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The Pillars of Trade Success: Reflections From the Commonwealth

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Abstract

This paper outlines a new analytical framework for understanding how Commonwealth countries are responding to global challenges outlined in Part I of the review.

The analytical framework proposes four interlinked 'pillars' of trade success: strategic trade policies to guide their use of trade measures; the building of trading capacity and institutional capacity to contest markets, and a stronger global trade-supporting architecture that ensures better coherence between stakeholders, policies and financing.

Case studies from the Commonwealth suggest that members are using new and creative approaches to the challenges of trade adjustment. From re-shaping their national institutions and key policy documents to better understanding the linkages between infrastructure, policy and institutions; from smarter re-allocation of scarce domestic resources to advocating for financing instruments that understand their unique characteristics and concerns.

The evidence from the Commonwealth also demonstrates how each pillar – in its presence or absence – is vital to the linkages between trade and key social and economic objectives, such as economic growth, sustainable development and export diversification.

JEL Classification: F02, F13

Keywords: trade policy, negotiations, capacity-building, competitiveness, least developed countries, small states, Commonwealth

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Abbreviations and acronyms

ACP	African, Caribbean and Pacific Group of States
AfT	Aid for Trade
AJCEP	Association of Southeast Asian Nations–Japan Comprehensive Economic Partnership
APEC	Asia-Pacific Economic Cooperation
APLAC	Asia Pacific Laboratory Accreditation Cooperation
BEA	Bureau of Economic Analysis
BOP	balance of payments
BRICS	Brazil, Russia, India, China and South Africa
BSO	Business Support Organisations
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum
CARIS	Centre for the Analysis of Regional Integration at Sussex
CCZ	Common Control Zone
CEDA	Citizen Entrepreneurial Development Agency (Botswana)
COMESA	Common Market for Eastern & Southern Africa
COO	certificate of origin
CSME	Caribbean Single Market and Economy
DAC	Development assistance committee
DET	Department of External Trade
DfID	UK Department for International Development
DFQF	duty-free/quota-free
DTI	Department of Trade and Industry
DTIS	Diagnostic Trade Integration Study
EAC	East African Community
EBA	Everything But Arms
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EFTA	European Free Trade Association
EIF	Enhanced Integrated Framework
EPA	Economic Partnership Agreement
EU	European Union
EUROSTAT	Statistical Office of the European Communities
FATS	Foreign Affiliates Statistics
FMM	Federation of Malaysian Manufacturers
FTA	free trade agreement
GATT	General Agreement on Trade and Tariffs
GDP	gross domestic product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
GNI	gross national income
GTAP	Global Trade Analysis Project
ICT	information and communications technology
ICTS	International Cooperation, Trade and Security
IFNSC	IF National Steering Committee
IGAD	Inter-Governmental Authority for Development
ILAC	International Laboratory Accreditation Cooperation
IMF	International Monetary Fund
IOC	Indian Ocean Commission
IPoA	Istanbul Programme of Action

ITED	International Trade and Economic Development
JEC	Joint Economic Council
KDI	key development indicator
LDC	least developed country
MALFFB	Ministry of Agriculture Livestock, Forestry, Fisheries and Bio-security
MATRADE	Malaysia Trade Development Corporation
MC9	9th Ministerial Conference
MDG	Millennium Development Goals
MDPAC	Ministry of Development Planning and Aid Coordination
MJEPA	Malaysia-Japan Economic Partnership Agreement
MMA	Multilateral Monetary Agreement
MOU	Memoranda of Understanding
MTICM	Ministry of Trade and Industry, Cooperatives and Marketing
MTIICM	Ministry of Trade, Industry, Investment and Communications
NEDLAC	National Economic, Development and Labour Council
NEPAD	New Partnership for Africa's Development
NES	national export strategy
NGO	non-governmental organization
NIP	National Indicative Program
NORAD	Norwegian Agency for Development Cooperation
NSC	north–south corridor
NTFC	National Trade Facilitation Committee
NTM	non-tariff measures
ODA	official development assistance
ODC	Other Duties and Charges
OECD	Organisation for Economic Co-operation and Development
OECS	Organisation of Eastern Caribbean States
OSBP	One-Stop Border Post
OSBPP	One-Stop Border Post project
PAA	priority action agenda
PICTA	Pacific Island Countries Trade Agreement
PRSP	Poverty Reduction Strategy Paper
PSTA	Partial Scope Trade Agreements
PTA	Preferential Trade Agreement
REC-TCC	Regional Economic Communities Transport Coordinating Committee
RIP	Regional Integration Programmes
RMCE	Regional Multidisciplinary Centre of Excellence
RPTF	Regional Preparatory Task Force
SAARC	South Asian Association for Regional Cooperation
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAFTA	South Asian Free Trade Area
SATIS	SAARC Agreement on Trade in Services
SDG	Sustainable Development Goals
SIA	Sustainability Impact Assessment
SLAB	Sri Lanka Accreditation Board
SME	Small and Medium-sized Enterprise
SPS	sanitary and phytosanitary
SWARIP	Strengthening West African Regional Integration Programme
SWEDAC	Swedish Board of Accreditation and Conformity
TAF	Trade Advocacy Fund
TBT	technical barriers to trade
TCC	Technical Coordinating Committee

TFA	Trade Facilitation Agreement
TIDCA	Trade, Investment and Development Cooperation Agreement
TIFA	Trade and Investment Framework Agreement
TIPS	Trade and Industrial Policy Strategies
TiS	Trade in Services
TiSA	Trade in Services Agreement
TMA	Trade Mainstreaming Agenda
TMEA	TradeMark East Africa
TMSA	TradeMark Southern Africa
TPF	Trade Policy Framework
TPFIM	Trade Policy Framework Implementation Matrix
TPP	Trans Pacific Partnership
TPR	Trade Policy Review
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNIDO	United Nations International Development Organization
VAT	Value-Added Tax
VNZPA	Vanuatu New Zealand Partnership Arrangement
VSTAP	Vanuatu Strategic Tourism Action Plan
WTO	World Trade Organization

1. The Four Pillars: A new policy framework for trade success

> Managing […] change processes is fundamental to structural transformation and inclusive development. Economic advancement does not occur in a vacuum, despite the claims of some proponents of market reform, as market forces alone cannot sustain increases in a country's income and development. Countries that industrialized required far-sighted and cogent state efforts to address market failures and promote restructuring.[1]

The wide-ranging changes to the global trade order have caused a re-think of exactly what constitutes – and what creates – trade success. The post-war economic order was marked by certain stabilising mechanisms to manage relations between the newly independent Commonwealth countries and their former metropolitan powers. Trade preferences created economic rents that could, with adequate supply and transportation, provide a guaranteed hard currency income stream for traditional developing country export sectors, while assuring supply for traditional importers in developed country markets. Political relationships – often backed by substantial resource transfers, both financial and in-kind – ensured a degree of recognition for the needs of Commonwealth countries, as they embarked on a nation-building exercise facing the constraints of smallness, isolation, low incomes and vulnerability. This economic and political framework – anchored in a vision of trade-led growth – sought to promote industrialisation, increase export earnings and accelerate growth.

Nearly five decades after the original UNCTAD resolution calling for the grant of preferences to developing countries, these development-friendly stabilising mechanisms have been gradually eroded by trade negotiation, autonomous liberalisation in preference-granting markets, and the entry of new and more competitive suppliers. The mechanisms themselves have come under criticism for, *inter alia*, creating divisions between developing countries (i.e. between beneficiaries and non-beneficiaries) as well as creating perverse incentives away from underlying comparative advantage.[2] The analysis of trade-related responses, in several cases, placed a strong emphasis on removing alleged policy distortions that were hindering comparative advantage, albeit with less clarity on the way forward for countries whose trading costs might negate the entire concept.[3]

Perhaps more importantly, the limitations of the original framework – particularly its linkages with fundamental social and economic objectives – have become clearer over time. Even as some Commonwealth countries experienced rapid economic growth (with or without the existence of preferences) in all too many cases, GDP growth did not translate into sought-after structural transformation, sustainable development and poverty reduction. Recent experiences of global price and income volatility – of which the post-2008 global recession and recent movements in energy prices are just the latest instalment – have highlighted the on-going disconnect between the achievement of growth and the fulfilment of basic development outcomes. Simply put, all too often 'trade success' in a single sector, product or period of time, has failed to translate into trade success in a wider, sustainable context.

In order to explain this outcome, trade and development discussions and debate have increasingly moved in the direction of those measures and resources that are within the grasp of policy-makers, whether in national capitals or regional inter-governmental bodies.

1 UNECA (2014).
2 Hoekman, Martin and Braga (2009).
3 As an example of this analysis for Commonwealth Small States, see Winters and Martins (2004).

While the international enabling environment has remained a critical point of focus, other critical levers of trade – including policy, infrastructure and capacity-building – that comprise the 'far-sighted and cogent state efforts' quoted earlier by the United Nations as necessary to address the market failures still hampering growth and restructuring in developing countries.[4]

The absence of successful efforts to strengthen institutions, build connecting infrastructure, and coordinate multiple interests has no doubt widened the gap between statistical, sector-specific growth and wider 'trade success'. As traditional stabilising mechanisms decline and the trade landscape becomes ever-more disaggregated and dynamic, the strength of domestic institutions and infrastructure – and the vision and resources guiding them – have led to the a revival of industrial policy and the enabling role of trade to lift supply-side constraints; stronger emphasis on the linkages of trade policy and development strategy (rather than the traditional 'policy-making in silos' approach); and the linkages between trade outcomes and other key macroeconomic variables.

This chapter proposes a policy framework that links the strategic vision guiding trade policy-makers, infrastructure, institutional capacity-building, and the international enabling environment. The framework is premised on the notion that the potential for structural transformation and economic growth through trade will likely not be realised without a series of interlinked and indivisible steps, covering:

1. *Trade policy and trade negotiations*: the principles and processes that guide Commonwealth policy-makers in their use of trade measures, both for imports and exports.
2. *Trading capacity:* the infrastructure and productive capacity that allows Commonwealth countries to access and contest new markets.
3. *Institutional capacity*: the physical and human resources needed within key centres of trade policy-making.
4. *The global trade-supporting architecture*: the coherence required between institutions, policies and financing to ensure trade success.

The framework builds on policy advocacy and research that the Commonwealth has been undertaking throughout its member countries on the relationship between trade and development, in particular as it affects its smallest and least-developed countries; those that are not only most likely to suffer adverse impacts from the changing global order, but who are often marginalised in discussions over the future shape of that same global order.

The experiences of Commonwealth countries demonstrate the close linkages not only between the four pillars, but also linkages between the pillars and wider objectives. Figure 1 is a visual presentation of the close inter-linkages between the four pillars. For example, when examining the relationship between Pillar 1 (trade policy and negotiations) and Pillar 2 (trading capacity) to what degree does national trade policy reflect critical infrastructural needs? Are the view of institutions that manage infrastructure – e.g. the Port Authority, Airport Authority, Telecom Authority, and Public Works Department – reflected in trade policy-making? When examining the linkages between Pillar 3 (Institutional Capacity) and Pillar 4 (Trade-Supporting Architecture) are global debates – for example, on aid-for-trade – making adequate allowance for countries that have critical financing needs, but not enough capacity to make their voices heard? These and other key questions will emerge from the case studies examined in this chapter.

In the final column of Figure 1, some of the potential linkages between each of the four pillars and wider social, political and economic questions are highlighted: for example, is there any explicit linkage between trade and national development strategy, and is this link backed by high-level political support? Notwithstanding the levels of development financing, are donor-funded initiatives actually making an impact on structural transformation and poverty reduction?

4 UNECA (2014).

While this part of the *Review* draws from – and builds on – previous debates over trade success and Aid-for-Trade, its focus is on autonomous measures that in many cases have already been adopted by Commonwealth countries. The typology of trade success presented in this chapter is not meant to be an exhaustive inventory of *all* the determinants of trade, many of which have been extensively analysed in the economic literature.[5] This literature highlights many facets of trading success including, inter alia, changes in productivity, movements in market prices, resource endowments, market size, consumer preferences, trade costs and a whole host of other factors. These determinants – irrespective of the strides taken in the pillars enumerated below – remain key for Commonwealth trading prospects. Yet the clear message emanating from the analysis of the four pillars is that there is still significant scope for policy action by Commonwealth governments to improve their trade prospects in an increasingly uncertain trading environment.

This part of the *Report* also complements the body of literature that has emerged from the Aid-for-Trade process. From the first report of the WTO Aid-for-Trade Task Force (July 2006) to the most recent Fifth Global Review of Aid-for-Trade (July 2015), both the 'trade' and 'aid' communities concerned have explored, in some depth, the policy areas falling under the wider Aid-for-Trade rubric (i.e. the definitional aspects), the modalities and stakeholders through which such aid is delivered (i.e. the delivery aspects), and the mechanisms for review and evaluation (i.e. the monitoring aspects). These explorations have produced a wide-ranging literature[6] that will be referenced, where appropriate, throughout this part of the *Commonwealth Trade Review*. However, in many case studies highlighted throughout this chapter, important policy actions were taken by Commonwealth governments autonomously in response to global trends, without any donor involvement or support.

The main focus of this Part of the *Review* will be on highlighting new perspectives, concerns, case studies and best practices in the Commonwealth. The following chapters will draw from several unique features of the Commonwealth as an inter-governmental group of nations.

- The Commonwealth membership is dominated by small states and LDCs, whose requirements on policy/strategy, capacity-building and financing intersect – but may not be synonymous with – those of larger or more developed economies. For example, economic diversification may be a more pressing priority after decades of dependence on unilateral preferences; tax reform may require more emphasis as small internal markets have frustrated attempts to move away from border-based revenue generation; and certain types of communication (e.g. maritime transport and ICT) may be a more pressing priority to overcome geographic isolation and internally dispersed population centres.
- The Commonwealth membership is unique in that it brings together some of the largest donor countries in the world (i.e. the United Kingdom, Canada and Australia) and some of the smallest and poorest beneficiary countries in an inter-governmental dialogue where all Members are given an equal voice. This 'one state, one voice' forum has allowed the Commonwealth to contribute within global forums on trade and development cooperation, and has provided a neutral platform for donors and beneficiaries to discuss pressing issues, such as aid effectiveness and aid programming.
- The Commonwealth has been a trusted advisor on many capacity-building and technical assistance issues with a high level of political sensitivity and requiring a high level of local knowledge (e.g. assistance on trade negotiations, where the Commonwealth has been entrusted by many of its member governments to provide long-term support on what

5 For a relatively recent contribution, see Gourdon (2006).

6 See Njinkeu and Cameron (2008) for a comprehensive overview of Aid-for-Trade perspectives in the early stages of the debate.

Figure 1. The Four Pillars of Trade Success: Linkages and key questions

	Trade policy and negotiations	Trading capacity	Institutional capacity	Supporting architecture	Wider context
Trade policy and negotiations		How are current infrastructure needs – and the institutions managing key infrastructure – incorporated into trade policy-making? Do trade policies inform planned investment? Do new types of trade commitments require new types of linkages?	Are trade policies and negotiating agendas realistically grounded in the capacity of key institutions to carry them out? How are line ministries with implementation mandates and capacity involved in policy-making and negotiation? Does the trade negotiating agenda influence decisions on human/ financial resources and institutional structure?	Do trade policies and negotiations consider enabling measures and financial resources to carry out the identified initiatives? Is there a conflict between the provision of development cooperation and trade negotiations? Do trade policies set the parameters of development cooperation programming?	*Are trade policies and negotiations grounded in national needs?* *Does trade policy drive trade negotiations, or the other way around?* *Is trade as a policy area given the political attention it needs, and is it recognised as an engine of economic growth and poverty reduction?* *How have the outcomes of trade negotiations affected poverty and growth?*
Trading capacity			Are policy-makers fully aware of the institutional changes needed to support infrastructure investments?	Are donor-funded projects actually having an effect on trade costs? Are aid flows going towards critical infrastructure and productive capacity needs?	*Is the importance of infrastructure to economic growth widely recognised?* *How do investments in trading capacity help to achieve wider social and economic goals?* *Are the benefits of trade-led growth being put back into new infrastructure?*
Institutional capacity				How are capacity-constrained countries able to effectively participate in global debates? Are donor-funded projects filling critical institutional gaps?	*Are trade institutions given the political support they require?* *Are persons employed in trade policy centres aware of the linkages between their work and sustainable development?*
Supporting architecture					*Are institutions, aid flows and policies working in a coherent and mutually reinforcing manner?*

are often difficult and contentious negotiations).

- The Commonwealth has several unique technical assistance assets from which to draw new voices on the 'trade success' debate, such as its flagship 'Hubs and Spokes' programme and the many long- and short-term experts placed by the Commonwealth throughout its developing country membership. Many of these experts have provided input into this publication.

2. The trade policy and trade negotiations

2.1 Managing the changing boundaries of trade policy and trade negotiations: A four-step process

The dividing line between trade policy and trade negotiation is difficult to define: trade policy is not simply a static set of rules governing imports and exports, while negotiating parameters are, in turn, heavily influenced by policy. Trade policy and trade negotiations are an evolving process, involving a mix of existing and new information, institutions, laws and processes. Sometimes these elements are captured in a written document, but oftentimes they are understood or implicit. The boundaries between policy and negotiations are not always clearly defined; their constraints are being constantly tested, monitored and altered.

At its narrowest, trade policy could be defined as guidelines on the use of measures that affect trade: both on the import side (e.g. rules of origin, tariffs and other taxes, prohibitions, quotas and standards) and on the export side (e.g. taxes and subsidies). In a broader sense, it could include government procurement, trade promotion activities, price controls, competition policy, investment policy and industrial incentive schemes (e.g. export credit and export processing zones) to either boost exports or strengthen the competitive position of import-competing industries. In its widest sense, trade policy could also include the setting of macroeconomic/monetary instruments, such as the exchange rate, that directly or indirectly affect imports or exports. (The WTO's periodic Trade Policy Reviews, for example, consider all these elements under the rubric of 'trade policy'.)

Depending on the ambitions and economic characteristics of each country, the scope of trade policy measures is gradually expanding over time. In just the area of goods trade, policy and negotiation are expanding from traditional discussions on tariff reduction, rules of origin, customs cooperation and dispute settlement to more behind-the border measures (e.g. standards) and considerations linked to regional integration (e.g. free circulation). For those increasingly numerous FTAs that choose to wander outside of trade in goods, negotiations on newer-generation areas – from services to intellectual property to investment – bring a new set of objectives, regulations and stakeholder interests to the fore.

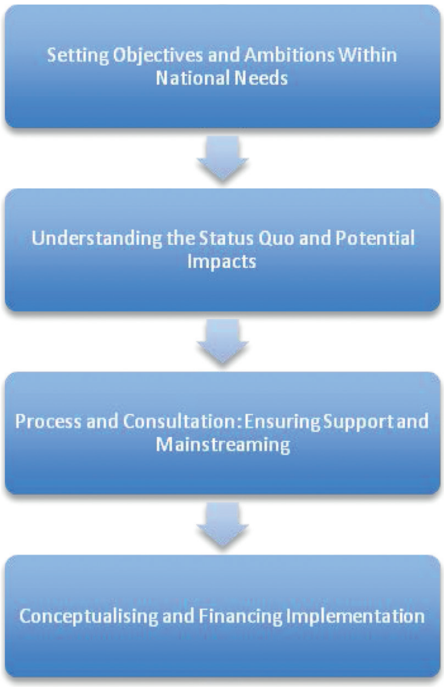
The flexible definition of what constitutes trade policy is also reflected in fluid institutional boundaries: while the Ministry in charge of the trade portfolio generally coordinates trade policy-making and negotiating, other agencies – particularly Finance, Customs, Agriculture, Industry/Commerce, Foreign Affairs, Standards Bureau and Investment Board – are all involved (and in many cases, decisively so) in the actual determination and execution of trade policy. Quite often these institutions (rather than the Trade Ministry) will ultimately determine the positions taken in a negotiation. Moreover, key decisions on trade are often not made by the relevant Minister but rather in consultation with his or her Cabinet colleagues or by a direct decree of the Prime Minister or President – who may not see their actions through the lens of trade policy per se, but rather through more political, industrial or economic objectives.

On the negotiating side, the same institutions involved in trade policy may re-configure themselves for each negotiation, depending on the subjects to be treated within each forum, or the interests of each negotiating partner. Traditional trade policy bodies are often closely involved in crafting national positions, yet the actual interlocutor with negotiating partners might be a completely different institution – and in the case of many small and least-developed Commonwealth countries who negotiate as regional groupings, that institution might not even be based in their country, raising serious principal–agent problems in a fast-moving and contentious negotiating situation.

The dividing line becomes even more opaque when considering how negotiations are tied to trade policy in a continuous feedback loop. The broad constraints of trade policy are largely set by the multilateral 'covered agreements' administered by the WTO for trade between its 160 Members; in most cases these constraints are then filtered down through regional and bilateral agreements disciplining measures on trade with partners. Yet these same constraints are being constantly re-considered and re-negotiated, in light of positions that are largely dictated by national trade policy. Within the complexity and often-bewildering maze of legal and economic issues within this continuous feedback loop, Commonwealth countries must reconcile trade-based economic objectives (e.g. economic growth and diversification) with broader public policy goals such as health, safety, and the social welfare of key domestic groups.

To add to the confusion, in many settings such as the WTO, the process of negotiating, altering and adding to these constraints runs alongside both the processes through which Members monitor and discuss each others' trade policies (e.g. through the work of the various WTO Committees and the Trade Policy Reviews), as well as how they resolve disputes related to individual countries' interpretation of the WTO Agreements in their daily use of trade measures. While few bilateral and regional bodies enjoy such a comprehensive coverage of activities spanning policy and negotiations,

Figure 2. Key elements of trade policy and trade negotiations



many have some mix of ongoing monitoring of policy and deepening negotiation.

This inter-linked complexity poses a special challenge for Commonwealth countries. Handling both trade policy and trade negotiations involves a delicate balance between a wide range of stakeholders – the groups who represent the commercial interests, policy interests, political interests, economic interests, legal interests and institutional/bureaucratic interests affected by trade and investment policy decisions. Each of these groups brings their own motivations and interests to bear on the negotiation, and seeks to influence the policy outcome through negotiations. Yet at the same time, they often seek advice from their policy-makers on the potential impacts on their particular economic, political and social interests.[7]

Ensuring an informed and sustainable balance between interests, whether in policy-making or in a negotiating setting, is the key challenge facing Commonwealth policy-makers at all levels. In order to achieve this balance, many Commonwealth countries are engaged in a four-level process (see Figure 2) each step of which will be examined below:

7 See www.commercialdiplomacy.org.

1. setting their policy objectives and negotiating ambitions in light of critical national needs;
2. understanding the status quo and potential impacts;
3. creating an inclusive and politically-supported process that mainstreams trade into key economic and political processes; and
4. ensuring proper implementation, monitoring and financing.

2.2 Setting objectives and ambitions within national needs

A survey of trade policies and strategies in Commonwealth developing countries suggests policy-makers are tailoring their objectives to their unique requirements and national context. The basic precondition for any trade policy or negotiating strategy is to understand the ultimate destination: What is the larger vision that drives trade policy? What are the wider imperatives that trade measures must satisfy within the set constraints? A cross-regional sample of nine Commonwealth developing countries – Botswana, Dominica, India, Jamaica, Sierra Leone, Trinidad and Tobago, Tanzania, Uganda and Vanuatu[8] – suggests that Commonwealth policy-makers are keen to ensure that the driving vision behind their trade policies is rooted in specific national requirements, rather than broad-brush statements.

