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Harnessing the Support of Civil Society and the Private Sector

This chapter reports on the evidence we collected regarding whether and how small states harness the inputs of the private sector and civil society in formulating trade negotiating priorities and strategies.

One of our most striking findings is that a relatively high proportion of negotiators lack clearly defined priorities for trade negotiations. While this partly reflects weaknesses within government, it also reflects weaknesses in the underlying consultative process. Where there is relatively little concerted lobbying from interest groups, even if mechanisms for consultation exist, they are often ineffective and yield little in the way of substantive positions and strategy for negotiators.

Our research affirms that a wide range of actors influence trade policy in small states. The domestic private sector has the greatest influence, while that of the foreign private sector varies substantially. In some countries, key exporting industries make direct substantive interventions into trade decision-making, but the interests of smaller businesses and other stakeholders are often marginalised. Barriers to greater participation by small businesses include the costs in terms of time and a lack of technical expertise. Where donors provide support to aid the engagement of the private sector in the trade policy-making arena, it is not always evenly spread and prioritises some economic actors, such as export-oriented interests, over others.

International donors have the second highest influence over trade policy, which is a cause for concern, particularly trade negotiations where officials from governments that are bilateral donors sit on the opposite side of the table. Civil society organisations are also active on trade policy in many small states and have a variable degree of influence. Technical capacity is a constraint for many civil society actors, which impedes their ability to successfully lobby government. However, their influence also tends to reflect the government's predisposition to incorporate their concerns, as much as their own capacity to articulate them. While officials generally welcome input from the private sector, many perceive civil society contributions as unhelpful. A further challenge that our study confirmed concerns the weak influence and engagement of trade unions, as well as of academia and think-tanks, in decisions on national trade policy, and their relative lack of input into trade policy formulation.

Overall, the research suggests that weaknesses in consultative processes are rarely due to an absence of formal consultation mechanisms, which do exist in most small states. Instead, they are due partly to low demand for inputs from government and partly to weak capacity among stakeholders. Our findings show that in some countries governments play an important role in strengthening the consultative process by supporting small business associations to develop the necessary skills to actively influence trade policy and by regularly soliciting input.

Existing scholarship and capacity building initiatives

The existing scholarly and policy literature identifies several concerns about the lack of private sector and civil society engagement in trade policy-making in many developing countries, and argues that in order for governments to be effective in negotiations a full range of actors must be consulted.[79]

The literature notes that strong private sector involvement can provide developing country governments with a vital source of information, which can be a powerful asset in trade negotiations.[80] However, in many developing countries, participation from the private sector is poor, a factor attributed to weak private sector organisations and low industry concentration.[81] Mauritius has been identified as one of a few notable exceptions among small developing countries, as key actors in the private sector consistently engage with government on trade policy and assist in preparing negotiating positions. This in turn is cited as a key factor in explaining the country's negotiating successes.[82]

While the involvement of the private sector can be useful to a country's effectiveness in trade negotiations, it can also generate tensions. There is a strong tradition in the academic literature on trade policy-making that examines the political economy of negotiations and the extent to which trade policy is 'captured' by special interest groups in both developed and developing countries.[83] This has given rise to concerns from stakeholders and researchers keen to advance development, environment, gender and human rights perspectives that the lack of public and parliamentary engagement in national trade policy-making processes results in trade policy objectives that are biased towards narrow commercial, particularly market access, goals. The challenge is to broaden the consultative process so that the voice of a wide range of groups is heard, not only those with the greatest financial or political resources or those with the longest tradition of collaboration with government on trade issues.

