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Leveraging Limited Bargaining Power

This chapter examines the constraints that impede small states from designing and deploying a negotiating strategy and effectively exploiting the margin they have for manoeuvre in international negotiations. It examines the negotiating environment that small states face in greater depth, as well as the extent to which they proactively use negotiating tactics, and identifies the constraints that prevent many small states from being assertive in negotiations. Finally, it reflects on the psychological aspects of negotiations and the implications this has for outcomes.

Our research shows that many small state representatives perceive themselves to be operating under a high level of threat from large states and that this reduces their expectations of influence. This includes fears of trade and aid sanctions, as well as of intimidation in the negotiating room. Small state representatives described at length the threats and intimidation they experience, suggesting that this severely constrains their perceived ability to negotiate successfully and their determination to persist.

On the positive side, negotiators emphasise that political strategy, the successful formation of coalitions, and the use of principles and norms can make a difference. Reframing an issue emerged as an important way small states can augment their negotiating power. Such power is crucial for the creation of a space within which technical skills and knowledge can be deployed to influence the details of texts.

Many small states also turn to coalitions, particularly regional blocs, to build leverage in international negotiations, but there are significant challenges to successful group formation and maintenance. Regions that are most effective in the negotiating room are those with a long history of integration, a high level of trust and a high level of communication among members. A number of small states have an explicit strategy of leading groups and coalitions to exert influence in negotiations. Given the relatively weak capacity of many small states, it is relatively easy for those with the highest levels of technical capacity to dominate.

Finally, the active engagement of the political executive of small states is crucial for influencing negotiations. Engaging powerful states at the most senior political level prior to negotiations is important, as is seeking allies within powerful states, as this helps to break down their negotiating positions and makes compromise more likely. A close relationship between the head of state and the trade officials within small states can also help bolster and strengthen their negotiating position when subjected to threat.

Existing scholarship and capacity building initiatives

Most donors have been far less active in supporting negotiating strategies than in other areas of trade-related assistance. Much of the assistance given to small states to develop political strategies and negotiating options and tactics is provided by institutions that are governed by developing countries, such as the South Centre; by multilateral organisations with a specific mandate to assist developing countries, such as UNCTAD; or by NGOs, such as the International Centre for Trade and Sustainable Development (ICTSD), Third World Network and Oxfam. In addition to training, these actors provide policy-oriented advice for negotiations and spend significant resources on providing platforms for dialogue and networking between developing countries. This work contrasts with the focus of donors such as bilateral aid agencies and technical assistance providers such as the WTO on enhancing the capacity of developing countries to comply with international trade rules. Assistance that small states do receive for building their negotiating strategies is premised on the view that small states can and should shape international rules better to reflect their development needs.

The scholarly literature delineates three main kinds of negotiating strategies countries can use to make a material difference to outcomes in trade negotiations.⁹⁶ These are:

- (a) Collective bargaining strategies
- (b) Framing the policy debate
- (c) Setting the agenda

Collective bargaining in coalitions, alliances or regional groups is widely acknowledged in the scholarly literature to be a primary mechanism that countries have used to influence outcomes in negotiations and which developing countries could use more.⁹⁷ In her major study on developing country coalitions, Narlikar (2004) observes that a key question for developing countries is to discern what kind of collective bargaining strategies have worked well and could be used to their advantage in ongoing and future negotiations. A further challenge set out by Patel (2007) is to understand better how to strengthen communication within coalitions and use information dissemination strategies among developing countries to give them greater access and influence in WTO negotiations, particularly informal decision-making mechanisms in the WTO, such as 'green room' processes.⁹⁸ Already, there is some evidence to suggest that the increased use by developing countries of coalitions in the recent stages of the Doha Round negotiations at the WTO has improved the internal transparency informal 'green rooms', but that concerns about adequate representation and transparency remain.⁹⁹

Delving into the inner workings of collective representation, Woods and Lombardi (2006) explore the trade-offs between enlarging a constituency to increase collective bargaining power and the weakening of group strength that can result. They present evidence of how greater heterogeneity of interests in larger groups makes it harder to forge a shared agenda and harder to agree on concessions in negotiations. They suggest that

unity can be supported by shared ideals, values and goals, in addition to institutional arrangements that foster co-operation. In this regard, factors affecting constituency unity include pre-existing regional institutions, a strong institutional framework or clear leadership to bind the coalition, and the use of side payments.

Regional blocs have also been studied as a means of enhancing negotiating leverage. Narlikar (2004) argues that strengths of regional groups derive from common histories, shared cultures and similar development levels. Weaknesses include divergent member interests, overlapping membership across sometimes competing coalitions and limited experience in collective negotiations with external actors. Narlikar suggests that regional integration has also been hampered by the reluctance of smaller states to cede dominance to a regional hegemon.¹⁰⁰ However, the evidence is not conclusive. Strong co-ordination mechanisms between regional and national negotiators are important for maintaining the legitimacy of regional bodies.¹⁰¹ (A fruitful area for future research would be a systematic comparison of the co-ordination mechanisms between different regional groups and an assessment of how performance on this front impacts how vital countries consider the regional body to be in the pursuit of its national interests.)

Framing the policy debate, shaping public opinion and adapting the discourse of policy-makers can influence the parameters of trade negotiations. Odell and Sell (2006) argue that reframing an issue using a reference point more favourable to the proponent's position can alter the negotiation outcome.¹⁰² For example, during the negotiations on TRIPS and public health, in which a set of mostly weak states managed to make rather unexpected gains, developing country governments increased their leverage by 'working in tandem with a public NGO campaign to raise popular awareness of their problems in the North and reframe the existing regime in a manner more favourable to their proposal'.¹⁰³ Similarly, drawing lessons from the banana dispute, Laurent (2007) draws attention to the need for excellent public relations and the need to win public opinion over to the side of small states.¹⁰⁴

Setting the agenda is also highlighted by scholars as a way to influence the outcomes of negotiations. In most negotiations, large countries set the negotiating agenda, while issues of greatest concern to developing countries are marginalised. To counter this, Odell and Mena (2005) stress the importance of developing countries offering their own technical proposals instead of merely reacting to proposed agendas. They also caution against adopting delaying tactics, as the domestic interests of countries pushing the agenda may become more united over time, making it even more difficult to influence the agenda.¹⁰⁵

New evidence from the survey, interviews and case studies

In our primary research, we probed the extent to which these various bargaining strategies are used by negotiators representing small states (interviewed for this project), officials within small states (our survey respondents) and as revealed in our case studies. We report our findings under three headings: (a) collective bargaining strategies; (b) negotiating tactics; and (c) the psychology of bargaining.

