

**Preparing for the Negotiation of
Preferential Trade Agreements with the EU:
Preliminary lessons from some developing countries**

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1. Introduction

With the globalisation of the world economy, the multiplication of international agreements and the ever expanding scope and depth of issues addressed, trade negotiations are representing new challenges from which developing countries are not immune.

Besides their own regional integration process and the current Doha Round of multilateral trade negotiations, many developing countries have been negotiating preferential trade agreements with industrialised countries. This is the case for instance of the Latin American and Caribbean countries, with bilateral agreements with the United States or Canada, or in the context of the current negotiations on the Free Trade Agreement for the Americas (FTAA). It is also the case for the African, Caribbean and Pacific (ACP) countries in the context of the negotiations on economic partnership agreements (EPAs) with the European Union (EU) that have started at an ACP-wide level on September 2002.

Apart from their broad coverage and technical nature, these North-South trade negotiations pose a particular problem in reason of the strong asymmetry among the players. While the industrialised entities (countries or regions) involved have plenty of capacity and generally experience in negotiating such trade agreements, the developing countries concerned are generally handicapped by insufficient resources, lack of capacity and know-how, and virtually no experience in negotiating such agreements. As a result, there is a natural tendency for the Northern partners to drive the agenda and control the negotiation process. The danger for developing countries is to be engaged in a catching up exercise with no significant influence on the negotiations.

The effective participation of developing countries to such negotiations on North-South preferential trade agreements, as well as any other international trade negotiation for that matter, would ultimately depend on the long term development of their capacity to identify trade and development objectives, to formulate policy positions and to establish negotiation strategies. This is the object of the trade capacity development debate following numerous initiatives undertaken by the donors' community.¹

¹ Multilateral initiatives aimed at donor support to building trade capacity in developing countries include the Joint Integrated Technical Assistance Programme (JITAP) by the ITC, UNCTAD and WTO (<http://www.jitap.org>), and the Integrated Framework for Trade-Related Technical Assistance for Least Developed Countries (IF) by the IMF, ITC, UNCTAD, UNDP, World Bank and WTO (<http://www.lids.org>). For an overview of various initiatives, see the Doha Development Agenda Database on Trade Related Technical Assistance and Capacity Building (DDADB) <http://tcdbd.wto.org/trta.asp#>.

But most developing countries are faced with a much more urgent agenda. With the EPAs negotiations underway and just few months away from the beginning of their regional phase, which could start as early as September 2003, ACP countries are increasingly pressured to prepare at the national and regional levels. The challenge for the ACP is thus to adopt, within the context of long term capacity development initiatives, shorter terms measures to improve their limited capacity to effectively participate to these regional EPA negotiations.

The ACP countries will never be on an equal footing with the EU in the EPA negotiations. Provided they decide to engage on regional negotiations with the EU, the issue is thus how best they can prepare themselves to defend their core interests in an EPA with the EU. Interestingly, other developing countries have found themselves in similar situations, having to negotiate preferential trade agreements with the EU or other industrialised countries.

The purpose of this paper is to identify some of the lessons that may be of interest to the ACP in their preparation for regional EPA negotiations with the EU. The main examples will be taken from the Trade, Development and Cooperation Agreement between the EU and South Africa (TDCA), in force since 2000, the experience of the Caribbean in the current FTAA negotiations and their preparation for their negotiations with the EU, and MERCOSUR (comprising Argentina, Brazil, Paraguay and Uruguay) experience in negotiating the FTAA and a free trade agreement with the EU. In doing so, the paper will not seek to design a model for the preparation and conduct of negotiations with the EU. Each country and region has its own particularities and each negotiation is somewhat unique. But a review of these negotiations suggests that the developing countries involved in negotiations with the EU have faced some similar challenges, which the ACP are currently facing in the context of EPA negotiations.

The paper is organised as follows. Section 2 briefly reviews the key elements commonly mentioned in order to build capacity to negotiate trade agreements. The rest of the paper attempts to identify the experience of some developing countries in their attempt to prepare for and conduct such negotiations, focusing on a limited number of key principles. Section 3 explores the notion of political leadership and its impact on the preparation for trade negotiations, while Section 4 stresses the notion of legitimacy are a vital corollary to political leadership. Possible organisation features for trade negotiations are discussed in Section 5. Section 6 concludes.