- Many *small island states* recognise in their National Export Strategies that their uniquely high-cost economic model (particularly for land, labour and finance) and relatively scarce commodity endowments will require a focus on increasing intangible value-added, particularly in services. Jamaica, for example, seeks to become '*known for its commitment to creativity, innovation and exceptional quality*', with a focus on non-traditional services sectors, such as professional services and the creative industries. Dominica recognises that overcoming its high labour costs and chronic balance-of-payments deficits (common to many small economies) requires a renewed emphasis on innovation, and a wider strategic approach to services beyond traditional tourism (including education, health, construction, ICTs and cultural industries).
- *Small, landlocked economies* (particularly those heavily dependent on a single flagship sector, such as mining, place a strong emphasis on economic diversification, reducing trading costs through trade facilitation, and measures to more evenly spread the gains from trade. Botswana's National Export Strategy, for example, aims to both reduce its dependence on the mining and livestock sectors, increase the range of outputs from existing operations (e.g. in leather and arts and crafts), and increase the contribution of these sectors to rural development and poverty reduction. Botswana also hopes to implement measures to overcome some of the handicaps of its landlocked status (i.e. its over-dependency on routes through South Africa) in part through better trade facilitation and targeted infrastructure improvements.
- In *post-conflict economies* such as Sierra Leone and Sri Lanka, the aim of trade policy is to rebuild the national export platform – which, in some sectors, ceased to exist during intense periods of conflict – and the key infrastructure needed to re-start exports. In the case of Sierra Leone, for example, a strong emphasis is placed on measures to recover agriculture exports – as major production areas were seriously affected by the decades-long conflict – and reduce dependency on mining sectors, which are characterised by increasingly volatile world prices and high levels of smuggling.
- In *large emerging markets***,** such as India, that enjoy a significant presence on the

8 The strategies reviewed are: *Botswana National Export Strategy 2010–2016*; *Dominica National Export Strategy 2010: Towards 2014 and Beyond; Jamaica's National Export Strategy (2009); Sierra Leone National Export Strategy 2010–2015; Sri Lanka National Export Strategy 2004–2008; Uganda National Export Strategy 2008–2013; Vanuatu Government Trade Policy Framework 2012; Trade Policy and Strategy Trinidad & Tobago 2013–2017;* and *India: Strategy for Doubling Exports in Next Three Years (2011–2012 to 2013–2014).*

world market, a primary focus of trade policy is to manage and reduce its exposure to certain export markets that show high levels of volatility or are seeing secular declines: a particular concern of late, as many Indian export sectors have been badly hit by the post-2008 global recession. Under its Foreign Trade Policy and related strategy papers, the Indian government sets specific and ambitious targets for export growth, and explores measures to diversify export markets away from the recession-hit OECD and towards emerging markets in Africa, Latin America, Oceania and the transition economies of the former Soviet Union.

- In *least-developed countries* such as Vanuatu and Tanzania, there is an unmistakeable emphasis on trade as a potential engine of poverty reduction and on sectors that generate (to quote Tanzania's National Trade Policy) '*earning power at the grass-roots level as the key to poverty reduction*'. Given the combination of high levels of development assistance in national budgets and multiple ongoing trade negotiations, Vanuatu's Trade Policy Framework emphasises '*increased inflows of Aid for Trade (AfT) for the purpose of implementing trade policies and assisting Vanuatu to fully exploit the opportunities offered by trade agreements and broader trade frameworks*'.
- For Commonwealth countries that are *part of regional integration processes*, maximising the trade potential of those regional markets – and the potential of regionally negotiated bilateral FTAs – is a key priority. Trinidad and Tobago, for example, is focused on increasing its export potential within a largely untapped regional market that is still dominated by extra-regional imports, and where key regional integration initiatives under the Caribbean Single Market and Economy (CSME) are still works in progress. Another related key objective of Trinidad and Tobago is to expand its imports to countries where it enjoys preferential access through an FTA, negotiated either individually or collectively with its CARICOM neighbours.

Policy-makers in several Commonwealth developing countries are also re-focusing negotiating agendas in light of their wider objectives – ensuring that trade negotiations are driven by policy, rather than the other way around. Much as national needs are driving trade policy, Commonwealth developing countries are ensuring that trade negotiating agendas are serving wider economic objectives, and in some cases re-thinking their embrace of an ambitious multi-FTA negotiating agenda. Case studies on South Africa (see Box 1) and India (see Box 2) show interesting trends among two components of the so-called BRICS: a gradual reining-in of the ambitions of trade negotiators, as both governments have come to perceive inconsistencies between domestic political objectives and the likely outcomes of FTA negotiations.

In the Indian case, the underlying domestic imperatives – including price stabilisation in agriculture and import-substituting industrialisation – have created a system of political incentives that is not naturally designed to co-exist alongside a free trade framework. While the lead Ministry has increased their capacity to conduct multiple trade negotiations, they are also keenly aware of the increasing difficulties in creating ownership among powerful constituents – both within the federal government (particularly within more powerful line ministries) and at the sub-regional level – and of the limits of free trade in addressing pressing development and industrial issues.

For South Africa, the larger economic and political imperatives of economic diversification, job creation and increasing value-added exports are increasingly determining the pace and ambition of FTA negotiations. Following an internal review of its current slate of FTAs – which pointed to relatively limited economic benefits – South Africa has opted for a more limited liberalising agenda. This more limited agenda includes a preference for flexible partial-scope agreements under the WTO's Enabling Clause (as opposed to full-fledged FTAs under GATT Article XXIV), and for treatment of so-called 'newer generation' issues – such as investment, services, competition, intellectual property and government procurement – to be addressed in a non-binding and cooperative manner. The exception to this scaled-back ambition is the regional integration agenda, where South Africa is willing to countenance a more open regime with respect to its continental trading partners.

Box 1. South Africa – Assessing the costs and benefits of FTA negotiations

by Brendan Vickers (Commonwealth Secretariat and former Head – Research and Policy, International Trade and Economic Development, Department of Trade and Industry, Government of South Africa)

The evolution of South Africa's trade negotiating agenda

Following the dawn of democracy in 1994, the new government negotiated two major trade agreements with the European Union and the Southern African Development Community. Both agreements provided for tariff cuts to trade in goods only and were implemented in 2000. In 2002, South Africa and its partners in the century-old Southern African Customs Union (i.e. with Botswana, Lesotho, Namibia and Swaziland) also signed a new Agreement governing the customs territory, which entered into force in 2004. As part of SACU, South Africa then negotiated an FTA with the European Free Trade Association (EFTA) and a Preferential Trade Agreement (PTA) with MERCOSUR centred on Brazil. South Africa also played an instrumental role in launching the WTO's Doha Round in 2001. These were significant achievements given the DTI's limited negotiating capacity and experience at the time.

SACU and the United States also launched FTA negotiations, but these talks collapsed in 2006 when SACU rejected Washington's demands for a comprehensive FTA beyond trade in goods. SACU and the USA have since concluded a Trade, Investment and Development Cooperation Agreement (TIDCA) in lieu of an FTA, while South Africa cooperates bilaterally with the USA in terms of the Trade and Investment Framework Agreement (TIFA).

South Africa's current trade negotiating agenda appears less ambitious and extensive than ten years ago. This is perhaps sensible. South Africa has concluded trade agreements with its major trading partners in Europe and SADC (the USA was not possible and the domestic costs of reciprocity with China are too high); there are concerns about over-hasty liberalisation in the 1990s and deindustrialisation of the economy; and there is now a need to better focus and target this negotiating agenda by advancing multilateralism and regionalism in Africa.

South Africa is now broadly engaged in several negotiations: (1) The WTO's Doha Round, (2) an ambitious African integration agenda centred on the Tripartite SADC-EAC-COMESA FTA, which will lay the basis for the envisaged Africa-wide Continental FTA (roadmap negotiations have commenced), (3) ongoing work to consolidate the SADC FTA and negotiate services commitments; and (4) negotiations for a PTA with India. In addition, the Southern African Customs Union (SACU) and the European Free Trade Association (EFTA) will also review the FTA they concluded in 2006. ITED is also responsible for managing all South Africa's international investment agreements and treaties, although the latter have been progressively terminated since 2010 owing to their recognised imbalances and shortcomings.

Policy objectives and key challenges

The South African Government's position is that trade policy is an instrument of industrial policy and trade agreements must support the country's domestic economic objectives. This means that economic policy – rather than broad foreign policy considerations and their reflexive instinct to prioritise FTAs – sets the parameters for South Africa's trade negotiating agenda. The scope for future negotiations beyond the current trade agenda will be determined by this policy perspective, as well as *national and regional* capacity and resources for more ambitious negotiations.

In that regard, SACU's decision not to pursue an FTA with the USA is instructive. SACU's lack of common regulatory regimes for many of the new generation trade issues would make such a trade negotiation, as well as possible second phase to the Economic Partnership Agreements (EPAs), extremely challenging. The DTI has undertaken some analytical work on potential FTAs with countries that are already important trade, investment and development partners. However, these studies point to few economic benefits and the need to explore alternative policy instruments to promote and facilitate more value-added trade. The DTI has also expressed its preference for negotiating more limited and flexible PTAs, as permitted by the WTO's Enabling Clause, rather than comprehensive FTAs under GATT Article XXIV that may erode the country's policy space or undermine regional integration initiatives in Africa. South Africa's trade agreements thus cover trade in goods only; any new generation trade issues, such as investment, services, competition, intellectual property and government procurement, are addressed in a non-binding and cooperative manner. It is only in SADC where South Africa is now negotiating services commitments to support the regional integration agenda.

While the recent conclusion of the SADC-EU EPA may suggest that there is now more capacity and resources to consider a more ambitious negotiating agenda, the South African Government's priority is to advance the African integration agenda rather than extra-continental FTAs for political and economic purposes. Politically, policy-makers appreciate that South Africa's own development and security are

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integrally entwined with the growth, development and prosperity of the Southern African region and wider African continent. A more integrated region and continent may increase intra-African trade and investment, stimulate growth and reduce poverty, as well as endow African countries with stronger bargaining power for future negotiations. Economically, whereas South Africa's export profile to the rest of the world is dominated by minerals and commodities, its exports to Africa are mainly value-added manufactured goods. Deepening and extending regional integration in Africa thus supports South Africa's own industrialisation objectives, but also provides an impetus to regional industrialisation through the creation of value chains in goods and services. There is also the possibility that extra-continental FTAs among subsets of African countries (such as the EPAs with Europe) could undermine Africa's integration objectives. Where trade is not sufficiently diversified, extra-continental FTAs (as with China) may simply reinforce South Africa's role as a supplier of minerals and commodities. Beyond these considerations, capacity constraints also limit a more ambitious agenda.

A major priority for South Africa is to advance 'developmental regionalism' in Africa, which is premised on market integration, infrastructure and industrial development. A dedicated Chief Directorate (Africa Multilateral) leads the negotiations on SACU, SADC and the Tripartite and Continental FTAs, while another Chief Directorate (Africa Bilateral) is responsible for negotiating Memoranda of Understanding (MOU) with partner countries. These MOUs are more cooperative and non-legal in nature. Overall, the work on Africa is framed by the socioeconomic and structural transformation objectives of the New Partnership for Africa's Development (NEPAD).

Box 2. Changing attitudes in India towards multiple FTA megotiations

by *Julius Sen (Former member of the Indian Administrative Service 1976–2003, Currently Associate Director at LSE Enterprise Ltd and Member of International Trade Policy Unit at the London School of Economics)*

A changing workload, and changing attitudes

At the outset, it is important to note that that attitudes within the Ministry of Commerce and Industry (as it is today) reflect an underlying strategy aimed at domestic stabilisation policies for agricultural raw materials, trade promotion through tax, finance and infrastructure incentives, and an industrial policy that is based on import substitution ideas. Global trade obligations of the GATT/WTO have been superimposed on this structure. This is not, therefore, a system that is naturally comfortable with, or designed for, working within a free trade policy framework, either domestically or internationally.

The growth in the workload of the ministry further reflects these dual, and sometimes inconsistent, approaches; international trade policy shaped by GATT/WTO commitments, and national development strategy shaped by import substitution and self-sufficiency ideas.

Hence, even though the agenda managed by the ministry remains fairly settled (in terms of issues to be covered and the identification of national priorities) the wider complexities of the overall process have added very significantly to their workload, especially in the following broad areas.

- In recognising that the evaluation of negotiating options – with reference to their economic, commercial, social, environmental and political implications – is significantly more complex and sensitive than initially thought.
- In understanding that building an internal consensus with state governments and other sub-national entities has become more important and difficult over time, as political power has shifted steadily away from federal structures to state governments,and further down.
- In coordinating positions with other ministries, many of which are politically more powerful than the ministry of commerce and industry, especially Defence, Home, Finance, Agriculture and Rural Development.
- In managing the international press and media in a globally interconnected context, as creating a sympathetic or even supportive climate of opinion is not something that government ministries are very good at.
- In dealing with India's powerful overseas communities that tend to have a strong (and vested) interest in trade and investment liberalisation and push aggressively for their agenda, which puts them at odds with domestic perspectives.

Thus the *number* of ongoing trade negotiations is not necessarily the critical issue, but rather the substance. India's general position is that active participation in negotiations helps to protect its interests, and in this they have learned a lot from the Chinese experience – where there are perceptions within India that the People's Republic of China had to undertake many onerous and unequal commitments to gain WTO

(continued)

membership. By and large, the Indian position is still overtly political and defensive (as with their interest to join APEC), though there can be a narrow set of issues where their position is a little more oriented towards providing greater market access. As a result, bilateral and regional agreements are politically symbolic, but not that substantive, and can be seen from the content of regional agreements in the South Asian context (SAFTA in particular, but also in the bilateral context). Political sensitivities in the region limit the levels of market access that anyone is willing to offer.

Constraints on FTA ambitions

India's starting point, in terms of its comfort with the very idea of free trade, was far behind that of other countries when the process effectively began in 1986. Although there is now a greater recognition of the potential of free trade, there is also a clearer idea of its limits, especially in understanding the links between trade and development, and the structural problems of the agriculture sector. Thus a greater understanding of the importance of developing the capacity to trade on favourable terms as a precondition to global engagement is more widely felt and better understood, which of course is a mercantilist idea. As these issues are in turn closely linked to the infrastructure and development agenda, it effectively means that negotiating positions remain largely defensive (and shallow) at the multilateral and regional levels.

Ironically, the opposite is true at the South Asian regional level where India does indeed have the internal capacity to benefit from trade agreements, but political considerations prevent any real progress.

Linked to this is an issue that has so far defied a solution. For India to engage effectively with a global trade agenda, it needs to apply free trade principles in the domestic market, and to provide legal, institutional and organisational support to this process. But the same issues that inhibit global engagement are strongly felt domestically with many governments against the principle itself or uncomfortable with their implications. Indeed, the constitution itself creates a balance in which social, tribal, regional and minority interests have to be protected against commercial exploitation, which means constraints on domestic free trade, and the inability to apply principles of non-discrimination in a broad sense.

Within the Commonwealth – both its larger and smaller states – regional arrangements also create constraints in terms of both trade policy and trade negotiations. The Commonwealth is dominated by countries that have embarked on political and economic integration with their geographic neighbours. This phenomenon is particularly notable among its many small economies, as they seek to overcome their own domestic capacity constraints by creating shared regional positions, and – in some cases – shared negotiating institutions.

In terms of trade policy at the national level, regional integration can have both positive and negative impacts. On the one hand, trade treaties signed between partner countries can, for example, have a positive 'lock-in' effect for reforms at home: for a country that has unilaterally lowered its tariff rates and replaced the revenue foregone with internal taxes, tariff reduction in regional FTA can ensure that these potentially beneficial fiscal reforms are maintained. Policy-makers thus have a long-term incentive to strengthen internal taxation, rather than relying on border taxes that might, in turn, limit their room to manoeuvre in trade negotiations.

On the other hand, regional integration can create a fragmentation of trade policy at the national level, particularly where regional groupings – each with their own collective policies and orientations – have overlapping memberships. This phenomenon is particularly noticeable in Eastern and Southern Africa (see Table 1, with Commonwealth countries in bold text) marked by the existence of seven overlapping regional integration arrangements, spanning 27 countries from South Africa to Egypt. The three main integration groupings (SADC, COMESA and the EAC) – each with overlapping membership and independent integration agendas – contain or are straddled by smaller or single purpose groupings, namely, the Southern African Customs Union Agreement (SACU), the Multilateral Monetary Agreement (MMA), the Indian Ocean Commission (IOC) and the Inter-Governmental Authority for Development (IGAD).[9]

The policy and practical challenges multiply as many Commonwealth developing countries have chosen to negotiate as a regional collective.

9 Kritzinger-van Niekerk (2005).

Table 1. Overlapping regional integration in Eastern and Southern Africa

	SADC	COMESA	SACU	EAC	IOC	IGAD	MMA	RIFF
Angola	X	X						
Botswana	X		X					
Burundi		X						X
Comoros		X			X			X
Congo, Dem. Rep.	X	X						
Djibouti		X				X		
Egypt		X						
Eritrea		X						
Ethiopia		X				X		
Kenya		X		X		X		X
Lesotho	X		X				X	
Madagascar		X			X			X
Malawi	X	X						X
Mauritius	X	X			X			X
Mozambique	X							
Namibia	X	X	X				X	X
Reunion					X			
Rwanda		X						X
Seychelles	X	X			X			X
Somalia						X		
South Africa	X		X				X	
Sudan		X				X		
Swaziland	X	X	X				X	X
Tanzania	X			X				X
Uganda		X		X		X		X
Zambia	X	X						X
Zimbabwe	X	X						X

Source: *Kritzinger-van Niekerk (2005)*

Box 3 highlights the experiences of Trinidad and Tobago (as a member of CARICOM), and South Africa and Lesotho (as respectively the largest and smallest members of SACU), with both instances highlighting the practical difficulties of negotiating FTAs within a regional grouping.

For Trinidad and Tobago, some of the difficulties were practical (e.g. the fact that regional integration processes brought yet another layer of meetings and technical work, which inevitably clashed or detracted from the urgency of bilaterally agreed trade negotiation schedules). More importantly, wide divergences in negotiating capacities between the different member countries – and the need to ensure that every country was 'on board' with regional positions tabled to the negotiating partner – meant that deadlines for regional submissions were routinely missed, and that the single regional position inevitably split between a group of countries willing to move ahead, and another group reluctant to commit to certain concessions.

The dilemma facing regional policy-makers when balancing the interests of the more liberal and protectionist wings of CARICOM was succinctly captured by the 2004 Caribbean case study at the outset of the CARIFORUM-EU EPA negotiations:

> Structural adjustment and trade liberalisation will be most difficult for the small OECS members that have the least diversified economies, lack the resources to engage in economic and fiscal reforms, and would lose a substantial part of their revenue if customs duties were to be reduced. For these and other reasons, OECS members have traditionally adopted a protectionist approach towards trade liberalisation. In the smallest islands of the Caribbean, a radical trade reform will entail a high political risk because

Box 3. Managing the challenges of negotiating in regional configurations

Trinidad & Tobago

by Trudy Lewis (Senior Economist, Ministry of Trade, Industry and Investment, Trinidad & Tobago)

As a member of the Caribbean Community (CARICOM), Trinidad and Tobago has been negotiating a Trade and Development Agreement with Canada since 2009, after negotiating the CARIFORUM-EU Economic Partnership Agreement (EPA) with the European Union as part of the CARIFORUM regional grouping that included the Dominican Republic alongside CARICOM. Along with those multi-disciplinary agreements, Trinidad & Tobago has also negotiated Partial Scope Trade Agreements (PSTAs) with Central American countries, Panama (2010–2011), Guatemala (2011–2012) and El Salvador (2013 ongoing).

The regional or collective negotiations process present unique challenges – particularly the development of regional positions, in a timely manner. Due to the varying capacities of Member institutions, deadlines for submissions were routinely missed. In addition, the need for consensus has resulted in the positions that reflect the median of those who are ahead in some areas and those who are not as advanced. However, this is not so unique an issue, but a mere microcosm of the situation at the multilateral level. Sequencing of negotiations was also challenging. Trinidad and Tobago had to ensure that scheduled dates for negotiations with bilateral partners did not clash with CARICOM-Canada negotiations or related regional or national preparatory meetings.

South Africa

by Brendan Vickers (Commonwealth Secretariat & former Head – Research and Policy, International Trade and Economic Development, Department of Trade and Industry, Government of South Africa)

South Africa is part of a customs union with four other countries, namely Botswana, Lesotho, Namibia and Swaziland. SACU is the oldest functioning customs union in the world, formed in 1910, and all members belong to the Commonwealth. The 2002 SACU Agreement requires the five member countries to collectively negotiate with third parties and to that end establishes a Common Negotiating Mechanism, which has yet to be fully operationalised. The different levels of income and development in the region, as well as the lack of common policy regimes, institutions and regulations in SACU, also present a challenge for forging common negotiating positions (especially on the new generation trade issues). Theoretically, this may create a 'drag effect', with SACU adopting lowest common denominator positions for trade negotiations. In addition, it may be difficult for smaller economies with concentrated production structures to identify their export interests in larger markets, where South Africa exports more diversified goods.

Lesotho

by Tsotetsi Makong (Counsellor, Lesotho Embassy, Geneva)

Lesotho's unique position as an LDC surrounded by comparatively more prosperous developing countries, including upper high-income states Botswana, Namibia, and South Africa, necessarily punctuates its trade policy and relations with distinctive hurdles. Lesotho has nonetheless been an active participant in multilateral and regional trade negotiations and has often offered its leadership on trade-related matters on behalf of LDC states in United Nations (UN) bodies as well as the WTO. However, increased trade negotiation activity stretches Lesotho's already scarce resources and poses numerous challenges for its effective participation in the global trading system.

Lesotho finds itself in a unique position as a result of its membership in the regional economic bodies SADC and SACU – it is an LDC in the midst of more economically powerful and endowed developing county regional partners. As a result, Lesotho often forgoes policy space in trade negotiations in favour of its regional partners. Negotiating as a member of a customs union with trading partners poses challenges to Lesotho as many countries wish South Africa to take deeper obligations than e.g. Lesotho, which makes it difficult to achieve due to the Common External Tariff that implies that essentially all commitments by SACU members must be identical. In many instances, a compromise is struck with the trade partner; however, the commitments still far exceed those that Lesotho would have taken under her LDC status. Such high commitments affect Lesotho's economy, as the economic adjustment costs go uncompensated.

Even in negotiations within regional groups for example the SADC FTA, Lesotho faces disadvantages as a small, poor economy within the different power dynamics and often makes concessions that are not commensurate with her level of development. Lesotho's experience in the EU-SADC EPA was similar albeit with a realization that she should seek to negotiate creative solutions to secure special and differential treatment and mitigate against negative consequences of trade liberalization. There are many anticipated challenges but there is perhaps scope for negotiating an LDC trade adjustment facility, particularly in SACU negotiations where Lesotho finds itself at a distinct disadvantage.

> a large part of the population is likely to be directly affected and structural adjustment measures will prove most difficult to implement successfully. Their approaches to both regional and extra-regional liberalisation are, therefore, much more cautious, if not entirely defensive…
>
> At the other end of the spectrum, some of the larger member states (such as Trinidad and Tobago and, to a lesser extent, Jamaica) have consciously, albeit to different degrees, opted for unilateral or bilateral trade liberalisation throughout the past decade. Clearly, these states have different levels of ambition in trade liberalisation: they are large enough to have genuine offensive interests, whereas small states often only define their defensive interests. In addition, larger states have better access to both analytical and financial resources, and so are better prepared to deal with internal and external trade agendas.[10]

South Africa is even more tightly bound to its neighbours than Trinidad & Tobago, due to the Southern African Customs Union (SACU) that requires the five member countries to collectively negotiate with third parties. As with its Caribbean counterpart, South Africa also notes that the vast differences in levels of income, as well as differences in policy orientation and regulations, present a significant challenge for forging common positions.

Viewed from the other perspective however – for example, Lesotho as a small LDC within SACU – the challenge arises when the larger regional partner (South Africa, in this case) is seeking to make more ambitious concessions than its smaller and least-developed neighbours. Echoing the sentiments of the OECS Caribbean countries quoted above, smaller countries in regional trade negotiating configurations can often feel as if they are sacrificing policy space for the sake of their larger neighbours and for the sake of the integrity of the regional integration – sacrifices which may not be compensated (either directly or indirectly) and which require targeted special and differential treatment, including dedicated adjustment/financing facilities.

Trade negotiations have both negative and positive impacts on regional trade policy. As trade negotiations can have an ambiguous effect on trade policy at the regional level, a similar dynamic can be found within regional trade policy. Using the 2008 CARIFORUM-EU Economic Partnership Agreement (EPA) between the Commonwealth Caribbean countries and the European Union as one example, Article 238 of the final text provides for a so-called 'regional preference clause', whereby the CARIFORUM countries committed to providing no less favourable treatment to each other than they granted to the EU.

On one hand, the regional preference obligation created a positive 'lock-in' effect for both the signatories to the Caribbean Single Market and Economy (CSME)[11] and those countries committed to tariff liberalisation under the FTA between CARICOM and the Dominican Republic. On the other hand, Article 238 of the EPA – as a concession made in very late stages of the negotiations – created a de facto liberalisation commitment for CARIFORUM countries that were not signatories to the CSME (i.e. The Bahamas), and also reversed a long-standing practice (enshrined under the Revised Treaty of Chaguaramas) whereby the so-called CARICOM Less Developed Countries[12] were exempt from tariff liberalisation. This has led to accusations that the CARIFORUM-EU EPA undermined the internally agreed regional integration dynamics within the Caribbean.[13]

2.3 Understanding the status quo and potential impacts

In trade policy and negotiations, setting the destination is easy, but knowing the starting point is arguably harder. One the most critical

10 Dunlop, Szepesi and Hove (2004).

11 The member countries of the CSME are Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago.

12 The CARICOM LDCs are Antigua & Barbuda, Belize, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia and St Vincent and the Grenadines.

