations process: technical studies and strategic analyses are indispensable for effective preparation. Facing their constrained resources, ACP countries may want to draw on outside support to ensure this input is provided. On the other hand, the establishment and/or improvement of national and regional institutions is also crucial, not only for the purpose of streamlining

(regional) co-ordination and consultation among the stakeholders in the negotiations, but also to ensure that a final agreement and the necessary flanking policies can be properly implemented in the future.

ACP countries and regions, however, have only limited or no experience in both building these national and regional institutions for trade negotiations and negotiating with such a powerful partner as the EU. In addition, they have not enhanced their regional integration agenda much; effective preparations are an enormous challenge. In part, the problem can be remedied by external support, such as was provided by the EU through the Programme Managing Unit (PMU) or by other international agencies. On the other hand, the complexity of present-day trade policy requires more than financial resources. Some developing countries can draw on a somewhat longer history of regional integration and/or experience in negotiations with Northern trade partners. Hence, in preparing for EPA negotiations, the ACP should not only draw on all kinds of support for direct inputs into the negotiations, but also capitalise on the experiences of others in building the necessary capacities for trade policymaking in general, and trade negotiations in particular.

It is in this light that ECDPM reviewed the trade capacity-building literature to date, and conducted three case studies on countries/regions whose experiences could be relevant for the ACP group.<sup>2</sup> The aim of this chapter is to synthesise the relevant insights in this respect. As the ACP is a very heterogeneous group of countries and regions, and there exists no single ‘best practice’ formula, it is not our objective to describe formal models in which preparations for EPA negotiations can best be structured. Rather, we aim to identify the main enabling conditions for effective preparation, and to suggest possible ways in which the question of capacity development can be addressed.

This chapter briefly reflects on the various dimensions of trade capacity-building and the role of donors therein. It then draws key insights from developing countries’ recent experiences in strengthening their capacity to conduct trade negotiations, notably based on three case studies on South Africa, MERCOSUR and the Caribbean region.

## Trade capacity-building: Donor rhetoric or a genuine answer?

In the past few years, international institutions as well as developed countries have increasingly acknowledged that most developing countries lack both the policymaking and the negotiating capacity to participate effectively in the global trading system. It is now well recognised that this lack of capacity constitutes a direct threat to both the credibility and the legitimacy of the international trading system. Capacity constraints not only jeopardise further trade liberalisation along the multilateral path (because developing countries are unable or unwilling to implement WTO provisions); they also hamper bilateral trade relations between North and South and among developing countries themselves.

Aware that further trade liberalisation could stall if these constraints are not addressed, international institutions,<sup>3</sup> as well as bilateral donors have responded with a high rise in support programmes that aim to bridge the capacity gap between North and South. The EU has been no exception in this respect: €10 million has been reserved for ACP preparations for the Doha Round; and €20 million, by means of the Programme Managing Unit (PMU), for EPA negotiations in particular. Recent academic research has centred around two questions: how can developing countries themselves strengthen their trade policymaking process? And what role can donors play in supporting such processes?<sup>4</sup> Overall, the growth in attention for the issue has given birth to the new jargon of *trade capacity-building*.

### Box 1. Strengthening trade policy in developing countries

The OECD Development Assistance Committee (DAC) has been the institution most actively involved in discussions on trade capacity-building. Through its *Guidelines on Strengthening Trade Capacity for Development*, the DAC has been able to stimulate discussions among international institutions, bilateral donors and recipient on how trade policymaking processes can be strengthened in developing countries. According to the DAC *Guidelines*, the following elements are key in establishing an effective trade policy:

- a coherent trade strategy that is closely integrated with a country's overall development strategy;
- effective mechanisms for consultation among three key sets of stakeholders: government, the enterprise sector and civil society;
- effective mechanisms for intra-governmental policy co-ordination;
- a strategy for the enhanced collection, dissemination and analysis of trade-related information;

- trade policy networks, supported by indigenous research institutions;
- networks of trade support institutions;
- private sector linkages; and
- a commitment by all key trade stakeholders to outward-oriented regional strategies.

It is emphasised that for trade policymaking as such, a one-size-fits-all approach is unlikely to exist: different countries have different priorities and good practice in trade policymaking is likely to depend on the particular development strategy a country adopts. The DAC states that 'capacity development for trade today is about mobilising participatory approaches to deal with complex trade agendas'. Hence, building trade capacity involves building networks that go beyond government actors. Linkages between the public and the private sector, think tanks and universities, regional and national institutions are all conducive to improvements in policy making. Within government itself, co-operation and co-ordination among key ministries is an important factor fostering the formulation of strategies and the swift implementation of policy measures.

Source: OECD (2001)

### An elusive term

Interestingly, there is no consensus either in the literature to date or among the assistance programmes that aim to improve trade policy capacity in developing countries on what exactly trade capacity-building entails – or should entail. Some might use it to refer to any activity that aims to boost a country's export performance by lifting so-called supply-side constraints (e.g. a weak infrastructure, lack of credit facilities, macroeconomic instability, etc.) or to assistance programmes that help developing countries to implement WTO provisions on issues such as customs procedures or the TRIPS Agreement. However, usually *trade capacity-building* does not refer to (assistance to) direct policy measures as such. Instead, it concerns programmes that address a country's *ability* to define and pursue its own interests through trade policy. This is an important distinction because the latter approach acknowledges that sustainable capacity is built endogenously and results can only be obtained in the long run. In the specific area of (preparation for) trade negotiations, genuine capacity-building programmes should thus target the respective human resources and institutions involved in these negotiations, improving their ability to conduct impact analyses, process information and develop negotiating strategies.

Support to the latter rather than the former type of projects have received increasing emphasis by academia and donors because it adheres more to the concept of sustainability. The relatively new notion of trade capacity-building is then lined up with an older one of capacity building in general: *the process by which individuals, organisations, institutions and societies develop abilities (individually and collectively) to perform functions, solve problems and set and achieve*

*objectives* (Godfrey et al., 2002). Hence, the 'old-fashioned' planning of mere technical assistance from North to South (a top-down process) has made way for programmes that are supposed to be 'demand driven' and 'owned' by their beneficiaries.<sup>5</sup> As opposed to one-shot initiatives by means of foreign expertise or thematic training sessions, trade capacity-building stresses a longer term commitment by both donors and recipients. Table 1 sets out some of the key differences that separate the former from the latter.