2. Elements of capacity building for trade negotiations

In any trade agreement, it is crucial that the members possess the capacity to contribute to its elaboration, to be fully involved at all stages of its negotiation, and to ensure adequate implementation and enforcement of its provisions. In this respect, capacity building in ACP countries could increase the effectiveness of any attempt to initiate trade policies. The OECD (2001, p.4) argues that ‘the record suggests that no country has been able to achieve substantial gains in trade without an effective trade policy framework’. The limited institutional and human resource capacities prevailing in most developing countries have often obstructed the development of a comprehensive trade policy framework. Yet, it is essential that developing countries adopt a well thought out and structured approach before engaging in complex international trade negotiations.

Though a one-size-fits-all approach to trade policy does not exist, it is possible to identify some key elements needed to construct a trade policy framework adapted to the challenges of international trade negotiations. Trade capacity building should work to establish such a framework. This involves the building of crosscutting systems or networks of the public and private sector, think-tanks and universities, regional and national institutions, etc. Hence, ‘capacity development for trade today is [also] about mobilising participatory approaches to deal with complex trade agendas’ (OECD, 2001, p.4).

Key elements of an effective trade policy for developing countries, as identified by the *DAC Guidelines* on building trade capacity (OECD, 2001), include:

- a coherent trade strategy that is closely integrated with a country’s overall development strategy;
- effective mechanisms for consultation among three key sets of stakeholders: government, the enterprise sector and civil society;
- effective mechanisms for intra-governmental policy co-ordination;
- a strategy for the enhanced collection, dissemination and analysis of trade-related information;
- trade policy networks, supported by indigenous research institutions;
- networks of trade support institutions; and
- a commitment by all key trade stakeholders to outward-oriented regional strategies.

Overall, an effective trade policy will identify a country’s trade interests in line with its overall development strategy by involving a wide range of actors. In the context of the preparation for trade negotiations, it can be added that:

- identified *interests* should be translated into action: concrete policies measures should be taken;
- *roles* should be clearly distributed among the various actors;
- *resources* for the implementation of these policies should be allocated to them;
- *flexible negotiating strategies* should be designed; and
- preparations should be made for the *implementation of negotiated agreements*.

For this process to be effective, Solignac Lecomte (2001) identifies three key components of best practice.

First, *leadership* plays a central role in driving the process forward. Lack of political interest or commitment will stall the process. The other critical elements for the efficiency of the trade policy process are the *inclusiveness* of the process, and the development of appropriate *institutional capacity*. All relevant actors must be involved in the policy process and institutional capacities must support it. In each country, mechanisms must be put in place to involve all ministries directly or potentially concerned with the trade agreements being negotiated.

Communication with the business community, trades unions and consumer associations is central to ensure their involvement in the trade policy process. Contacts with civil society and non-governmental organisations (NGOs), think-tanks and universities will also foster a more encompassing approach, where both independent analyses and various interests are represented. Further, coordination mechanisms must be put in place for national interests to be represented and coordinated (or harmonised) at the regional, sub-group and ACP Group levels, if ACP countries negotiate within groups and within an overall ACP framework.

Finally, channels of communication with various EU institutions (committees, the Commission, the Council, the Parliament, lobby groups) and EU Member States (governments, parliaments, committees and special interest groups, associations and independent bodies) may also be useful, as well as with international bodies (such as the Commonwealth Secretariat, Organisation internationale de la francophonie, OECD, regional development banks) and multilateral organisations (UNCTAD, UNDP, World Bank, etc.).

Table 1 summarizes the main steps in building the capacity for trade.