13 See Girvan (2009), 'Some Lessons of the CARIFORUM-EU EPA', *Trade Negotiations Insights,* 22 October 2009, accessed online at http://www.ictsd.org.

elements of trade policy and negotiation is the 'situational analysis': understanding the status quo, particularly at the national level. The situational analysis allows policy-makers to clearly understand where potential gaps and opportunities exist, and where trade negotiations fit into national needs for infrastructure, employment, growth and sustainable development. Perhaps more importantly, the situational analysis provides further guidance to governments and donors on areas for future study and capacity building.

Within the cross-section of Commonwealth developing country trade policy documents examined in Section 2.2, the situational analysis varies considerably in its depth and scope. As a general rule, the trade strategies surveyed do not dwell in significant detail on trends at the *global* level – unsurprising perhaps as many trade policies are meant to be multi-year documents (thus a single economic 'snapshot' may not be appropriate), but surprising in the case of small countries that are heavily exposed to global economic fluctuations. Many strategies will make specific reference to developments in the *regional* economy (e.g. developments in regional trading arrangements, obligations arising from regional integration processes, and developments in key regional markets).

It is the analysis at the *national* level that is most critical for trade policy and trade negotiations, and where strengths and weaknesses in the policy-making and negotiating process are revealed. Once again drawing from the sample of Commonwealth country studies, this often addresses:

- Statistical overviews of the level, trends and balances of key trade and economic indicators (and in certain cases (e.g. Dominica) social and development indicators as well), with the analysis often disaggregated by primary sector and major markets. In certain instances (e.g. Solomon Islands DTIS), the economic overview is supplanted with a comprehensive look at cross-cutting economic issues relevant to trade – from land reform and access to finance to trade facilitation and the overall business environment – as well as a comprehensive look at key development indicators (KDIs), and the role trade plays in determining development outcomes.
- A comprehensive analysis of trade instruments currently being used by the government (and their impacts on the export performance or production of key sectors) including any gaps in key trade legislation and/or notable legislative or institutional reform projects currently underway.
- An inventory (at times quite exhaustive and detailed) of the many other development plans, and related thematic policies, with some countries (e.g. Botswana) explicitly noting potential areas of linkage. In certain cases, the value of the process is evident in revealing just how many related policies currently exist in the country – in Vanuatu's case, the formulation of the Trade Policy Framework found 12 different policies with potential trade implications, ranging from a twice-updated multi-sector *Priority Action Agenda* to National Livestock Policy.

Members of the WTO enjoy a certain advantage, as their most recent Trade Policy Review (TPR) will outline the trade policies – and perhaps more importantly, the trade practices – across a wide range of sectors and measures. Yet there are important limitations as well: most developing countries (i.e. those outside of the 'Quad'[14] and the 16 largest trading economies) are only reviewed every six years, leaving open the possibility that significant shifts in policy and practice have taken place since the last TPR; LDCs are reviewed over even longer time periods. Furthermore, several Commonwealth countries – particularly those in the Pacific – are not yet WTO Members, and thus do not benefit from the regular scrutiny of the TPR process.

Many Commonwealth small states face significant difficulties in understanding even basic trends at the national level, in large part due to severe data constraints. Economic data – from aggregate totals of imports and export values, to price indices (particularly outside the capital city), to sector- and firm-specific statistics on

14 The 'Quad' consists of the European Union, the United States, Japan and China.

employment, productivity and value-added – are either missing or exhibit serious gaps in timeliness and reliability. These gaps complicate any effort to understand where potential strengths and weaknesses might be found from a trade perspective, and also complicate any understanding of the impacts of trade negotiations on policy and economic outcomes (e.g. on revenue collection or production). This, in turn, places constraints on the analysis of revenue impacts for current FTA negotiations, for example in the case of Solomon Islands in their PACER Plus negotiations with Australia and New Zealand (see Box 4).

The difficulties in understanding the *status quo* increase considerably when moving outside of trade in goods, particularly for trade in services. Many Commonwealth countries, through their regional integration groupings or bilateral negotiations, have some experience of negotiating trade in services:

- While Caribbean Commonwealth countries do not yet have an internal services regime under the CARICOM Single Market and Economy, members of CARIFORUM have existing services commitments under the CARIFORUM-EU EPA.
- Within the East African Community, some sub-sectors in the professional services category are developing mutual recognition agreements to allow for the free movement of professional services; the EAC has also developed a professional services platform.
- The South Asian Association for Regional Cooperation (SAARC) signed the SAARC Agreement on Trade in Services (SATIS) in 2010, aiming for GATS-plus commitments on intra-regional trade in services.
- The Pacific Island Forum Member States have opened the Pacific Island Countries Trade Agreement (PICTA) Trade in Services (TiS) protocol for signature and ratification.
- Most Commonwealth countries that are WTO Members will have had some analytical and negotiating experience on trade in services from crafting their GATS

Box 4. The challenge of measuring trade flows in Solomon Islands for the PACER Plus negotiations

Analysis of trade flows inevitably rests on the quality of import and export data. In Solomon Islands, as in other Pacific Islands, there are limitations to any analytical conclusions reached solely on the basis of national trade data (i.e. that are not corroborated by anecdotal data, mirror data or sectoral surveys) given several fundamental constraints in national trade data collection.

Data compiled for any given analytical exercise will inevitably need to cover a multi-year base period. However, quite often this base period will cover different versions of the Harmonized System – in the case of a Commonwealth study completed in 2010 on Solomon Islands, a combination of HS 1996 and HS 2002, with as-of-yet-unimplemented plans to switch to HS 2007. Solomon Islands national tariff does not contain a particularly high number of national breakouts, thus the conversion of trade data can be largely done on the basis of tables prepared by the World Customs Organization. This conversion however does not ensure complete accuracy of trade data (i.e. the right import flows divided into new tariff lines); this inaccuracy can impact scenario-building, particularly for revenue calculations that are highly sensitive to import flows. While risks of data conversion can be minimised by using non-converted data (i.e. only using trade data collected under a single version of the Harmonized System), this also implies a shorter window for analysis

A potentially more serious problem is the inability of many Pacific Island customs systems and suppliers to accurately verify a given shipment's country of origin. While electronic systems such as ASYCUDA contain separate fields for country of origin and shipping origin, in practice a distinction is not always made in this field, thus there is a tendency to mix re-exports with exports. This is particularly acute for consumer goods from China that enter the Pacific Islands through Australia and New Zealand (ANZ); a trend that is likely to become more acute as Pacific Island consumption patterns shift increasingly to Asian sources at the expense of ANZ suppliers. With respect to the analysis conducted in this study, Customs and Excise does distinguish country of export and country of origin, but it is not sure whether this is always done accurately. In any case, this problem tends to overstate the level of ANZ-Pacific Island trade flows, distorts the product composition and thus exaggerates both potential competitive pressures as well as estimated revenue losses from PACER+. This difficulty also suggests that consultations with customs officials will be needed to refine the national data set to highlight potential 'wrong' country of origin classifications.

Source: Silva and Lendle (2011), 'PACER Plus Tariff Liberalization and Solomon Islands: Fiscal Impact and Policy Alternatives', Mimeo, Commonwealth Secretariat, May 2011.

schedules (although for all but the most recently acceded countries, the analysis may already be several decades out of date).

Despite this past experience, the policy and negotiating challenges in services have increased considerably within the last decade. With their own internal services regime still incomplete, Commonwealth Caribbean countries have agreed to a comprehensive services and investment chapter under the CARIFORUM-EU EPA (with an obligation to extend that same treatment to each other). The Pacific Islands have agreed to begin services negotiations with Australia and New Zealand under the PACER Plus agreement, and have been in discussions (albeit no negotiations) on services with the EU under their EPA negotiations.

In Africa, services negotiations have been inserted into the rendezvous clauses of all three regional EPAs (the EAC, SADC and ECOWAS), and trade in services is to be covered under Phase II of the COMESA-EAC-SADC Tripartite FTA. More recently, Mauritius announced its intention to join the plurilateral Trade in Services Agreement (TiSA), placing the island economy within the top tier of services negotiations with other Commonwealth countries such as Australia, Canada, the United Kingdom, New Zealand and Pakistan.

The increased negotiating ambition in the area of services is a potential concern for some Commonwealth countries, as there are daunting (and at times, insurmountable) hurdles in the way of policy-makers attempting to craft policy or negotiating strategies for trade in services (outlined in Box 5). Traditional data sources, such as balance-of-payments, are at best a partial and fragmented picture of services trade; there is often no immediate or even indirect means for governments to understand what is being produced domestically, let alone being exported.

For certain key sectors, such as tourism, the task is somewhat simpler, albeit still imperfect: data on tourism arrivals and visitor expenditure, however imperfect, can act as proxies for certain modes of services supply (e.g. consumption abroad Mode 2). For other modes

Box 5. The challenges of using services data for trade strategies

By Hadil Hijazi (WTI Advisors Ltd, Oxford)

When considering services trade data it is important to note that current statistics in many countries, including not least LDCs, rarely capture with any accuracy what is actually happening. This reflects both the secondary attention accorded to services trade and the objective difficulties in collecting and collating the relevant information. These difficulties include:

- First, unlike in trade in goods usually no physical commodity crosses the border, and hence can be observed, counted and measured. Balance of payments (BOP) statistics provide some help, but the collection of traditional BOP statistics primarily relies on measuring cross-border transfers of money, hence does not 'see' the actual transaction of the service that is being paid for. Even if the service provider can be identified as the recipient of the payment, it is often not clear which service was provided (as the provider may provide different services), nor in which mode of supply. Modes 1, 2 and 4 will usually trigger international money transfers as provider and recipient are based in different jurisdictions, so bank or cash transfers across borders will happen and can thus be reflected in the BOP. However, central banks or statistics agencies have little means to tell which mode actually applied – did the lawyer travel to the client, the client to the lawyer, or just the legal memo through the internet before the client made the bank transfer to the lawyer?
- Second, sectoral classifications traditionally used in BOPs are largely out of synch with categories usually used in trade policy, making it difficult for policy makers to use BOP data for many sectors, even if such data are available, as they will often be too aggregated. Much work has been done to advance convergence, but until today services trade statistics remain mostly unusable for trade policy making and trade negotiations.
- Third, mode 3 is almost entirely under the BOP radar screen as it triggers local, not international payments (from a local service consumer to a foreign-invested, but locally established provider). The needed Foreign Affiliates Statistics (FATS), both inbound and outbound, are difficult and tedious to establish, and most developing countries don't even try. As a result, mode 3 services provision goes largely unmeasured, except to the extent that it appears as part of FDI statistics.

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All these (and some more) issues have long been recognised, and a group of international agencies including among others the IMF, EUROSTAT, the WTO and UNCTAD, has made significant efforts to compile recommendations and international best practices,[15] but actual practice lags far behind.

The issue of services trade statistics, notably, is not exclusive to developing countries. Traces of the magnitude of the challenge are found almost as much in developed country resources and discourse. To pick a random example, a recent report by the US Congressional Research Service on members of the Trans Pacific Partnership (TPP) looks at US services trade with only eight of the eleven (non-US) TPP parties because the US Bureau of Economic Analysis (BEA) lacks individual data for trade with the others.[16]

This weakness of data has the understandable but odd consequence that more often than not the unavailability of data translates directly into a lack of awareness among those who otherwise tend to rely on data, such as administrative agencies, politicians and negotiators. This effect is exacerbated in trade in services as many stakeholders (including businesses themselves) have only a shallow grip on the concepts and mechanics of trade in services. Finally, the sheer sectoral spread in services adds to the resulting confusion.

The result is a political and economic discourse that is perilously removed from reality. However, the fact that something is difficult to measure of course does not mean that it is not there. The above observations and any exchange with service providers and their clients will make it clear that trade in services is a major reality, and an even bigger potentiality, for any economy. It is therefore incumbent on policy makers and other stakeholders to make every effort to ensure that the absence or paucity of data does not lead to misinterpretations. This requires an enhanced qualitative, as opposed to just quantitative, discourse, and arguably an even closer engagement with stakeholders than elsewhere.

however – particularly cross-border supply (Mode 1), commercial presence (Mode 3) and temporary movement of natural persons (Mode 4) – clarifying the *status quo* often requires the cooperation of individuals, firms and government departments who, in some cases, would be required to disclose sensitive information on commercial activities, employment, revenues, and migratory flows.

The challenges to understand the *status quo* are mirrored in policy-makers' attempt to understand how changes in policy and negotiations might affect that *status quo*. Impact analyses, subject to certain assumptions, can provide policy-makers with a sensing of where changes to trade policy – whether done autonomously or through a negotiated text – can affect key social and economic indicators. The European Union, for example, conducts Sustainability Impact Assessments (SIAs) for all its major multilateral, regional and bilateral negotiations. The SIAs study the likely impacts of trade liberalisation in areas such as income, employment, capital investment, equity and poverty, health and education, gender inequality, and the environment.[17]

There are, however, important limitations to the utility of impact assessments for Commonwealth trade policy and negotiations. The data limitations noted earlier for both goods and services are a fundamental challenge. For those small and least-developed countries with serious gaps in data reliability and periodicity, analysts may opt to use mirror data, which in turn raises serious concerns over comparability: for example, whether mirror data can accurately capture country of origin within a small-state context where trade is often routed through regional shipping hubs, and whether mirror data can accurately distinguish between domestic exports, re-exports and goods in transit.

Analysts also face a daunting challenge in terms of setting scenarios, particularly if the study is *ex ante* (i.e. if the study is meant to inform current negotiating positions, rather than assess the effects of an already-concluded text). Even in a relatively sophisticated and well-resourced process such as the EU SIA, for example, the study prepared in advance of the CARIFORUM-EU EPA discussed but did not estimate any impacts on fiscal revenue from tariff liberalisation, despite this being arguably

15 United Nations Statistics Division, *Manual on Statistics on International Trade in Services* (MSITS), 2010.
16 Williams (2013), p. 17.
17 Drawn from 'Sustainability Impact Assessments', European Commission Website, accessed online at http://ec.europa.eu/trade/policy/policy-making/analysis/sustainability-impact-assessments.

the key concern for most Caribbean countries in terms of negative impacts on development and growth.[18]

2.4 Process and consultation: ensuring support and mainstreaming

Neither trade policy nor trade negotiations can be sustainable and effective without adequate political support and widespread consultation, although the balance between the two is rarely clearly set. Virtually any country engaged in trade must balance two (sometimes opposing) directives. On one hand, trade cannot flourish without the active involvement of trading firms and other factors of production (e.g. labour unions) in the formulation of trade policy and the setting of negotiating positions. Given the large number of potential stakeholders, a 'bottom up' model of broad consultation and consensus might ensure not only better information from persons with actual knowledge of trading conditions, but also more durable long-term support for implementation and monitoring.

On the other hand, firms cannot effectively operate without a proper understanding at the highest political level of the importance of trade, nor can national interests be clearly defined in an environment where special interest groups have captured key policy channels. This might suggest a technocratic 'top-down' approach – whereby only certain selected senior officials and 'captains of industry' with long experience participate in policy formulation and negotiations, avoiding the consolidation of self-interested factions or impasses between competing interests.[19] This view implicitly argues that while stakeholders on the ground are vital, it is political attitudes 'at the top' which are more decisive for trade policy formulation and negotiation, as argued by a 2008 Commonwealth review of National Export Strategies (NES):

> One of the biggest challenges is a lack of understanding of the need for change. At the most basic level there may be no legal mandate or authority for an institution to be the agent of change for the NES process. Alternatively the NES may be placed under the aegis of a government department that is less influential than another. For example, the NES may be under the domain of the Ministry of Trade when stakeholders perceive the Ministry of Finance to be more powerful. When political will and support is inadequate it is highly unlikely that the NES work will be given the priority it deserves. As a consequence the human and financial resources required to support the NES work are not likely to be provided.[20]

This balance is particularly difficult to achieve in a context where the Ministry of Trade (or organisational equivalent) is only one of several stakeholders in the trade policy formulation and negotiating process. Trade Ministries generally act as both a clearing-house and as consensus-builder among the different line ministries, many of which have (unlike their Trade counterparts) the legal and institutional mandate to implement the measures under consideration.

Despite their relatively small and thinly stretched institutional capacity, some small countries have developed sophisticated models for trade-related consultation, albeit not without some challenges. In Botswana, for example, the Ministry of Trade and Industry and the Botswana Export Development and Investment Authority jointly coordinate a national Trade Support Network, which acts as a coordinating forum for 44 different institutions from the private, public and civil society sectors (see Box 6 below). Despite the Trade Support Network being divided into six thematic areas (ranging from market promotion and access to entrepreneurial development), Botswana's National Export Strategy notes that the sheer number of stakeholders and diversity of interests often leads to duplication of roles, with lack of clarity on the activities being provided at any given time by each institution, and little time to effectively coordinate the Network on salient issues.

Another African Commonwealth small country – Mauritius – has also developed a highly successful model of public-private consultation and collaboration on trade policy, in part through its Joint Economic Council (JEC) that combines sectoral organisations (e.g. the Mauritius Sugar

18 PWC (2004).
19 Ohno (2011).
20 Njoroge (2008)

Box 6. Botswana's trade support network

(i) Market Promotion and Access

Ministry of Trade and Industry
Ministry of Agriculture
Ministry of Works and Transport
Botswana Unified Revenue Service
National Committee for Trade Policy and Negotiations
Botswana Export Development and Investment Authority
Botswana Chamber of Commerce Industry and Manpower
Botswana Exporters and Manufacturers Association
International Financial Services Centre
Botswana Agricultural Marketing Board
American and African Business Women's Alliance
Women in Business Association

(ii) Quality Control, Standards and Production

Botswana Bureau of Standards
Botswana National Productivity Centre
National Food Research and Technology Centre
Botswana Meat Commission
National Veterinary Laboratory

(iii) Technology Transfer

Botswana Technology Centre
Rural Industries Innovation Centre
Botswana Training Authority
Ministry of Communication, Science and Technology
NAFTEC

(iv) Trade Policy Research & Development

University of Botswana
Botswana Institute for Development Policy Analysis
Botswana Council of Non-Governmental Organizations
Botswana University Institute of Science and Technology
National Food Research and Technology Centre

(v) Financing

Citizen Entrepreneurship Development Agency
National Development Bank
Botswana Development Corporation
CEDA Venture Capital Fund
Botswana Export Credit Insurance
Private commercial banks
Women's Finance House

(vi) Entrepreneurial Development

Local Enterprise Authority
Botswana Confederation of Commerce, Industry and Manpower
Citizen Entrepreneurship Development Authority
USAID
American & African Business Women's Alliance
Women In Business Association
Women's Finance House
Botswana Exporters and Manufacturers' Association
Botswana Export Development and Investment Authority
UNDP

Source: *Botswana National Export Strategy 2010–2016, Government of Botswana, January 2010*

Producers' Association and representatives of the Export Processing Zones) with umbrella organisations such as the Chamber of Industry and Commerce (see Box 7). The JEC acts as the private sector voice on critical economic decisions, including proposals for the national budget and a standing committee on multilateral and regional trade negotiations. Beyond its trader-related activities, the JEC also provides private sector perspectives during times of economic crisis, including the management of stimulus funding that allowed national firms to weather the recent global economic crisis.[21]

Larger Commonwealth developing countries such as South Africa, India and Malaysia (see Box 8) have also put in place consultation mechanisms, thus allowing a degree of public scrutiny of trade policy and proposals for negotiating positions. The case studies show that the depth and scope of the consultation obligation act as a double-edged sword: on the one hand, outside stakeholders relieve some of the capacity constraints within government by providing technical inputs (a phenomenon echoed by the active participation of NGOs and think-tanks in India), and act as important filters for policy before they are sent for political approval. On the other hand, the consultation procedures are a significant cost on their own, with South Africa noting that '*the need to undertake all these consultations may be heavily time consuming, prolong the process of developing a negotiating position, and constrain the government's negotiating space and flexibility*'.

Despite the resources required, however, the *absence* of proper consultation mechanisms can also exact a heavy cost on trade policy and trade

21 See Raj Makoond, 'Economic Development of Mauritius: A Private Sector Perspective', presentation to the FABC/AFBC Annual Business Forum, Mauritius, 25 November 2011.

Box 7. The role and impact of Mauritius' joint economic council

By Raj Makoond, Executive Director of the Joint Economic Council

The Joint Economic Council (JEC) was set up two years after independence in 1970 when it was important for the private sector to have a platform for dialogue. We have nine organisations: the Mauritius Chamber of Commerce & Industry, the Mauritius Chamber of Agriculture, the Mauritius Employers' Federation, the Mauritius Sugar Producers' Association, the Mauritius Export Association, the Mauritius Bankers Association Limited, the Mauritius Insurers' Association, Association des Hoteliers et Restaurateurs de l'Île Maurice, and the Association of Mauritian Manufacturers. Essentially, we provide a platform for the private sector to have a common position and interface with the government.

In Mauritius, there is a tradition of the private sector working closely with the government. For example in international trade there is a standing working group made up of the private and public sector, where all of our institutions are present. We form part of the national negotiating team that reflects Mauritius's position different issues. For example on the non-agricultural manufacturing sector tariff, we actually worked out the textiles subsectors, which components would be exposed if the duty decreased, and what tariff is necessary to keep that level of protection. For example, we know the specific level of duty needed to maintain our level with competitors such as Indonesia. Those specifics are very important for our negotiators.

We also have regular meetings with the government, the Vice Prime Minister and the Minister of Finance. We work well together in times of crises, because we have standing joint committees co-chaired by the public sector and the JEC. Since the Lehman Brothers crisis, we have met in a working group co-chaired by the public and the private sector every Tuesday and Thursday, looking at companies having problems and potential rescue plans. We are very much involved in international trade, fighting specific crises, and regular economic policy value addition on issues like budgets. We try to give a private sector perspective on Mauritius's macroeconomics.

Box 8. Consultation and consensus-building in large Commonwealth developing countries

South Africa

by Brendan Vickers (Commonwealth Secretariat & former Head – Research and Policy, International Trade and Economic Development, Department of Trade and Industry, Government of South Africa)

There is an important organisational dimension to South Africa's trade diplomacy, namely the need for effective consultations at the national and regional levels. Although the Department of Trade and Industry (DTI) acts as the lead negotiator for the South African Government, it is not the lead department or regulatory agency for many negotiating issues, such as agriculture, customs, or services. This necessitates effective coordination to develop negotiating positions. Various mechanisms exist for intra-governmental consultation and coordination, including the International Cooperation, Trade and Security (ICTS) cluster of government departments, the Agricultural Trade Forum, and the Permanent Trade Forum, although the latter has not been convened for some time. The government also consults with business, labour and civil society through a statutory body, namely the National Economic, Development and Labour Council (NEDLAC) and its technical sub-committees.

These social partners scrutinise all negotiating positions and provide technical inputs into the negotiations, which may relieve some of the capacity challenges within government. It is noteworthy that South Africa has also included these NEDLAC constituencies in the official South African delegation to the WTO's ministerial conferences, although not in any formal negotiating role. Overall, however, the need to undertake all these consultations may be heavily time consuming, prolong the process of developing a negotiating position, and constrain the government's negotiating space and flexibility.

India

by Julius Sen (Former member of the Indian Administrative Service 1976–2003, Currently Associate Director at LSE Enterprise Ltd & Member of International Trade Policy Unit at the London School of Economics)

The policy community in India and internationally – which would include NGOs, think tanks, universities and business associations – is happy and willing to participate in debates and discussions, and to help with evaluations of proposals and ideas. The government is also happy to consult them, essentially to build a consensus around their established positions. Very few major new ideas are generated by this

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process, though it does sometimes (as with competition policy and the necessity for domestic regulatory harmonisation) provide clarity on the importance of certain related issues. Over the years, this capacity has grown very significantly and though loosely organized, is very effective. Moreover, many of these institutions are also well connected to international NGOs and think tanks, and can reach out to the global media (a good example is CUTS International).

Coherence is really provided by the Ministry of Commerce and Industry familiarizing itself with the positions of other ministries and of state governments before adopting a public position on various proposals. A fairly small group of senior officials coordinates this process, and as a result there are relatively few cases of inconsistent positions across different negotiations. Moreover, as the agenda is fairly defensive, this is not a major problem. Invariably, overarching positions (whether regional or bilateral) are approved by the Cabinet through its various cabinet committees. Where issues are particularly sensitive –as with market access in agriculture, or with market access commitments in the financial services sector – the government usually tries to build a political consensus across major party groupings well before the negotiations begin. Perhaps this accounts for the generally defensive nature of their final positions, as it reflects deep apprehensions of the social and economic consequences of market opening commitments.