### Critique on trade capacity-building programmes

In practice, however, the distinction between these two approaches is often blurred: the same programmes that aim to address fundamental constraints also deal with the numerous short-term demands posed by the daily practice of international trade negotiations. Most initiatives thus try to do two things: finance the most pressing needs, e.g. externally conducted studies for trade negotiations, while simultaneously addressing the actual capacity deficit, e.g. by means of supporting domestic research institutions. As the multiple levels of trade negotiations are pressing both donors and policymakers to act, short-term objectives can dominate the agenda to the detriment of sustainable capacity-building.<sup>6</sup> Though there need not be a direct trade off between short and long-term objectives, in practice it is hard to avoid it. For example, hiring external expertise to prepare technical negotiation issues can prevent a developing country from entering negotiations empty handed. On the other hand, other negotiations will follow and many of the benefits of trade agreements

**Table 1. Old-fashioned approach vs trade capacity-building**

	<b>Old-fashioned approach</b>	<b>Trade capacity-building</b>
Approach	supply driven standardised consultancy and formal training	demand driven linking trade to overall development agenda
Focus	technical issues	process focus; endogenous learning
Expected output	upgrading facilities of trade ministry implementation of measures	strengthened human resources for policymaking and assessment
Duration	short term project basis	long term continuous

## Box 2. A road map for donors

Increased concern for the capacity constraints developing countries face in the multilateral trade system has been paralleled by growing attention for donor activities in the trade field. On the basis of several country case studies, Solignac Lecomte sets out a road map, an invitation to donors to see trade policymaking as a dynamic process involving a diversity of actors and sectors. Some of the main recommendations include:

- Avoid biased aid: trade-related assistance can only have one ultimate objective: to empower developing countries in the multilateral trade system, and help their products penetrate world markets.

- Strengthen donor co-ordination.
- Adopt a comprehensive approach: link-up trade programmes with other development programmes.
- Include a wide range of stakeholders in the recipient country.
- Find new approaches towards the assessment of trade capacity building programmes.
- Trade should be neither neglected nor overemphasised: resources need to be balanced in relation to other development priorities.

Source: Solignac Lecomte (2001)

can only be reaped if its provisions are adequately implemented domestically.

Criticism of trade capacity-building programmes has increased as budgets have expanded. At the heart of this critique is the reality that donor interests can be seriously biased and that programmes are often not supportive to affect research and policymaking capacity in a truly sustainable fashion. The bias is most obvious when the donor is also the counterpart in trade negotiations (assistance may skew the choices made by the recipients in favour of the donors), but some observers see it more broadly: the increased attention for capacity building serves to lure developing countries into the ever-expanding agenda of bilateral and multilateral trade negotiations.<sup>7</sup> Content-wise, many programmes remain donor-driven and fail to link the issue of trade to the overall development agenda.<sup>8</sup> Programmes also frequently focus on directly visible results (backstopping the most urgent gaps) without addressing more fundamental weaknesses in recipient states and support tends to be temporary and based on short-term financing, which constrains the possibilities for building institutional knowledge, analytical skills and policymaking capacities.<sup>9</sup> Moreover, co-ordination among donors and recipients has been weak, although recently the WTO and the OECD have made considerable improvements.<sup>10</sup>

### ***External support: Necessary but insufficient***

As Solignac Lecomte (2001) argues, the case for trade capacity-building programmes still has to be made. The current high rise in donor assistance for trade need not be to the advantage of developing countries as the opportunity costs could well mean less funding for other, 'traditional', aid sectors such as education and health. It is yet too early to assess whether the current multilateral and bilateral programmes will achieve the desired result: the empowerment of developing countries in the global trading system. In any case, if external support can foster the development of policymaking capacity on a sustained basis, this result can only materialise in the long run. As ACP countries face trade negotiations, such as those for EPAs, in the short run it is inevitable that they turn to short-term assistance. A key challenge will be to use this assistance in such a way that it does not compromise the eventual objective of building indigenous trade capacity. In any case, while being able to facilitate ACP participation in the negotiations, short-term assistance, such as the PMU fund, will not ensure that countries come well-prepared to the negotiating table. As the various case studies discussed below point out, the essential conditions for being sufficiently prepared for trade negotiations cannot be created through external funding but only by the ACP countries themselves.

### ***Practice provides the best learning: Three concrete case studies***

Though the theory on capacity building for trade can provide some useful insights into 'good practices' for the preparation for trade negotiations, it is ultimately real-life experience from which the most practical lessons can be drawn. Many ACP states, however, have little to no experience in negotiating reciprocal trade agreements, let alone doing so with the EU. Therefore, one country (South Africa) and two regions (MERCOSUR and the Caribbean) were selected for in-depth case studies into their particular experiences in preparing for trade negotiations.<sup>11</sup>

The aim of the studies was to provide an insight into the political, institutional, and organisational challenges that developing and middle-income countries encounter once they enter into bilateral or bi-regional negotiations. South Africa is the only ACP country that has already concluded a reciprocal trade agreement with the EU by means of the Trade, Development and Cooperation Agreement (TDCA) signed in 1999. MERCOSUR has started negotiations with the EU in 1995, but little progress has been made since the region's own integration process stalled. MERCOSUR's experience in preparing for these and other negotiations is mainly instructive with respect to the challenges it encountered as both its internal and external negotiating agenda widened, something which is bound to happen to ACP countries that will negotiate regional EPAs. Finally, with CARICOM, the Caribbean can be considered one of the better integrated regions within the ACP. Though reciprocal negotiations with the EU are a primer for the Caribbean states too, they have been collectively involved in the Doha Round, the FTAA negotiations and various bilateral trade talks. Contrasting to the MERCOSUR case, the Caribbean experience offers a unique insight into the particular challenges that internal and extra-regional integration pose to small developing countries.

### **Capacity building for negotiations: Six key insights**

#### ***The overriding principle: Negotiations as part of the development agenda***

In the current global environment, entering into

bilateral, regional and multilateral trade negotiations appears to be almost a routine response. Except for the problem this poses with respect to the resources needed to manage the various negotiation fora, there is an inherent danger that the decision to enter negotiations is not being born from economic and development considerations, but is solely motivated by political reasons. If this is the case, discussing new trade agreements is unlikely to bring about much merits; it may ultimately result in either a fractured negotiation processes, or worse, agreements that harm rather than benefit the country. It is therefore crucial that for each ACP country the participation in EPA negotiations is the result of a conscious and informed political decision, corresponding to well-identified strategic objectives within a coherent trade and development policy strategy. In the absence of such a strategy, decisions are bound to be taken by the better prepared ACP countries or regional bodies and by the EU, to the potential detriment of the other ACP countries. Countries that are not willing or able to undertake such commitments might be better advised to seriously consider opting out of an EPA process that would have been elaborated without their effective input.