Table 1: Developing the capacity for trade policy making

Level of intervention	Objective	Main actors
<i>Analysis</i>	<ul style="list-style-type: none"> Monitoring of trade and trade policy issues 	<ul style="list-style-type: none"> Government Independent think-tanks Universities
<i>Formulation</i>	<ul style="list-style-type: none"> Coherence within development strategy Definition of strategic trade objectives and priorities Decision on ways of achieving them 	<ul style="list-style-type: none"> Government (Ministries of Trade, Finance, Agriculture, Foreign Affairs, etc.) Professional organisations Civil society organisations
<i>Negotiation</i>	<ul style="list-style-type: none"> Promotion of the country's interests, reactively and actively, in various fora (WTO, regional organisations, etc.) Consultation and alliance building 	
<i>Implementation</i>	<p>Actual and efficient implementation of trade policy:</p> <ul style="list-style-type: none"> domestic (legislation, tariffs, etc.) international (complying with obligations, exercising rights) 	<ul style="list-style-type: none"> Customs Standards agencies Trade facilitation bodies Judiciary Etc.

Source: Solignac Lecomte (2001)

The remainder of this paper seeks to identify how some of these elements, required for the effective conduct of trade negotiations, have been addressed by some developing countries in their negotiations with Northern partners.

3. Political leadership

The driving force for any attempt to develop a coherent strategy and effective mechanism to conduct international trade negotiations rests on the indispensable political leadership. If the negotiation process does not benefit from sufficient political backing, resources devoted to the preparation and consultation are likely to be low and coordination among government actors at national and regional levels is likely to be weak. As a result, the outcome of the negotiations is likely to be driven, at the domestic level, by particular interest-groups that seek to capture the potential benefits from any agreement, at the expense of the public interest of the whole country. In addition, the agenda, conduct and outcome of the negotiations are most likely to be determined by the negotiating partner (that is the EU in the case of the EPA negotiations).

A political vision is no substitute for thorough technical preparation. Even with the moral leadership of Nelson Mandela, South Africa did not extract special concessions from the EU at the negotiating table, in spite of repeated promises made by European leaders to support the post-Apartheid regime of South Africa and its integration within the world economy and with the EU. South African negotiators have been prompt to stress that negotiations with the EU were addressed mainly at the technical level, and their political capital was of little help to mend the EU position.

Yet, the decision to engage into bilateral trade negotiations with the EU has been a priority of the new regime in South Africa. The South Africa new development and trade strategy has followed the political vision of the African National Congress (ANC), and been elaborated during the transition government already. South Africa initially hoped to become a full beneficiary of the non-reciprocal preferential trade regime provided under the Lomé Convention for the ACP countries. Faced with the refusal from the EU, the South African government agreed, in 1995, to start negotiations on a free trade agreement with the EU. Such an agreement was perceived by the government has both a way to break from the diplomatic isolation of the former Apartheid regime by fostering strong ties with the EU, as well as an incentive to initiate domestic economic reforms, opening up the domestic market and attracting foreign investors.

The political impetus in South Africa led to:

- the identification of core national interests,
- the clearly definition of ultimate objectives for the negotiations as part of a nationally determined development strategy,
- the establishment of coordination mechanisms for the conduct of the negotiations,
 - at the political level, with a Cabinet Committee and the involvement of the National Assembly,
 - at the administrative level, with inter-ministerial working groups,
 - at a negotiation level, with a highly qualified negotiating team,
 - with non-state actors, via the National Economic Development and Labour Council (NEDLAC), an institutional body regrouping industry, trade unions and organised community actors for a social dialogue with government.

Political leadership has been a key factor in the effective functioning of these mechanisms for trade negotiations, as well as to raise public awareness by actively participating in the public debate on these important negotiations with the EU. The South African experience suggests that while political involvement is no substitute for technical preparation, it is a necessary driving force to ensure cohesion and a strong sense of direction in the conduct of negotiations on a free trade agreement with the EU.

It is therefore crucial that for each ACP country the participation to an EPA negotiation be the result of a conscious and informed political decision, corresponding to well identified strategic objectives within a coherent trade and development policy strategy. In the absence of which, decisions will be taken by the better prepared ACP countries or regional bodies and by the EU, at the potential detriment of the ACP countries which will have neglected their preparation and active participation to the EPA negotiation process. Countries not willing to undertake such commitments might be better advised to seriously consider opting out of an EPA process that would have been elaborated without their effective input.