(a) Collective bargaining strategies

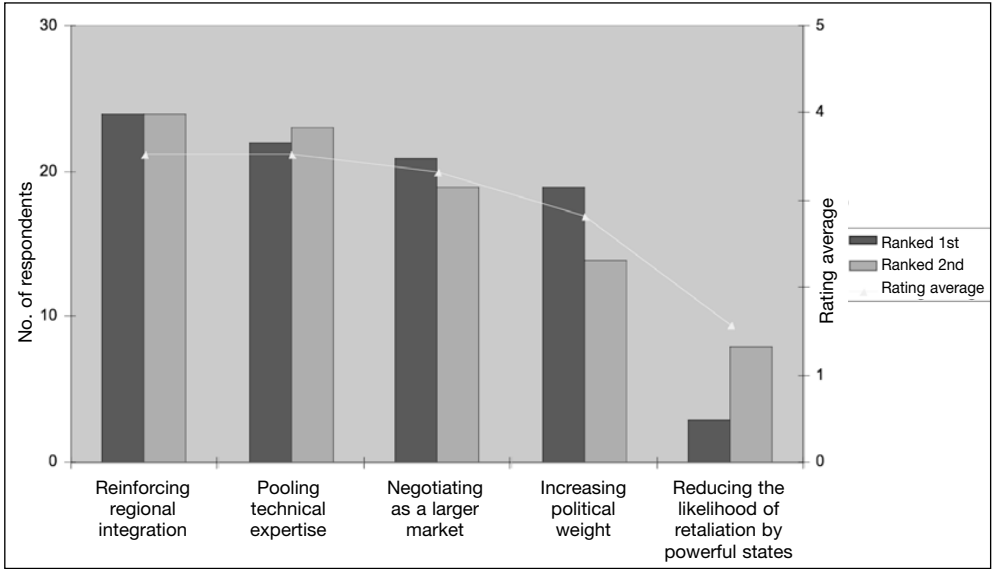
Since coalition and alliance building is identified in the literature as such an important strategy for small states, the survey explored this aspect of negotiations in greater depth. Respondents were asked to name 'which coalition or regional group is most important for your country in trade negotiations?'. The responses show that negotiators overwhelmingly (77 of the 91 respondents) named a regional grouping as the most important for negotiations. Of these, 67 specifically named a relatively small regional group (such as the OECS, the Caribbean Community (CARICOM) or the Common Market for Eastern and Southern Africa (COMESA)), while 11 named much larger groups (such as the Africa and ACP groups).¹⁰⁶ Of the remaining 13 respondents, eight named 'interest-based' groups (the LDC coalition, the SVE coalition and the Cotton-4 coalition), three named 'characteristic-based' groups (the G20, G90 and G77), one stated that no group was important and one responded that they did not know.¹⁰⁷ This result was confirmed in interviews with 27 negotiators who responded on this issue. Twenty respondents cited a regional group as the most important negotiating group, while four others mentioned the SVE coalition, two the ACP coalition and one the G90. Importantly, this finding may reflect the fact that during the period when interviews for this study were conducted, many government officials interviewed placed particularly high priority on EPA negotiations with the EU (where countries have to negotiate in regional groupings), as against WTO negotiations (where countries can choose which coalitions to join).

In our survey we also asked about the benefits derived from negotiating as a group.¹⁰⁸ Figure 4 shows that four factors, namely reinforcing regional integration, the pooling of technical expertise, negotiating as a larger market and increasing political weight, were all considered to be important. Reinforcing regional integration was, by a small margin, most likely to be ranked first or second, suggesting that it is an important by-product of negotiating as a regional bloc, a factor which is often overlooked in the literature. In the interviews, several negotiators reflected on the fact that negotiating with a third party requires regional groups to negotiate among themselves to decide on common positions, thus giving impetus to regional integration. The pooling of expertise is a significant benefit as it allows countries to partially compensate for inadequacies in human resources at national level. Finally, the results suggest that negotiating as a regional bloc provides significant leverage in negotiations as it increases market size and political weight. However, it does not appear to reduce the likelihood of retaliation by powerful states. In other words, coalitions are primarily an offensive rather than a defensive tactic for small states.

The trade negotiators interviewed placed more emphasis than survey respondents on the role of coalitions in providing negotiating leverage, with 20 interviewees citing leverage as a key benefit due to increased numbers and market size. This may reflect the fact that mission-based negotiators are more heavily engaged in negotiations and hence more preoccupied with strategies to increase negotiating leverage. In this regard, one negotiator mentioned the benefit of operating as a coalition across different fora and

lending weight to each other's areas of core interest vis-a-vis third parties. The pooling of technical and financial resources was cited by 11, suggesting that it is seen as an important means to address human resource constraints. Three others noted the benefit of coalitions for promoting regional integration. The case studies add further insights on the importance and subtleties of alliances and coalitions (Box 16).

Figure 4. Benefits derived from negotiating in a group



Interviewees highlighted significant constraints associated with operating as a group, identifying many of the same constraints noted in the literature. In particular, nine highlighted that divergent interests can result in the group operating on the basis of the 'lowest common denominator', with the result that the interests of concern to specific countries or sub-groups are not reflected in the group's negotiating position. Furthermore, these divergences and protracted bargaining within the group slow negotiations down, a point mentioned by five negotiators as a significant cause of frustration.

The expansion of the 'small islands developing states' group into a 'small vulnerable economies' group highlights the need to carefully manage the tensions that can arise between the effort to achieve concrete interest-based outcomes and the pressures to expand the overall size of a coalition. Some negotiators believe that expanding the coalition to include non-island states undermined its effectiveness, most significantly because the meaning of 'smallness' in the context of some non-island states is difficult to define and defend. Consequently, the membership of a category of countries based on this standard could potentially be very expansive and the extent of membership could be contested by other WTO members. While the decision to increase group membership

Box 16. Alliances and coalitions: Benin, Mauritius and Barbados

In the Benin case study on cotton, alliances were central. The fact that four countries made the call for cutting cotton subsidies gave the issue greater political weight than if one country had worked alone. Importantly, the countries harnessed both new coalitions (the Cotton-4) and existing ones. The initiative was also bolstered by support from ACP countries, African states and other LDCs, and also from emerging states such as Argentina, Brazil and India, as well as groups such as the G20, the G90 and the Cairns Group. This was achieved thanks to the strength and legitimacy of the case and high-level political lobbying, in Benin's case by Ambassador Amehou, who observed that: 'The advantage of a common initiative was above all political weight. Can you imagine a country like Benin alone making a case against the US? ... A small country like Benin cannot impose its point of view in multilateral trade negotiations. Good ideas and arguments are important, but they're worth nothing if they're not promoted by a group. ... Once you have convinced these countries, you can really face the other countries and negotiate in good conditions.'