By and large, they are aware of the limits to what they can negotiate when these entail commitments that would have to be implemented by ministries that are more powerful than they are. Apart from the 'Big Four' of Defence, Home, Finance and External Affairs, most of the major economic, infrastructure and social sector ministries (especially Health, Education, Welfare, Labour and Environment), are more powerful politically, as of course are Agriculture and Rural Development. This leaves Commerce and Industry fairly low down in the political hierarchy. Although glamorous and high profile in some respects, it is not that powerful in itself.

Malaysia

Source: *Ohno (2011)*

Malaysia uses a 'national committee' model/approach to industrial policy formation. Within this framework, Malaysia's rich history of public–private partnership in policy formation is evident. This began in 1983 with the *Malaysia Incorporated Concept* but was upgraded by the introduction in 2007 of a Special Taskforce to Facilitate Business (PEMUDAH). This task force is co-chaired by the Chief Secretary to the Government of Malaysia as well as the past President of the Federation of Malaysian Manufacturers (FMM). It seeks to foster close linkages between the government and business and is designed to ensure that all Ministries and Agencies involved in trade related issues undertake industry consultations on a regular basis so as to promote trade and investment. These consultations culminate in discussions at PEMUDAH designed to assess current and prospective policy considerations.

In addition to PEMUDAH, at the national level, annual consultations take place between the various government agencies and the private sector, (both industries and associations), are held to discuss trade-related issues. Most consultations are chaired by the Ministry of International Trade and Industry. The FMM, an umbrella organisation of the manufacturing sector, is integral to providing feedback and contributions to PEMUDAH, either directly, or through government ministries and agencies. The FMM is given privileged access to the policy-making process and is given the opportunity to review confidential drafts of new laws, amendments and policy guidelines. Based on these drafts the FMM makes proposals which are then evaluated by the relevant government ministries. The relevant Ministry takes these issues to the meetings of the PEMUDAH, and any change which requires legislative approval is then submitted to cabinet. Through the FMM, sectoral consensus is built up by 26 industry groups, established to ensure that broad sectoral representation exists.

negotiations, particularly in least-developed small countries such as Solomon Islands and Zambia.

For Commonwealth LDCs who are beneficiaries of the Enhanced Integrated Framework (EIF), the formulation of the Diagnostic Trade Integration Study (DTIS) is a critical activity: coming at the end of an intensive period of stakeholder outreach and technical study, the DTIS identifies constraints to competitiveness, supply chain weaknesses and sectors of greatest growth and/or export potential – with the end result being an Action Matrix of priority reforms, which in turn sends important signals to donors for technical assistance priorities.[22] For some LDCs, the DTIS may represent the first time a comprehensive trade-related needs assessment and strategy has been formulated – making the consultative process all the more important.

22 See 'How Does It Work?', Enhanced Integrated Framework Website, accessed online at http://enhancedif.org/en/about/how-does-it-work.

In formulating Zambia's DTIS (see Box 9), the project team took significant pains to ensure wide canvassing of opinions from the highest political levels to the grassroots, small-scale farmers and civil society organisations. The consultation phase extended far beyond the Ministry of Trade to include other line ministries, and was backed up by conversations with relevant donor agencies and embassies. Yet, despite the successes of the EIF-led process, the ownership in Zambia of its DTIS is still very much a work in progress – hindered in part by capacity issues (including high turnover on the donor side), and unclear coordination with other frameworks (in this instance, the Poverty Reduction Strategy Paper). The EIF process also suggested that more work was needed to better mainstream trade concerns and ensure a proper sequencing of trade-related initiatives.

For Solomon Islands, the DTIS analysis has thrown into sharp relief serious gaps in

Box 9. The challenges of creating ownership and consensus within a small LDC: Zambia and Solomon Islands

Zambia

From: OECD/WTO (2011), 'Zambia's Aid for Trade: A case of the EIF', Aid-for-Trade Case Study prepared by CUTS International, 2011.

Although Zambia had recognised the importance of trade as a means of fostering economic growth and development and had accordingly prioritised the diversification and expansion of its exports beyond copper, trade was not explicitly integrated into the country's development plans until it embarked upon the Enhanced Integrated Framework (EIF) process in 2004. Zambia's principal constraint was that it lacked a strategy on how to best link the trade sector with other economic sectors and overall socio-economic development. Zambia's EIF process sought to achieve multiple goals, *inter alia* to raise awareness of the potential role trade can play in fostering economic and socio-economic development, and mainstream trade into Zambia's national development plans. A key focus of the DTIS project team was to ensure adequate consultation and (by extension) ownership of the DTIS findings.

During the design phase, the consultation process was extensive and was conducted in two phases. The team of experts comprised specialists from, inter alia, the World Bank, United Nations Development Programme (UNDP), and the World Trade Organization.

The team of experts also met with political representatives at the highest level – including the Minister of Commerce Trade and Industry (including his Deputy and Permanent Secretary) and other local stakeholders, donors, and private sector representatives. The National Working Group on Trade commented on the draft DTIS Concept Paper; to strengthen ownership, stakeholders insisted that the team of experts should include Zambian nationals, one of the peer reviewers should similarly be Zambian, and that the consultation process include small-scale traders and small and medium enterprises.

The EIF–DTIS process in Zambia generated some clear successes. The process highlighted the linkages between trade and development, the understanding of which was deemed essential by the Zambian stakeholder participants. The Zambian government adopted the Action Matrix of the DTIS as the trade component of its Poverty Reduction Strategy Paper (PRSP), and the Trade Expansion Working Group of the PRSP was absorbed as the Steering Committee of the EIF programme. Reporting structures were also adopted in order to allow for effective monitoring and evaluation of the process. Moreover, appropriate linkages with all relevant institutional structures were established and strengthened as coordination between various government agencies and the private sector was improved.

Challenges, however, remain – particularly in securing long-term ownership and mainstreaming. Although the DTIS was validated in July 2005, delays were occasioned by, inter alia, internal institutional reforms and by staff turnover on the donor side – for example, Zambia had four different EIF Donor Coordinators in two years. The lack of agreement on how the PRSP and the EIF would co-exist without duplication, while ensuring the creation of synergies between the two programmes also thwarted progress. In addition, limited engagement with some stakeholders (including government actors and the private sector) at the beginning of the EIF process resulted in low buy-in and ownership of the process.

The trade mainstreaming exercises identified an immediate priority for Zambia: the need for improved synchronization with the budget and public expenditure allocation. Here, it was ascertained that a common implementation action plan was required for the Ministry of Commerce, Trade and Industry to provide for proper sequencing and orderly implementation of initiatives, while also matching capacities and resources through both government budgetary provision and development partner support.

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Solomon Islands

From: 'Solomon Islands Diagnostic Trade Integration Study – 2009 Report', Integrated Framework Partnership, 2009.

The current institutional environment for trade and trade-related policy-making in Solomon Islands is fragmented. There is insufficient coordination and minimal provincial outreach. Local Government has had little participation despite the current policy focus on rural development, as policies are oft en developed using a top-down approach. Existing NGOs and other civil society organisations … have not been involved in trade and trade-related issues, with the possible exception of Transparency Solomon Islands who has been quite vocal on log trade issues. Understanding of trade issues is lacking. [While] the main private sector associations are generally quite active and involved … producers associations are scarce and most associations are formed by traders.

Apart from trade negotiations, little consultation on other trade and trade-related issues takes place. Due to resource constraints, the Department of External Trade (DET) often has to rely on workshops and seminars organized by others (e.g. PIFS) to reach out to national stakeholders. This results in a lack of sense of ownership and continuity. The Ministry of Development Planning and Aid Coordination (MDPAC), like other ministries, also faces substantial capacity constraints. There is a role for the IF National Steering Committee (IFNSC), whose membership already includes many of the stakeholders at a technical level, to assist in co-ordinating trade and trade-related policy making. The IFNSC can be utilised as a better-resourced and informed successor of the now inactive National Trade Facilitation Committee (NTFC), with more inclusive membership, including non-state actors. There is also the possibility of either expanding the membership to include respected local academics and economists, or to invite them to sit in the advisory board.

… the Solomon Islands is taking a high risk approach to negotiations. There is insufficient awareness and understanding of trade negotiation issues and its relevance to the government portfolio outside that of the DET, not just at departmental/ministerial but also at the political level. The absence of a national strategy that clearly identifies priority interests in negotiations, weak coordination among and participation from relevant stakeholders, and the absence of a formal consultation mechanism are all contributory factors.

consultation and thus ownership of trade policy and negotiations: while there are a handful of engaged stakeholders and some effort to create consultative mechanisms (including the National Steering Committee for EIF activities), there continues to be a lack of widespread understanding of the importance of trade and large capacity gaps in key institutions, suggesting that Solomon Islands is taking a 'high risk' approach to trade policy-making and negotiations.

LDC status does not, however, create insurmountable handicaps to ownership and mainstreaming. In Vanuatu (see Box 10) national officials successfully bridged the trade strategy and trade mainstreaming phases by immediately embarking on a new consultation process (comprised of nearly four dozen meetings) that transformed each of the 31 recommendations in their Trade Policy Framework (TPF) into a detailed work plan, with responsibility assigned to individual agencies. The resulting work-plan/matrix is updated by the lead agency for trade three times a year, and both presented and approved by the National Trade Development Committee. A dedicated unit has been established within the lead Ministry, with a mandate to attract cooperation funds – a highly successful effort that has increased donor participation in the TPF recommendations from US$1 million in 2012 to US$30 million in 2015. To further increase the momentum behind the TPF's sector-specific recommendations, policy-makers in Vanuatu ensured that TPF priorities were incorporated into other sector strategies, including the cross-sector Priority Action Agenda, the national economic strategy, and tourism action plans.

Despite these successes, Vanuatu faced (and still faces) obstacles in securing full support and mainstreaming of trade interests in the wider work of government. Despite a long and exhaustive process of coordination and consultation, trade mainstreaming was seen by many outside of the Trade Ministry as either an overly abstract exercise or worse, as an attempt by the Ministry to take leadership in areas outside its remit. Furthermore, the Ministry is still facing challenges to match the increased donor resources with a corresponding increase in policy, institutional, and aid-management responsibilities; while this resulted in the short-term need to hire outside contractors, the Ministry is keenly aware that it will need to strengthen its core structure and staff to ensure long-term ownership and sustainability.

Box 10. Vanuatu – mainstreaming trade in a Pacific Island LDC

By Andrea Giacomelli (Senior Trade Adviser to the Office of the Director General of the Ministry of Tourism, Trade, Commerce, and Ni-Vanuatu Business, Vanuatu)

The Vanuatu's Trade Policy Framework (TPF) was approved by the Council of Ministers in July 2012. The TPF was developed in response to the Council of Minister's decision to implement a national Trade Mainstreaming Agenda (TMA), with the view to introduce trade-related matters at the centre stage of national policy in a coordinated fashion.

The drafting of the TPF was undertaken over a six-month period, through a process of desk review of existing national polices and economic data, and through a series of consultations with government and private sector stakeholders, as well as with donor partners. The list of consulted stakeholders was aimed at covering all the sectors of the Vanuatu economy. Thirty-five consultation meetings were conducted to identify, for each stakeholder, the most binding barriers to trade, and to seek guidance about the interventions with the highest potential to break those barriers. As a result of this process, thirty-one high-level recommendations conclude the Vanuatu's Trade Policy Framework. These include over-arching and sector-specific recommendations, recommendations to break specific barriers to trade, and recommendations on trade negotiations.

Following approval of the TPF, the MTTCNVB embarked in a second round of consultations aimed at transforming each TPF's recommendation in a detailed and monitorable work plan, and to assign responsibility for implementation to an identified leading agency. This second consultation process, undertaken through a series of forty-three consultation meetings, culminated with the drafting of the Trade Policy Framework Implementation Matrix (TPFIM), which was released in March 2013. The TPFIM is updated by the MTTCNVB three times a year in consultation with leading agencies, and is presented on the occasion of each NTDC meeting. The TPFIM is now seen by many as the best tool to support trade and economic governance in the Vanuatu.

Main elements of the mainstreaming process

The TPF presents a number of elements which contributed to its success. First, a robust economic analysis making the case for focusing Vanuatu's development strategy on export promotion. Second, the provision of convincing evidence identifying areas of comparative advantage to be prioritized, notably through a more strategic approach to the services sector (mainly but not only tourism) and to the sectors adding value to locally grown primary goods. Third, a very comprehensive process of consultation aimed at identifying the most binding barriers to trade along the goods and services value chains - something which strongly contributed to mainstreaming the concept of trade in Vanuatu, to build bridges between the different leading agencies working along those chains, and to identify high-level recommendations which could be owned by those agencies. Fourth, a clear strategy to transform the TPF in a suitable working tool to guide national trade policy, including through the drafting and regular updates of an implementation matrix, and through the use of this matrix to drive the workings of the newly established NTDC.

Linkages with other policies

The need to establish strong linkages between existing national strategies dealing with trade matters was the main reason behind the drafting of the TPF. As such, the TPF was thought and developed as an instrument to coordinate and prioritise existing trade-related instances. A review of approved national strategies was included in the TPF document, and the TPF's consultation process mainly aimed at re-organising existing policy priorities in a consistent fashion. New priorities were only recommended when the consultation process revealed major gaps that had yet to be addressed by existing strategies.

This drafting strategy strongly contributed to the broad acceptance of the TPF as the government's overreaching strategy on trade, and made it easier for national polices which were drafted afterwards to accept to TPF's priorities as their own priorities. For example, TPF priorities on trade in services were successfully incorporated in the latest update of the Priority Action Agenda (PAA, 2012) the government's national economic strategy, and in the Vanuatu Strategic Tourism Action Plan (VSTAP, 2014) the government's tourism policy.

Challenges, success and lessons learned

The Vanuatu's TPF succeeded in creating a convincing narrative to support the government's TMA. The ability of the MTTCNVB to take on board trade-related instances of multiple stakeholders, and to transform the policy in a highly effective and visible working tool are probably two of the main reasons that can explain this success. Substantial resources were dedicated by the MTTCNVB to achieve this purpose, notably

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through the establishment of a Unit under the Office of the MTTCNVB's Director General which was tasked to lead on the three pillars of the TMA – *Policy, Institutional, and Development Cooperation*.

The successful implementation of the first two pillars of the TMA – through the drafting and monitoring of the TPF and the TPFIM, and professional management of the NTDC – created substantial support amongst donor partners. Notably, donor resources committed to the MTTCNVB and targeting TPF's recommendations increased from US$ 1 million in 2012 to US$ 30 million in 2015. The MTTCNVB also supported other leading agencies to secure donor resources targeting TPF's recommendations, and through these efforts additional US$ 30 million were committed. As of today, reference to the TPF as leading document on trade matters are included in key bilateral documents including the Memorandum of Understanding (MoU) for the National Indicative Program (NIP) of the 11th cycle of the European Development Fund (EDF 11), and the Vanuatu New Zealand Partnership Arrangement (VNZPA) for the Tourism Sector. On the government side, the dynamism of the MTTCNVB convinced the government to allocate 50 per cent of its additional budget resources during the period 2015–2017 to support the productive sectors, including through budget support to the MTTCNVB and the Ministry of Agriculture Livestock, Forestry, Fisheries and Bio-security (MALFFB).

During the drafting phase, the MTTCNVB was faced with the challenge of ensuring cooperation from leading agencies on a policy platform whose main thrust was very difficult to understand or accept. Trade Mainstreaming was seen by many as either overly abstract exercise, or worse as an attempt by the MTTCNVB to take leadership in areas outside its remit. The robust consultation process and the ability of the MTTCNVB to use leading agencies' own priorities as the starting point to draft the TPF and its implementation matrix partly contributed alleviate the fear of hyper-activisms by the MTTCNVB. However, it was only through the implementation of the TMA's *institutional* and *development cooperation* pillars that national stakeholders came to fully appreciate the utility of the TPF. First, it was thanks to the NTDC that stakeholders came to appreciate the opportunity of adopting a coordinated approach to address policy issues that, by definition, require strong cooperation between a multiple agencies. Second, it was thanks to the MTTCNVB's ability to convince donor partners to support TPF's implementation that national stakeholders came to release the benefits of adopting an overarching narrative to successfully advocate funding for priority trade-related projects.

During the TPF's implementation phase the MTTCNVB is still facing challenges to match the increased donor resources with a corresponding increase in government. Whilst additional human and financial resources were allocated by the government to support the TMA and implement the TPF – for example, government officials focused on TPF's implementation increased from 1 in 2012 to 3 in 2014 – these were not sufficient to deal with the increased policy, institutional, and aid-management responsibilities. As a result, the MTTCNVB had to seek funding for a number of contractors who were assigned strategic responsibilities with regard to the TMA. Whilst these developments are to an extent unavoidable, and may also be seen as an index of Vanuatu's success, the government will need to make additional efforts to further strengthen its core structure and to nurture national champions for the TMA. Failing to do so may eventually undermine ownership and sustainability of the TMA in the long term.

2.5 Implementation: From conceptualising to financing

> 'We have completed the [National Export Strategy] development process and we now have one of the few excellent tools produced in this country in a long time but we fear that this document might not be effectively implemented.' This is a sentiment often heard in [trade] strategy work. The process of developing a national export strategy is an easy task compared to the more difficult implementation phase. There are often many political and organisational obstacles that stand in the way. Yet, without effective execution, no strategy can succeed.[23]

Implementation is a critical – but often under-appreciated and under-resourced – part of trade policy and negotiations. There are certain attractions to the formulation of trade policy and especially the conduct of trade negotiations: they are often high-adrenaline and high-pressure exercises, with clearly defined timelines (although these often slip in practice) an intuitive point of focus for all economic stakeholders, high public visibility for the political and economic stakeholders taking part. Moreover, there is the psychological and political reward of a concrete output – the written policy or final negotiated text – at the end of the process that can serve as a physical signal of both the government commitment to trade, and the

23 Njoroge (2008).

strength of bilateral ties between the negotiating parties.

Yet the post-formulation and post-signature implementation side is absolutely critical: on one hand, it is the means by which both parties will unlock the expected economic benefits of their trade policies and negotiations; on the other hand, non-implementation could leave the party in question open to an erosion of the government's standing in front of key stakeholders and (in the case of negotiations) legal challenge under the agreement's dispute settlement provisions. The implementation process can also reveal areas of weakness within the final text that might require re-thinking, adjustment or re-negotiation.

Implementation, unfortunately, does not generally hold the same attractions as policy formulation or negotiation: while it can be as complex and rigorous a process, implementation measures – e.g. the passage of necessary legislation, or the creation of new institutions – often happen 'under the radar', over a relatively slower time period (unless the treaty obligations specify otherwise). The implementation exercise is often diffused between different ministries and departments, rather than the more highly centralised and focused formulation and negotiating processes, making it difficult to maintain momentum and enthusiasm among stakeholders.

This wide incentive gap can, unfortunately, result in cases where the implementation of trade policies and FTA text can be delayed for years, or even decades. In 2013, for example, the Government of Jamaica agreed to implement FTAs with Costa Rica, Cuba and the Dominican Republic – respectively, nine, thirteen and fifteen years after signature.[24] Among the members of the Pacific Islands Forum, only 11 out of the 14 FICs have ratified the Pacific Island Countries Trade Agreement (PICTA) more than a decade after its signature, and less than half of the signatories have announced their readiness to trade under its provisions.

2.5.1 The 'implementation gap'

In part, implementation challenges are directly linked to the magnitude and breadth of the so-called 'implementation gap'. This gap denotes the difference between a country's institutional, regulatory, and private sector development status quo on the one side and the obligations codified in the policy or treaty on the other – which can be particularly large for small and least-developed economies confronted with a combination of an out-dated regulatory and institutional status quo, an underdeveloped private sector, and severe resource constraints.[25]

Implementation challenges for many Commonwealth developing countries are particularly critical as FTAs are beginning to address a more ambitious scope and some 'newer-generation' trade issues**.** Prior to the launch of the EPA negotiations and the intensification of regional integration processes (e.g. circa 2000), many Commonwealth small states' and LDCs' FTA commitments were largely restricted to traditional GATT-style obligations within a defined set of issues: tariff liberalisation (and associated rules of origin), customs valuation and cooperation, certain non-tariff measures, and dispute settlement procedures. In certain instances where SPS and TBT issues were included, they rarely strayed beyond basic affirmations of existing WTO obligations. In the rare instance where newer-generation issues were addressed – e.g. services, investment, competition policy, trade facilitation, intellectual property – the coverage has been limited to affirming commitments under the WTO or other multilateral/plurilateral agreements, and largely couched in best-endeavour language (e.g. encouraging, rather than mandating, certain types of cooperation or the adoption of certain international best practices).

The newer pressures of trade negotiations and trade policy-making, however, imply a much larger implementation gap with respect to existing policy. The CARIFORUM EPA (see Box 11), as one example, involved 14 Commonwealth countries (13 on the developing country side, and the UK on the other) agreeing to a final text that significantly expanded the scope of trade commitments from the earlier Lomé and Cotonou Agreements. The scope of these commitments for the developing country partners included, among others:

24 See 'Jamaica to implement Costa Rica, other FTAs', *Jamaica Gleaner*, May 1, 2013, accessed online at http://jamaica-gleaner.com.

25 Chauffour and Kleimann (2012).

Box 11. Caribbean – The Caribbean-EU EPA, five years on

By Sacha Silva (Lead Author of 'Monitoring The Implementation & Results Of The CARIFORUM-EU EPA')[26]

The CARIFORUM-EU EPA

Since its signature in 2008, the Economic Partnership Agreement (EPA) between the Caribbean Forum (CARIFORUM) and the European Union (EU) has been the subject of intense scrutiny from academics, civil society, opinion-makers and policy-makers. The intense interest lies in both the timing and the novelty of the agreement. In October 2014, the CARIFORUM region – consisting of 15 Caribbean ACP countries[27] – is still the only ACP regional grouping to have signed a 'full' EPA, (i.e. with all members of the original regional configuration). CARIFORUM also remains the only region to have comprehensively treated the full suite of negotiating issues in the final text, including commitments on trade-in services, so-called 'trade and sustainable development' (i.e. labour and the environment) and trade-related issues ranging from competition policy to public procurement.

The implementation and impact of the CARIFORUM-EU EPA at five years: Some successes, but still much to be done

In a context where the wider EPA process has stretched far beyond its originally allotted schedule (and likely beyond the attention span of many observers of the ACP-EU relationship), it is important to note at the outset that the first five-year period of implementing the CARIFORUM EPA has seen its share of successes.

Around half of EU and CARIFORUM Member States have ratified the Agreement, and 10 out of 15 CARIFORUM countries have given effect to the agreed tariff reductions. Institutions tasked with guiding implementation efforts have been established at the national and regional level within CARIFORUM, supported by EU cooperation funds that have generally covered the key priority areas envisioned under the EPA (albeit with some important exceptions). In some instances where the European Development Fund (EDF) programming process was slow in delivering assistance for EPA implementation, bilateral donors such as the United Kingdom and Germany stepped in to fill the breach. Bilateral dialogues have taken place on important issues to CARIFORUM (such as mutual recognition), and partner agencies on the ground have used EU funds to help some CARIFORUM firms better contest the EU market.

All of these successes have taken place in a highly unfavourable economic context, whereby CARIFORUM and EU governments affixed their signatures to the EPA at the brink of a deep and damaging global recession – one whose negative impacts are still being felt in many CARIFORUM countries, and which has arguably set back (or even frozen) much political enthusiasm for, and resources behind, EPA implementation.

Yet the Review also finds serious and important deficits on both sides in some of the basic elements of the implementation agenda. On ratification and tariff reduction, for example – arguably key psychological signals of both Parties' commitment to the Agreement – the less-than-full implementation picture means that the EPA has yet to enter into force, and that some CARIFORUM countries have had to (imperfectly) resort to implementing the tariff reductions administratively. Due to a number of delays, many key development cooperation projects have only very recently come on-stream. Delays in supporting some critical areas of the Agreement (e.g. the protection of intellectual property rights) have held up efforts to craft CARIFORUM positions and thus further dialogue and negotiation with the EU.

A recent study on the impact and implementation of the EPA from 2008-2013 found that legislative capacity is a key bottleneck. Between the normal work of government, unforeseen demands and the programme requirements of donors and multilateral financial agencies, there is little spare capacity to draft new and/or amend existing legislation to comply with CF-EU EPA obligations. Regional bodies have provided legislative drafting support in discrete areas and facilitated legislative reviews and inventories to highlight areas where gaps exist with respect to commitments under the Agreement. However, stakeholders indicate that cooperation efforts in this area are still lagging far behind implementation schedules and the situation is exacerbated due to existing backlogs/delays within national Parliaments and Cabinets.

(continued)

26 Parts of this case study originally published as '*Implementation Challenges: Insights from the First CARIFORUM-EU EPA Five-Year Review*', *GREAT Insights*, Vol 3 Issue 9, October/November 2014, accessed online at www.ecdom.org.

27 CARIFORUM consists of Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, Haiti, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Suriname and Trinidad & Tobago.