Civil society groups are often looked to as a counterbalance to strong private sector lobby groups. However, in many developing countries there is a low level of civil society engagement in trade policy compared with other international policy areas, such as those that involve relationships with the IMF and World Bank.[84] This low level of engagement is attributed to the lack of effective formal mechanisms for engagement and the complexity of trade policy issues, where civil society groups often lack expertise.[85] Some argue that in a developing country context, political leadership can play an important role in galvanising a wide and effective consultative process and ensuring that trade policy is not unduly influenced by selected interest groups.[86]

Concerns about the consultative process are reflected in donor circles. In recent years, many donors have identified a lack of private sector and civil society engagement as a constraint for developing countries in formulating national trade policy. Several contemporary initiatives aim to support governments in establishing platforms for consultation and to finance the secretariats of private sector organisations and, to a lesser extent, civil society. These initiatives assume that private sector input is a necessary condition for effective trade policy and that institutional mechanisms can facilitate this input. Alongside

these initiatives, additional concerns have emerged regarding the capture of trade policy by a few strong interest groups and the neglect of social objectives such as poverty reduction. These concerns have led to calls for greater consultation with civil society groups.

New evidence from the survey, interviews and case studies

In the survey, interviews and case studies, we probed how trade priorities were formulated within small states, whether non-governmental groups were influential and whether there were in fact clear priorities in trade negotiations. One of the first findings from the interviews was the extent to which many small states seem not to have clearly defined trade priorities. This recent evidence supports a long-standing conclusion presented in scholarly literature that developing countries were impeded in GATT and early WTO negotiations by an absence of identified interests.[87] The striking finding from this study is the extent to which this remains a significant impediment for small states.

(a) Lack of clearly defined priorities

In our interviews it became clear that not all small states have clear negotiating priorities. During the interviews, negotiators and ambassadors were asked to outline their trade negotiating objectives. Only nine of the 31 respondents to this question appeared to have specific short-term trade negotiating objectives that were related to longer-term economic development strategies. Six respondents had clear short-term objectives related to specific negotiating texts, such as changing rules on fisheries subsidies, but no clear longer-term objectives. Half of the negotiators and ambassadors gave vague answers like 'furthering development aspirations' and appeared to lack more specific trade policy objectives. As one negotiator commented, 'How many of us really know what our interests are?'.[88] Another negotiator explained, 'Our biggest problem is within our government. It is our inability to decide what our trade policy is. There is a total absence of trade policy.'[89]

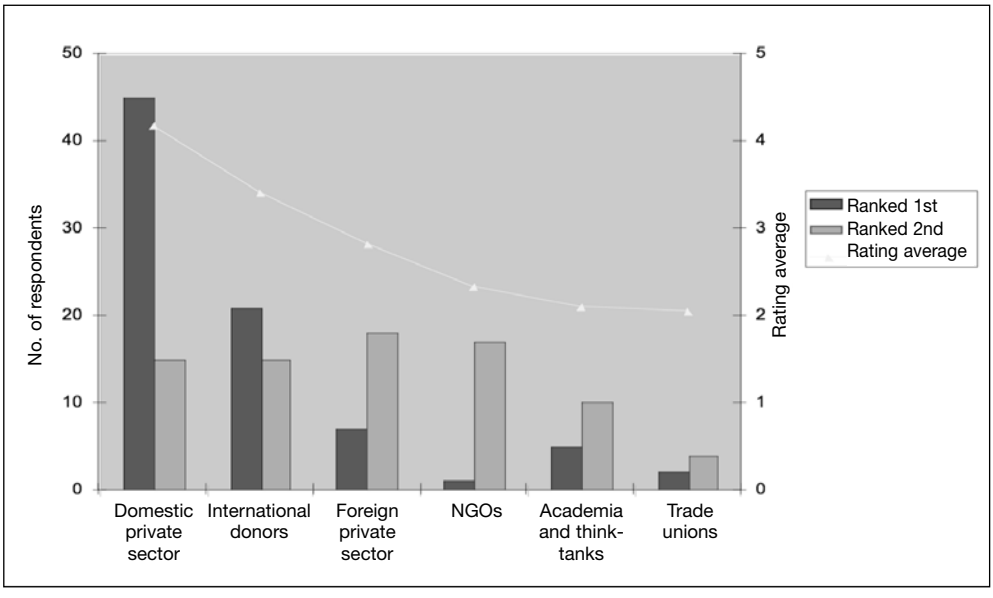
These responses by officials suggest a lack of input from those who stand to lose or gain the most from trade negotiations, communication breakdowns, and/or a failure or unwillingness to listen to or incorporate input. Our survey took up the question of what sources do influence trade policy.