The Mauritius case study highlights how some small states have made participation in coalitions and regional groupings a central part of their negotiating strategy. According to Mauritian officials, this strategy increases political weight and strengthens their ability to achieve national interests. It also enhances the country's own national trade negotiation strategy by improving access to information about other countries' interests. In the words of a Mauritian negotiator, 'You learn also what are the red lines of the others, but they learn your red lines'. Given these objectives, Mauritius has pursued an interest-driven, rather than ideological, approach to coalitions, leading it to participate in a wide range of groupings, including some seemingly unlikely associations with developed countries. Where interests diverge within a group, Mauritius is still able to co-operate by working to limit the agenda to topics of mutual interest. Sometimes coalitions have been useful to boost legitimacy for particular negotiating objectives (such as specific calls for special and differential treatment). Consistent with this logic has been a willingness also to act alone in cases where this would better serve national interests (see example in Box 17 regarding compensation for ACP sugar producers).

The Barbados study highlights another important role that coalitions play for small states with few human resources, namely gathering diplomatic and political intelligence. To stay on top of all aspects of trade negotiations, Barbados has developed an 'inner circle' of Caribbean countries with which it works most closely, and a handful of other countries, such as Mauritius and Singapore, to 'watch each other's back' in different negotiating fora. 'They call us if we are not present in the room and they think our interests may be compromised.' This informal network functions across negotiating fora and extends into non-trade areas.

Source: Interviews for case studies on Mauritius and Benin, August 2008, and Barbados, September 2008 (see Annex 4).

can boost political weight within the context of WTO negotiations, the risk is that it may also make concessions from other WTO members to the group more costly.

The effectiveness of collective bargaining is perceived by many officials as significantly hampered by problems of co-ordination and communication. While the particular experience varies according to the regional grouping under study, comments from a small state official regarding the experience of the Economic Community of West African States (ECOWAS) strikingly highlights the kinds of challenges that can arise:

‘ECOWAS is made up of 16 countries. We rarely meet among ourselves before coming to Brussels for negotiating sessions. When we get there, we accept things and then go back and realise that we shouldn’t have.’¹⁰⁹

Arguably, one of the factors that enabled the European Commission to play regions off against each other in the EPA negotiations was the weakness of communication within the broader ACP group. Indeed, one interviewee identified the need for improved communication as a key response to divide and rule tactics. In many cases, regions relied on the European Commission and European governments for information as to what was happening in EPA negotiations underway in other regions.

The decision-making procedures within a group can have a decisive impact on its efficacy. One expert noted that the LDC group operates from a principle of consensus, generating high costs. ‘It spends a massive amount of time trying to co-ordinate interests’ and focal countries ‘have to spend a high level of energy lobbying members’. In negotiations ‘they need to be flexible and responsive but they have to go back to the members to renegotiate changes in positions’.¹¹⁰ The case study on Barbados highlights the importance of mobile phones as a mechanism for increasing the ease of co-ordinating action among small delegations. The details of what kinds of uses of mobile phone/email services are most effective, how their use by delegations could be facilitated and what improvements could be made warrants further study.

Power asymmetries within groups of such states can be significant and the perceptions among negotiators of their influence within groups varies. In our interviews, five negotiators said that they have negligible influence over the group and that their interests are marginalised. At the other end of the spectrum, seven negotiators said they have a high level of influence, which was particularly the case where countries act as the regional spokesperson. These asymmetries are reflected in the strategies that countries adopt in situations where the group does not agree with their position. One negotiator from a relatively small country within the Pacific region said that in order to increase their power within a group, the government bands together in a further sub-regional grouping. Officials from five countries observed, on the other hand, that they are large enough to ‘go it alone if necessary’, while one country’s delegate said their country adopts a ‘take-it-or-leave-it’ approach, clearly exploiting their relative power. These choices are also reflected in the distributive outcomes of negotiations. Four negotiators mentioned that the benefits of group positions in negotiations are not evenly shared, with LDCs particularly marginalised within groups. More detailed research would be useful to

differentiate those factors that most influence the degree to which particular countries within groups are able to exert influence, including, for instance, overall economic size, population size, trade as a proportion of GDP or leadership role within a group.

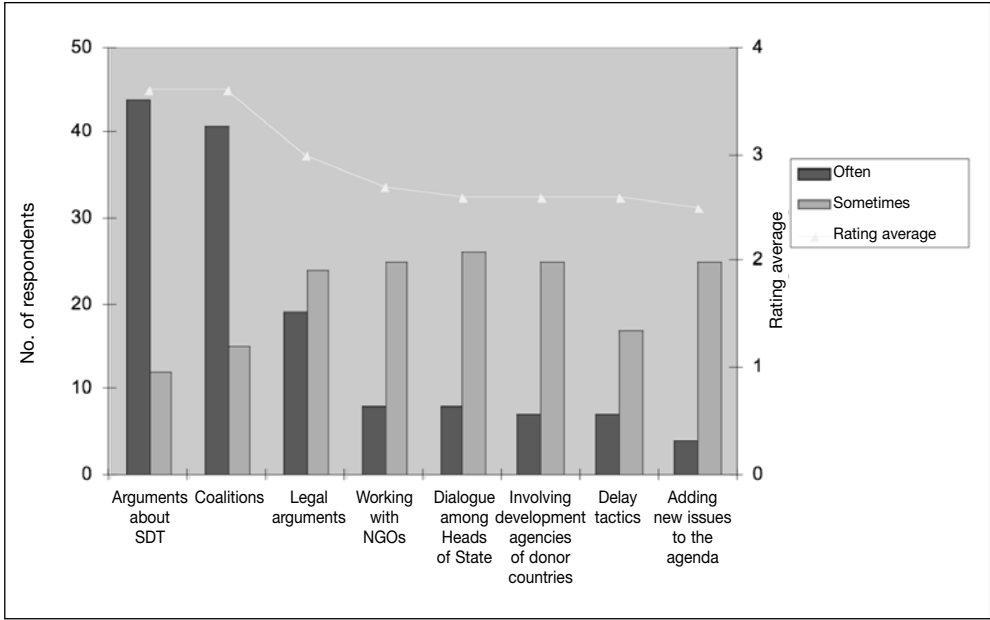
The dynamics of group leadership was a theme that commonly arose in interviews with experts and negotiators. One expert noted: 'Successful small states are those that operate solo with the weight of the group behind them. Mauritius, for instance, comes up with detailed positions on sugar and the others follow.'¹¹¹ This perspective was echoed by a private sector representative in Mauritius, who offered the following description: 'the fact that we were co-ordinators of focal groups in ACP and African group, we were able to canvass issues and get issues moving'.¹¹² However, a senior diplomat cautions that small states over-emphasise this strategy of gaining visibility, arguing that it does not necessarily translate into outcomes. Countries look strong and have been elevated 'only because those around them are so weak'.¹¹³ Another senior diplomat noted: 'In the WTO, even the tiniest state with a fine 'wordsmith' can win a debate. This isn't the same as winning in a negotiation.'¹¹⁴ Moreover, some negotiators from countries that are not leaders have suggested that in acting as spokesperson, leading countries sometimes place greater emphasis on those aspects of negotiations where they have a particular self-interest.