South Africa's negotiations for the TDCA is an important example where a new trade regime was perceived as only one element (or rather instrument) of a broader strategy for the development of the country. Though negotiations with the EU have certainly not been exempt from policy challenges, these were integrated into a more comprehensive trade policy reform process. This explicit linkage between trade negotiations and overall development policy has played a determining role in the coherence of the South African approach, in the co-ordination mechanisms put in place and in determination of its policy objectives.

#### ***Political leadership***

*Without political leadership, it is impossible to conclude a beneficial agreement.* The driving force for any attempt to develop a coherent strategy and effective mechanism to conduct international trade negotiations rests on the indispensable aspect of

political leadership. If the negotiation process does not benefit from sufficient political backing, resources devoted to the preparation and consultation are likely to be low and co-ordination among government actors at national and regional levels is likely to be weak. As a result, the outcome of the negotiations is likely to be driven, at the domestic level, by particular interest groups that seek to capture the potential benefits from any agreement, at the expense of the public interest of the whole country. In addition, the agenda, conduct and outcome of the negotiations are most likely to be dominated, if not fully determined, by the negotiating partner (that is the EU in the case of the EPA negotiations).

Again, the case of South Africa provides the clearest example of how political leadership can ensure a strong sense of shared values amongst state and non-state actors, providing the necessary alchemy to build a strong coherent policy and negotiating strategy. The decision to engage in trade negotiations with the EU was actively supported by the highest level, first and foremost by Nelson Mandela and Thabo Mbeki. This gave the negotiations an overall sense of priority to the whole government. As the post-apartheid regime was still engaged in determining a national trade and development strategy, negotiations with the EU provided further stimulus to identify core national interests; to clearly define negotiation objectives as part of the overall development strategy; and to establish the necessary co-ordination mechanisms for the conduct of negotiations.

The same conclusions can be drawn from the initial formation of MERCOSUR in 1991. MERCOSUR's establishment initially served as a catalyst for institutional change: in all four member states, the trade bureaucracy experienced a stimulus as a consequence of structured interaction in various policy areas, raising demand for expertise and co-ordination. However, the initial agenda points consisted of border issues where consensus was easy to find. As the agenda deepened, the fragility of common interests and the deficiency of common rule-making procedures became more evident. The lack of cohesion among its members is partly reflected in the fact that MERCOSUR has no permanent insti-

tutions at the regional level that can co-ordinate and/or conduct international negotiations. For collective negotiations with third parties, co-operation still builds on technical preparations done at the national level, and co-ordination and leadership is left to the rotating temporary presidency of MERCOSUR. The development of such a collective co-ordination mechanism will ultimately rest on the political will of regional leaders. It remains to be seen to what extent, in the absence of such a mechanism, MERCOSUR will be able to keep a united front and push its own (collective) interests during future negotiations.

Contrary to MERCOSUR, the recent experience of the Caribbean does feature a good degree of regional political leadership. In spite of the diversity of their economies and their development concerns, CARICOM and to some extent CARIFORUM countries have managed to set aside some of their differences to defend a common front on preferential trading agreements. This is the case for instance in the current FTAA negotiations, where the Caribbean often speaks with one voice, and a similar approach seems to be pursued in their relations with the EU. The establishment, in 1997, of a Caribbean Regional Negotiation Machinery (CRNM) is one of the most internationally recognised attempts by a regional grouping to jointly develop a cohesive and effective framework to co-ordinate and structure its preparation for and conduct of international negotiations. The CARICOM Secretariat is supposed to complement these efforts by ensuring the regional coherence and the achievement of regional objectives. By delegating some of their power to regional entities, closely supervised and monitored by Caribbean governments, Caribbean leaders have been able to increase their level of preparation to international negotiations and facilitate the co-ordination of their positions. This has helped to present a more cohesive front in international fora, which is ultimately conducive to the advance of the interests of the Caribbean region and its member states.

Political leadership has been a key factor in the effective functioning of these mechanisms for trade negotiations, as well in raising public awareness by actively participating in the public debate on these important negotiations with the EU. The South

African experience suggests that while high political involvement is no substitute for technical preparation, it is a necessary driving force to ensure cohesion and a strong sense of direction in the conduct of negotiations on a free trade agreement. Without such backing, the chances that an agreement will be both concluded and beneficial are slim. After all, trade negotiations have an inherent mercantilist bias and negotiators are weakened by an ambiguous political agenda. MERCOSUR's negotiations with Chile provide a good example in this respect: concluding a final agreement was not the result of a consistent and collectively well-designed bargaining strategy on MERCOSUR's side, but of the top political priority that one of its members, Argentina, assigned to it. Though an agreement was finally concluded, the end result was quite meagre from MERCOSUR's point of view. Instead, a strong political commitment by regional leaders, a clear mandate and a collective action plan could probably have made a better agreement feasible.

### ***Getting organised***

The main lesson from developing countries that have embarked on preferential trade agreements, including with the EU, is that there is no single model of organisation for the successful conduct of negotiations. Historical, cultural, institutional, political and developmental considerations have to be taken into account and each case must be judged on its own merit. However, useful insights are offered by the experiences of other countries.

***Within governments and regional entities, it is crucial that roles are clearly distributed and power delegated to the relevant actors.*** Ever since trade negotiations went beyond discussing tariff preferences for industrial goods, preparatory work at the national level has concerned (or at least affected) government bodies outside the usual trade and finance ministries. Effectively involving and co-ordinating all these bodies for the very broad EPA negotiations will be a major challenge for the ACP countries (a non-exhaustive list is provided in Table 1).

Ways of conducting external trade negotiations can differ enormously between countries. Whereas in some, both nominal and real authority lie with

one department (e.g. the foreign, trade or finance ministry), in many others, authority is dispersed over several factions within the government. Whoever is in charge, a clear intra-governmental co-ordination structure and a well-defined allocation of competences and tasks among ministries are key ingredients to a coherent preparation and conduct to the negotiations. Except for providing the necessary input into the negotiations, such a co-ordination mechanism is key in the sense that ensures that substantial awareness with respect to implementation issues is generated among the relevant government actors. Further, the issues of competences and lead role among ministries must be sorted out before the negotiations begin, and should be arbitrated at the highest political level. The responsibilities and policy fields of ministries differ, and so can their perspective on the negotiations. Setting in place a co-ordination mechanism without assigning competencies may not be sufficient to harmonise positions among government departments.