(b) A range of influences over trade policy

The survey asked respondents: 'Which actors most influence your government's trade policy processes?'. The results highlight a range of actors. The domestic private sector is considered to have the most influence on trade policy process, with 45 of the 85 respondents placing it first (Figure 3). International donors ranked second, suggesting they exert a high level of influence on trade policy. Notably, a quarter of respondents (21 of 85) considered donors to be the most influential actor in their country. The foreign private sector also plays a significant role, in third place overall. Interestingly, opinions were split on the 'foreign private sector', with 18 ranking it second and 14 ranking it fifth

(Annex 2), suggesting that their level of influence varies strongly between countries. This may well reflect variations in foreign private sector presence, a factor which merits further exploration. NGOs, academia, think-tanks and trade unions were considered to have the least influence.[90] Ten respondents added comments, mentioning other specific actors including the IMF and World Bank, negotiating partners, regional negotiating bodies and the head of state.

Figure 3. Most influential actors in the trade policy process



In our interviews, several interest groups were conspicuously absent from comments made by negotiators. Only four of the 25 negotiators mentioned academia and think-tanks as being actively involved in trade policy. Interviewees suggested that this reflected a paucity of analysis on trade policy issues by local organisations, as well as weak linkages between academia and the policy arena. None of the 25 negotiators or ambassadors mentioned trade unions as an active interest group. This may be attributable to the relatively high level of informal employment and low levels of unionisation in many poorer small states.[91]

(c) Harnessing private sector engagement

Interviews provided greater insights into the degree of private sector engagement and explanations for varying levels of participation. Interviewees identified the private sector as the most important interest group that lobbies government on trade, and 17 of the 25 interviewees said that private sector interest groups are actively involved in trade policy formulation in their country. However, the remaining respondents (8 of 25) said that

there is no involvement at all from the private sector. Overall, respondents were very positive about the importance and contribution of private sector engagement and underscored the openness of government to working with the private sector. It is widely recognised that more powerful countries in international trade negotiations (ranging from the EU and the USA to Brazil and India) often benefit from direct and detailed substantive input from key private sector lobbies in shaping the priorities and substantive details of their negotiating positions. However, many small state officials noted that it can be difficult to get a response from the private sector. Often only the strongest sectors and most organised firms become engaged in trade policy discussions, with the result that the interests of these actors are prioritised in the formulation of negotiating positions. The Ghana case study illustrates these asymmetries, showing that donor funds can reinforce the strength of export sectors over domestic industries (Box 11).

Box 11. Weak private sector input in Ghana

In Ghana, private sector participation in trade policy formulation has been very weak. Although a consultative mechanism was established under a Joint Integrated Technical Assistance Programme (JITAP) project, key private sector actors explained that their weak engagement is due to the high costs of participation in terms of time and staff resources. Furthermore, government officials observed that human resource and financial constraints impede the quality of business submissions and inputs into ongoing negotiations, as even some of the strongest private sector actors lack the resources to undertake sufficient impact analyses or to determine the issues that are most relevant to firms and constituencies around the country. As a result, Ghanaian negotiators indicated that they feel 'disadvantaged' in trade negotiations. Ideally, on trade issues such as the EPA negotiations, private sector actors observed that they would like to dedicate a core number of people to a 'trade desk'. However, they note that they are dependent on a small pool of funding from some development partners. While the export sector receives substantial donor support for technical capacity on trade negotiations, little support is provided to the domestically-oriented segment of the private sector.

This weakness was borne out in the recent EPA negotiations, where there was limited input from the private sector, with the notable exception of export-oriented horticulture companies. These companies were predominantly subsidiaries of European companies and had far stronger analytical capacity than local firms. Interviews with government officials suggest that pressure from these companies was a key driver in the government's decision to initial the EPA. As noted by one official: 'Banana companies threatened to move to Benin if we didn't agree [to an EPA], losing 13,000 jobs. Government had to do an about-turn'.