One of the challenges faced by the ACP is that they have engaged in EPA negotiations with the EU not just as individual countries, but as a group, at the overall ACP Group level in the first phase, and at the regional level in the second phase due to start not before September 2003. Negotiations by a region pose additional difficulties in terms of appropriate institutional development and coordination mechanisms, not to mention legal concerns in the case of entities that do not constitute an autonomous customs union, as it is currently the case for most ACP regions.

For negotiations by a regional grouping, political commitment by regional leaders also plays a pivotal role to ensure the coherence of the process.

According to Bouzas (2003), 'MERCOSUR has not been very effective in collectively conducting trade negotiations with third parties'. For instance, MERCOSUR has failed to develop a common approach for its negotiations of a free trade agreement with Chile in 1996, hence *de facto* raising the negotiating leverage of Chile. Such divergences among MERCOSUR members have also been responsible for the failure to reach new agreements with the Andean Community and Mexico. The absence of permanent institutions at the MERCOSUR level for the coordination and/or conduct of international negotiations partly reflects the insufficient cohesion among MERCOSUR countries. Coordination and leadership for negotiations, when jointly conducted, is left to the rotation temporary presidency of MERCOSUR.

While unstable and weak regional political leadership has hampered the negotiating stance of MERCOSUR, it has not prevented the active collective participation of regional countries to international negotiations when the political stakes have been high. This is the case for instance with the FTAA negotiations. While the FTAA process is also plagued by divergent interests among MERCOSUR member states, effective participation has required joint efforts by all members to establish mechanisms to cope with the necessary preparation. This shallow cooperation among MERCOSUR members has built on the technical preparation undertaken by individual countries. It remains to be seen to which extent, in the absence of a stronger coordination mechanism, MERCOSUR will be able to keep a united front and push its own (collective) interests during the negotiations. Similarly, negotiations with the EU have been only loosely coordinated within MERCOSUR. The development of a collective coordination mechanism will ultimately rest on the political will of regional leaders.

A good example of regional political leadership is provided by the experience of the Caribbean. In spite of the diversity of their economies and their development concerns, CARICOM and to some extent CARIFORUM countries have managed to set aside some of their differences to defend a common front on preferential trading

agreements.² This is the case for instance in the current FTAA negotiations, where the Caribbean often speak with one voice. A similar approach seems to be pursued in their relations with the EU.

The establishment, in 1997, of a Caribbean Regional Negotiation Machinery (RNM) is one of the most internationally recognized attempts by a regional grouping to jointly develop a cohesive and effective framework to coordinate and structure its preparation for and conduct of international negotiations (see Annex 1). The CARICOM Secretariat is supposed to complement these efforts by ensuring the regional coherence and the achievement of regional objectives. By delegating some of their power to regional entities, closed supervised and monitored by Caribbean governments, Caribbean leaders have been able to increase their level of preparation to international negotiations and facilitate the coordination of their positions, so as to present a more cohesive front in international fora, ultimately conducive to the advance of the interests of the Caribbean region and its member states.

The lesson for ACP regions is that in the absence of a clear mandate, a collective action plan and political commitment to support the process, EPA negotiations will not be effectively conducted by ACP regions and their members.

4. Legitimacy

The example of Argentina, affected by an unstable political system and weak institutions, offers an interesting example of the limits of political leadership. Divisions and fragmentation, coupled with recurrent institutional and financial crises, have considerably weakened the ability of Argentina to develop a coherent and articulated trade policy mechanism.

While political leadership must provide the needed impetus, the legitimacy of the process appears to be key to the successful development of institutional and technical capacity for the negotiations.

In the case of the negotiation of the TDCA, the South African government has benefited from the momentum generated by the end of Apartheid and the overwhelming support for the ANC. The negotiations with the EU coincided with the establishment of this post-Apartheid regime, the instauration of democratic system, a renewed confidence of the people, non-state actors (trade union, business community, social actors) and political leaders in the new government. Integration into the world community was a priority for the government, but also the business community which supported the conclusion of the Uruguay Round. The desire of the ANC government

² See for instance Gonzales (2002).

to bring along all parts of the society, avoiding division in a reconciliation effort, has further contributed to the legitimacy of the government approach to international affairs, and in particular its negotiations with the EU.