The South African experience provides an interesting example of a balanced and inclusive structure and institutional setup for the preparation and conduct of the TDCA negotiations with the EU. The overall political guidance was directly provided by President Nelson Mandela, which signalled the high priority of these negotiations for South Africa. For policy orientation, strategic decisions and political arbitrage, a cabinet committee was formed, comprising the main ministries involved in the negotiations. Other ministries were consulted when necessary. The central role of the South Africa Department of Trade and Industry in the preparation of the negotiations was officially recognised by all other departments. This greatly facilitated inter-ministerial co-ordination. Each ministry was responsible for the preparation of its own chapters of the negotiations, after consultation with the other relevant departments. This political co-ordination structure was mimicked at the technical level, where inter-ministerial working groups (at the level of directors and when necessary experts) were formed. The negotiation process was not exempt from clashes and conflict of interest between departments. But the ministerial and cabinet meeting oversight, led by the minister for trade

**Table 2. EPA negotiations: A case for inter-departmental co-ordination**

Ministry/ department	Possible relation to EPA negotiations
Trade and Industry (Economic Affairs) & Foreign Affairs	strategy, co-ordination, delegation, negotiations process
Customs	trade facilitation, rules of origin
Finance	fiscal reform
Agriculture & Trade and Industry	export capacity, import competition, transitional periods, SPS, TBTs, other standards
Employment	trade and labour protection, trade and labour standards, flanking measures
Transport & Communications	trade in services, export capacity
Law (Justice)	TRIPS, competition policy, investment, dispute settlement
Health	health standards
Environment	environmental standards
Foreign Affairs & Finance	development co-operation
Tourism	trade in services

and industry, ensured the necessary cohesion during the negotiations.

As illustrated by Box 3, Argentina provides a useful example of a failed co-operation attempt. The lack of co-ordination between and delegation within the government resulted in serious problems for conducting external negotiations. In an effort to co-ordinate its trade policymaking, the Inter-ministerial Commission for International Trade (CICI) was created in 2000. However, ongoing divisions among ministries, combined with lack of both leadership and authority of its chairman, resulted in the failure of the initiative. At the regional level, Argentina's problems negatively affected both MERCOSUR's integration and the external negotiation agenda. Obviously, when interests are not clearly defined at the national level, divisions are likely to be transferred to the regional level, weakening the credibility and bargaining power of the entire region.

**However, creating new trade institutions overnight might prove counterproductive.** There exists no ideal structure for trade policymaking. If entirely new structures are created in haste to ensure input for the negotiations in the short run, they could well work counter-productively. One central co-ordination organ, for example, might seem ideal to overcome old barriers between ministries and solve any ambiguities over the distribution of power within

the decision-making process. In practice, however, this is often not the case. In a sample of 12 Latin American case studies, Jordana and Ramió (2002) observe that where, overnight, entirely new structures were put in place with respect to the management of external trade policy, the desired results were not achieved. Similarly to Argentina's CICI – which was supposed to co-ordinate international trade policy – in 1992 Paraguay's creation of an Integration Ministry to deal with regional integration issues failed to produce any significant results, leading to its dissolution in 1998. One explanation for the failure of these fast reforms is that institutions often keep behaving according to the 'old rules' (decoupling). Despite new structures and hierarchies, the relevant actors cannot make appropriate policies because there remained a clear division between nominal and real authority.<sup>12</sup> In other cases, a change in government or personal leadership means a *de facto* reshuffle of roles, jeopardising the reform and setting off new turf wars within the public sector. Hence, institutions are unlikely to change overnight and caution with respect to big bang reforms seems warranted. Arguably, more important than establishing one (new) centralised agency that is responsible for trade negotiations, it seems that the establishment of an effective inter-agency co-ordination mechanism that spans all relevant public

### **Box 3. Argentina and the maze of public actors in trade policy**

The Argentinean process of trade policymaking is one of the most intriguing in Latin America. It serves as an excellent case study into the effect that institutional fragmentation can have on the process and quality of policymaking. Well before the economic crisis definitely took hold of the country in 2001, deficiencies in its organisational structure were such that the international bargaining capacity of Argentina was considerably lessened.

The model of Argentina's trade policy process is truly mind-boggling. From the executive branch of the government, responsibilities are delegated the ministries of both foreign affairs and economics. There is no clear delegation of authority between the executive and the ministries or between the ministries themselves. Which of two leads the process in external negotiations has varied throughout the 1990s and depends on particular circumstances, leadership and personalities. For policy design and implementation as well as for the generation of information, both ministries rely on their own supporting departments, advisory committees, investment banks and public-private institutions. This fragmentation continues up to the provincial level. The overlap of responsibilities has led to a duplication of

work, the withholding of information and inter-agency competition between various departments.

Compounding these problems is the fact that the private sector is not well organised either. After Argentina moved away from its import-substitution industrialisation strategy in the 1990s, the protectionist and selective ties between the public and the private sector were never replaced by new institutions, let alone ones that aimed at horizontal and transparent consultation. Because of the fragmentation of public policy, clientelistic practices were able to persist. Vested business interests have a stake in retaining the *status quo* because the returns on lobbying are greater than systematic long-term involvement in a diffuse policymaking process. Hence, no broad and inclusive representation of the private sector is likely to occur as long as clear delegation and restructuring has not taken place. The severity of these problems is confirmed by the fact that even an Inter-Ministerial Foreign Trade Commission, established in 2000 and chaired by the President, was unable to provide leadership and initiate reform. Obviously, such inefficiencies have impacted on Argentina's ability to defend its interest in its most important regional and multilateral fora, MERCOSUR and the WTO.

Sources: IADB (2002) and Bouzas (2004)

sector agencies works, and makes use of existing capacities within those agencies.

### ***Beyond a government affair***

***National governments cannot prepare for trade negotiations on their own.*** As the subject areas within international trade negotiations are constantly expanding and the details become increasingly elaborate and technical, negotiations cannot be managed by an isolated public sector. A functioning public-private consultation mechanism is indispensable for a variety of reasons.