Source: Interviews with Ghanaian officials, July and September 2008 (see Annex 4).

A fairly consistent set of explanations was given by different negotiators for low levels of private sector lobbying on trade. Several negotiators attributed this fact to the complexity of trade issues, which are often not well understood by the private sector. As one negotiator explained, 'We try to make our businessmen aware of the issues but the issues are too complex to warrant their attention'.[92] As a result, many officials see their role as informing and educating private sector representatives about trade policy, rather than consulting them. Further, officials observe that they often receive little information from the private sector that is of a kind that can be used to strengthen their position in negotiations. Some negotiators also attributed low levels of private sector engagement in the trade policy process to broader underlying weaknesses, such as the limited dynamism of their domestic private sector and the absence of strong private sector representative bodies.

The Barbados case study indicates that even in sub-sectors where the private sector is weak, government can take initiatives to encourage and boost participation. The case study also shows how government can play a mediating role. Based on broader government decisions regarding overall trade policy priorities and direction, Barbados has prioritised efforts to generate participation and input from weaker sectors of the domestic economy that require nurturing, in addition to responding to stronger, more active sectors (Box 12).

The Mauritius case study shows that a robust private sector, combined with partnership between the private sector and government, are key elements of the country's trade policy strength. This relationship has developed over many decades and reflects a particular interplay of political developments, societal interests and institutions. While the engagement of well-organised business interests in Mauritian trade policy-making has proven a clear asset to the government's negotiating performance, there are also concerns that the perspectives of smaller industries and other stakeholders, including labour unions, are not well reflected (Box 13). Indeed, critical commentators in Mauritius drew attention to the risks of government capture by special interests in the form of large conglomerate firms.

Box 12. Government encouragement of the private sector in Barbados

In Barbados, strong segments of the domestic private sector, such as the rum, retail, finance and tourism industries, are widely considered to have a high level of influence over trade policy. The rum sector, for instance, is a major contributor to the national economic landscape and has a long history of well-organised lobbying of national governments, regional institutions and third countries to advance clearly identified trade interests and concerns. In preparing for international negotiations, the Trade Ministry regularly draws upon the rum's sectors expertise, illustrating how consistent engagement can give national industries an important influence on national trade policy-making processes.

Box 12 (continued)

Barbados is is also notable because the government has made substantial efforts to widen the consultation process beyond traditionally strong lobby groups. To replicate the success of close collaborations, such as that with the rum industry, it has undertaken several initiatives to involve and respond to the needs of all sectors, regardless of their size, strength or influence, resulting in some important outcomes. It has created a dedicated 'private sector trade team', which works with private sector groups to increase their understanding of the key issues in negotiations and channels inputs from the private sector to government. In addition, the government provides financial support to a series of associations representing a collection of business interests. As a result, the interests of new and fledgling sectors are reflected in trade policy. This is particularly true for some niche services industries which are central to the government's vision for future development. However, other sectors, including agriculture and manufacturing, receive less government support and express concern that their interests are not fully reflected, as they are not priority sectors for government.

Source: Interviews for Barbados case study, September 2008 (see Annex 4).

Box 13. The Mauritian private sector and trade policy

The origins of organisation within the Mauritian private sector date back to the 1850s, when the Chambers of Commerce and Agriculture were founded. In addition to well-entrenched organisational roots, private sector strength derives from co-operation across economic sectors. From the 1970s, government policy played a key role in encouraging Mauritian plantation owners to invest capital accumulated from sugar in other sectors of the Mauritian economy – first textiles, and later tourism and financial services. This cross-sectoral investment created a basis for private sector co-operation to maximise welfare across sectors, rather than narrowly defending the interests of a single industry (the sugar industry).