Lessons learned

First, *implementation is just as much a negotiation as the actual negotiation*. Observers could be forgiven, after ten difficult years of stop-and-start negotiations between the ACP regions and the EU, for thinking that the signature of the EPA marked the finishing line. The experience of CARIFORUM however suggests otherwise: the signature merely marks the starting point of another long, highly technical and sometimes contentious process.

From the legal scrub of the Agreement, to the selection of persons for the various EPA committees, to the rectification of perceived errors further down the line, ACP regions will need to marshal the same (if not more) technical expertise that was deployed during the negotiations. Bilateral encounters with the EC will still require careful pre-strategizing; ministerial interventions will still be required to unblock impasses on key issues; and technical expertise will still be needed to clarify the legal implications and economic impact of certain provisions, and shepherd the various pieces of EPA-related legislation through national parliaments.

ACP regions would be well advised to begin, at the earliest opportunity, liaising with donor partners to ensure an uninterrupted flow of resources for the implementation exercise, and ensure that institutional structures are in place with as much flexibility, resource availability and technical firepower as those in place for the actual negotiations.

Second, and closely linked to the first point, *mobilising bilateral donors early is critical*. While there are substantial envelopes of resources available under the EDF, the CARIFORUM experience suggests that those funds may not turn into actual projects for three to four years after signature.

Why the rush? Simply put, there is a narrow window for kick-starting implementation efforts. In many ACP regions (and here CARIFORUM is no exception), the EPA negotiations have attracted their fair share of criticism, and that criticism can easily harden into cynicism unless there is an early countervailing push to champion implementation and unlock the benefits of the Agreement.

In CARIFORUM, bilateral donors – particularly the United Kingdom and Germany – played a key role providing rapid-response support in those crucial early hours of implementation. Other EU Member States have not yet been as active.

Third, *both parties should ensure an 'early harvest' of key pillars of implementation*. It is difficult to categorize certain areas of the Agreement as more important or more development-friendly than others. Yet consultations for the study suggested that certain parts of the Agreement were considered – particularly by the private sector – to be important markers of their governments' seriousness in achieving the objectives of the EPA.

These included, *inter alia*, ratification of the Agreement, the launching of EU-funded projects (specifically those aimed at private sector development), the ability of the various EPA committees to quickly deal with issues arising from implementation, the implementation of tariff reduction, and the prioritizing of those parts of the Agreement that mark a clear innovation from the status quo: in the CARIFORUM case, for example, the EPA provisions on temporary movement. Rather than see the EPA as a single laundry list of obligations, these priority areas should be fast-tracked, to create a strong momentum in favour of implementation.

- Tariff liberalisation for the first time on imports from the EU and amongst the Caribbean signatories – which in certain cases such as The Bahamas, with no previous experience of a reciprocal FTA, required significant training to implement a system of rules of origin.
- A ten-year commitment to phase out Other Duties and Charges (ODCs), which – despite still being in a grace period – has placed renewed pressure on government revenues and prompted several Caribbean countries to undertake the difficult and expensive process of implementing a Value-Added Tax (VAT).
- Commitments to introduce a legal and institutional framework on competition, despite only a handful of CARIFORUM countries having a designated competition authority or relevant regulations.

To compound their difficulties, Caribbean Commonwealth countries embarked on the implementation at the very moment when a global economic recession caused economic lifelines to decline, from tourist arrivals to demand for exports to development cooperation.

CARIFORUM countries have however still struggled to fully implement their EPA obligations, in part because the sheer size of the implementation gap – when compared to national and regional institutions' thinly stretched capacity and existing legislative bottlenecks – has resulted in a situation where some countries are still unaware of which areas they are in compliance, and which areas require new legislation or new institutional procedures.

As a result of these difficulties, five years after signature, the CARIFORUM-EU EPA has yet to be ratified by half of Member States on both the

Caribbean and EU sides (and thus has not yet entered into force), and many critical development cooperation programmes have yet to come on-stream that would allow Caribbean economic operators to harness the opportunities under the EPA.

2.5.2 The constituency for implementation

These delays can be particularly acute when FTA negotiations are driven by considerations other than economic interests. The EPA negotiations between the 78-member ACP Group and the 28-member European Union, taking its seven constituent regions as a whole, constitute the largest FTA negotiation in history outside of the WTO. Yet the negotiations were remarkable in that they bring together parties – both across and on individual sides of the negotiating table – whose actual mutual commercial interests or links are often marginal. ACP countries negotiated with regional configurations based on geographical contiguity or political affiliation, despite intra-regional goods trade for most member countries often being weak, non-existent or at the very best a modest share of total trade.

The non-commercial link was just as, or even more, pronounced across the negotiating table. Few ACP countries count the EU as their major trading partner, apart from a few key export sectors in individual countries – in the Pacific for example, no member countries have a significant trading relationship with the European Union, apart from Fiji and Papua New Guinea; and in those cases for only two products on the export side (i.e. sugar and fish).[28] The non-commercial orientation was explicitly noted at the outset of the negotiations, when the then-EU Trade Commissioner stated that

> The ACP won't be asked to match this offer [of duty-free, quota-free access], and the tariff reductions they do offer will be subject to the flexibility provided by WTO rules which means the right to protect sensitive markets and use long transition times for change. I often hear claims that the EU is looking out only for its own commercial interests with EPAs. But Europe trades very little with ACP countries – we don't have offensive commercial interests in these negotiations.[29]

The difficulties are particularly acute in the negotiating configuration most familiar to Commonwealth small states and LDCs: negotiations between aid donors and aid recipients, as nominally equal negotiating partners (e.g. the ACP-EU EPAs, CARICOM-Canada, and PACER Plus). In a 'trade and development negotiation', the developed-country partner is often at pains to stress that their role as a development partner will be given equal (or in fact greater) consideration to their role as trading partner, and that the aim of the agreement is to encourage development, poverty reduction and integration – rather than the traditional FTA aims of increasing bilateral trade (particularly for key export sectors on both sides), opening markets, creating consumer/producer surplus, and strengthening trade-related regulatory transparency.

Furthermore, a 'trade and development' agreement is unlikely to be seen by the private sector as offering valuable economic opportunities (and thus an incentive to push for implementation) – in part because liberalisation is likely to be considerably back-loaded, ostensibly to protect the development interests of the lower-income party.[30]

In an absence of a group of commercial operators who have an economic interest that is tied to specific provisions in the text, implementation is likely to languish as simply another item in the inbox of trade officials – who, in the absence of the new policy or FTA commitments, are not only generally thinly stretched in capacity terms but also not the lead agency for 'on-the-ground' implementation efforts. Moreover, policy-makers may struggle to interest academics in implementation issues given that relevant analysis is likely to be qualitative in nature, rather than quantitative measures that can be captured in statistical analysis.

The difficulties of creating a commercial constituency for implementation extends to trade policy exercises that are largely donor

28 Bartels et al (2013).

29 See 'Economic Partnership Agreements: Tackling the Myths – Comment by Peter Mandelson', European Commission, published in *The Standard*, Kenya, 23 April 2007.

30 Bartels et al (2013).

funded – even those where the private sector is actively involved. In the case of Tonga (see Box 12), the National Export Strategy (NES) reflected several years of public-private consultation and effort, following a period of historic constitutional and economic reform. A review of the Tonga NES at the three-year mark noted a range of accomplishments, particularly in the building of new trade-related infrastructure, and important changes to business regulations that affected private sector growth. The review however found that whatever progress had been made had been largely funded by donors; private sector outcomes were compromised by a lack of unity on key issues, and a failure of individual firms to increase their productivity in line with the opportunities identified under the NES.

2.5.3 Prioritising implementation

Prioritisation different parts of trade policy and FTA commitments can help provide strategic guidance, rather than treating them as a 'laundry list'. The CARIFORUM EPA case illustrates the importance of breaking down trade policy and FTA commitments into digestible parts, particularly in a scenario where (a) there is a limited political window to treat

Box 12. Reviewing the Implementation of Tonga's National Export Strategy

The Kingdom of Tonga's National Export Strategy (NES) is a three-year strategy (2007–2010), developed as a public–private partnership with support from the Commonwealth Secretariat. The NES came about during a time of significant economic reform and constitutional change in Tonga, with the authorities taking a series of measures to address the ease and cost of doing business and improve private sector performance. At the same time, the NES review period came during a time of acute global financial crisis, with traditional export markets in the Pacific (for both goods and services) scaling back on consumption and development support. The NES review – coming at the end of the initial three-year period – sought to understand its effectiveness in achieving certain export growth objectives, and learn valuable lessons in the development of a Private Sector Development Strategy in 2012.

The review team employed a mix of techniques to capture national views on the NES. The review began with a series of questionnaires to key public and private sector stakeholders, aimed at understanding *inter alia* expectations vis-à-vis the NES, the role of key institutions in implementing the NES (and their effectiveness), and any key lessons learned. These questionnaires were then followed by individual meetings and focus group interviews, followed by a national workshop to distil key issues and lessons.

The NES review found a mixed, albeit positive, picture of progress:

> Overall 63% of proposed activities have been completed; 30% at least started though incomplete while 7% have not been attempted at all. This is a tremendous success. An enormous infrastructure base has been built. This will quicken transactions; ground and air transport facilities have been improved. Fish and fresh produce facilities have either been renovated or new once built. Extensive restructuring public and private organisation has taken place resulting in better establishments. Policy reforms both political and economic have heralded better regulatory frameworks thus improving the business environment. The likely results of these changes will be lowered costs of doing business and faster processes which will enhance export development.

The review, however, noted a number of challenges found in both implementing and evaluating the NES. The review team found that lack of data was a key issue – trade data was found to be scarce or incomplete, or too disaggregated to allow for detailed strategic thinking, particularly with regards to exports. The review also found serious deficiencies in managing implementation – the implementation team as envisioned by the NES team did not materialise, and monitoring and evaluation was not done.

Perhaps more importantly, involvement by the private sector was found to be minimal; much of what was achieved was funded by the Government or donor partners, and firms did not increase their productivity in line with expectations under the NES:

> [The accomplishments under the NES] unfortunately not resulted in proportionate realization of the outcomes anticipated, largely due to limited capacity on the part of the private sector which has not made it possible for the sector to fully utilize the opportunities created by the changed environment. Unnecessary rivalry within pockets of the private sector did not make matters any easier. Internal conflicts in some sectors posed serious challenges. Failure to present a unified body led to denial of previously promised government support in some instance e.g. in fisheries and tourism there are two competing private sector associations which weakens the sectors.

Source: *Kingdom Of Tonga Review Of National Export Strategy (NES) Final Report, Commonwealth Secretariat, 8 May 2012.*

implementation issues (notably in a time of crisis, such as the 2008 global recession) and (b) institutions with a potential role to play in implementation face serious constraints carrying out their existing functions, let alone new or expanded work programmes.

In the case of the CARIFORUM EPA, many national and regional institutions simply placed the 250 articles comprising the EPA into a single list, assigning each item to a Ministry or Department, with an indication of any time constraints that had been agreed to with the European Union. There was little effort – given the extremely limited trade capacity in most of the small states that comprised CARIFORUM – to prioritise certain areas of the agreement that might have the largest potential development impact (e.g. in fast-tracking certain proposals for the use of regional cooperation funds, or ensuring that governments ratified the Agreement and thus trigger several potentially beneficial provisions tied to entry-into-force).[31]

2.5.4 Financing implementation

In resource-constrained countries, there can be little expectation of implementation without adequate and timely financing in place. The challenges Commonwealth countries face in implementing their trade policies and FTA commitments stem in part from the sheer scale and scope of the measures required once the final text has been prepared. These could include, *inter alia*:

- Revising the necessary parts of the trade-related legal framework – from minor directives and regulations to wholesale amendments to entirely new laws, each requiring separate scrutiny and legal preparation from parliaments and thinly-stretched Attorney-General's Offices.
- Preparing and executing an information campaign to ensure that critical stakeholders – particularly within key line ministries and the private sector – are aware of the opportunities and obligations arising from the new policy or FTA commitment.
- Re-organising existing (or creating new) trade-related institutions to accommodate a change in role due to the policy or FTA commitment.
- Within the context of an agreement with a development cooperation component, launching the necessary aid projects to ensure that capacity-building goes in tandem with new market and regulatory opportunities.

The often-daunting challenges of implementation – and the incentive problem highlighted earlier, whereby implementation is less likely to receive political attention once the policy formulation or FTA negotiation process is concluded – suggests that rather than waiting for the process to conclude, policy-makers should be creating financing structures in tandem with the emerging text. This can ensure that implementation activities 'hit the ground running', particularly in those smallest and LDCs who are less likely to see immediate market-opening benefits from policy changes and negotiations, and whose institutional capacity for implementation is often highly constrained.

Once again, the ACP-EU EPA negotiations – which involved a majority of Commonwealth members in Sub-Saharan Africa, the Caribbean and the Pacific – provide some best practices and lessons learned. Each EPA region, as part of its negotiating schedule jointly agreed with the European Commission, established a Regional Preparatory Task Force (RPTF). While the RPTF was not a formal part of the negotiating structure, its meetings (normally held in the margins of formal negotiating rounds) allowed representatives of both the European Union and the ACP regional negotiating groups to contribute ideas for cooperation activities in light of the unfolding negotiations. As successive areas (e.g. trade in services, SPS/TBT) were added to the formal negotiations, the RPTF commissioned and considered needs assessments. In the case of the CARIFORUM-EU EPA (see Box 13), the RPTF process was partially successful in that it influenced programming of the 10th European Development Fund (EDF), whose programming cycle from 2008–2013 overlapped with the first five years of implementation of the EPA.

31 B&S Europe (2014).

Box 13. Linking negotiations with financing for implementation: The CARIFORUM-EU regional preparatory task force

During the CARIFORUM-EU EPA negotiations, the Regional Preparatory Task Force (RPTF) was established through the mutually agreed Plan and Schedule of Negotiations between CARIFORUM and the European Commission, which envisioned a joint body to 'cement the strategic link' between the EPA negotiations and development cooperation. While not a formal part of the negotiating structure, the RPTF was meant to formulate studies on specific areas of the EPA negotiations – as those negotiations were progressing – to act as a sort of rolling needs assessment (i.e. to ensure that once the Parties wished to action the support under the relevant cooperation provisions, the RPTF would have already laid the foundation). The RPTF's 'early warning' system was particularly important in the context of EU programming cycles, where priorities need to be formulated well in advance of actual implementation.

The RPTF agreed to focus on 11 areas of work, which produced 13 studies in specific areas of the EPA negotiations – ranging from procurement and customs cooperation to SPS and TBT – some of which are reflected in the subsequent design of the regional envelope of the 10th EDF.

On one hand, based on stakeholder consultations, there was only partial reflection of the RPTF studies in the 10th EDF – reflecting in part the fact that the resource needs identified in the studies (in excess of €500 million) far exceeded available resources under the 10th EDF regional envelope. On the other hand, the RPTF studies strongly informed key areas of the EPA component under the 10th EDF – such as SPS and TBT – suggesting that the exercise was useful over its limited lifespan.

Source: *B&S Europe (2014)*

2.6 Conclusions: A holistic approach to trade policy and negotiation

This chapter has highlighted the difficulty of separating trade policy from negotiation, in part because their effective management requires many of the same fundamental processes. The analysis and case studies under the first pillar of trade success suggest that several basic elements need to be in place to manage trade policies and effectively negotiate trade agreements. Policy-makers must have both a sense of the final outcome (one that is grounded in domestic economic reality) as well as the current *status quo*, within the limitations of data and linkages with key stakeholders. Trade-related institutions charged with developing and negotiating trade policies need to undertake exhaustive (and often exhausting) processes of consultation with key stakeholders, thus ensuring long-term buy-in. Last but certainly not least, the challenges and sequencing of implementation must be foremost in the minds of policy-makers, rather than – as it so often is – an afterthought once the ink has dried on the final text.

Aside from the processes and key elements, the chapter has highlighted the critical importance of understanding how institutions, ideas and interests are inter-linked, and how much of the effective management of trade policy and trade negotiations is based on simply answering basic questions (see Box 14): how important is trade, and how has it evolved? What are the key features of trade policy? What are the institutional roles, and do the relevant institutions have the necessary resources to carry out their mandates, with clear backing from donors? Is there a clear understanding – especially among key decision-makers and the private sector – of the costs of benefits of adopting certain policies and negotiating positions, and how are these linked to market barriers?

Box 14. Key questions for understanding trade policy and trade negotiations

1 *Importance and evolution of trade*
- How important is trade and foreign investment to the country?
- What are they key products and markets?
- How have trading patterns evolved?
- How much government revenue comes from trade taxes?

2 *Features of trade policy*
- Is there a clear trade policy and trade development strategy?

(continued)

- How has the policy evolved?
- What are the key trade policy issues at present?
- What are the main trade policy instruments?
- What defence measures, tariffs and subsidies are in place?
- What is the regulatory framework affecting trade and foreign investment?
- Is trade policy considered in parallel with other development policies?

3 *Trade-related institutional roles and procedures*

- Who is in charge of trade policy?
- How are roles divided within government?
- What are the mechanisms for co-ordination between Ministries?
- What are the decision-making processes?
- How are consultations undertaken on trade policy issues outside government?
- What policy research and analysis is undertaken?
- Is there enough national capacity to do trade policy? Where are the bottlenecks?
- Are resources sufficient? Have extra requirements been identified?
- What capacity is there outside government?
- What role have trade officials had in preparing national development strategies?

4 *Awareness of the costs and benefits of trade negotiations*

- How much awareness is there about WTO and the multilateral trading system?
- Are their difficulties implementing WTO Agreements?
- Have adequate preparations been made for new WTO negotiations?
- Is the country able to participate actively in the WTO?
- How active is the country in setting international product standards?
- Are regional and bilateral trade agreements delivering benefits?
- What are the opportunities and challenges for regional integration?
- Do regional organisations play an important role?
- What are the country's key objectives for future trade negotiations?
- Is trade development a high national priority?

5 *Market barriers*

- What are the main external barriers for export development?
- Are technical product standards a problem in export markets?
- What are the main domestic constraints facing traders?

6 *The role of donors*

- Have donors agreed an assistance strategy for trade development?
- Are donors currently providing trade policy technical cooperation (or related) programmes?

Source: *Pengelly and George (2001)*

3. The trading capacity pillar

'A magnificent high road cannot be made through a desart [sic] country where there is little or no commerce, or merely because it happens to lead to the country villa of the intendant of the province, or to that of some great lord to whom the intendant finds it convenient to make his court. A great bridge cannot be thrown over a river at a place where nobody passes, or merely to embellish the view from the windows of a neighbouring palace: things which sometimes happen, in countries where works of this kind are carried on by any other revenue than that which they themselves are capable of affording.'

Adam Smith (1776)[32]

Market access alone cannot create growth and sustainable development: investments in

32 Adam Smith as quoted in Klein (2012).

productive resources, capabilities and linkages are needed ensure that trade actually takes place. Trading capacity is the infrastructure that allows a country to maximise its level of trade and compete effectively for overseas markets. Through higher and more sustainable levels of investment in so-called 'hard' infrastructure (e.g. ports, roads, and telecommunication links) and 'soft' infrastructure (e.g. institutional capacity and entrepreneurial skills) developing countries can overcome structural weaknesses, obtain foreign exchange, diversify their economic base and finance development.[33]

Many Commonwealth developing countries – particularly its smallest and least-developed member countries – have seen their net goods and services trade fall over time, despite an increase in market access. During three decades of trade liberalisation, international market access has risen, tariffs and trade barriers have fallen, and inward access has risen. Yet exports of goods and services as a proportion of economic output have remained static – or, in the case of many non-oil exporting small and LDC economies, fallen sharply.[34]

Trading capacity is the missing link between market access, trading potential, and pro-growth/pro-development outcomes. While Commonwealth developing countries are likely to have ample opportunity to export their goods (for which demand exists in developed and large developing markets) without necessary infrastructure and skills, they will not be able to produce enough quantity of the desired good, at the requisite levels of quality, and at the right time to meet the demands of importers and global supply chains.[35] In fact, market access has only heightened the urgency of creating stronger and more sustainable trading capacity, as reductions in barriers at the border – which are generally neutral with respect to notions such as product quality – have given way to non-tariff barriers behind the border, such as sanitary and technical standards, where the existence and quality of domestic infrastructure is decisive.

As fundamental and self-evident as these statements may appear, the importance of trading capacity does not necessarily receive the attention it deserves in high-profile policy debates and frameworks. A major limitation of the Millennium Development Goals (MDGs) was their failure to include dimensions of structural transformation or productive capacity – thus attempting to address long-term social development without any explicit link with economic transformation and development. Yet for many Commonwealth countries that have navigated a changing global trade order with low levels of production and diversification, a heavy dependence on commodities, poor infrastructure and weak institutions, the transformation of these capacities is the *sine qua non* to any wider socio-economic change.[36]

Three key trends have contributed to the notion that productive capacity can act as a bridge between trade and development:[37]

- First, *the acceleration of trade in intermediate inputs and components* within value chains has provided an opportunity for companies based in developing countries to increase their share of outsourced tasks. This in turn can drive increases in technology transfer, knowledge, profit and investment. On one hand, it increases the gap between those countries with a high level infrastructure, skill level, technology level and investment policy, and those countries that continue to struggle with basic institutional and infrastructural deficits. On the other hand, it provides some scope for governments that understand the cross-border dynamics of large companies to influence the interests of the latter in the interest of promoting development.[38]
- Second, *increasingly sophisticated consumer tastes* (particularly in traditional developed country export markets) for what were once relatively homogenous goods (e.g. sugar, fish and bananas) have created two sets of concerns: first, higher levels of food safety and product quality to satisfy changing notions of health and personal well-being; and second, higher levels of concern over

33 UNCTAD (2011).
34 Gay (2014).
35 Ibid.
36 ODI/DIE/ECDPM (2013).
37 World Bank (2011).
38 ODI/DIE/ECDPM (2013).

how consumer behaviour affects sourcing countries, causing corporate interests to begin to overlap with development concerns, and thus greater attention on notions of ethical trade and sustainable sourcing. As above, this trend presents a double-edged sword: while increasing consumer sophistication brings renewed pressure on cash-strapped governments to invest in higher levels of trading capacity, it can also provide a new market for new products (such as Fairtrade bananas) whose competitive structure means that trading prospects suffered under prior market conditions.

- Third, *a stronger focus on private sector development* has led both donors and beneficiaries to increasingly recognise the role of the private sector in creating inclusive growth, and thus more closely involve private-sector stakeholders in the development and execution of public–private cooperation programmes. For investments in trade policy and negotiations, the public sector is more likely to play a leading role, albeit in consultation with other stakeholders. For investment in trading capacity, however, the private sector is likely to have a stronger comparative advantage, with a role for governments to ensure that enabling regulations are in place and that related assistance is properly targeted.[39] This provides a clear 'head-start' to those countries that already have functioning mechanisms for public-private collaboration and partnership, and increases the onus on the others to ensure that dialogue begin on much-needed investment.

3.1 Competitiveness and development through trading capacity

Building infrastructure cannot be seen in a vacuum, or merely as an end in itself. Based on data compiled by the OECD and WTO in the context of the Aid-for-Trade Initiative, aid flows classified under 'economic infrastructure' have dominated other categories (including 'building productive capacity') every year since the WTO Aid-for-Trade Task Force was established in 2005.[40] In comparative terms, this is arguably unsurprising: infrastructure projects tend to be large and resource-intensive (e.g. requiring the procurement and purchase of significant quantities of input materials) with large staffing and expertise requirements. Thus the budget of an individual infrastructure project is likely to dwarf another (potentially equally valuable) technical assistance project in, for example, the area of trade policy and regulations.

The large comparative values for infrastructure also point to the importance that policymakers place on trade costs, and the enabling role that infrastructure investments can play in their reduction. Empirical literature has shown that the such costs can create significant competitive disadvantages, particularly for developing countries: from the direct monetary outlays on communication, business travel, freight, insurance and legal advice, to delays in the delivery of intermediate inputs, to the opportunity cost of lack of access to a good transport or telecommunication service (e.g. where large ships will bypass harbours with inadequate facilities, thus depriving their residents of economic activity).[41] These studies have found a positive and significant impact of quality of infrastructure on trade: estimating, for example, that if a country like Peru or Turkey improved sea port efficiency to a level similar to Iceland or Australia, it would be able to increase trade by roughly 25 per cent.

Yet, all too often, demand is determined with reference to an abstract threshold (e.g. a given level of GDP that is to be invested in infrastructure projects) under the assumption that economic performance, typically growth, requires a fixed proportional input of infrastructure. Empirical theory on the determinants of economic growth however, particularly in the developing country context, has disproved the notion that fixed proportions of factor inputs can produce desired rates of growth.[42] Echoing the earlier analysis of trade negotiations, the enabling environment – including strategic

39 World Bank (2011).
40 OECD/WTO (2013).
41 WTO (2004).
42 Klein (2012).

visions, institutions, financing and stakeholder ownership – is key to ensuring trade success, and perhaps more importantly ensuring that infrastructure investments are actually used by trading firms, and generate inclusive job growth and development spillovers.