First, such a mechanism should inform stakeholders about trade negotiations and discuss their implications. Both trade liberalisation and broader policy reforms can have a huge impact on individual

households, firms and the government itself. Certain economic sectors and geographic regions are likely to be more affected than others and the benefits and costs are unlikely to be born equally by all actors. Being informed about the opportunities that trade reform can bring (in terms of more employment, lower prices, less bureaucracy, increased profits or more investments) as well as its potential costs (the loss of jobs and industries; fiscal contraction), stakeholders can optimise those benefits and mitigate those costs by taking pre-emptive action. This goes for government agencies as much as for entrepreneurs, farmers and workers. Informing and involving these stakeholders in trade policy, and in trade negotiations in particular, is likely to yield a higher degree of legitimacy for that policy. For any

government that strives for its decisions to be understood, if not recognised, by its citizens, this must be an important point.

Second, a functioning public–private dialogue can greatly enhance the quality of the preparatory process. It can serve as a vehicle for ‘tapping ideas’, extracting valuable information from parties to feed into the actual negotiations. In this respect, involving business sectors that were ‘traditionally’ not involved in trade negotiations will be a key challenge for the public sector. On the one hand, this concerns actors that have few resources such as small farmers’ organisations, small and medium-sized enterprises (SMEs), and unions. On the other, this also concerns larger business sectors that used to fall outside the realm of international trade negotiations, but are now increasingly affected by their ever-expanding agenda. Admittedly, consultations that become too broad could impede the effectiveness of the dialogue. Hence, it can be prudent for the government to organise consultations at various levels, with representatives of civil society and business sectors finally reporting to the government. In any case, small business elites should be prevented from monopolising contacts with government officials and biasing trade policy in favour of their own but against the general interest. Though informal, *ad hoc* consultation can sometimes help to quickly fill information gaps and ensure effective communication lines, a formalised platform has the advantage that it is more transparent and more open to contributions from a broad array of stakeholders.

In previous case studies on trade policy processes in Latin American countries,<sup>13</sup> the occurrence of legitimacy as a reason in itself for engaging a broad array of stakeholders has clearly come about. In this region, the wider processes of democratization and increased transparency in government decision-making mechanisms have set off important changes in the area of trade policymaking as well, albeit to quite different degrees in the various countries. Whereas in the 1980s protectionism and a concentration of opaque public–private relationships co-determined external trade policy, in the 1990s, more liberal trade policies were followed by broader private-sector participation, movements towards more transparency, improved parliamentary aware-

ness, and a better informed civil society.

In South Africa, the National Economic Development and Labour Council (NEDLAC), a body involving industry, trade unions, organised community actors and the government seems to have had a significant input into the TDCA negotiations. This has been valued by all actors, not the least the South African government itself. NEDLAC played a central role in the formulation of negotiation strategies and positions for the TDCA. It offered an institutional platform for a tripartite dialogue, to which the government was most attentive. The business community provided most detailed information to the South African negotiators on how they will be affected by a reciprocal opening of the EU and South African markets. Combined with trade unions’ inputs, this information helped the South African government to identify where trade liberalisation will have the largest impact, how it will affect its main sectors, and which sectors should be considered as sensitive. The government had to resist protectionist tendencies. Differences of views, among the various actors and within the government, were common. Yet, by sharing with non-state actors its main objectives and strategies for the negotiations and by remaining open to propositions and inputs from both private-sector and social actors, the government contributed to establishing a co-operative and constructive dialogue with non-state actors.

The case of the Caribbean also demonstrates that present-day trade negotiations make certain forms of public–private dialogue a mandatory exercise. Interestingly, the origins of Barbados’s Social Partnership and the Jamaica Trade and Adjustment Team (JTAT) were quite different. The Social partnership was born out of the urgent need of government and non-state actors to confront an economic crisis jointly. The case shows that when a government faces tough decisions that will strongly affect its citizens, the legitimacy rationale for establishing a broad dialogue is not mere democratic window-dressing, but a process without which many painful but necessary measures would simply be impossible. In the Jamaican case, JTAT was the initiative of a trade minister who strongly believed that consultation with non-state actors would be a necessary component in Jamaica’s trade policy. Jamaica had

spent much time and resources determining both its trade and overall development strategy: it was quite clear that without consultation platform these strategies would have a far lesser chance of success.

Yet, the same cases also underline how difficult it can be to establish and maintain a fruitful dialogue. Many enterprises are still barely aware of the stakes involved in international trade agreements. Consequently, they are ill- or not at all prepared for providing the government with the necessary inputs. Also, a lack of trust between the public and the private sector plays a role. Henceforth, there is a clear danger that formal consultation mechanisms degrade into talking shops and that subsequently the large players (big businesses and government ministries) will revert to informal co-ordination behind closed doors. This means that, in effect, the consultation process will be heavily biased towards a select group of enterprises that lean on traditional ties with the public sector. Where this may favour the specific interests of those firms, it is most likely to work well against the general interest. Hence, governments should be aware that a selective consultation process can have serious adverse effects.

Discussing this problem for Latin America, Jordana and Ramió (2002) identify four principles that can help to prevent the trade policy agenda from being captured by specific interests. They argue that: information on trade negotiations should be widely available; consultation mechanisms should be as horizontal as possible (reflecting the wide array of business interests); private-sector actors should not be allowed to sit directly at the negotiating table; and the involvement of non-traditional export sectors should be actively encouraged. This last point is particularly worth noting. The ever-expanding content of international trade agreements increasingly touches upon sectors or groups that were previously unaffected. To genuinely reflect the diverse interests within a country, these groups should be involved in the process as well.

On the other hand, it remains difficult to involve those groups traditionally not involved in trade negotiations. Many interviewees in the Caribbean cases noted the need for governments to increase funding for informed as well as broad private-sector

participation. Except for the inevitable resource constraints, however, there are also more fundamental issues at work that can hamper the process. Often, discontent and a lack of confidence characterises private-sector relationships with government authorities – and visa versa.<sup>14</sup> For a successful consultation mechanism both parties need to learn how to do business with each other; parties need to recognise the value-added that each side brings to the table, and create mutual trust.<sup>15</sup> Undeniably, such a process takes time. However, various experiences show that when the enabling condition of political leadership is in place, it is possible to initiate, maintain and improve useful dialogue. Except for the South African and the Caribbean examples of consultation platforms, there are other instructive cases such as Mexico's *Coordinadora de Organismos Empresariales de Comercio Exterior* and Mauritius's *Joint Economic Council*.<sup>16</sup>

### **The regional dimension**

While the broad EPA agenda is already complex in itself, the challenge of negotiations with the EU is further compounded by the regional dimension. Though the Cotonou Agreement does not rule out single-country EPAs, it appears most likely that most countries willing to enter EPA negotiations will do so together with their regional partners. Aside from difficult configuration issues, this poses another considerable challenge in terms of institutional set-up, pooling of resources, delegation of power and preparatory work at the political, strategic and technical levels of the negotiations.