This may partly explain why, contrary to other countries, where political rivalries and institutional clashes among competing ministries and agencies prevent the pursuit of a coherent strategy and effective coordination in trade negotiations, South Africa has been able to develop a more cohesive approach.

Beyond the specific historical context, the South Africa example also illustrates the importance of the inclusiveness of the process (as previously mentioned and further discussed in Section 5), in particular by involving the National Parliament (and hence the political opposition), together with the civil society, hence enhancing the legitimacy of the government involvement in the negotiations.

At the regional level, legitimacy has an additional dimension. As members of a regional grouping develop mechanisms to foster their cooperation and coordination, it is important that these new institutional settings, even when informal, complement rather than compete with national institutions. Moreover, they should be recognized and accepted, if not embraced, by all countries. In the absence of such general support, regional mechanisms will lack the legitimacy, and ultimately ability, to effectively pursue their tasks in the preparation and/or conduct of the negotiations.

The Caribbean provides an interesting illustration of the potential tensions that may exist among regional partners, as well as how their resolution (or failure to do so) may affect the capacity of the region to actively participate in international negotiations. The RNM has been developed as a regional body, following the realisation by some Caribbean leaders that such an institution could help the region in addressing the pressing demands resulting from the international negotiation agenda (in particular the FTAA). Endorsed by the Conference of Heads of Government of CARICOM in 1997, the RNM received strong political backing. This support was vital to ensure an effective role for the RNM in the conduct of the post-Lomé agreement and the FTAA negotiations, as well as the preparation for the WTO negotiations. By agreeing to pull resources together and develop collective expertise, the CARICOM and in fact CARIFORUM countries were expecting to increase their influence and control on these negotiations.

But the RNM has to some extent also been the victim of its own success. Strong leadership within the RNM reduced the perceived role of some national leaders in the Caribbean, who became increasingly sceptical towards a regional body whose power and influence was becoming too dominant. As a result of political and strategic disagreements, the RNM was significantly reformed, some of its charismatic leaders

leaving the institution.³ Beyond the internal bickering at the regional level, which is of little relevance outside the Caribbean, the RNM crisis illustrates an interesting feature: the tension that exists between a regional entity in charge of preparing or conducting negotiations, which requires at least a partial (if only implicit) delegation of authority by the member states, and the natural desire by member governments to fully control the destiny of their economies and hence the trade negotiation process.

This is a common principle-agent problem. The principals, in this case the Caribbean states, delegate some of their authorities (and tasks) to an agent, the RNM, in charge of helping in the preparation, and on occasion, of conducting some international trade negotiations. The problem for the principals (i.e. the Caribbean governments) is to retain sufficient control on the agent (i.e. the RNM) to ensure a proper implementation of their desired strategy, while providing sufficient flexibility and autonomy to the agent to carry out its tasks. In the case of the RNM, at least some Caribbean states felt that the RNM was taking too much autonomy, following an agenda of its own. The RNM leaders, for their part, felt they were trying to provide the required impulse to the negotiations, while following the directions provided by the member states. The lack of leadership or simply active participation by some countries can hinder the progress of the region in its negotiations. The role of the RNM is therefore also to energize the negotiation process, if necessary by challenging some individual members. It is clear that a delicate balance has to be found.

Obviously, the reform of the RNM shows that its legitimacy was at least partially dented. The reform is part of an effort to restore its legitimacy and guarantee its effectiveness. Whether the RNM will ultimately be able to fulfil its tasks will depend on the precise role the Caribbean members will assign to it, their effective monitoring and involvement in the process, and the resources made available to the RNM.

They are several lessons for the other ACP regions willing to establish a regional coordination mechanism.

First, any regional institution must have the support of the individual member states. In the absence of such regional political leadership and support, the efforts of regional bodies are likely to be (at least partially) wasted.

Second, the establishment of a regional body or mechanism for the EPA negotiations is not a sufficient condition to ensure effective preparation and conduct of the negotiations. Structures might help, but are no panacea. Individual countries must continuously interact with the regional structure, to feed into the negotiation process, provides strategic leadership, technical support, adequate resources and ultimately proper monitoring of the regional activities.