(b) Negotiating tactics

Following initial focus group discussions and consultations with negotiators and experts to identify common tactics used by small states, the survey sought to establish which of these tactics were used most frequently (Figure 5).¹¹⁵ The range of possible tactics explored included delay tactics, legal tactics, coalition tactics and the appeal to particular international trade norms, such as the principle of special and differential treatment. An important limitation of the survey is that it did not explicitly explore the use of threats to block consensus as a tactic (such as was used by the African Group in Seattle in 1999).

Importantly, the scholarly literature offers its own schema for categorising tactics used in international trade negotiations, defining and documenting two core types of tactics, namely 'distributive' and 'integrative'.¹¹⁶ In practice, the literature highlights that states may choose to either purely or partly use distributive or integrative strategies, or to choose a mix of both. Distributive tactics are those used when the party's goals conflict strongly with those of the other country, and where the party chooses to block agreement to defend itself, and/or to claim as much as possible from the other.¹¹⁷ 'Integrative tactics', or a mix of distributive and integrative strategies, are sometimes used where a country's goals are 'partly consistent' with those of the other country and 'some agreement is preferred over none'.¹¹⁸ The idea here is that countries look for ways to 'enlarge the pie', rather than to shift or 'distribute' a fixed value from one party to another.¹¹⁹ Based on our initial consultations, the focus of our survey was largely on the first category of tactics, distributive tactics, although in future studies it would also be useful to evaluate the extent to which small states use 'integrative' tactics and their effectiveness as well.

Figure 5. Frequency of tactics used by small states



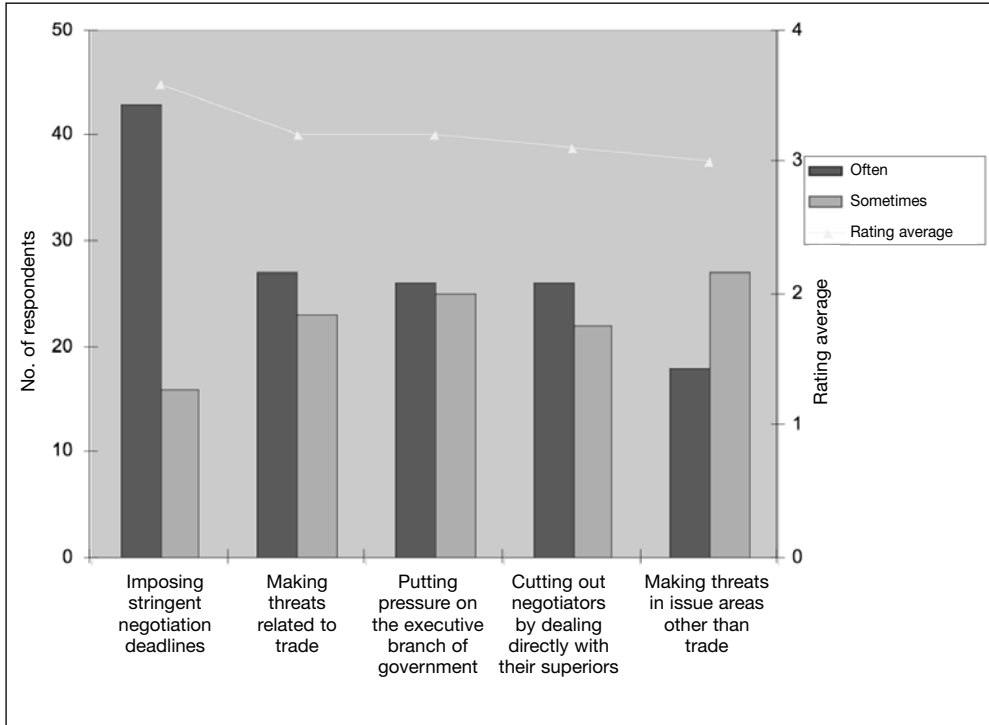
To improve reliability, the survey results analysed are confined to those from respondents who self-categorised themselves as ‘directly involved in negotiations’. Notably, this category included a mix of government officials and private sector representatives. Some government officials surveyed did not, however, categorise themselves as ‘directly involved’.

The results show that of the tactics listed, the use of arguments in favour of the principle of special and differential treatment and the use of coalitions are the most frequently used tactics, with 44 and 41 of the 64 respondents, respectively, saying they ‘often’ use them. The results broadly support the emphasis in the literature on the importance of coalitions, but also highlight the crucial importance of appealing to principles and norms in the negotiating room. More creative and innovative tactics are used less frequently, including making legal arguments, working with NGOs, involving the development agencies of donor countries and direct dialogue among heads of state.

Our initial consultations suggested that negotiators from small states feel that they negotiate under substantial pressure from larger states, which use their greater power to extract gains. The survey sought to establish how widespread this perception is among small state negotiators (Figure 6) and which, among the range of tactics that negotiators highlighted, they consider most prevalent. Among these tactics, the imposition of stringent negotiating deadlines is the tactic perceived to be used most frequently against small states, with 43 of the 65 survey respondents saying it is ‘often’ used. The issue here is that for small countries with limited negotiating capacity, the time needed to review and consider various negotiating texts may be greater than that required by larger, better-

resourced states, but the latter often nonetheless persist in setting unrealistic deadlines when negotiating with small states. The vast majority of respondents stated that the other four tactics are all used ‘often’ or ‘sometimes’. These include ‘putting pressure on the executive’, ‘making threats related to trade’, ‘cutting out negotiators by going directly to superiors’ and ‘making threats in areas other than trade’.¹²⁰

Figure 6. Frequency of tactics used against small states



Our interviews were much more revealing than the survey and provided more nuanced insights into negotiating strategy and specific tactics used by (and against) small states in trade negotiations.