While there is no precedent to negotiating bi-regional agreements such as EPAs, the case studies on the Caribbean and MERCOSUR provide useful insights into two very different types of regional mechanisms, and the way they go about extra-regional trade negotiations. Whereas MERCOSUR leans predominantly on its member states for both the preparations and actual negotiations, CARICOM members – who are all relatively small and face more pressing resource constraints – have recently expanded the mandate of their regional institutions so far that now a separate body exists for extra-regional trade negotiations.

***Regional negotiations can serve as a catalyst for institutional change if backed by political leadership and an appropriate policymaking structure.***

The early experience of MERCOSUR shows that the mere political decision to start negotiations can already improve policymaking procedures and participatory mechanisms in the individual member countries. A dense intra-regional agenda makes national trade bureaucracies (as well as other agencies) subject to the routine of structured interaction in various policy areas, raising demand for expertise and co-ordination. This can be to the benefit of the weaker or smaller member states of regional groupings as their officials engage with better equipped counterparts. However, once either intra- or extra-regional negotiations go beyond a certain level, the catalytic role of trade negotiations as such needs to be strengthened by developing clear regional policymaking structures and by devoting sufficient political capital and resources to create genuine regional institutions (in the public and private spheres) in support of this process.

The establishment of the CRNM in the Caribbean provides an interesting example of how the pressing demands resulting from the international negotiation agenda can foster co-operation and the pooling of resources within a region. The CRNM was created following the acknowledgement by some Caribbean leaders that a separate regional institution could help to tackle the heavy agenda of extra-regional negotiations (in particular the FTAA). Endorsed by the Conference of Heads of Government of CARICOM in 1997, the CRNM initially received strong political backing. This support was vital to ensure an effective role for the organisation in the conduct of the post-Lomé agreement and the FTAA negotiations, as well as the preparation for the WTO negotiations. By agreeing to pull resources together and develop collective expertise, the CARICOM and in fact CARIFORUM countries aimed to increase their influence and control on these negotiations.

***Rather than accumulated interests, a common agenda (possibly facilitated by a regional body) is an important precondition for successful extra-regional negotiations.*** A common agenda for the negotiations cannot be shaped by aggregating indi-

vidual contributions or merely relying on intuition. It is the joint effort to identify common and complementary interests that should guide the preparations. To move regional interests forward, objectives have to be clearly defined and priorities have to be set. A too broad agenda can stall the process and will usually translate into a defensive rather than an offensive negotiation strategy. A third party at the regional level that is created to provide inputs that go beyond the narrow perspectives of national actors can be of considerable value in this respect. After the main issues have been hammered out at this level, the common agenda needs to be politically nurtured in order to be of strategic value in the negotiations.

For MERCOSUR, one of its major drawbacks is that it has no regional body that is empowered to represent the four member states. The MERCOSUR Secretariat has a facilitating role but cannot stimulate the internal integration process or be engaged in extra-regional negotiations. Arguably, this has contributed to a weakening of the integration process because every subsequent step has so far depended on the initiative of a member state.

***Only a regional body that has a clear mandate and maintains a functional co-ordination mechanism with national actors can successfully negotiate on behalf of the region.*** Simply establishing or strengthening existing regional entities at the regional level is unlikely to deliver the desired results. Once an adequate structure to engage in extra-regional trade negotiations has been established, it is vital to agree on the extent of authority that is delegated to the regional level. Obviously, this is one of the most sensitive aspects of extra-regional negotiations. Even in the EU, where external trade negotiations have belonged to the competency of the Commission for many years, member states have always insisted on short communication lines and a considerable degree of consultation prior to and even during the negotiations.<sup>17</sup> However, delegating no authority at all will leave the negotiation process unmanageable as each and every detail would have to be agreed by the explicit consensus of all regional members. It is key, therefore, to determine beforehand in what areas a more flexible mandate should be given and where negotiators should work more

closely with national ministers and officials in the member states. While trade negotiations, in particular in their final stages, demand both flexibility and rapid decision-making, the degree to which national actors actually want to retain their influence should not be underestimated. In the end, a regional process can only be as strong and as fast as its members want to go. A clear mandate in combination with an effective co-ordination mechanism between national and regional levels can prevent turf wars between national and regional levels from arising.

With the CRNM, the Caribbean also provides an interesting illustration of the potential tensions that may exist among regional partners, as well as how their resolution (or failure to do so) may affect the capacity of the region to actively participate in international negotiations. After its establishment in 1997, the CRNM has to some extent been the victim of its own success. Strong leadership within the organisation reduced the perceived role of some national leaders in the Caribbean, who became increasingly sceptical towards a regional body whose power and influence was becoming too dominant. As a result of political and strategic disagreements, the CRNM was significantly reformed, some of its charismatic leaders leaving the institution.<sup>18</sup> Beyond the internal bickering at the regional level, which is of little relevance outside the Caribbean, problems between the CRNM and the member states illustrate an interesting feature: the tension that exists between a regional entity in charge of preparing or conducting negotiations, which requires at least a partial (if only implicit) delegation of authority by the member states, and the natural desire by member governments to fully control the destiny of their economies and hence the trade negotiation process.

***Extra-regional negotiations will inevitably be frustrated without sufficient progress on the internal integration agenda.*** With regard to EPAs, a region that faces many setbacks and delays with regard to its internal integration agenda basically faces two problems. First, if in one or more countries substantial trade reforms toward regional partners prove too costly or implementation is long overdue, it seems politically unfeasible that similar reforms will be genuinely undertaken towards a regional outsider such as the EU. Second, if an entire region

is characterised by considerable setbacks in the implementation of its integration agenda, it will be a much less conceivable negotiation partner for the EU. In order to genuinely pursue trade reforms, the extra-regional negotiation agenda should be coherent, with an internal integration agenda that is feasible in both its time path and implementation.

CARICOM's inability to draft offers for market access in services in the FTAA negotiations is a good example of how extra-regional negotiations are affected once the regional integration process stalls. If there is no clear agreement on the scope and extent of integration within the region, it seems impossible to conclude an extra-regional agreement that is in the interest of its members. In addition to fracturing the internal cohesion of the region – as concessions to third parties would go beyond internal concessions – it would also make the region appear an inconceivable negotiation partner. (This applies to the Caribbean, but also MERCOSUR).