The importance of the linkage between institutional capacity-building and trading infrastructure has been reinforced in Commonwealth case studies of large infrastructure projects. The Chirundu One-Stop Border Post (OSBP) project between Zambia and Zimbabwe (Box 15) sought to tackle one of the most costly and time-wasting blockages on the all-important North-South Corridor (NSC). The NSC, which extends from Lusaka to Johannesburg, is the busiest regional transit transport link in eastern and southern Africa. With a 10, 647 km road network, it is also the most extensive corridor system in the region, linking eight eastern and southern African countries (Botswana, DRC, Malawi, Mozambique, South Africa, Tanzania, Zambia, and Zimbabwe. The NSC is the main supply route to the landlocked countries in the region and extends over the territories of three regional groupings (COMESA, EAC and SADC) dominated by Commonwealth countries.

The Chirundu OSBP sought to tackle infrastructural and procedural deficiencies: aside from poor ICT connections, weak utility capacity and badly maintained roads, there were over 20 government agencies in total from both governments that enforced various pieces of legislation individually on both sides of the border. Considering that the requirements by both countries were largely the same, the processing of commercial and passenger traffic was repetitive and bureaucratic, inevitably resulting in delays, congestion and confusion within the border facility and surrounding areas and communities.

The implantation of the Chirundu OSBP project revealed the importance of institutional reform alongside improvements in trading capacity. Previous projects that had focused on merely investing in new infrastructure largely failed to create tangible improvements in trading costs and clearance times. Only under the OSBP project – which also focused on 'soft improvements' such as regulatory changes and capacity building of key officials – did the necessary changes occur, thus improving revenue collections and increasing regional competitiveness.

When implemented in a holistic way, improvements in trading capacity can also have concrete effects of social and development indicators. The Chirundu OSBP project in Box 15 is a clear example of how an aid intervention that combines 'hard' infrastructure with 'soft' capacity-building can potentially improve the lives and development prospects of Commonwealth countries, particularly those communities surrounding major technical assistance projects.

Before the implementation of the Chirundu OSBP project, truck drivers experienced long delays crossing the Chirundu border, particularly on the Zambian side, due to slow and inefficient customs administrative procedures.[43] One hundred and fifty to one hundred and eighty truck drivers per day crossed and joined other trucks that were parked at the border. Thirty per cent of the truck drivers spent up to three days at the Chirundu border and travelled there between six and 10 times in three months; in 1999, surveys found that 1,000 truck drivers slept there every month.[44]

These long delays led to serious health consequences, as truck drivers are also likely to engage the services of sex workers at the border; many of them frequently travel throughout the region, spending long periods of time away from their families. Most women in Chirundu rely primarily on vending, sex work, and domestic services as sources of income. The area has approximately 300 resident sex workers, with another 200 part-time sex workers coming in from rural areas at peak periods, particularly at months' end.[45] With border

43 See International Labour Organization, '*HIV/AIDS in the Transport Sector of Southern African Countries: A Rapid Assessment of Cross-border Regulations and Formalities*', Technical Cooperation 3, December 2005, p. 18, accessed 1 February 2015, at www.ilo.org.

44 Family Health International, 'Corridors of Hope in Southern Africa: HIV Prevention Needs and Opportunities in Four Border Towns', 2005.

45 Ibid.

Box 15. Enhancing trading capacity at the Chirundu one-stop border post

Background

The Chirundu border between Zambia and Zimbabwe straddles the Zambezi River and is located 140 km southeast of the Zambian capital, Lusaka. It is the second busiest border post on the North-South Corridor (NSC) after Beitbridge (the border between South Africa and Zimbabwe). Chirundu handles more than 6,000 trucks per month, with an average of 480 trucks per day in both directions; however, more trucks use the route going northward than southwards. Delays at Beitbridge and Chirundu are by far the most important impediment to transport along the NSC. It is estimated that the delays at the two border crossings could be equivalent to a 25 per cent surcharge on transport costs along the corridor. In 2008, the standing cost for trucks at Chirundu ranged from US$265–US$524 per day; this translated to an annual cost of US$31 million to traders. Long border crossing times are often cited as one of the main impediments to the competitiveness of African industry.

The delays endemic to the Chirundu border were mainly attributed to delays in the clearance process. The average transit time for trucks for northbound traffic ranged from 26-46 hours, while transit times for southbound traffic ranged from 6–17 hours. Though delays at the border averaged two days, longer days were not uncommon nor, in fact, were shorter waits. The unpredictability of wait times at Chirundu badly hampered the ability of Zambian businesses to participate in modern supply chains, with their emphasis on just-in-time inventory management.

Objectives

To address these challenges, in 2006 the Regional Economic Communities Transport Coordinating Committee (REC-TCC) met in Nairobi and designated the Chirundu border post as the pilot One-Stop Border Post (OSBP) for the southern African region in a COMESA-led project. The Chirundu OSBP was launched on 5 December 2009. The specific objectives of the project were to, *inter alia*, combine the activities of the Zambian and Zimbabwean border agencies by redesigning border infrastructure and establishing a Common Control Zone (CCZ), as well as create a framework for joint processing thereby enhancing trade facilitation and reducing the waiting time and cost of passing through the Chirundu border.

Challenges

Many of the challenges encountered during the project were institutional in nature. For example, project teams found that convincing the multiple stakeholders and ensuring buy-in was difficult to achieve. This was partly due to fears of losing power and relevance to border operations among some border agencies in the face of OSBP. There was a long delay in galvanising support for and passing the enabling legislation, especially in Zambia. Despite signing the bilateral agreement on the Establishment and Implementation of the Chirundu OSBP in 2007, it took Zambia another two years to pass the Zambia OSBP Control Act. Furthermore, there was no lead agency on either side of the CCZ until late in the process.

Successes and lessons learned

The implementation of the Chirundu OSBP project has brought forth a number of benefits to trade. There has been vast improvement in border infrastructure on both sides of the Zambezi River. These infrastructure investments have led to an increase in the average number of trucks entering and exiting on a daily basis. In Q2 of 2011, 480 trucks entered and exited Chirundu as compared to 260 in 2010 and 100 in December 2004 and about 70 in 2000. The efficiencies saved 960 to 1,920 travel days per annum; this translates to a conservative estimate of between US$ 288,000 and UD$576,000 in savings every day. Passenger clearance time has been halved from two hours to just under one; this has facilitated the movement of people, including small-scale traders, in the region.

There have also been increased efficiencies and the capacity to handle larger volumes of traffic within a shorter period of time, including the fact that vehicles only stop once, thus ameliorating border congestion. Aside from increased trade volumes, the OSBP has also increased the revenue collected, reduced the cost of doing business in the region and therefore enhanced competitiveness of the regional industry.

The key lesson learned from the Chirundu OSBP has been that all efforts to improve physical infrastructure should be supplemented and accompanied by supporting soft interventions. The construction of the new bridge in 2002 and the construction and separation of terminals did little to expedite cross-border trade, as massive queues of vehicles waiting to cross still accumulated on both sides of the border and crossing times could still stretch to more than a week. The tacking of soft aspects of the project – such as capacity building of customs officials – supplements the infrastructure and progressively yields results.

Source: *OECD/WTO (2011), 'Aid for Trade Case Story on the Chirundu One Stop Border Post', Aid-for-Trade Case Story prepared by the Finnish Ministry of Foreign Affairs, March 2011.*

crossings at Chirundu now taking a minimum of five hours for expedited crossing and a maximum of one day, truck drivers now spend less time at the border. They are thus less likely to engage in commercial sexual activity, which in turn could see HIV/AIDS transmission rates between truck drivers and local female sex workers and cross-border traders at the Chirundu border decrease dramatically.

3.2 Tackling non-tariff measures through quality infrastructure

In few places is the link between policies, institutions and trading capacity as critical as in the area of quality infrastructure. Changing global trade flows and tariff reductions have enhanced the role of standards in the link between trade and economic development. Quality upgrading ensures that products not only meet increasingly stringent consumer expectations, but also enhance producer opportunities to expand into new markets – not only traditional OECD markets but also emerging South–South market opportunities. More and more, participation in world trade in a variety of sectors requires that suppliers comply with standards determined by lead buyers in global and regional value chains. Producers face growing pressure to meet quality requirements through certification, which in turn requires that countries maintain the proper institutional infrastructure – from laboratories to coordinating institutions – across sectors, countries and stakeholders.[46]

The importance of quality infrastructure systems – those responsible for the standardisation, metrology, accreditation, testing, control and certification, technical regulation and market surveillance – has been increasingly recognised in a world where traditional border measures (e.g. tariffs) are increasingly less important than non-tariff measures (NTMs). The image of a tide is regularly invoked to explain this – as the tide goes down (i.e., as tariffs reduce), seabed rocks appear (i.e., NTMs appear).

Many different types of NTMs exist. Two important types are sanitary and phytosanitary (SPS) measures and measures that fall within the WTO Agreement on Technical Barriers to Trade (TBT). It has been acknowledged that even where these measures are legally justified (i.e. consistent with the legal disciplines on SPS and 'TBT' measures) and thus are not 'barriers' in the legal sense, they can restrict trade. Their trade-restrictive effects can result in a complete (de facto) prohibition on the importation/sale of a given product or increased difficulties in importing/selling products.

In some cases, market access can be prevented in certain circumstances (e.g. where products cannot meet the product or performance requirements laid down in mandatory technical regulations, or where domestic laboratories are not accredited and thus cannot attest to the products' conformity with standards and regulations). In other cases, trading costs can be increased (e.g. where adaptation costs are incurred in changing processes to meet new/revised measures (such as technical regulations setting out required production methods) or where there is an absence of domestic structures which prevents producers from obtaining conformity assessments at home and obliges them to obtain them abroad).

Firms in developing countries may feel the effects of TBT/SPS measures particularly acutely when compared with their counterparts in more developed countries. Depending on the industry/product, developing country firms with limited resources may find it comparatively more difficult to adapt their processes to new or changing SPS/TBT measures. Moreover, developing countries appear to have traditionally faced particular challenges in the context of quality infrastructure, including the establishment and recognition of independent accreditation bodies.

Investment in quality is required in order to enable traders to satisfy SPS and TBT measures that apply in export markets. The type of investment required ranges from the purely monetary (e.g. the purchase of equipment, establishment of facilities and their upgrading) to investment in building the capacity of staff in laboratories and testing centres (e.g. the compilation of manuals and general staff training). In a wider sense, without the

46 Tippmann (2013).

existence of policies, laws and regulations providing for the establishment of the necessary structures and entities, the necessary quality structures and entities may even be prevented from coming into being.

Case studies from the Commonwealth suggest that increasing the awareness of the economic benefits of quality infrastructure is often just as important as the actual investment. Box 16 summarises two case studies from Sri Lanka related to quality infrastructure: the first case study (on tackling SPS barriers, funded by UNIDO) focuses on the enhancement of testing centres, by way of investment in facilities and in training staff; the second case study (on TBT barriers, funded by the Swedish International Development Cooperation Agency (SIDA)) draws lessons from the establishment of an independent accreditation body in Sri Lanka.

Box 16. Creating TBT and SPS quality infrastructure in Sri Lanka

Supporting SPS testing centres in Sri Lanka

From: 'How Laboratory Business And Exports Can Grow Hand In Hand – Easing Trade Through Trusted Local Conformity Assessment', Aid for Trade Case Story prepared by UNIDO, January 2011.

Background

UNIDO, with the financial support of the Norwegian Agency for Development Cooperation (NORAD) upgraded seven public testing centres in Sri Lanka to meet conformity assessment criteria and attain ISO/IEC 17025:2005 accreditation. This accreditation specifies the general requirements for the competence to carry out tests and/or calibrations, including sampling and covers testing and calibration performed using standard methods, non-standard methods, and laboratory developed methods.

Design and implementation

In Sri Lanka, the NORAD-funded UNIDO Integrated Industrial Support Program was launched in September 1999. The project was implemented in two phases with a total budget of €6.8 million for the period 1999–2008. Key areas of upgrading were identified in consultation with the Government of Sri Lanka and support was provided for the development of the country's national quality infrastructure with specific needs for testing in the garments, tea, rubber, and fisheries sectors. Seven public testing centres were identified as project beneficiaries. The project design and implementation followed a capacity needs assessment of the testing centres in relation to the needs of existing and projected customers from the export sector. Commercial and industrial organisations were involved in collecting the number, type, and range of chemical and microbiological testing that was contracted to local and international testing facilities.

Successes

The largest volumes of testing services for upgrading and the largest number of new customers demanding testing services was in the areas of chemical and microbiological testing. Testing services were provided to a large number of export sectors such as garments, fisheries, tea, food, beverages, rubber and footwear where services were provided for, amongst others, monitoring of water, wastewater, and product quality. In Sri Lanka, there was a 72 per cent increase in the testing centres' customer base between 2002 (pre-accreditation) to 2008 (post-accreditation). Three hundred and twenty-five new customers were able to satisfy export market testing requirements through the newly accredited testing centres, thus enhancing their export capacities. During the same time, the testing centres were able to increase their income by 179 per cent – signifying a mutually beneficial relationship for the testing facilities and private sector alike.

Additional tangible outputs came about as a result of the accreditation of the local testing facilities. Sri Lanka's fishery exports to the EU increased 52.2 per cent from 13,532MT in 2008 to 20,594MT in 2008 and fish exports rose 94.4 per cent from 7,724MT in 2002 to 15,014MT in 2008. Although the increased exports cannot be solely attributed to the accreditation of testing centres as the fishery industry receives donor agency financial support, the accreditation of the testing centres made a noteworthy contribution.

Challenges

Although there was domestic awareness of the importance of trade as a vehicle for economic development, it had not yet been fully embraced by government officials. Testing facility officials were often not aware of the idiosyncratic challenges facing the private sector actors who relied on them to provide efficient and accurate

(continued)

testing services. Staff motivation at the sites was low and the recruitment and retention of qualified staff was difficult due to the low salary packages. Accreditation through a foreign accreditation body was difficult to obtain due to the high costs of accreditation and assessment. UNIDO was aware that the initial investment to obtain accreditation was high and thus threatened the sustainability of the testing centres. Therefore, the agency supported some of the accredited centres during the first three to five years. During this time, UNIDO encouraged the Sri Lankan authorities to identify means of ensuring the testing centres' self-sustainability after the period of support. It was a difficult task but it was achieved – the testing centres became self-sustaining because of the increased revenue from increased demand for their services and increased staff motivation through the implementation of a performance-based incentive scheme developed with UNIDO.

Strengthening the Sri Lankan Accreditation Board

From: 'Quality Infrastructure Development in Sri Lanka', Aid-for-Trade Case Story prepared by the Swedish International Development Cooperation Agency, January 2011.

Background

This SIA-funded project involved institutional cooperation primarily between the Sri Lanka Accreditation Board for Conformity Assessment (SLAB) and the Swedish Board of Accreditation and Conformity Assessment (SWEDAC). The duration of this project was three years (2007–2010) and the budget was SEK 7.7m (approx. €0.83m), of which 82 per cent was utilized. This project was a follow up to a previous SIDA-funded project on quality policy and QI, implemented between 1995 and 2003.

The Sri Lankan Parliament passed legislation for the establishment of SLAB in 2005 and, only after that, requested the initiation of this project (request made by Sri Lanka's Ministry of Science and Technology, the ministry responsible for SLAB). It was important that the relevant legislative environment was in place by the time the project began. Indeed, the passing of this legislation was a precondition for SIDA's launching of this follow-up project. The establishment of an independent accreditation body was the only objective not achieved in the precursor project.

The previous project (of 1995–2003) had not established an independent accreditation body and the primary objective of this project was the establishment of a body that would be recognized internationally for conformity assessment accreditation.

Results achieved

The project surpassed initial objectives because SLAB received international accreditation during the life of the project, whereas the initial objective was only to prepare SLAB for accreditation post project termination. In December 2009, SLAB was accredited by the Mutual Recognition Arrangements of the Asia Pacific Laboratory Accreditation Cooperation (APLAC) and the International Laboratory Accreditation Cooperation (ILAC). By August 2010, just three months after the end of the project, SLAB had accredited 23 testing laboratories, 5 medical laboratories and 1 certification body. Many more conformity assessment bodies were already engaging with SLAB with a view to accreditation. The project also assisted many more laboratories, by way of consultancy services, than originally anticipated. Other results included: the computerization of SLAB's activities, the development of its website, and the development of trained staff.

Factors for success and lessons learned

Lessons can be summarized as follows:

- *Strong local ownership was key to the project's success*: There was a heightened awareness among national stakeholders (including laboratories), commitment at the ministerial level, and active participation by SLAB.
- *Having the right local conditions in place was also key to the project's success:* For example, the passing of the relevant legislation in 2005, which was a precondition for launching the project.
- *Appropriate continuity of support:* This project successfully built on a previous project and the knowledge gained during that previous project (e.g. knowledge of important actors). This continuity meant that the project's objectives could be very specific and realistic.
- *Project implementation by the appropriate entities in an active manner:* The project benefitted from SWEDAC being the Swedish counterpart agency to SLAB. This appears to have been conducive to the building of a strong relationship between SLAB and SWEDAC and it also meant that valuable transfer of knowledge and experiences occurred. The strength of the SLAB-SWEDAC relationship is exemplified by the fact that SLAB continues – post-termination of the project and in an informal manner – to have access to SWEDAC expertise when addressing questions. This aspect of the project could provide support for the value of mentoring/twinning/partnerships in the context of other projects. However, an approach that is more comprehensive (i.e. that goes beyond such mentoring) might be more appropriate where the domestic institutional framework and awareness is less developed than the case of Sri Lanka.

Both case studies reflect the importance of domestic ownership, awareness of the project objectives, and acceptance by key stakeholders of the relevance and importance of those objectives. Even within the same country and in two closely linked initiatives, the case studies show important contrasts. In the context of the SPS project, there was a low level of domestic buy in and a lack of awareness regarding the importance of quality infrastructure for domestic producers. In contrast, for the TBT project, there was strong domestic commitment to the project, and a heightened awareness of the importance of the objectives sought to be achieved (i.e. laboratories understood the significance of their role for producers/exporters).

Arguably, this disparity can be explained (at least in part) by the fact that the SIDA-funded project described in the TBT case study was a follow-up project – thus much groundwork and awareness building may have already been put in place over the course of the precursor project (also SIDA-funded). Indeed, a notable aspect of the TBT project is that SIDA preconditioned its launch on having the right local conditions in place beforehand, which may have had a role in the heightened awareness and buy in at the domestic level. The success of the SIDA-funded project outlined in the TBT case study may also be illustrative of how appropriate continuity of support can be beneficial, efficient and cost-effective. Active participation by the appropriate domestic entities was also perceived as being central to the success of both projects described in the following sections. Moreover, it is worth highlighting the dynamic at play in the SIDA-funded project – whereby the Swedish agency (SWEDAC) was supporting its counterpart in Sri Lanka (SLAB).

The first case study exemplifies the difficulty that sometimes arises in delineating between what falls within the scope of the TBT Agreement and what falls within the scope of the SPS Agreement, and the fact that the same QI might be relevant for both TBT and SPS purposes. The OECD/WTO joint database on AfT characterised the first case study as an 'SPS' case study. However, discerning readers will notice that this project – relating to the enhancement of testing centres in Sri Lanka – appears to have had implications for matters that fall within the scope of the TBT Agreement (such as the carrying out of conformity assessments and improving the capacity of producers to meet mandatory product requirements set out in technical regulations).

Finally, although the following case studies focus on challenges facing developing countries from the export perspective (i.e. challenges are faced in exporting their goods) this should not be understood to mean that developing countries do not face SPS/TBT-related challenges from an importing market perspective. Indeed, developing countries can face challenges in formulating and implementing SPS/TBT measures in their own markets (i.e. as the importing markets) as required by the WTO and other agreements.

3.3 Negotiating and implementing trade facilitation for development

Investments in trade facilitation are a major part of increasing trading capacity, and can be a major contributor to wider social and economic objectives. Trade facilitation – generally understood as the simplification and harmonisation of procedures related to international trade[47] – has come to the foreground of trade policy discussions, as both policy-makers and the international business community have expressed increasing levels of concern for greater transparency, efficiency and uniformity of procedures related to importing and exporting. Trade facilitation, at its core, is a balancing act between the gains from economic efficiency and regulatory objectives. On one hand, key economic actors are seeking to reduce the risks and transaction costs – in both time and money – associated with moving goods across international borders. On the other hand, national authorities eager to protect legitimate regulatory objectives: for example, safeguarding fiscal revenues from Customs fees and charges, ensuring that prohibited or restricted (e.g. drugs

47 See 'Trade Facilitation', European Commission website, accessed online at http://ec.europa.eu/taxation_customs/customs/policy_issues/trade_falicitation/index_en.htm.

or weapons) do not enter into the domestic market, and protecting both consumer welfare and environmental wellbeing.

The relevant empirical literature suggests enormous potential economic benefits from improvements in trade facilitation. An OECD study using the Global Trade Analysis Project (GTAP) database estimated that each 1 per cent reduction in trade-related transaction costs could provide up to US$43 billion in economic benefits globally. Similar analysis for only the APEC membership estimated that if APEC members who perform below average on trade facilitation proxy indices were able to improve their performance to half the APEC average, intra-APEC trade could increase by a US$254 billion, and raise average gross domestic product (GDP) for the APEC region by 4.3 per cent.[48] A recent and much-cited study by the Peterson Institute for International Economics suggested that the gains from trade facilitation – often referred to as the 'plumbing' of international trade – could reach US$1 trillion worldwide.[49]

The focus of trade facilitation activities can vary significantly, from tackling so-called 'red tape' (i.e. wasteful and time-consuming bureaucracy that is often a driver of corruption) to wholesale modernisation of procedures, physical assets and staff skills. There is however a general core set of trade facilitation activities, including:

- the *simplification and harmonisation* of applicable rules and procedures – with the latter activity focused on aligning domestic procedures with international best practices and conventions (as set, for example, by the World Customs Organisation) – to avoid unnecessary duplication, lower transaction costs, and accommodate business practices;
- the *modernisation of trade compliance systems*, focused on speeding up the submission and processing of key documents (e.g. through a Single Window for all import, export, and transit-related regulatory requirements);
- improving *service standards in administration and management*, ranging from the publication of key documents to avoiding the excessive/inappropriate use of risk control mechanisms; and
- establishing and improving *institutional mechanisms* that balance regulatory objectives with the diversity of trading interests within the national economy.[50]

While some developing countries have adopted critical perspectives on the value of trade facilitation, there is a growing body of literature that suggests that streamlining border procedures can be extremely beneficial for developing countries vis-à-vis their more developed counterparts. For example, SMEs are often the primary job creators in developing countries, yet they are precisely those facing compliance costs that are proportionally higher than for larger firms. Large multinationals, unlike SMEs, also often have the luxury of either hiring dedicated manpower to address border transactions, or choosing an alternative market if facilitation costs become too onerous.

Developing countries are also most likely to disproportionately benefit from better trade facilitation as their trade procedures – particularly in capacity-constrained LDCs and small states – are likely to be especially cumbersome and outdated. These difficulties may range from outdated or inconsistent legislation/regulations and burdensome documentation, to arbitrariness in the application of rules and procedures and a lack of sources of information on markets and marketing practices.[51]

Negotiations on trade facilitation have become increasingly commonplace for Commonwealth countries. Trade facilitation negotiations have travelled quite some distance, from being one of the so-called 'Singapore Issues' that deadlocked the 2003 WTO Cancun Ministerial, to being an active negotiating area in and outside of the WTO.

At the *multilateral* level, Commonwealth countries were deeply involved in the recently concluded WTO negotiations on trade facilitations. Efforts to launch negotiations began

48 Grainger (2011).

49 See Hufbauer, Schott, and Cimino, 'Payoff from the world trade agenda 2013', *Vox* website, accessed online at www.voxeu.org.

50 Grainger (2011).

51 Kommerskollegium (2013).

in the mid-1990s, with a relatively modest mandate from the 1996 WTO Ministerial Conference in Singapore to '*undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area*'. Following the breakdown of the 2003 Cancun Ministerial, proposed modalities for negotiations on trade facilitation were couched within the Doha Work Programme. Negotiations continued until a draft text was formulated in 2009, and a final agreement reached at the December 2013 Bali Ministerial.

The Agreement is divided into three sections – Section I containing provisions for expediting the movement, release and clearance of goods, including goods in transit; Section II outlining measures applicable to developing countries; and Section III containing provisions establishing a permanent committee on trade facilitation at the WTO and requiring members to have a national committee to facilitate domestic coordination.