The Joint Economic Council (JEC) reinforces these incentives for co-operation. It was established in 1970 and brought together leading Mauritian private sector associations in a forum to discuss issues and develop common positions before engaging with the government. With participation strictly limited to leaders from only the best-established Mauritian industries, relationships of trust have formed among members. While the strength of this close-knit group is an asset, less well-established industries are either unrepresented on the JEC or represented only indirectly through another organisation. To the extent that the JEC is seen to represent the unified position of the Mauritian private sector, these potentially dissenting voices may be marginalised. Moreover, while the government consultation process integrates many ministries and major private sector organisations, other groups, such as organised labour, do not enjoy such good access.

Box 13 (continued)

Mauritian private sector organisations play an important role in providing technical inputs to government representatives on trade matters. Because of their in-house technical capacity, the private sector associations are also well placed to hold government policy-makers to account. They fund their own participation in international trade missions and lobbying efforts abroad. Moreover, Mauritian private sector associations play a valuable intermediation role between producers and government, as they must balance the often competing interests of their members when making proposals to government. Because they must co-operate with government on a regular basis and across various issue areas, they have strong incentives to maintain the government's trust by vetting the information provided by producers so as not to make unreasonable demands. In playing this role, Mauritian private sector associations help to sustain close collaboration with government.

Source: Interviews in Mauritius, August 2008 (see Annex 4).

(d) Harnessing civil society engagement

The interviews suggest that the level of engagement of civil society in trade policy in small states is similar to that of the private sector, with 16 of the 25 negotiators and ambassadors with whom this was discussed saying that civil society organisations are engaged. However, respondents have very divided opinions on the usefulness of civil society involvement, with just over half saying that such engagement was unhelpful. Explanations for the latter view included civil society not understanding the issues, being too radical in their demands and following the agenda of western NGOs rather than local agendas. 'Civil society wants to criticise but does not participate in developing national positions.'[93] 'They have a populist approach that is not specific or technically sound.'[94] Where they are considered helpful, negotiators welcomed the information civil society groups provide and their ability to raise awareness.

Where civil society is not engaged, interviewees attributed this to the absence of civil society organisations in their country or to their lack of technical capacity to engage in complex trade issues as well as their tendency to focus on social issues such as health or education.

The case studies enabled a deeper examination of the different relationships between government and civil society. The Barbados and St Lucia case studies suggest that a barrier to engagement is the very different conception of 'consultation' sometimes held by civil society groups and government officials. Further barriers include deep-seated reservations on the part of government officials regarding the appropriate role of civil society and the weak technical skills of many civil society organisations to contribute effectively to detailed trade policy discussions. What some civil society groups describe as a failure by government to consult adequately, some officials describe as a refusal on

the part of civil society to study the technical details of the issues at hand. By contrast, the Benin study illustrates how efforts to build a constructive relationship between government and civil society groups (both within and beyond national borders) can be used to increase a government's leverage in international negotiations. Box 14 highlights some varying perspectives and experience with regard to civil society involvement.

Box 14. Divergent views on civil society in Barbados, St Lucia and Benin

In St Lucia and Barbados, civil society representatives have a perception that negotiators are wary of them and consider them to be more of a hindrance than a help. Part of the explanation concerns the different expectations of both sides regarding consultation. Even when the government seeks specific comments on texts, civil society representatives complain that 'there is no space to deliberate the overall direction of negotiations and the big questions'. This poses a problem for civil society, as their concerns are 'big picture' and cannot easily be accommodated by specific adaptations of texts. For instance, one interviewee observed that 'The EPA is gender blind. Negotiators don't think gender is relevant. They only see "trade, trade, trade". They don't see the social implications of their decisions and their differential impacts on men and women.' Moreover, civil society organisations often lack the technical expertise to link their concerns to comments on the specific provisions in texts. As a result, civil society feels their interests are marginalised, while government feels that their interventions are unhelpful.

In Barbados, government places a high level of emphasis on improving public awareness of trade issues, championing public education as part of its work. But discussions with civil society suggest that these interventions are not yet bridging the divide. Possible remedies could include adapting the nature and content of the consultation process and efforts by civil society organisations to improve their technical skills on the details of negotiations.