A notable finding from the interviews is that a significant number of small states do not have a clear negotiating strategy to either pre-empt or react to the tactics of large states. That said, given the sensitive nature of this information it may also be the case that small states were unwilling to share details of their strategies in this respect. In the interviews, 22 of the 35 respondents clearly identified at least one tactic they use. However, one-third (13 of the 35) of the responses were vague (some just say ‘we try to persuade them’). Whether or not a country has a strategy is clearly linked to the expectation of whether there is room for influence. As one negotiator noted:

‘When you are small, you need to find other angles and approaches. Get yourself

around the wall, don't try and go over it. Meeting a wall doesn't necessarily mean your objective can't be achieved.¹²¹

The interviews suggested that weaknesses in negotiating strategy are also closely associated with the weaknesses in trade policy and inadequate identification of national interests, as discussed in the previous section. This is understandable, as without clearly defined interests or policy, countries are unlikely to invest time in developing a negotiating strategy.

Seasoned diplomats and former ministers were emphatic that 'negotiations don't begin in the negotiating room' and strongly emphasised the need to develop a negotiating strategy.¹²² 'You need technical and research expertise to use negotiating space effectively, but if you have no space, no matter the quality of your research, it is tough luck.'¹²³ Countries that have a clear negotiating strategy explained the importance of first understanding the interests of those you are negotiating against. 'Try and find out as much about your opponents as possible',¹²⁴ 'understand their philosophy and their thinking',¹²⁵ 'see threats coming from afar'¹²⁶ and 'anticipate how others will respond' to your proposals.¹²⁷ Only then can specific tactics be selected. When asked about information for negotiations, these negotiators emphasised the need to improve diplomatic intelligence.

Negotiators emphasised that securing high-level commitment from the political executive within small states is an essential element of a negotiating strategy. An important role for the executive is to engage in informal political dialogue with negotiating partners. This helps small states to understand the interests of their counterparts and it provides an opportunity to convince larger countries at a higher political level to support small states, *in principle*, which has to occur before detailed text-based negotiations commence. The role of high-level political dialogue was further highlighted by one negotiator, who cited its importance during the EPA negotiations. African and European heads of state met at the 2007 EU-Africa Lisbon Summit, which enabled African leaders to convey to European leaders their deep concerns about the negotiations and secure public commitments to greater flexibility from the President of the European Commission.¹²⁸ The case studies clearly highlight how high-level political engagement can expand negotiating space by raising the profile of issues and securing them greater space on the negotiating agenda. It can also generate broader benefits, such as raising international awareness about the development circumstances and needs of a particular country, which in turn can translate into concrete outcomes (such as increased attention among donors and greater interest among researchers in addressing specific domestic challenges). However, while necessary, experience shows that high-level engagement alone is not always effective and that it is rarely sufficient to change the outcomes of negotiations or deliver concrete results, such as final agreements that are more beneficial to small states than they might otherwise have been (Box 17).

A high level of executive engagement does sometimes appear to help insulate small states from the divide and rule strategy often used against them. As a senior Caribbean diplomat notes, 'Developed countries know whose buttons to press and how ... If you are known to take a stance on principles, they know you are not for sale ... Developed

Box 17. High-level political engagement

In Mauritius, strong executive commitment to trade negotiations has produced results. Prime ministers have engaged other heads of state in direct dialogue, including the former French President on the EU Sugar Regime, and the US President on the African Growth and Opportunity Act (AGOA). When the European Union announced compensation for ACP sugar producers affected by a one-third reduction in guaranteed sugar prices, the Mauritian government was dissatisfied with its share of these accompanying measures. The Prime Minister directly lobbied the European Union and succeeded in augmenting the Mauritian share of the compensation from 15 to 18 per cent.

The African Cotton Initiative similarly had full and consistent political support at the highest level in all four countries involved. President Amadou Toumani Touré of Mali wrote the preface to the *White Book on Cotton*. President Blaise Compaoré of Burkina Faso personally went to Geneva to defend the initiative in June 2003. He delivered a resounding speech asking for the implementation of Doha commitments and showing that the damage done by subsidies to West African economies amounted to more than all the aid funds received by those countries. This substantially raised the profile of cotton within the WTO negotiations, although to date it has not resulted in concrete policy changes on the part of the USA.

Similarly, in the Caribbean, Prime Ministers from the Windward Islands were directly engaged in the campaign to protect the banana preferences received from Europe. In the early stages of the dispute, when relevant votes were scheduled in the European Council, Heads of State from the region travelled to Brussels, where they met with various European member state delegations. The advantage of this strategy was that it made the issue 'real' in the minds of Europeans, who were able to understand better the practical implications of the loss of preferences for Caribbean economies. (The ultimate impact, however, remains difficult to ascertain. Following a WTO dispute settlement decision on bananas that went against the EU, non-compliance by the EU prompted efforts to broker a political deal in late 2008. Using the 'good offices' of the WTO Director-General, a political agreement was reached and was to be integrated into the final Doha package. The ongoing stalemate in the Round means, however, that in practical terms the bananas issue remains unsettled.) Similarly, direct lobbying by Caribbean countries of the USA and Canada at prime ministerial level helped to persuade these two powerful WTO members to support the SVE coalition's efforts at the WTO to defend their need for flexibility with regard to their domestic subsidies. In the words of one interviewee: 'To influence in Geneva you need to make use of political processes outside Geneva'.

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

countries only have leverage if you allow it to develop.¹²⁹ Critical to forging such a reputation is the practice of not immediately capitulating when under threat. As a seasoned diplomat explained: 'If a politician declines to respond immediately to a threat and instead consults with officials to weigh up options, decisions are far more informed and policy reversals are less likely'.¹³⁰

The case studies highlight another important strategic element, namely that choices regarding the sequence of negotiations and negotiating fora can have a significant impact on the ability of small states to influence outcomes (Box 18).

The interviews reinforce the survey finding that many small states perceive themselves to be subject to a series of distributive tactics by large states. Tactics used by large states with which the negotiators we interviewed had direct experience included (the number of interviewees experiencing each is indicated in parentheses):

- Use of negotiating deadlines and the threat of trade sanctions to impose agreements (11);
- 'Divide and rule' tactics, playing small states off against each other (7);
- Threats of reductions in aid (5); and
- Pressure exerted through the executive of the small state (3).

Other tactics cited in our interviews included: influencing the selection of small state negotiators; appointing biased consultants to 'advise' them; deliberately misrepresenting facts; and unilaterally reneging on agreements once they had been agreed, including by altering the text at the point of 'legal scrubbing'.