³ For a detailed and most interesting account of the history of the RNM and its evolving political support, see Grant (2000).

Third, regional bodies or coordination settings should adopt transparent mechanisms, with clearly defined political accountability. These are essential elements for any credible delegation of authority at the regional level.

Fourth, as exemplified by the RNM experience, adjustments must be made so as to ensure that regional settings and tasks correspond to the individual members' aspirations. The capacity to adapt to evolving conditions for the negotiations and the regional context is perhaps the biggest success of the Caribbean RNM.

Finally, with the exception of deeply integrated regions, cooperation within a regional body is easier on technical than strategic issues. The former requires specific expertise (often scarce in ACP countries), where the pooling of resources at the regional level could generate significant synergies on non-contentious issues. On the contrary, strategic decisions must be taken in cooperation directly by member states. It is this regional political leadership that will provide the legitimacy of a regional body for the preparation and/or conduct of the negotiations.

5. Organisation for the negotiations

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

Another lesson from developing countries' negotiations experience is that without strong political leadership and proper inter-governmental coordination, a coherent negotiation strategy cannot be pursued.

The South African experience provides an interesting example of a balanced and inclusive structure and institutional setup for the preparation and conduct of the TDCA negotiations with the EU. The overall political guidance was directly provided by the President Nelson Mandela. The involvement of the president signalled the high priority of these negotiations for South Africa. For policy orientation, strategic decisions and political arbitrage, a Cabinet Committee was formed. It comprised all the main ministries involved in the negotiations, that is the Department for Trade and Industry (DTI), which played a lead role, Foreign Affairs, Agriculture, Treasury and Finances, and Environment and Fisheries. Other ministries were consulted when necessary. The central role of DTI in the preparation of the negotiations was officially recognized by all departments. This greatly facilitated the inter-ministerial

coordination. Each ministry was responsible for the preparation of its own chapters of the negotiations, after consultation with the other relevant departments.

This political coordination structure was mimicked at the technical level, where inter-ministerial working groups (at the level of directors and when necessary experts) were formed. The negotiation process was not exempt from clashes and conflict of interest between departments. But the ministerial and Cabinet Meeting oversight, led by the Minister for Trade and Industry, ensured the necessary cohesion during the negotiations.

Hence, a first lesson from the TDCA negotiations is that a clear intra-governmental coordination structure and a well-defined allocation of competences and tasks among ministries are key ingredient to a coherent preparation and conduct to the negotiations. The issues of competences and lead role among ministries must be sorted out before the negotiations begin, and must be arbitrated at the highest political level. The responsibilities and policy fields of ministries differ, and so can their perspective on the negotiations. Setting in place a coordination mechanism may not be sufficient to harmonize positions among government departments.

Argentina provides a useful example of a failed cooperation attempt. In an effort to coordinate its trade policy making, the Inter-ministerial Commission for International Trade (CICI) was created in 2000. The divisions among ministries, combined with lack of leadership and authority of its chairman, resulted in the failure of the initiative. Similarly, the creation by Paraguay in 1992 of an Integration Ministry to deal with regional integration issues failed to produce any significant result, leading to its dissolution in 1998.

Another critical element for the development of detailed and coherent trade negotiation positions is the involvement of the private sector, trade unions and other civil society representatives. As indicated in Section 3, NEDLAC played a central role in South Africa in the formulation of negotiation strategies and positions for the TDCA. It offered an institutional platform for a tripartite dialogue, to which the government was most attentive. The business community provided most detailed information to the South African negotiators on how they will be affected by a reciprocal opening of the EU and South African markets. Combined with trade unions inputs, this information helped the South African government to identify where trade liberalisation will have the largest impact, how it will affect its main sectors and which sectors should be considered as sensitive. The government had to resist protectionist tendencies. Differences of views, among the various actors and within the government, were common. Yet, by sharing with non-state actors its main objectives and strategies for the negotiations, and by remaining open to propositions and inputs from private sector and social actors, the government contributed to

establish a cooperative and constructive dialogue with non-state actors. NEDLAC seems to have had a significant input in the TDCA negotiations, which has been valued by all actors, not the least the government. Beyond the additional expertise it provided to the negotiators, NEDLAC also contributed to foster trust among the South African partners and an emerging consensus on the TDCA negotiations, while respecting each actor's position.