***Even where economic interests are aligned, good preparatory work at the regional level is ultimately in vain if no adequate capacity is developed at the national levels.*** Today, the negotiation of trade agreements as well as their implementation is more complex than ever before. Pooling resources at the regional level can help to better deal with capacity constraints. Nevertheless, key information in preparation for the negotiations needs to be generated at the national level; final provisions of a trade agreement need to be approved by national ministers; and their implementation needs to be executed by national ministries. Building the necessary capacity at the regional level is a necessary but not a sufficient condition for concluding a trade agreement in the interest of that region.

***Without a strong political commitment to conclude a balanced agreement, diverging economic interests within a region can easily stall, protract and fracture the extra-regional negotiation process.*** When concluding a trade agreement winners and losers will inevitably arise. Within a regional grouping, however, the benefits and costs are unlikely to be equally distributed amongst the member countries. Consequently, those members that perceive their interests to be threatened most are likely to frustrate or delay the negotiation process. If no ade-

quate compensation mechanism is in place within the region, it is all the more important that the regional negotiating body as well as those who potentially gain from an agreement account for the concerns of the most vulnerable parties throughout the negotiations. This again requires substantial information exchange between the various parties, a transparent co-ordination mechanism and above all, mutual trust.

### ***The role of donors***

As mentioned earlier, international funding for trade capacity-building support has increased markedly over the last years. However, the question remains open if and to what extent such support, besides stimulating more broad objectives, directly strengthens recipient countries' capacity for trade negotiations. Self-evidently, many of the conditions that enable countries to be better prepared for trade negotiations can only be created by the countries themselves. Ultimately, building capacity for trade policymaking is an endogenous process. Yet, donors can further stimulate this process.

***Towards donors, a concerted approach is required with respect to trade capacity-building support.*** It appears that support for trade capacity-building is for both donors and recipients a more difficult issue than 'regular' assistance. The impact of trade capacity-building programmes still needs to be established, funds can be subject to donor bias, and there is an undeniably difficult trade-off between the pressing needs generated by current negotiations, and the imperative to build sustainable trade policymaking capacities for the future. In any case, recipient countries as well as regional bodies should critically assess their needs and the ways in which donors can be involved in meeting them. Donors, on the other hand, would misperceive the complexity of regional integration if they assume that support to regional entities will suffice to ensure that extra-regional negotiations can effectively take place. Support at the national levels is indispensable in order to stimulate the regional dynamics and build the necessary capacity to deal with trade policy in the future.

The Caribbean region offered the most interest-

ing case study as regards the role of the donor community. Only established in 1997, many observers positively assess the CRNM; some even view it as a role model for other regions. Undeniably, donors can claim part of the credit here. Though the CRNM is now pressed to draw more direct funding from its members, international institutions and bilateral donors still provide the main stack of core funds.

***Caution needs to be in place as regards external support.*** Experience shows that it is extremely difficult to design donor programmes in such a way that they directly assist trade negotiation preparations. Therefore, it seems ill-advised for developing countries to fully rely on external assistance programmes. Aside from donor bias, which can seriously jeopardise the effect of external assistance, other factors can substantially reduce the usefulness of external support for trade negotiation preparations. In practice, donor procedures can extract more resources than they yield, assistance is often supply driven and ill-targeted, and external programmes tend to ignore existing local structures. Where external assistance is used, it should be aimed directly at those people close to the negotiating line, and it should be demand driven and involve the permanent bureaucracy rather than temporary and external expertise.

In contrast to the Caribbean, MERCOSUR has not particularly benefited from external assistance to its regional or national institutions. Part of the explanation arguably lies in the fact that the internal organisation of some of the member states' public sector agencies, such as those in Argentina, was overly fragmented, and inter-agency co-ordination has been very poor. Further, assistance to the region often targeted external experts rather than the permanent bureaucracy and programmes were stopped once external funding was not provided anymore.

### **Challenges for the ACP in negotiating a regional EPA: Concluding remarks**

The capacity to develop a coherent trade policy and initiate the accompanying institutions cannot be build over night. The training of civil servants within ministries and delegations abroad, the strengthening and building of institutions, and the

process of involving relevant stakeholders, all require a long-term strategy.

As a result, developing countries are often seen as being weak, if not marginal, participants to international negotiations, whether on trade or other issues. Indeed, if one assume that economic and political power are the sole determinants of the outcome of negotiations, the prospects for developing countries to effectively pursue their interests seems very bleak. Moreover, a lack of experience, knowledge and resources only adds to developing countries' disadvantages compared to their developed counterparts. Still, power is not the only determinant of outcomes and some gaps can be bridged. Developing countries, including the smaller ones, have increasingly shown that effective participation is possible. As Sheila Page notes in reviewing the last 15 years of multilateral negotiations, 'developing countries have proved first that they can modify the outcome, then that they can block a settlement, and finally that they can initiate their own issues' (Page, 2003).

The experience of developing countries in participating in negotiations on preferential trade agreements, notably with industrial entities such as the EU, indicate that some key elements might be adopted to increase the effectiveness of the preparation and conduct of such negotiations.

The problem facing the ACP – one typical for developing countries in general – is that negotiations are conducted while their preparation is just underway, putting the ACP under considerable time pressure. Moreover, they are required to negotiate as a group, at the regional level, which requires additional regional co-ordination. Finally, their negotiating partner is the EU (represented by the European Commission), which possesses a most sophisticated institutional framework, extensive resources and capacity, as well as significant experience in conducting such negotiations, for which it has mainly set the agenda.

Overall, the conditions under which EPA negotiations are taking place are not favourable to the negotiating position of the ACP countries. In that respect, it is all the more necessary for each country to prepare optimally for the negotiations, whether at the all-ACP, regional or national levels. In view

of their particular vulnerability in terms of negotiation capacity, and the implicit danger of aid-dependency steering the negotiations, the need to properly identify their own trade interests and develop their own positions in the negotiations is all the more essential.

The additional challenge for the ACP is to develop such capacities not only at the national level, but also to be able to co-ordinate their strategies, position and preparation at the regional level.

The experience of MERCOSUR indicates that the development of a coherent and co-ordinated position at the regional level is no easy task. One factor of success is political will, as exemplified by the FTAA negotiations for which MERCOSUR has so far been better able to initiate a common approach. But the lack of common stable regional institutional settings to develop and co-ordinate a co-operative approach to the negotiations weakens the regional dimension of the negotiations. A permanent regional co-ordination and support body may facilitate this process, as suggested by the RNM experience. Yet, the history of the RNM also points to the fragility of co-operation mechanisms put in place at the regional level in the absence of strong and sustained collective political leadership.