The WTO Trade Facilitation Agreement is ground-breaking in several regards: not only in the 'bottom-up' fashion in which it was formulated (avoiding exclusive 'green room' approaches) but also for its focus on special and differential treatment for developing countries under Section II. Rather than continuing the traditional practice of largely equating special and differential treatment with transition periods and granting flexibilities on the basis of a country's association to either the developing or least-developed group, the Agreement creates an individual, country-by-country and measure-by-measure approach, explicitly eschewing a one-size-fits-all model.[52]

At the *bilateral and bi-regional* level, Commonwealth ACP countries have been engaged in negotiations on trade facilitation with the European Union through the EPA process. These bilateral negotiations both draw from and intersect with negotiations on trade facilitation underway with regional trading partners (Box 17).

The agreed EPA texts in CARIFORUM and East, West and Southern Africa have focused on several areas, namely exchange of information and cooperation, reforms to legislation and procedures, facilitation of transit, relations with the business community, customs valuation, and regional integration. Reflecting perhaps the concerns from the ACP side over implementation, arguably the most important provisions – those relating to reforms to customs legislation and procedures – are couched in 'best endeavour' language, whereby both Parties agree that their relevant legislation and procedures '*shall be based upon the need to*' achieve certain best practices.

The challenge for Commonwealth countries will be to implement ambitious new commitments in trade facilitation, in part through creating strategies, regulatory frameworks and institutions. Developing countries' concerns over both their implementation capacity – at its core, the weakness of domestic institutions – and the ability of technical assistance to fill critical gaps in a timely fashion were central to the breakdown of the 2003 Cancun Ministerial. As a result, implementation is not an afterthought to the Agreement on Trade Facilitation, but rather an upfront consideration: in the words of a WTO Secretariat official closely involved in the negotiations, implementation '*was integral to the entire undertaking*'.[53]

On key element to the implementation package (see Box 18) was the creation of national trade facilitation committees (NTFCs).[54] The details of their creation – for example, their structure and governance, funding and sustainability, and membership – were (likely deliberately) were not included in the WTO TFA, but rather left to the discretion of WTO Members. In practice, these committees would be required to carry out at least three basic functions:

- *coordination* between the different agencies involved in trade facilitation, and between the public and private sectors;
- *negotiating* trade facilitation, whether at the bilateral, regional or multilateral level; and
- *fostering* trade facilitation, by simplifying, standardising and harmonising trade procedures.

The key challenge for Commonwealth countries is not simply to establish these bodies, but

52 Neufeld (2014).
53 Neufeld (2014).
54 This section draws heavily from UNCTAD (2014).

Box 17. Trade facilitation negotiations in Commonwealth ACP regional groupings

By Stephen Fevrier, Trade Advisor, Commonwealth Small States Office, Geneva

Beyond best practices, Commonwealth small states have undertaken binding reforms made necessary by their membership in regional integration processes, as well as bilateral/bi-regional preferential trade agreements.

One example of reforms triggered by regional integration can be found in CARICOM in its Draft Harmonised Customs Bill. It should be noted that 13 of 15 CARICOM member States are also Commonwealth small states. While the provisions of the draft bill, in the main, focus on customs procedures, a number of elements address the broader trade facilitation reform agenda and hold implications for the implementation of the WTO Trade Facilitation Agreement (TFA).

Like Commonwealth small states within CARICOM, Pacific Island States have also embarked on reforms within the context of a regional integration process. The Regional Trade Facilitation Programme (RTFP) evolved from the establishment of PACER, which itself provided for the development of an appropriate, efficient and transparent framework of trade facilitation in the Pacific. The RTFP aims to improve, harmonise and strengthen, customs procedures, sanitary and phytosanitary measures and standards and compliance processes.

In sub-Sahara Africa, Commonwealth Countries, have not engaged in contiguous or dedicated regional integration initiatives but are members of regional integration groupings such as: the Southern African Development Community (SADC), the East Africa Community (EAC) and the Common Market of Eastern and Southern Africa (COMESA), to name a few. Through these integration efforts, Commonwealth member States have strengthened both the soft and hard infrastructure necessary to improve the efficiency of trade. The Regional Trade Facilitation Programme has improved trade connectivity between countries in southern and eastern Africa, including Commonwealth member States. The overarching aims of the RTFP, *inter alia*, include, 'streamlined customs/border procedures, common regional transit systems as well as the improved functioning of regional trade agreements'.

Commonwealth member States have also engaged in reforms made necessary by commitments untaken as part of bilateral or bi-regional FTAs. Commonwealth countries negotiating Economic Partnership Agreements within regional ACP configurations have, in principle, undertaken to assume commitments on trade facilitation. As a consequence of the Economic Partnership Agreement established between the CARIFORUM and the European Community, Commonwealth small states (within CARICOM), assumed commitments on Customs and Trade Facilitation under Chapter 4 of the agreement. These commitments, *inter alia,* mandate the establishment of measures on: Customs and Administrative Cooperation; relations with the business community; customs valuation; regional integration; cooperation and the establishment of a Special Committee on Customs and Trade Facilitation.

Similarly, Chapter 5 of the Economic Partnership Agreement between West Africa and the European Union committed all members, including five Commonwealth member States, to implement measures on: customs cooperation and mutual administrative assistance; customs legislation and procedures; facilitation of transit movements; relations with the business community; customs valuation; regional integration; cooperation; transnational measures and the establishment of a Special Committee on Customs and Trade Facilitation. Provisions similar to those contained in the CARIFORUM and West Africa agreements with the EU are mirrored in the Interim Agreement (EPA) between the European Community and its member States, and the Southern Africa Development Community.

rather to ensure their long-term survival and effectiveness. The Ministry of Trade is often the coordinating agency that houses the NTFCs, which poses an immediate capacity issue for many Commonwealth LDCs and small states, given that the Ministry of Trade is all too often underfunded and short-staffed compared with its politically more high-profile Ministry partners (e.g. Finance, Central Bank, Commerce and Public Works). This capacity shortfall places immediate limitations on not only the day-to-day workings of the NTFCs (e.g. servicing meetings, drafting agendas and preparing documents) but also the outreach functions to the general public, and most importantly to the business community that are the main users of trade facilitation services.

Political support (or the lack thereof) is also a key issue, which feeds directly into the problem of resources. In many cases, the creation of an NTFC is spurred by a donor intervention, which then causes concerns over sustainability once that intervention has terminated. Some countries have explored public–private partnerships – for example, where the private sector houses the NTFC (e.g. in a national Chamber of Commerce) but the public sector funds the operational expenses. This model is, however,

Box 18. Commonwealth countries at the WTO – Operationalising the trade facilitation agreement

By Stephen Fevrier, Trade Advisor, Commonwealth Small States Office, Geneva

The Commonwealth: Building on a trade facilitation agenda

Over the past decade a number of Commonwealth member States have initiated or expanded efforts at reforming customs and trade facilitation practices. These reforms aim at assisting member States enhance border procedures, improve information exchange, embed cost efficiency and harmonise and simplify systems along the trade logistics supply chain. The availability of information on the impact of trade facilitation on trade and investment decisions has generated increased interest on the part of policy-makers in undertaking reforms. In that regard, the World Bank Doing Business Index, and in particular, its metrics on 'trading across borders' provides a quantitative measure against which all countries, including Commonwealth member States can assess their trade competitiveness.

Modern efforts to establish international best practices aimed at the elimination of divergences between the customs and trade facilitation procedures and practices that often hamper international trade began with the World Customs Organisation's Kyoto Convention (1974). These measures were strengthened and further elaborated in the revised Kyoto Convention (2006). While only 27 Commonwealth member States are contracting parties to the revised Convention (as of 12 January, 2015), many more have autonomously adopted the core principles of the Convention.

WTO trade facilitation commitments and implementation challenges

Commonwealth WTO members are required to implement all relevant provisions arising from the WTO Trade Facilitation Agreement either unilaterally (without external support) or on the basis of support provided for implementation. While many of the Agreement's provisions are in line with commitments undertaken as part of regional or bilateral initiatives, some measures go beyond the scope of the commitments contemplated under some FTAs, including the EPA.

Implementation related challenges that will face Commonwealth small states include, harmonising rules and formalities as well as access to resources to undertake mandated reforms. With respect to the former, the WTO agreement requires members to use existing best practices and international standards without making specific reference to them. This can lead to different approaches during the implementation of the agreement. This is made all the more complex, as it is often the case that development partners utilise different methodologies and standards with respect to the implementation of specific measures. As it relates to resources, while the text of the TFA links implementation to the provision of adequate support for measures scheduled under Category C (implementation contingent on the delivery of technical assistance and support) the onus remains on respective Commonwealth developing countries, including small States to request and negotiate the required support.

Structures and strategies for implementation

Some Commonwealth member States have established national trade facilitation committees to support the negotiation and implementation of the WTO Trade Facilitation Agreement. These Committees have a certain degree of overlap and involvement in an EPA institution – the bilateral Special Committee on Customs Cooperation and Trade Facilitation. These committees have established rules of procedure and are tasked with the implementation of the Customs and Trade Facilitation Chapter of the EPA and the TFA respectively. Both the WTO mandated National Trade Facilitation Committee as well as the Special Committee (EPA) are tasked with implementation related actions and therefore can be constituted with a dual mandate.

likely to be unsuccessful in an LDC or small state context where the private sector itself lacks extra resources; a 2014 UNCTAD study found that the share of trade facilitation bodies financed solely by the government is inversely proportional to the level of development of a country.[55]

3.4 Conclusions: Reversing the 'field of dreams' fallacy

The mere building of infrastructure cannot, in itself, unlock trade potential.[56] While investments in 'hard' infrastructure – ports,

55 UNCTAD (2014).

56 This is known colloquially, based on a 1989 motion picture, as the '*Field of Dreams* Fallacy'.

roads and the like – are essential, they will likely not increase competitiveness and create pro-development outcomes without matching investments in 'soft' infrastructure. The lessons of Commonwealth case studies is that these 'soft' interventions need to focus primarily on building the awareness of key stakeholders (particularly in the relevant public agencies) of the importance of trading capacity, in order to build political support for new institutions and committees that serve a critical coordinating function. Without these matching investments, even the most ambitious infrastructure project is likely to be underutilised, and fail to create the necessary competitiveness and development dividends.

This linkage is clearly shown by two areas where Commonwealth developing countries are facing daunting challenges: the new 'post-tariff' landscape where the main barriers are 'behind-the-border' measures (particularly in standards and quality) and the renewed vigour with which key trading partners are pursuing new and deeper commitments on trade facilitation. Both of these developments will require Commonwealth countries to ensure that national systems (e.g. their national quality infrastructure and trade facilitation committees) are properly structured and sustainably funded.

4. The institutional capacity pillar

4.1 Why is capacity-building so difficult?

> Woven though all of this is [the] First Law of Unsustainability: 'The probability of any counterpart staying on in a post required to maintain a system is inversely proportional to their ability to carry out that role'… Bluntly put, the good ones leave, the not-so-good ones stay.[57]

Many Commonwealth countries – particularly its small and least-developed member countries – face a remarkably common set of complex and inter-linked capacity challenges. The case studies presented thus far under the 'four pillars' model have consistently highlighted (implicitly or explicitly) the importance of institutional capacity for fulfilling the basic tasks of trade governance. Institutional capacity here is defined as the *human resources, physical resources and institutions assigned to trade-related tasks*: not simply the level of such resource or the mere existence of said institutions, but more importantly their level of effectiveness, the quality of their internal processes, and their prospects for long-term sustainability (particularly in the absence of constant outside support).

These resources and institutions have been severely tested by an increasing complex and fast-changing global trade order, which have exposed serious capacity constraints in many Commonwealth developing countries (particularly its smallest and least-developed members) including:

- The *lack of capacity to formulate effective trade policies*, whereby policy-makers are often unable to identify national interests, formulate trade-related strategies, and make sure that these strategies are consistent with national priorities – as well as understand the implications of policy decisions on the wider economy.
- The *lack of capacity to negotiate effectively on trade issues of interest*, where governments struggle to set the pace and influence the agenda of negotiations, understand the impact of negotiating proposals on basic trade objectives, and build consensus at home on opportunities gained (and concessions made) at the negotiating table.
- The *lack of capacity to deal with external shocks*, as market opening – whether autonomous or driven by trade liberalisation – increases countries' vulnerability to

57 Parry (2005).

changes in external prices or market demand, particularly when the domestic export base is undiversified.

- The *lack of capacity to exploit trading opportunities*, whereby policy-makers cannot ensure that trading capacity is built, policies are modified and trading costs are lowered to provide a stronger incentive for private firms to exploit new opportunities overseas.[58]

These common capacity challenges can, in many cases, be linked back to an equally common set of key factors.[59] On critical problem is the so-called 'big country' approach, whereby many small and least-developed Commonwealth countries face the task of implementing programmes and creating institutions that are based on a template from much larger and well-resourced countries. This approach to capacity building, while no doubt well intentioned, is often introduced by external consultants and advisors whose experiences have mainly been either in their home OECD countries or within larger developing countries, yet whose level of sophistication and running costs are often wholly unsuited to much smaller administrations. A vicious circle is thus established whereby an outside advisor is brought into a trade institution to design an unsuitable approach to a task; when that task (e.g. developing a trade policy, or conducting a trade negotiation) is executed, often long after the original advisor has left, it in turn requires a fresh injection of outside advisors and financial resources. The institution often has little hope of completing the task in question within its normal recurring budget; to compound the problem, other ministries or departments whose inputs are required for the timely execution of the task – who themselves have not benefited from the same outside advice – provide little, if any, support.

A second key factor, encapsulated in the opening quote to this chapter, is the reality that the market place for critical human resources (i.e. the persons with the right mix of energy, experience and curiosity to handle a variety of challenging trade tasks) is increasingly global; one where bright young graduates in particular are being eagerly sought by organisations and initiatives that are either based in or funded by developed countries, with developed-country pay packages that often dwarf their national civil service counterparts.

Thus the relatively scarce talented persons with the required economic and/or legal skills are soon lured away from national administrations by the prospect of better conditions and better future prospects. (Even within national governments, key resource persons move from Trade Ministries to better-funded or higher-profile government departments such as the Central Bank, Ministry of Finance, Office of the Attorney-General or the Prime Minister's Office). Further compounding the problem, when resource persons move to their new posts, there is often no system in place for effective handover and/or to ensure sustainable institutional memory, and thus capacity building projects often have to 'reinvent the wheel' in the absence of any guiding documentation or lessons learned from the past.

This has the consequence of leaving many organisational heads with little practical training in trade-related policy tasks, and in some cases little enthusiasm for driving much-needed improvements in their area. Thus new initiatives to transform the status quo often meet with a degree of suspicion (or even outright hostility) from long-placed senior staff, who are understandably cynical about the ability of outsiders to drive internal change.

In many Commonwealth countries, the challenges of institutional capacity building are compounded by the unique handicaps of smallness. In the absence of a wide and diversified economic base, the public sector acts as the primary employer and source of investment; perversely, the sheer weight of government's responsibility as an employer of last resort – not to mention the unfunded pension schemes that enable retired public servants to receive state pensions – poses fiscal constraints that drive down public-sector compensation, making wages relatively low and uncompetitive vis-à-vis compensation in the private sector or opportunities abroad, and resulting in a paradox where

58 Dupasquier and Osakwe (2004).

59 Parry (2005).

small states administrations appear 'bloated' at the same time as exhibiting major shortages of basic skills.

In small states, over-reliance on border taxes (due to weak revenue collection capacity) leads to chronic fiscal vulnerability, particularly in a time of constant downward pressure on tariffs from trade liberalisation. Small capital markets, the costs of recovering from frequent natural disasters and the 'indivisible' nature of many public services (i.e. where a certain critical mass/ size is needed for effective provision, often way above the carrying capacity of a small state) leads to chronic indebtedness, further shrinking the pool of available resources to support larger trade-related capacity.[60]

Over time, Commonwealth countries have been adopting a variety of approaches to tackle their capacity building challenges, both autonomously and with support from donor partners. This chapter will outline case studies and lessons learned from Commonwealth experiences of capacity building in areas linked the four-pillar framework, including the formulation of trade policy, the conduct of trade negotiations, and the implementation of FTA commitments. In some cases, Commonwealth governments drew on the support and expertise of a donor partner (often from within the Commonwealth) to support their efforts; in many instances, however, national policy-makers undertook autonomous reforms to restructure and reshape institutions.

4.2 Capacity-building for trade policy and trade negotiations

4.2.1 Beneficiary perspectives

Even within neighbouring Commonwealth countries, there are vast differences in policy-making and negotiating capacity. Echoing similar analysis in Chapter 2, Box 19 compares and contrasts the twin cases of the one of the largest Commonwealth developing countries (South Africa) with one of the smallest (Lesotho), in which the land borders of the latter are completely within that of the former. In South Africa, the relevant division of the Department of Trade and Industry (DTI) responsible for the formulation and implementation of South Africa's trade policy and external trade agenda can draw on the expertise of up to 100 professional and support staff.

While this capacity is one that most Commonwealth developing countries would likely envy, it is faced with the challenges of overseeing trade matters for a large economy (US$350 billion in GDP in 2013) that stands as the world's largest producer and exporter of several key mining goods, as well as being a large net exporter of agricultural products. Moreover, DTI officials must manage a significant negotiating workload on several levels, including at the multilateral/ WTO, continental/pan-African, regional and bilateral level – on top of managing South Africa's international investment agreements. In many of these negotiations (e.g. those at the WTO) DTI officials are tasked with coordinating positions with external missions

The DTI manages the burden of multiple negotiations by ensuring that different units charged with the conduct of negotiations share capacity and expertise; there is high-level political coordination across the different negotiating forums – all with the aim of avoiding the 'silo mentality' that often plagues large civil service bureaucracies. Yet even a large and relatively well-resourced country such as South Africa faces critical constraints: for example, the concentration of expertise in the hands of a few senior-level officials, and the scope and breadth of consultation – on one hand, a positive element as it increases ownership of national negotiating positions; on the other hand, a time- and resource-consuming process that slows down the pace of trade negotiations.

Lesotho, faces a strikingly similar swathe of trade negotiations as its larger surrounding neighbour, but with a much reduced complement of some 20 officials across all relevant ministries. Lesotho is currently tasked with managing negotiations and work programmes within SADC and SACU, as well as extra-regional negotiations such as the SADC-EU EPA, the SADC-COMESA-EAC Tripartite FTA, and – as a member of SACU – FTA negotiations with India, the United States, MERCOSUR and EFTA.

There are inevitable and (from a trade perspective) unfortunate consequences of managing an ambitious and wide-ranging agenda with

60 Brown (2010).

Box 19. Comparing policy-making and negotiating capacity in two Sub-Saharan African countries

South Africa

by Brendan Vickers (Commonwealth Secretariat & former Head - Research and Policy, International Trade and Economic Development, Department of Trade and Industry, Government of South Africa)

The International Trade and Economic Development (ITED) Division of the Department of Trade and Industry (DTI) is responsible for the formulation and implementation of South Africa's trade policy and external trade agenda. Although the ITED Division is relatively well resourced, with over one hundred professional and support staff, the capacity demands and resources to manage a growing trade agenda and multiple trade negotiations may still be overwhelming.

With the exception of the African agenda, all negotiations are managed by the Chief Directorate for Trade Negotiations. This Directorate has several business units that cover market access (tariffs and non-tariff measures), services, trade rules, legal matters, and broader multilateral issues (e.g. G20, OECD, UNCTAD, Commonwealth, etc.). On multilateral trade negotiations, the Chief Directorate works closely with South Africa's Permanent Mission to the WTO and capital-based officials must travel to Geneva to participate in the WTO's regular work and special negotiating sessions. The Chief Directorate is also responsible for managing the bilateral negotiations, such as the recently concluded EPA, and ongoing negotiations with India.

There are several organisational arrangements to effectively manage these multiple negotiations.

- First, the different Chief Directorates share capacity and expertise, and directly support each other in specific negotiating areas. For example, negotiations on services and trade rules in Africa are supported (and sometimes even led) by the Chief Directorate for Trade Negotiations, where the relevant expertise resides. This means that specialised experts must support multiple negotiations at once, which may be demanding on their time and resources.
- Second, while research is not a centralised function in the ITED Division, a Chief Director: Research and Policy is available to undertake or commission relevant studies to support evidence-based negotiating positions.
- Third, the ITED Division is led by a Deputy Director-General, who acts overall as the lead trade negotiator. The role of the Deputy Director-General is to ensure direct and effective coordination, alignment, and reporting on the various negotiations.

Despite these arrangements, the ITED Division still confronts capacity challenges to undertake a more ambitious negotiating agenda. Concerns have also been expressed that much of the negotiating experience and expertise has been concentrated in a few senior trade bureaucrats, although this is now changing with more junior and middle managers being drawn into actual negotiations. This is essential to build capacity and expertise for the future.

Lesotho

by Tsotetsi Makong (Counselor, Lesotho Embassy, Geneva)

In last decade Lesotho has participated in an increasing number of trade negotiations, the most significant rise has been on regional front. The negotiations have increased the burden on the Lesotho government, further stretching its scarce resources. In addition to the multilateral negotiations taking place at the WTO in Geneva, Lesotho has taken part in, *inter alia*, the standard negotiations relating to the Southern African Development Agreement (SADC) and SACU Work Programmes, the Economic Partnership Agreement (EPA) with the European Union (EU), and the Tripartite Free Trade Area (FTA) among SADC, the East African Community (EAC), and the Common Market for Eastern and Southern Africa (COMESA). As a member of SACU, Lesotho has participated in the SACU-India, SACU-US, SACU-MECOSUR and SACU-EFTA (European Free Trade Association) trade negotiations.

There has also been an attendant increase in the number of meetings related to the negotiations that further increase the burden Lesotho. In 2014 alone, Lesotho actively participated in the SADC, SACU, Tripartite, EPA, and WTO negotiations. The pending reauthorisation of AGOA in September 2015 has also seen the AU Ministerial Conference of Ministers of Trade charging the Minister of Trade and Industry, Cooperatives and Marketing to lead his African counterparts in lobbying Washington D.C. to fast track the process, in part, due to the large importance of AGOA preference scheme to the Lesotho economy.

Institutional and substantive challenges

Although Lesotho has a number of well qualified officials in the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM), there is a staff complement of less than twenty senior officials (from across all

(continued)

ministries that have a trade component), that effectively engage in trade negotiations. Due to the demanding negotiation schedules, limited financial resources and the relatively few experienced negotiators, some meetings are foregone or junior staff members with decision-making powers and mandate represent Lesotho in negotiations and their related committee meetings.

Lesotho's main constraint to its effective participation in simultaneous multiple trade negotiations is human resources – in respect of numbers and capacity. Senior trade officials' mandates often include domestic, regional, continental and multilateral regional trade matters – they often forego responsibilities in respect of one over the other because of resource constraints. Lesotho's trade negotiators are often faced with challenges regarding relevant securing data that is necessary to ensuring effective engagement in negotiations. To this end, analytical and research incapacities pertaining to markets of export interest, global market trends and patterns of trade are some factors sum up data deficits that characterize some of the key challenges that Lesotho`s negotiators are confronted with. Low remuneration packages play a large role in the inability of the MTICM to attract talented trade officials. The ministry also suffers high attrition rates as experienced officials often leave for more attractive jobs in other better-resourced semi-autonomous government agencies in Lesotho, the private sector, South Africa, or regional and international organisations such as SADC and SACU.

Nevertheless there are pockets of excellence within Lesotho's Government, for example, the Lesotho Revenue Authority is well resourced, officials are knowledgeable about Lesotho's customs regime, and they offer valuable support in trade negotiations. On the other hand, there are ministries that are yet to consolidate the trade agenda in their work programs with a view to having this agenda as part of their core functions. This will deter Ministries from reclusive and inward-looking approaches in discharging their mandates thereby ensuring that they are best placed to handle regional or international negotiations. Overall, there are varying levels of trade capacities within the various ministries in the Lesotho governments.

Secondly, Lesotho faces a wider challenge in the form of its strategic trade objectives. The country does not have a consolidated trade policy, therefore making it difficult for negotiators to clearly articulate negotiating positions in all economic sectors without undermining the coexistence and coherence of domestic policies in various sectors.