Interviews also provided greater insight into the specific tactics that small states use, outside and inside the negotiating room. Outside, building alliances with like-minded countries was the most common tactic identified by small state negotiators, with 12 of the 35 negotiators citing this as a core tactic. This was followed by the identification of allies within powerful states, in an attempt to favourably exploit divergences in their domestic political economy. This was mentioned by nine negotiators, all of whom are involved in the EPA negotiations. However, some negotiators noted the need for caution when attempting to enlist allies within large states, explaining that some member states are 'hypocritical', saying one thing to the small state involved and another to the European Commission.¹³¹

Interestingly, the use of the media was only mentioned once as a potential tactic, which, however, the country concerned decided not to use for political reasons:

'We wanted to have input before initialling, but couldn't. The EU said leaks were happening. How can a country sign an agreement without negotiating it? In my opinion, at that stage we should have gone screaming to the press but our political instructions were otherwise.'¹³²

Box 18. Careful choice of negotiating fora and sequencing

Although small states have little room for manoeuvre and cannot often choose the fora in which they negotiate trade issues, the case studies illustrate that there is sufficient room to make a crucial difference. Interviews with negotiators from Benin and the other cotton countries show that they took a deliberate decision to take cotton into the negotiating room, rather than to rely primarily on the WTO Dispute Settlement Mechanism. Regarding the WTO dispute settlement option, their concern was that in the event of US non-compliance with a favourable ruling, a West African effort at imposing retaliation measures against the USA would be ineffective: ‘The Brazilians have the means to implement it. But we, Benin, what can we do? We don’t trade much with the USA, and we are not able to copy their patents. Under these conditions, lodging a dispute would have been a mistake.’ That said, Benin did join Brazil’s WTO case against US cotton subsidies as a third party. Having won that case, Brazil is now working to ensure US compliance with the WTO decision in ways that will result in concrete policy changes on US cotton subsidies. While the negotiation route preferred by West African countries has yielded various forms of assistance from the USA and other countries, including promises for boosts in development aid, it has yet to secure the desired concrete shifts in US policies on subsidies.

Although the literature suggests that the WTO’s multilateral setting should be the most favourable negotiating environment for small states, as it provides a context in which they can form broad alliances to help insulate them against power asymmetries, a number of Caribbean negotiators disagreed. They observed that because multilateral negotiations seek to accommodate the interests of a very large and heterogeneous group, small states can find their concerns completely marginalised. In a bilateral negotiation, on the other hand, the negotiating agenda and any negotiated concessions are more likely to be tailored to small states’ interests.

Interviews with Caribbean negotiators also indicated that there were active discussions within the region regarding what sequence of bilateral negotiations with Canada, the EU and the USA would be most favourable. Their subsequent experience illustrates, however, that this strategic choice may be a difficult one to get right. In the Caribbean case, countries decided to negotiate first with the EU as they expected it to show greater flexibility due to past colonial ties and a long history of bilateral negotiations. Subsequently, however, the EU has proved less flexible than anticipated. One interviewee noted that: ‘Europe has changed, especially with expansion. Sometimes we forget this. Europe’s focus is internal and with Africa. It is hard to get their sustained interest.’

Box 18 (continued)

Further, bilateral negotiations must also be strategically managed. Interviewees suggested that Samoa's capitulation to stringent WTO accession conditions might have been partly avoided with a more effective negotiating strategy in terms of ordering of the bilateral negotiations that are part of the WTO accession process. 'One thing would be to talk to Honduras and Japan first to establish precedents for being an LDC before talking to Australia and New Zealand. Why did they take the hardest hurdle first? They should start with the easier ones and then say, "We can't go back on this".'

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

Appealing to principles

Within the negotiating room, negotiators said they most frequently use tactics that appeal to principles. Sixteen of the 35 respondents said they frequently use arguments related to special and differential treatment. These arguments are based on factors related to their level of development, which seven said they use in order to appeal for financial assistance, and also on constraints arising from their smallness, such as lack of competitiveness and capacity. Several respondents noted that smallness can be a distinct asset:

'In the South Asia Free Trade Agreement we were able to get a specific clause giving us the benefit of a 'least developed country' even after we graduate. Because we were smaller there was not much concern, unlike if Bangladesh asked; and there was some sympathy as well.'¹³³

One expert noted:

'Ironically, the reason some countries do so well is because they are so small, which gets them sympathy and exceptions. Fiji got its own exemption paragraph in the NAMA text but when Gabon asked, they got something far more cumbersome.'¹³⁴

Framing and reframing arguments can be useful tactics to generate substantial leverage for small developing countries in negotiations (Box 19). As one expert argued:

'... large countries want to be seen as giving to the smallest and to be making development concessions ... least developed countries and small states have incredible moral weight. The multilateral system is supposed to be helping the poorest and most vulnerable. That's their strongest card.'¹³⁵

While some small states have achieved successes, framing negotiation issues around the idea of 'smallness' continues to be an ongoing challenge (Box 20). Small states still face important constraints in those trade negotiations where norms regarding 'smallness', and associated claims such as those advanced by the SVE coalition, are not yet fully entrenched.

Box 19. The importance of framing in trade negotiations – linking trade and poverty reduction

The framing of issues is a core strategy for small states and attempts to frame and reframe were central to the cotton negotiations. The Benin case study shows that cotton was successfully framed as a core development issue in the Doha Round. In the view of a negotiator from Benin: ‘Cotton became the symbol and the litmus test of the development round. If such a clear-cut case could not be dealt with at the WTO, the development content of the Doha Round seemed to be a mockery.’

However, this success was watered down by successful reframing by the USA and the EU. Firstly, they ensured that cotton was integrated into broader agricultural negotiations, which made any achievement in cotton conditional on the outcome of the wider agricultural negotiations. The second and more decisive victory was the strategic reframing of the African claim by linking the reduction of US subsidies to the goal of ‘poverty reduction’. This arguably contributed to placing African countries in a vulnerable position: rather than focusing the dossier tightly on an assertion of African rights in the trade regime, their demands were transformed into an appeal to charity, thus changing the posture of African states in the negotiation and the type of results they could achieve (aid rather than the reduction of subsidies).

Source: Eagleton-Pierce (2007).

Setting red lines and fall-back positions

Another tactic identified by interviewees was the need to set red lines and develop fall-back positions, which were mentioned by eight negotiators. Four negotiators referred to the use of legal arguments and three emphasised the need to be technically prepared and to have concrete evidence to make persuasive arguments:

‘If you can show others in your group that you have a visible, critical national issue and can explain your position, others will generally find a way out for you. In such a case, even when you are small and weak, something will be done to accommodate you.’¹³⁶

Another negotiator highlighted the importance of having the private sector closely involved because it helps to make arguments about the adverse impacts of liberalisation more credible.