The regional dimension of EPA negotiations poses major challenges in terms of regional institutional set-up, pooling of resources, delegation of authority, and preparatory work at the political, strategic and technical levels of the negotiations.

Simply establishing or re-vitalising existing regional organisations at the regional level is unlikely to deliver the desired results. Several issues need to be given careful attention, including:

- a clear commitment to delegate authority with control and accountability from the national level to the regions;
- effective co-ordination mechanisms between national and regional levels; and
- major investments in institutional strengthening and capacity building of regional policymaking structures so as to play a lead role in EPA negotiations.

Equally important for the ACP is to clearly define

the role and value added of the global ACP institutions in a context where ACP regional organisations and continental groupings (e.g. African Union) will increasingly play a key role in the trade negotiations. Based on the principle of *subsidiarity* the ACP institutions could possibly redefine their roles in terms of:

- grouping and exchanging information on the various ACP ongoing negotiating processes;
- identifying and pooling relevant technical expertise in the various regions; and
- ensuring ACP solidarity and cohesion on common trade-related issues.

In conclusion, it clearly appears that negotiations are won on the basis of a combination of factors including visionary leadership, solid arguments and analysis, a thorough understanding of country interests, strong co-ordination mechanisms both within government and with a multitude of actors and stakeholders, lobby capacities, etc. Countries and regions that were able to work simultaneously and integrate these lessons into their trade policies and negotiations, in general have done quite well. However, it would be too simplistic to copy these lessons and apply them in contexts that are fundamentally different from the ones that were covered by the case studies. Major questions remain: How can we prepare, for example, politically fragile or failed states for trade negotiations? What type of trade capacity support will be required in these types of countries?

Experience also suggests that a number of critical factors can play a determining role in the outcome of any negotiating process. First, there is the element of risk taking that will always play a role in any negotiating process. In spite of huge investments in capacity, impact studies, participatory mechanisms, etc. the effects of certain measures will have a high degree of uncertainty. This risk element is an essential part of any negotiation. There is nothing wrong with it as long as it does not become a kind of 'fuzzy gambling'. Second, the final stages of a negotiation require extreme prudence and caution to guarantee the best possible outcome. 'Horse trading' may be the order of the day and concessions

agreed too quickly could lead to a situation where the fruits of a year-long preparatory process and negotiation can quickly get lost. Finally, several countries or regions tend to forget that only with the conclusion of a trade deal does the real work begin. The implementation of what has been agreed remains the most important task. Unfortunately officials and negotiators who have been playing key roles in the negotiating process tend to accept new (sometimes more rewarding) functions within or outside the public sector. Systematically rebuilding these capacities will be a major 'Sisyphian' task.

Drawing lessons from these experiences, it is urgent for each ACP country and region to further develop its own mechanisms for the effective preparation of the negotiations and their successful conclusion.

## Endnotes

1. For a discussion on this dimension, see for instance, Bilal and Szepesi (2004).
2. See Bilal (2003), Bilal and Laporte (2004), Bouzas (2004) and Dunlop et al. (2004).
3. The largest cross-institutional initiatives in this respect are the Joint Integrated Technical Assistance Program (JITAP) by the International Trade Commission (ITC), UNCTAD and the WTO; and the Integrated Framework for Trade-Related Technical Assistance for Least Developed Countries (IF) by the IMF, ITC, UNCTAD, UNDP, World Bank and the WTO. In the Doha Round Ministerial Declaration, paragraphs 2, 16, 20–21, 23, 24, 26–27, 33, 38–40, 42 and 43 include provisions for technical co-operation, capacity building or both. A subsequent pledging conference of WTO members in March 2002 resulted in a US\$17.5 million Doha Development Trust Fund, twice as much as was originally targeted by the WTO Secretariat.
4. See OECD (2001) and DFID (2001) for broader work on trade capacity-building, and Solignac Lecomte (2000a/b, 2001, 2003), who also provides country case studies and specific contributions on EU–ACP relations.
5. For a review of the emergence of the term *trade capacity-building*, see Kostecki (2001).
6. In many ways, the recent debate on how developing countries can be best supported in bilateral and multilateral trade negotiations reflects the 'classical' debate on humanitarian aid (e.g. food aid or post-disaster aid) versus sustainable development: the two are not necessarily incompatible but if the former is supplied without taking stock of the local circumstances, the latter will be compromised.
7. See Solignac Lecomte (2001) on the risk of biased aid in bilateral assistance programmes. Powell (2002) criticises the World Bank's dominance in multilateral trade capacity-building programmes as these would bring clear 'ideological and institutional baggage' to the trade policy agenda, forcing an intellectual straightjacket upon the policymakers engaged in those programmes. In this respect, the sudden popularity of trade-related capacity building and technical assistance with donors would only be derived from the latter's concern over the implementa-

tion gap developing countries face with respect to their multilateral or bilateral commitments.

8. See for instance the highly critical evaluation of Rajapathirana et al. (2000) on the IF Programme. Case studies on technical assistance and capacity development in general (rather than for trade-related matters alone) can provide most useful insights into the debate in the trade domain (see for example Godfrey et al., 2002).
9. As one interviewed developing country official explains in a survey by Kostecki (2001: p. 21): '... assistance is needed in certain areas and never satisfied. In other areas the needs are inflated because the provider is pushing for such events to take place. The recipient country agrees because there is no cost involved and at times because the local participants and organisers may get more per diem or may travel to attractive places for regional meetings'.
10. See <http://tcbdb.wto.org>.
11. The present section does not draw solely on the three case studies conducted for this project (the studies can be found at [www.ecdpm.org](http://www.ecdpm.org)), but also incorporates some of the useful insights from two publications by the Inter-American Development Bank (IADB, 2002; and Jordana and Ramiro, 2002).
12. See also Oyejide (2000).
13. IADB (2002), and Jordana and Ramiro (2002).
14. See Szepesi (2003), Hess (2000) and documentation from the Caribbean Export Development Agency (CEDA, 2002).
15. See Land (2002).
16. For Mexico, see IADB (2002) and Jordana and Ramiro (2002); for Mauritius, see Solignac Lecomte (2001).
17. In fact, present-day trade negotiations are an area of mixed competency due to the inclusion of subjects such as services, investment, and intellectual property rights. Annex 1 describes the EU's preparatory process for trade negotiations.
18. For a detailed and most interesting account of the history of the CRNM and its evolving political support, see Grant (2000).

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