Similarly, in the agricultural sector, the constant dialogue with farmers' organisations and agricultural lobbies has also contributed to inform and sometimes shape the position of the South African government on the agricultural chapters of the trade negotiations with the EU. This dialogue has been formalised in 1997 with the establishment of an Agricultural Trade Forum.

Several lessons can be identified from the South African experience. First, consultation with the business community, agricultural organisations and social partners are a vital source of information in the preparation of trade negotiations. Private companies and representative possess a more detailed knowledge of their sector than any government official. This can usefully feed into the negotiations. Second, an open dialogue with non-state actors helps to build a better understanding on the negotiations at stake. It provides an opportunity for the government to explain its position, and for the non-state actors to express their views and possibly influence the negotiation process. A structured dialogue ultimately contributes to generate support, if not a broader consensus, around the trade negotiations. Third, the South African experience also suggests that such a dialogue requires the formal organisation of the private sector and social partners, if possible with the support of the government.⁴ When non-state actors are less organised, their participation is more hazardous, as illustrated by the situation in some Latin American and Caribbean countries.

Another important element for the effective conduct of trade negotiators is the designation of a competent team of negotiators, closely coached and briefed by national officials from the relevant ministries, and under the constant guidance of the political masters.

Practice shows that there is no substitute for experience. In that respect, the EU negotiators, which have a long experience in negotiating trade agreements, are again at a considerable advantage compared to negotiators from less experienced and less resourceful developing countries. The only remedy, if any, is 'prepare, prepare and prepare again'. Negotiations are a strategic exercise, where details play a central role.

⁴ For instance, NEDLAC is an official institutions co-financed by the government.

Negotiating positions are not won or lost on their moral merits, but on the quality of the argumentation. Strong arguments, based on economic interests and policy, supported by technical analysis when needed, are more effective than general declarations based on broad developmental considerations.

It follows from the recommendation of officials involved in such negotiations with the EU that the negotiating team should be small, with one strong leader, so as to ensure the cohesion of the team. It should be composed of negotiators well aware of technical issues, supported by appropriate experts. The RNM is an example of such a body composed of people able to both conduct and support (at least partially) comprehensive trade negotiations.

In view of the limited resources and capacity available in most ACP countries, it is imperative to identify strong synergies and cooperation among the ACP countries at the sub-regional, regional and all-ACP levels.

Concerning the profile of the negotiators, it is interesting to note that South Africa has not included any ambassador in its team of negotiators, on the ground that trade negotiations require different skills than those of an ambassador. Nevertheless, the role of the ambassador of South Africa in Brussels has been central to provide appropriate support, information and insights during the TDCA negotiations. Other countries have adopted different strategies.

6. Challenges for the ACP in negotiating a regional EPA: concluding remarks

The capacity to develop a coherent trade policy and initiate the accompanying institutions can not be built overnight. The training of civil servants within ministries and delegations abroad, the strengthening and building of institutions and the process of involving relevant stakeholders, all require a long-term strategy.

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

proved first that they can modify the outcome, then that they can block a settlement, and finally that they can initiate their own issues' (Page, 2003).

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

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

Overall, the conditions under which EPA negotiations are taking place are not favourable to the negotiation position of the ACP countries. In that respect, it is all the more necessary for each country to prepare optimally for the negotiations, whether at the all-ACP, at the regional or at the national levels. In view of their particular vulnerability in terms of negotiation capacity, and the implicit danger of aid-dependency steering the negotiations, the need to properly identify their own trade interests and develop their own positions in the negotiations is all the more essential.