Three negotiators noted the possibility of setting the agenda by proposing alternative texts. In the WTO context, one negotiator explained that for proposals to be successful, accepted by the chairs of groups and reflected in working documents, they had to be technically sound, substantive and able to anticipate the positions of other countries. ‘Pacific statements are often regarded within the WTO as being among the most substantive ... we see about 90 per cent of our positions on board in the text.’¹³⁷

Box 20. The importance of principles and norms – lessons from the development of the SVE norm

In the United Nations, a group of small states have succeeded in establishing a separate classification for ‘small island developing states’ (SIDS). Prior to the launch of the Doha Round, the SIDS group put considerable pressure on the WTO to recognise their unique challenges. But the fact that many SIDS were not represented in Geneva, combined with an aversion among many WTO member states to creating a new sub-category of states, hampered these efforts. The SVE coalition, by contrast, made certain specific gains in the Doha Round. There is now, for instance, a ministerially-mandated work programme on small economies, a WTO committee that has an ongoing mandate to discuss SVE issues (the Committee on Trade and Development’s Dedicated Session), specific mention of small vulnerable economies in the current Doha Round market access negotiating texts and a consistent reference to the SVE category in the aid for trade debate.

Judgements of the relative success of the SVE group varied among interviewees, in part due to different expectations of politically realistic outcomes. Several government officials from the region observed, for instance, that the norm of ‘smallness’ is yet to be fully entrenched in the framework of ideas which shapes the form and outcomes of the process of international trade negotiations. In order for the SVE group to have a greater claim for consideration as a group, and to have its interests formally reflected in the rules that form the outcomes of negotiations, sustained advocacy is considered necessary. To embed the status of the SVEs – and their specific claims – in trade rules, one government official noted: ‘We need to do a lot of advocacy. What is self-apparent to us, others don’t understand. Developed countries are concerned that we are on the lookout for ‘loopholes’ and to secure more donor funding.’ He noted that such influence takes perseverance and hard work, emphasising that large countries frequently change negotiators and each one comes with limited knowledge and understanding of the constraints that small states face.

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

In a more defensive vein, three negotiators mentioned the importance of postponing and playing for time rather than agreeing to commitments they do not fully understand.

(c) The psychology of bargaining

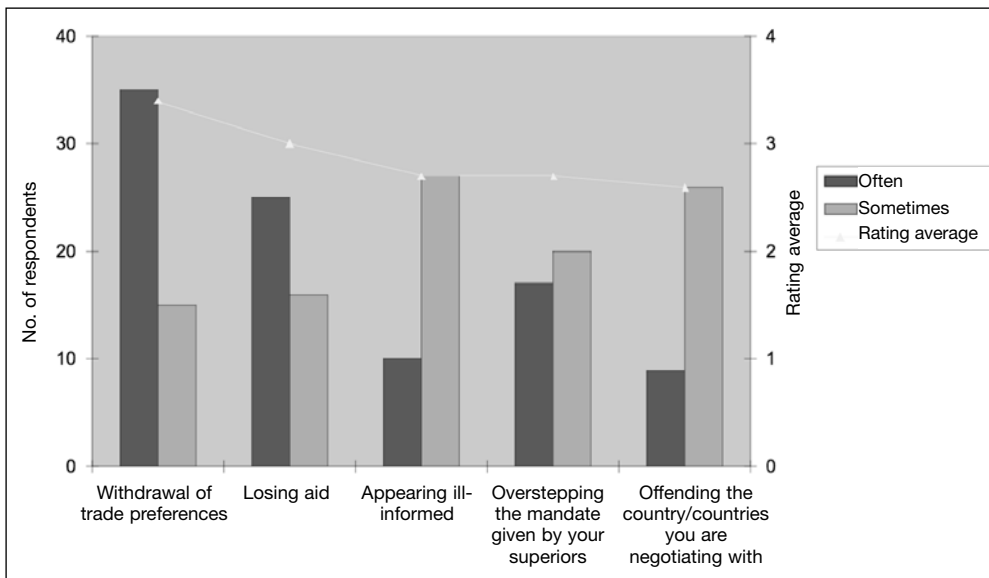
In addition to studying pressure tactics in the negotiating room (discussed in the previous section), our survey sought some further insight into the perceptions of negotiators and officials. In particular, our questions explored the pressures small state negotiators

perceive themselves to be under, as well as other factors that concern them and that constrain their actions in negotiations. Once again, analysis of the survey responses is confined to those directly involved in negotiations.

The survey asked small state negotiators how often they were concerned about such things as: offending the country with whom they are negotiating; overstepping their mandate; appearing ill-informed; losing aid; or having trade preferences withdrawn.¹³⁸ As Figure 7 shows, respondents clearly perceive themselves to be operating in a highly constrained external environment, with high levels of concern about threats to trade and aid from negotiating partners. Thirty-five of the 61 respondents said they were ‘often’ concerned about withdrawal of trade preferences and 25 were ‘often’ worried about losing aid. Notably, they were less concerned about offending the country they were negotiating with, suggesting that diplomatic factors are less constraining. Appearing ill-informed and overstepping the mandate given by superiors appeared to be significant concerns, factors which echo findings (discussed above) on human resource constraints and on the poor quality of the relationship between many negotiators and their ministries in capital.

In responding to the survey, small state representatives reported low expectations of having their interests met in negotiations with large states. They do not perceive a very high level of compatibility between the interests of their countries and those of powerful states. Only eight of 93 respondents stated that their interests were ‘nearly always’ or ‘often’ compatible. Eighty reported that they were ‘sometimes’ or ‘seldom’ compatible. Five saw their interests as almost diametrically opposed.¹³⁹ In addition, negotiators do

Figure 7. Frequency of negotiators’ concerns



not expect to have a significant influence when negotiating with large trading partners. Fifty-two of 93 respondents said their level of influence is 'low' and 16 say they have no influence at all (Table 6).