By contrast, Benin's advocacy on the cotton issue highlights the possibilities for the interests of different countries and many actors within them to become aligned in trade negotiations. Strong and innovative social mobilisation in West Africa encouraged the heads of states of four countries to take action against US agriculture subsidies. This mobilisation was perceived by interviewees to have been a significant asset in negotiations. Wide regional social movements contributed to political momentum, while putting continued pressure on the Cotton-4 governments. This in turn permitted African organisations, together with international NGOs, to pressure powerful states, thus reinforcing the position of the negotiators.

Source: Interviews with negotiators and civil society representatives for case studies on Benin, August 2008, and Barbados and St Lucia, September 2008 (see Annex 4).

(e) Mechanisms for consultation

The survey results also provide some insight into the extent of formal consultation with the private sector and civil society. Seventy-seven of the 79 respondents state that a formal mechanism exists in their country (Table 5), with 25 respondents ranking it 'excellent' or 'good', compared with 24 who ranked it 'poor'. This suggests that formal mechanisms for consultating with the private sector and civil society are rated as less effective than formal mechanisms for co-ordination among government ministries, with 32 per cent of respondents rating the quality of consultation with the private sector as 'excellent' or 'good', compared with 41 per cent who rate government co-ordination as 'excellent' or 'good' and only 21 per cent who rate it as 'poor'.[95]

Table 5. Quality of formal mechanisms for consultation

	Do not exist	Excellent	Good	Average	Poor
Quality of co-ordination mechanisms:					
Among government ministries	3	2	31	28	17
With the private sector and civil society	2	3	22	28	24

The case studies similarly suggest a high variation in the effectiveness of consultation mechanisms. Although in nearly all case study countries a mechanism for consultation exists, the quality of consultation processes varies significantly (Box 15). The studies suggest that one of the most important factors is the level of demand from government. In countries where the government has a culture of consultation across a range of issues, it is more likely to establish a formal mechanism and, importantly, to then also place significant demands on it, raising the quality of the consultation process. Similarly, in those countries where there is a history of engagement with the private sector, such as important large export industries, this is often reflected in ongoing informal consultative practices. In other instances, formal mechanisms have been established, but they are largely moribund and have minimal practical impact on policy-making. A further factor important to the quality of consultation processes is the capacity of private stakeholders, including their technical expertise, human and financial resources available for participation in such processes, awareness of the issues at stake and their effectiveness at organising within and across sectors to strengthen their potential voice and input. The limited capacity of many stakeholder groups, even some industry actors with much at stake in trade negotiations, limits the potential for substantive consultations and often subsequently leads to waning interest in repeated attendance at consultations. Optimally, a government should aim to increase participation both from strong sectors on which the economy depends and from sectors in need of support from government to grow and contribute to national economic and social development.

Box 15. Formal consultation mechanisms: Barbados, Ghana and Benin

In Barbados, the government has created a dedicated 'private sector trade team', which acts as a channel for inputs from the private sector. The Trade Minister has called for consultations with the private sector before advice or proposals are put before the Cabinet sub-committee on trade. In practice, this has meant that the sub-committee has returned memos to technical officials if the positions of the private sector were not clearly articulated. This practice reflects a wider tradition of tripartite consultation on economic affairs.

In Ghana, an 'inter-institutional committee' was created to serve as a formal consultation mechanism. In practice, however, the Trade Ministry is not an active demandeur of inputs from other ministries or from stakeholders. Because of this, the committee is rarely convened. During the EPA negotiations, for instance, the committee met only after an interim agreement had been concluded. As a result, interest groups from the private sector and civil society lobby government directly. Local companies and civil society organisations perceive themselves to have much less influence than foreign investors.

Benin also has an 'inter-institutional committee', which meets four times a year and can call extraordinary meetings. However, the committee does not appear to respond effectively to the needs of international trade negotiations. Even though Benin was championing the push for progress on the Cotton Initiative at the WTO, the committee neglected to invite the major cotton associations to their meetings. In addition, the committee meetings are not held frequently enough to respond to the pace of WTO negotiations, so input is rarely received in time by Geneva negotiators.

Source: Interviews in Benin and Ghana, August 2008, and Barbados, September 2008 (see Annex 4).