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

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

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

References

- Bouzas, Roberto (2003), 'MERCOSUR's Experience of Building Capacity for Trade Negotiations with the EU', forthcoming ECDPM Discussion Paper.
- Gonzales, Anthony Peter (2000), 'The Caribbean Community, the Regional Negotiating Machinery and Capacity Building for External Trade Relations in Small States', contribution to the DAC Workshop on Trade Capacity Development, 29 May.
- Gonzales, Anthony Peter (2002), 'CARICOM, the European Union and International Linkages in External Trade Negotiations', paper presented at the Symposium *The European Union: A Polity in Transformation, and a Model for Transition in the Americas* organized by the Miami European Union Center and the Jean Monnet Chair in cooperation with the Dante Fascell North-South Center, University of Miami, April 3-7, 2002.
http://www.acp-eu-trade.org/biblio_caribbean.php
- Grant, Cedric (2000), 'An Experiment in Supra-National Governance: The Caribbean Regional Negotiating Machinery', in Kenneth Hall and Denis Benn eds., *Contending With Destiny: The Caribbean in the 21st Century*, Ian Randle Publishers, Kingston, 2000 pp.447-499.
http://www.acp-eu-trade.org/biblio_caribbean.php
- OECD (2001), *Trade and Development in the New Global Context: The Capacity Dimension*, OECD Policy Brief, September.
http://www.oecd.org/publications/Pol_brief/
- Page, Sheila (2003), 'Developing Countries: Victims or Participants - Their Changing Role in International Negotiations', Overseas Development Institute.
http://www.odi.org.uk/iedg/publications/dev_countries_web.pdf
- Solignac Lecomte, Henri-Bernard (2001), *Building Capacity to Trade: A Road Map for Development Partners -Insights from Africa and the Caribbean*, ECDPM Discussion Paper 33, Maastricht: ECDPM.
http://www.ecdpm.org/pubs/dp33_gb.htm

Appendix 1

The Caribbean Regional Negotiating Machinery (RNM)⁵

Facing a continuously expanding agenda of trade negotiations, the member states of CARICOM decided, in 1997, to set up a body that could assist them in the negotiations and guarantee coherence among the arrangements as well as in the internal integration process. The Caribbean Regional Negotiation Machinery (RNM) is mandated by the heads of government to enhance the coordination and execution of external negotiations with a view to adopting a coherent regional standpoint on these varied talks. The services provided by the RNM include research, consultancy, negotiations, training, communications and mobilisation of technical assistance. The RNM membership includes CARICOM countries, as well as Cuba and the Dominican Republic.

Mode of operation : In principle, the RNM is involved in the preparation, and possibly the conduct, of international negotiations (FTAA, Lomé and WTO), whereas the CARICOM Secretariat (CS) negotiates on regional Caribbean agreements. The role of the RNM is to develop, along with the technical advisory group, a position on the agenda, initial draft, and the basic objectives to be pursued by CARICOM. RNM also negotiates on the basis of briefs which have been approved by the CARICOM prime ministers and ministers of trade. The Chief Negotiator reports back to these bodies. During the preparations for negotiations, there is a continuous process of consultation between national ministers and the RNM in the form of strategies, position papers, reports and briefs. A communication structure has been set up with the private sector and civil society using regular briefing reports as well as specialised consultation meetings with sectoral interest groups.

Strengths: Cost effective. Good opportunities for pooling expertise. National governments have perceived the benefits in terms of the sharing of expertise, financial savings, access to data and documentation collection, reduction of workload and additional time for bilateral initiatives.

Weaknesses: Ineffective coordination between the RNM and the CS. Bureaucratic hassle. Turf war. The slowness of internal negotiations influences the strategy that the RNM is able to pursue for external negotiations. Constitutional confusion as to whether the RNM is a subsidiary organ of the CS or whether it takes precedence over existing organs. Links with civil society and private sector are relatively weak.

Structure: The RNM headquarter is based in Jamaica, with a sub-office in Barbados. The RNM's Agricultural Trade Negotiating Programme (ATNP) is located in Trinidad and Tobago. A RNM permanent representative is posted in Brussels, to follow the ACP-EU relations and EPA negotiations. Another permanent representative has also just been nominated in Geneva (WTO) to follow the Doha Round.

⁵ See Gonzales (2000), Solignac-Lecomte (2001) and www.crnrm.org

Funding: Core budgetary resource from CARICOM member states and programme funding from bilateral donors (mainly CIDA, CDB, IDB, DIFD and Commonwealth Secretariat).

Website: www.crnw.org