When negotiating with states of similar economic size, one would anticipate that expectations of influence and success in negotiations would be higher. But there is still considerable variation in the responses. While 27 respondents said they had a 'high' influence negotiating with small states, 38 said it was 'moderate' and 18 said it was 'low'. One respondent even said that their country had 'no influence'. A likely explanation of the persistence of low expectations, even when negotiating with other small states, is the presence of severe domestic constraints which undermine negotiating capacity.¹⁴⁰

Table 6. Expectations of negotiating success

Type of negotiation	High influence	Moderate influence	Low influence	No influence
A large trading partner like the EU or USA	3	22	52	16
A trade partner of similar economic size	27	38	18	1

Closer scrutiny of the data does not reveal any clear correlation between expectations of influence and a country's income level, with least developed and developing small states dispersed across the categories. However, the results do suggest that negotiators who identified themselves as representing a region, as opposed to a country, were more optimistic about their influence. Of the 23 respondents who identified themselves as representing a regional body, ten (almost half) said they had 'high or moderate' influence in negotiations with a large trading partner, compared with only nine of the 53 respondents (one-sixth) who identified themselves as being country representatives.¹⁴¹

Our interviews reinforced the survey findings that representatives of small states generally have low expectations of influence, with 15 of the 17 negotiators saying that they did not expect to have a significant influence when negotiating with large states. Yet more revealingly, the interviews suggest that small states are often reluctant to use whatever power they do have to its fullest extent. Some feel totally powerless to influence the agenda in negotiations with large states:

'We are not trying to influence negotiations. It's unrealistic, so we don't go in with that mindset.'¹⁴²

Others note that 'we are so small, we are insignificant in the eyes of other WTO members'.¹⁴³ The erosion of preferences and fears about its potential negative implications are a particular cause of despair:

'Due to increasing liberalisation, most small states are becoming more and more vulnerable; together with preference erosion, what is there left for small states to fight for?'¹⁴⁴

Conversely, the Benin case study shows that the success of a group of small states in getting the cotton issue on the international trade agenda has had a positive impact on the confidence of small state negotiators in the international trade arena:

‘It really acted as a trigger point for African countries. It gave these countries some confidence that their interests can be represented at the WTO. And this, in turn, gives some credit to the WTO, because it shows it is an open organisation where the interests of small states can be promoted.’¹⁴⁵

Moreover, the interviews also revealed a perception, at least among some negotiators, that smallness and low levels of development need not be a total barrier:

‘Negotiators have learned that despite the lack of means, our countries can fiercely defend their interests if they organise and understand the system well ... West and Central African countries realised the need to be political, never insult people but stay calm and be convincing, to find appropriate words that no one can attack.’¹⁴⁶

That said, it was also perceived that considerations of smallness aside, the potential for success in getting an issue on the international trade agenda and/or achieving the desired outcome may also depend on the nature of the trade issue at hand. In the case of cotton, for instance, the framing of the issue as one of eliminating trade-distorting subsidies is consistent with the anti subsidy, pro market access norms embedded in the multilateral trading system.

The perceptions and expectations of negotiators in respect of large states are further highlighted by the reasons interviewees give for the relative ease of negotiating with other small countries: higher levels of understanding and appreciation of the economic challenges that others face; a higher level of common interest; higher levels of trust; more open communication; less hypocrisy (countries say what they mean and their actions are consistent with their words); and a readiness to compromise. However, two negotiators also noted constraints that arise in negotiations with small countries. One said that they are much slower and the other complained that there is little trust, with other small states being just as likely to engage in power politics by ‘selling you out’ to larger players.

In negotiations with large countries, the vast majority of interviewees perceive themselves as operating under substantial levels of threat in negotiations. Only two of the 35 negotiators and ambassadors said they were not vulnerable to threats by large countries, explaining that they did not depend on preferences or aid. Several negotiators explained that there are significant differences between large countries and that some are preferable as negotiating partners to others. Five negotiators mentioned that Europe is more flexible than the USA, Australia and New Zealand. One mentioned that it was preferable to negotiate with large developing countries as opposed to large developed countries, as the former do not put pressure on small states to change domestic policies.

Crucial to understanding the psychology of bargaining is the extent to which implicit or potential, rather than explicit or actual, threats are influential. Many negotiators

perceive a high risk that development aid or trade-related assistance from their negotiating partners may be cut, even where the threat is not made explicitly:

‘There is an understanding that – if you are difficult on this – we will be difficult on that. We all know that apart from trade negotiations we have financial co-operation instruments and if it is a particularly difficult negotiation they can judge you as not having done well and not deserving of additional funding. It’s not made explicit. These are things we understand amongst ourselves.’¹⁴⁷

Another explained, ‘At the end of the day, they can hold us by the necks because they have development finance and can decide to give it to us, or not give it to us’.¹⁴⁸ (To date, there have been no systematic studies of correlations between aid flows and the tenacity of particular small states in trade negotiations, but evidence in this respect would be useful to ascertain the degree to which such fears are justified.)

The influence of implicit or potential threats is magnified by perceptions of the atmosphere within trade negotiations. Within the negotiating room, nine small state negotiators said that negotiators from large states bully and intimidate, citing behaviour such as walking out of the room, being dogmatic and persistent, and cutting off small state negotiators when they are talking. The perception of one small state negotiator was that the physical setting of the negotiations is carefully chosen by large countries to intimidate negotiating partners.¹⁴⁹ Eight negotiators said that large countries set the agenda by using a template text, by sending negotiators who are too junior to agree to any compromises and by marginalising issues of interest to small states by either refusing to discuss them or by making such highly qualified concessions that they are meaningless. As noted above, a further dimension of the atmosphere of negotiations concerns the time-frame and deadlines imposed for decision-making, which may be even more difficult for small states to meet than for larger developing countries. Where negotiators are under intense time pressure from larger states, their perceived room for manoeuvre often diminishes. Given the small number of staff devoted to trade, smaller countries often need more time to study and consider the implications of texts, to consult with others within regional groupings and to liaise with their counterparts in those capitals where there is an active interest. Such efforts may be hampered by telecommunication constraints, limited human resources and time zone differences.

Our case studies suggest that small states need to pay careful attention to the political level at which they engage with large states, and that this can offer one way for small state negotiators to redress what is otherwise perceived to be a vastly unequal negotiating atmosphere (Box 21).

Box 21. Engaging with large states at an appropriate political level

The Caribbean study highlights the importance of diplomatic protocols to avoid inadvertently lowering a country's stature (or that of their negotiators), thus exacerbating their smallness and vulnerability in the eyes of powerful states. One senior diplomat warned of the risks that occur when ministers of small states resort to meeting senior civil servants rather than officials with similar political rank, as it sets a precedent and pattern of engagement that can effectively lower their access to more senior political authorities. Further, speaking of his region's experience in the EPA negotiations, he emphasised that 'During a recent meeting with the EU President, rather than send a spokesperson, all 14 Caribbean Heads of State wanted to attend on the grounds of sovereignty ... They don't see the political signal it sends to Europe.' By sending so many Heads of State, he suggests, the Caribbean countries looked as if they were desperately in need of agreement, undermining their negotiating leverage.

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