Current initiatives to remedy this situation include the MTICM draft strategic framework that seeks to rationalize functions, create new posts, and establish the independent Office of the Chief Negotiator within the ministry. The vision is to create a well-resourced office, which will be best placed to conduct research and collect information from other trade-related line ministries in order to address the challenges facing Lesotho in trade negotiations. The proposed framework is currently being favourably considered by the government. The second initiative is funded by the United Kingdom's Trade Advocacy Fund. The project aims to draw some negotiation templates in different sectors such as agriculture, non-agricultural market access, services etc. in order to ensure that consultation and negotiation processes are streamlined and easier for negotiators by including Lesotho's important negotiating interests in the various areas so that negotiators know what they can offer and request from their partners.

limited human resources. In some cases, Lesotho must be represented by a junior staff member with limited experience of negotiating, and no mandate to engage in substantive discussion; in other cases, Lesotho's seat is empty. The handful of experienced national negotiators must constantly juggle roles and tasks, each struggling to manage the workflow where individual items constantly rise and fall in importance, which in turn, hampers efficiency and seriously complicates even short-term planning.

While discharging key trade-related functions, senior officials lack the necessary data to understand offensive and defensive interests, let alone fully appreciate the potential impact of negotiating and policy-making outcomes on critical variables such as export growth and measures of poverty. To compound Lesotho's difficulties, its negotiators are constantly attracted by other better-resourced public sector departments, the domestic private sector or outside opportunities including in South Africa, the SADC region and within international organisations such as SADC and SACU.

Since Lesotho (unlike South Africa) does not have the luxury of multiple, well-resourced units to share its trade-related workload, it has opted for a more strategic approach for managing its scarce resources. At present, there is no consolidated policy framework that allows Lesotho to clearly articulate negotiating positions and ensure coherence across sectors and negotiating forums. Officials in Lesotho, in cooperation with development partners, are currently seeking to fill this gap by (a) creating a draft strategic framework for the Ministry of Trade and Industry, Cooperatives and Marketing that will, *inter alia*, streamline functions for minimal duplication across the few trade-related posts that exist; and (b) creating negotiating templates across key sectors (e.g. agriculture, non-agricultural market access, services) to minimise the effort required from thinly stretched officials.

The constraints of smallness are not, however, always binding with respect to trade policy and negotiations, as shown by the case of Trinidad & Tobago (see Box 20). As with many Commonwealth countries, trade officials in Trinidad & Tobago faced an increasingly daunting list of trade-related tasks arising from not only the implementation of current obligations, but also the launching of new negotiations with developed and developing partners alike.

Over time, officials recognised that the lead Ministry would require a significant restructuring and increase in resources to undertake more research and data analysis, develop and justify positions, reach out to a wider range of stakeholders, and prepare policies and agreements for consideration by Parliament. Within the CARICOM regional groupings, a more ambitious trade negotiating agenda would require increased efforts to not only negotiate collectively as a region (e.g. the CARIFORUM-EU EPA and CARICOM-Canada) but also to defend Trinidad & Tobago's partial scope agreements signed as an individual country with its regional partners.

This restructuring took place in 2007. The Trade Directorate of the Ministry of Trade, Industry, Investment and Communications (MTIIC) increased in size from 12 to 22 officers, and a dedicated unit on implementation was established, in turn allowing a clear division of labour between implementation and negotiation. To ensure the constant 'refreshment' of this pool of resources, a comprehensive training programme was developed, building in part from existing resources (such as WTO online courses) and specialised/customised donor-funding training sessions.

Crucially, the restructuring programme closely involved other line ministries whose inputs and buy-in would be critical to any final trade outcome. Strategic alliances were established with other key Ministries (particularly the Ministry of Foreign Affairs) on certain negotiations, which provided a larger potential pool of human resources to draw from. These same institutions were also included in the MTIIC's internal training programme to enhance their capacity to support negotiations. Finally, but arguably most importantly, the wider network of trade-related institutions were closely involved in the day-to-day work of policy-making and negotiation through the Ministry's Technical Coordinating Committee for External Negotiations which, in turn, ensured a more speedy and thorough response to Ministry queries on certain negotiating issues. Senior officials from these 'outside' ministries were included as technical lead negotiators on areas falling within their competence.

4.2.2 Donor perspectives

While there are several providers of technical assistance for trade policy and negotiations, there are still important gaps in the market. Virtually all major donor organisations, whether at the international or regional level, provide some degree of training and technical assistance on trade policy (see Figures 3 and 4). The findings of a 2012 UK-funded study on technical assistance[61] found that different negotiating forums attracted a range of instruments and funds:

- Donor support for *regional integration and regional trade negotiations* has increased considerably within the past decade, notably from the European Union (via the EC), UK (DfID), Germany (GIZ), Canada (DFATD) and Australia (DFAT). Regional development banks (such as the African Development Bank) have taken on an increasingly prominent role in supporting regional negotiations, although the largest donor in this area is the EC, through direct financial contributions to regional organisations and through its Regional Integration Programmes (RIPs). While there is a relatively large envelope of support for regional integration, in most cases support is focused on implementation, and only a minor share allocated for trade negotiations.
- Support for *bi-regional negotiations* (mostly the ACP-EU EPAs) is largely

61 Crown Agents (2012).

Box 20. Trinidad & Tobago – Multiple FTAs in the western hemisphere

By Trudy Lewis (Senior Economist, Ministry of Trade, Industry and Investment, Trinidad & Tobago)

In the Republic of Trinidad and Tobago, the Ministry of Trade, Industry, Investment and Communications (MTIIC) has the responsibility for trade – local, regional and international and for the negotiation of trade agreements. Within the Ministry, the Trade Directorate is charged with the function of negotiating trade agreements and representing national positions within existing institutions established in trade agreements.

In 2007, the Ministry was restructured to more effectively meet the needs of stakeholders. This resulted in the creation of core directorates to focus on trade, investment, business development and policy and strategy. This restructuring in the initial stages, helped to prepare the Ministry for the challenges ahead.

The main challenges have been in the areas of increased workload, human resources and the sequencing of negotiations. The workload of the Ministry has increased over the past years. Along with the need to provide national positions to feed into the development of regional positions (for CARICOM matters and for CARICOM-Canada negotiations) there was the additional requirement of preparing for bilateral negotiations of the Partial Scope Trade Agreements (PSTAs) and Bilateral Investment Treaties. This required more research and data analysis, development and justifications of positions and increased stakeholder consultations. Post-negotiation activities, ranging from defending the bilateral agreement with regional partners and preparation for Parliament, have also increased the Ministry's workload.

Along with greater demands for national positions for either the PSTAs or regional negotiations came the increased need for collaboration or consultation with stakeholders in the public and private sector. There was a lag in the provision of the necessary human resources in the context of the restructuring exercise, which impacted on the capacity to negotiate multiple trade agreements simultaneously. Even as more human resources were provided, there was a lag in increased output as training of new staff was necessary to attain effective support in the ongoing negotiations.

As these challenges manifested, Trinidad and Tobago employed a mix of institutional and strategic measures to meet the challenges. The MTIIC increased its staff to deal with the increased workload through the use of temporary and contract officials. The Trade Directorate, which handles the majority of negotiating subjects, increased in size from 12 officers in 2009 to 22 in 2014. This figure includes a Trade Implementation Unit which was established to enhance the capacity to deal with the implementation of trade agreements. This allowed some staff to specialize in negotiations and others to deal with implementation issues.

The Ministry developed close relationships with key stakeholders and worked with them to get speedy responses to queries. Institutions such as the Ministry's Technical Coordinating Committee (TCC) for External Negotiations, with sub-committees on Market Access (Goods), Services, Investment etc., were utilized to channel consultations and ensure stakeholder buy-in.

Trinidad and Tobago took advantage of WTO Online courses and special training with IADB funding to train the new staff. Trade-related Institutions and the MTIIC engaged in online training to ensure that staff learned the foundations of international trade. Trade-related Institutions were also included in the MTIIC's internal training program to enhance their capacity to support negotiations. In addition, the MTIIC employed more graduates with MSc in International Trade Policy from the University of the West Indies. To address the expertise gap in the interim, greater reliance was placed on senior and more experienced officers in MTIIC to train and guide the newer officers. The use of officers of other Ministries and Agencies to lead specific subjects such as Rules of Origin and Labour was also employed to address the human resource requirements.

A key strategy to deal with the simultaneous negotiations was splitting the management of the negotiations. The Ministry of Foreign Affairs supervised and coordinated relations with the Central American countries. The MTIIC officials liaised with CARICOM for the Canada negotiations. The MTIIC advised of convenient dates with the Ministry of Foreign Affairs for negotiations with Central America. This organizational approach provided a greater pool of resources to manage the negotiations. In both the regional and national negotiations, the MTIIC coordinated the technical work and provided the Technical Leads for the negotiations. As the same persons were involved in the subject areas, irrespective of negotiating forum, this served to ensure that coherence in negotiating positions was maintained.

channelled through the EU-funded RIPs, and specialised one-off Project Management Unit funds such as the now defunct TradeCom Facility.

- Support for *bilateral negotiations* tends to be provided by the largest trading partner, although (perhaps unsurprisingly) the focus of support is on implementation of FTAs rather than on negotiation.
- Several donors provide support for *multilateral negotiations*, notably the WTO Secretariat (through its various mechanisms such as the WTO Accession Programme, the Doha Development Agenda Global

Figure 3. Programmes and institutions focusing on providing trade-related support for regional integration

Name	Donor	Support for trade negotiations
TradeMark East Africa (TMEA)	Multiple	Support for studies and attendance at regional negotiations
TradeMark Southern Africa (TMSA)	DFID	Supporting Tripartite FTA negotiations
EAC Partnership Fund	Multiple	Covers some logistical support for regional negotiations
Monterrey Fund	GIZ	Support includes regional integration capacity building particularly East and West Africa
Programme for Building African Capacity for Trade (PACT III)	Canada	Capacity building and advisory services with 40% of the fund focused on regional integration
Regional Multidisciplinary Centre of Excellence (RMCE)	Members	Training, advisory and information services to EAC, SADC, COMESA, IGAD and IOD
Strengthening West African Regional Integration Programme (SWARIP)	DFID	Support for economic integration including EPA negotiations
Centre for the Analysis of Regional Integration at Sussex (CARIS)	n/a	Focus on impacts of RTAs
Trade and Industrial Policy Strategies (TIPS)	n/a	Conducts analysis on intra-SADC trade
Canada Trade Fund	Canada	Support Latin America and Caribbean to benefit from FTAs
CARICOM Regional Integration and Trade Programme	Canada	Support CARICOM Single Market and Economy

Source: *Crown Agents (2012)*

Figure 4. Providers of support for multilateral (WTO) negotiations

Name	Donor	Support for trade negotiations
ACP-MTS	EU	Grant making facility with focus on multilateral negotiations
Trade Facilitation Negotiations Support Project	World Bank	Focused on impact studies of cost and impact of WTO trade facilitation negotiations
Multi-Donor Trust Fund on Trade and Development	World Bank	Overarching support for programme with principal focus on trade policy and implementation
TradeMark Southern Africa (TMSA)	DFID	Technical and logistical support for the WTO LDC group
Trade and Integration Capacity Building Programme	IDB and WTO	
EIF	Multi-donor Trust Fund	Focus on conducting Diagnostic Trade Integration Studies and overcoming supply side constraints

Source: *Crown Agents (2012)*

Trust Fund, and the WTO Institute for Training and Technical Cooperation), the World Bank and the multi-donor Enhanced Integrated Framework.

Despite the range of providers, there are still important gaps within the market. As noted above, a number of donors provide support for trade policy in general (including on implementation) but there is a relatively lower level of emphasis on trade negotiating skills. This is despite the fact that the same UK-funded study found that respondents to a questionnaire cited four areas – '*economic analysis on country-specific impacts of trade agreements*', '*technical advice to deepen understanding of negotiating topics*', '*negotiating more effectively*' and '*linking research to policy development and negotiating positions*' – as their top four priority areas for technical assistance, with a higher level of priority than areas related to the formulation of trade policy or engagement of stakeholders.

Some organisations that are closely linked to negotiating forums are limited by their mandate in terms of the depth and scope of their technical assistance activities. The WTO Secretariat, for example, provides training throughout the year for its member countries on the substance of trade negotiations and on basic trade negotiating skills, yet the Secretariat does not have a mandate to place long-term expertise within any of the many small and least-developed Members who often struggle to follow discussions on trade in Geneva.

Another drawback of many technical assistance programmes with a negotiating component is their time-limited nature: for example, both the TradeCom Facility and the ACP-MTS PMU ended in 2012, although the negotiations the were supporting – respectively, the EPAs and the WTO Doha Round – were still ongoing (and in the case of the EPAs, substantially increased in activity shortly after the conclusion of TradeCom's lending activities).

These gaps suggest that there are several critical ingredients to providing support for trade negotiations (as opposed to trade policy in general). A major (and relatively recent) player in the market for technical assistance on trade negotiations is the Trade Advocacy Fund (TAF). TAF is a four-year initiative funded by the United Kingdom's Department for International Development. TAF is a demand-driven facility designed to help developing countries defend their interests and argue for change in the international trading system, working directly with developing country governments and regional economic communities. As of February 2015, TAF has delivered 30 completed projects, and is implementing over 20 projects around the world.

Three questions posed to TAF officials (see Box 21) highlights precisely why capacity building for trade policy and trade negotiations in particularly is qualitatively and conceptually different than other types of technical assistance, and helps explain in part why relatively few organisations provide such assistance:

- *First*, there is an all-important element of trust between the donor, beneficiary and contracted team of technical experts. Trade negotiations involve the handling of highly politically sensitive material, and require consensus building on difficult issues with stakeholders (some of whom hold hostile and/or strongly entrenched positions). Only a handful of organisations and initiatives are likely to be perceived as, on one hand, objective and sufficiently removed from national circumstances to balance competing domestic interests, and on the other hand, close enough to have a clear understanding of the national context, and of domestic offensive and defensive

Box 21. The special challenges of supporting trade negotiations: three questions for the Trade Advocacy Fund

By Henrik Jonstromer, Deputy Team Leader of the Trade Advocacy Fund and Senior Consultant at Saana Consulting

(1) How, from a donor's perspective, is technical assistance for trade negotiations different from other types of capacity building?

Technical assistance, capacity building and logistical support are the three output areas of TAF, and provide the basic toolkit for the projects. However, it is in the name, Trade Advocacy Fund, where the big hint for the separating factor for the initiative lies: 'Advocacy'. At its heart TAF is about influencing. That is, enabling our partners to be more effective in their negotiations with third parties. This is also captured within our results framework. In other words, for trade negotiation support to achieve any success, it really must understand the rhythm of the negotiations very well. Timelines will change, positions will be reviewed, agendas will be amended - and all often at a very short notice and by the hand of a third party. To account for this level of complexity, a project must be flexible within its operating parameters, but also adaptable in its approach.

Another important consideration that needs to be at the heart of any technical assistance exercise for trade negotiation is trust. Without a clearly established sense of trust between the partner and advisor, there is a very limited possibility that policy-recommendations will become utilised for positions in the negotiations, or indeed that these will become part of an agreed trade agreement.

(continued)

(2) Have you had to re-adjust technical assistance projects to account for the dynamic flow of ongoing negotiations? How was this done in practice?

In the area of trade-related capacity support which TAF operates in, there is an element of uncertainty to be dealt with since the focus in negotiations, and hence specific capacity needs can suddenly change during the course of a project. Prospective or ongoing trade negotiations processes can suddenly progress or equally well slow down and stop. Likewise, the focus can suddenly change from one negotiation to another. To respond to this reality, TAF has been designed with a high degree of flexibility in programme management both at the portfolio and individual project-levels. When necessary, adjustments have been made to account for the dynamic flow of ongoing trade negotiations.

For example, many individual projects use call down consultancy arrangements, whereby TAF will provide support on a particular technical issue (e.g. trade data analysis, trade in goods, trade in services, NTBs, agriculture) upon request to effectively address the needs faced by a beneficiary at the different stages in a negotiation process. This approach has been used for the TAF support to the ACP Group in Geneva, especially in the run-up and during the WTO MC9 negotiations (see below). The quick and changing nature of the negotiations in the run-up to MC9 required TAF to respond flexibly and quickly to meet emerging needs at the right time and under favourable conditions of strong political interest and support from ACP delegates and negotiators.

(3) Where do you feel you have had clear impacts/successes?

TAF's support to the ACP Group in Geneva is one of many success stories worth mentioning. The support, which has been in place since December 2012, provides on-demand technical inputs, advice and coaching for ACP delegates as well as logistical support to enable attendance at key negotiation and alliance building meetings. The TAF support to the ACP Group has been extremely successful as it has enabled the ACP Group to negotiate more effectively as a group in the WTO and as such become more able to influence the negotiation outcomes in the WTO in a way that better reflect ACP countries' interests.

The effectiveness of the support to the ACP Group was particularly noticeable in the run-up and during the WTO's 9th Ministerial Conference (MC9) in 2013. A TAF-funded adviser was available on call in Geneva to the ACP Secretariat and the individual ACP country and additional inputs from a pool of experts were also available for specific areas of expertise. Ahead of MC9, The TAF-funded expert was closely involved in the preparation of positions and drafting negotiating texts. They also organised a number of brainstorming meetings for ACP delegates around the various negotiation issues that were on the table (trade facilitation, agriculture, development, LDC issues etc). This contributed to improved coordination and consensus-building, both within the ACP Group itself, as well as with other negotiation groups in the WTO, such as the LDC Group and the Africa Group. This, in turn, was critical for agreeing on a common ACP position on the negotiation issues tabled for MC9, in particular on the Trade Facilitation Agreement (TFA).

The team built on the outcomes of the preparatory meetings and produced technical papers, analytical notes, speaking points for the ACP Ministers, and commentaries on proposals advanced by ACP Group and concrete options and proposals for the ACP Coordinator and ACP Group to take into negotiations and meetings. During MC9, the TAF-funded adviser was present in Bali to provide technical, advisory, coaching, and drafting support to the ACP Group Coordinator, focal points and delegations. The focus of the work was primarily on the TF Agreement and the ACP Group's proposal on the critical Section II of the Agreement. This served as the convergence text that developing and developed WTO members could agree on to conclude the TF Agreement during MC9. The ACP contribution also allowed for high-profile convergence negotiations with the Africa Group and the LDC Group, in a strengthened, more level playing field in Geneva between the G90 and developed countries, in a new text to reach consensus before Bali.

interests (i.e. that there is no 'big country' negotiating template being imposed).

- *Second*, trade negotiations – unlike other types of trade-related technical assistance – are linked to a process that is inherently unpredictable. Both the EPA negotiations and the WTO Doha Round, for example, have seen periods of intense activity (e.g. 2008) and periods of virtual silence (e.g. 2008–2012), neither of which could have been accurately predicted. Even within periods of activity, the area of focus can suddenly shift, and as the case study notes, '*timelines will change, positions will be reviewed, agendas will be amended – and all often at a very short notice and by the hand of a third party*'. This unpredictable dynamic is relatively difficult to accommodate within normal multi-year aid programming cycles, where guidelines generally require a strict delineation of outputs and a firm timeline that can often only be changed with some difficulty – both virtually impossible in a trade negotiation setting, where the outputs and timelines are by definition unknowable at the outset. Even the scope of cooperation activities in unclear: in the case of the EPA negotiations, for example, the African regional configurations (particularly that of Eastern & Southern Africa) has changed in several instances since the launch of the negotiations in 2004.

- *Third*, technical assistance programmes – particularly those aimed at small states – must keenly understand the particular dynamics of collective configurations, given that many small states and LDCs do not have enough capacity to negotiate on their own. Many of TAF's success stories came in supporting groups of countries such as the ACP Group and LDC Group in Geneva, where support ensured that potential divergences between group members were effectively addressed at an early stage, and that positions tabled reflected the diversity of opinions among the constituent delegations.

4.3 Capacity-building for implementation

Implementation requires governments to adopt a multi-faceted work programme, backed by dedicated and sustainable institutions. Institutions tasked with implementation are by nature balancing several different work programmes within their mandate. A primary goal of implementation units are to provide strategic direction to national efforts: a task complicated by the fact that most such Units, like their Trade Ministry counterparts, rely on line Ministries for specific legislative and institutional changes to comply with the provisions of the policy or trade agreement in question, and are thus hostage to outside processes and priorities. These strategic tasks extend from one-off exercises (for example, preparing a national implementation plan or matrix), to obvious changes to national legislation (for example, changes to Customs regulations and national tariffs to allow for tariff reductions), to less visible but equally important investments, such as ensuring that partner agencies at the national level are making effective use of development cooperation funds.

The implementing institution needs to also raise awareness with the general public on the rights and obligations under the policy or agreement, and engage with economic operators on the threats and opportunities likely to arise from its provisions. This ongoing liaison can be among the most challenging of implementation activities, particularly where certain sectors have felt isolated from the formulation or negotiating process, or where liberalisation threatens their share of the domestic or regional market.

Last but certainly not least, the implementing authorities are likely to be tasked with monitoring and evaluation at the national level, from creating indicators and benchmarks on implementation to regular reporting to national authorities (and often the other FTA partners) or the progress, or lack thereof, in complying with their commitments. In some cases, monitoring consists of merely reviewing progress against the agreed national action plan, whereas it can extend to much more wide-ranging analytical exercises on the economic impact of the policy or FTA.

In some Commonwealth developing countries, implementation is built into key trade policies and strategies. Botswana's National Export Strategy, for example, sets out dedicated institutional arrangements to assure its implementation, including the establishment of a National Investment and Export Strategy Implementation Council (co-chaired by representatives from the Ministry of Trade and the private sector), housed in the Ministry of Trade and Industry and reporting to the Cabinet Committee on the Economy and Employment. The Council is mandated to meet four times a year, and the NES establishes three specific sets of sub-committees: one for goods, another for services, and another for 'strategy focus areas' (e.g. export competitiveness, quality and standards, and trade and cargo handling). Most importantly, the NES sets out specific terms of reference for the council, and suggests elements of a communications plan to ensure awareness-raising efforts.

Similarly, the Sierra Leone NES establishes a National Steering Committee to oversee NES implementation, including several sector-specific and cross-sector working groups and task forces whose terms of reference are broadly outlined. The Uganda NES also establishes both a dedicated Steering Committee and a supporting NES Implementation Secretariat. The Jamaican NES assigns responsibility of overseeing NES implementation to an existing body (the Jamaican National Export Council), outlining the specific responsibilities as regards the NES and its specific tasks.

Within the FTA context, some of the larger Commonwealth developing countries have developed relatively sophisticated and well-resourced mechanisms to ensure effective implementations of their trade obligations. In Malaysia (see Box 22), the lead Ministry of International Trade and Industry (MITI) tasked with both negotiating and implementing FTAs also enjoys competence over other critical areas of trade policy, including rules of origin (extending to issuing certificates of origin) and economic cooperation. MITI enjoys a physical presence not only in the capital, but also in key economic centres, allowing officials to directly perceive the successes and challenges of implementation by its economic operators.

As the direct focal point for trade policy within the Malaysian government, MITI is well-placed to managed the concerns that inevitably from the implementation process: both among the many national stakeholders within its wide network of regularly scheduled consultations, and with bilateral partners within the many joint committees established under its FTAs. Perhaps most importantly, MITI has institutionalised – as part of its regular implementation efforts – a 'General Review' article in all of its FTAs, ensuring that approximately three to five years after signature, both parties are given an opportunity to fine tune operational rules and procedures under the agreement.

Even for a large developing country like Malaysia, however, implementation still poses a number of practical difficulties. MITI faces the challenge of ensuring that firms – particularly

Box 22. Malaysia – Implementing the Malaysia–Japan Economic Partnership Agreement

By Lim Chee Hau (Principal Assistant Director, FTA Policy and Negotiations Coordination, Ministry of International Trade and Industry, Malaysia)

Structures to support implementation

Malaysia's Ministry of International Trade and Industry (MITI) functions as the overall coordinator in implementing FTAs. In addition to its oversight role, there are also issues and chapters that are under MITI's direct responsibility, such as Rules of Origin (ROO), the issuance of Certificate of Origin (COO), and Economic Cooperation. Malaysia's FTA implementation structure is viewed at three different levels:

- The structure of the agreement: The scope and coverage of the agreement will determine which ministries or government bodies will be involved to fulfil and comply with the obligations and responsibilities of the FTA.
- The structure for administrative or operation support.
- The consultations and agreement promotional activities.

In order to illustrate the first level (agreement structure), the implementation of the Malaysia-Japan Economic Partnership Agreement (MJEPA), Malaysia's first comprehensive FTA, is illustrative. The MJEPA covers the three main areas of trade in goods, investment and services. It also included cooperation in a number of other areas, including industrial and agricultural goods, rules of origin, safeguards, SPS and TBT barriers, trade in services, investment, intellectual property, dispute settlement, and enhancements to the business environment.

The large scope of the agreement necessitated the involvement of various ministries and agencies not only during the negotiation of the FTA but also at the implementation phase. Experts from various ministries and agencies headed the various Working Groups. For example, experts from Ministry of Domestic Trade and Consumerism typically head the Working Group for IPR and experts from the Ministry of Agriculture and its agencies to facilitate the SPS cooperation head the Working Group for SPS issues.

At the administrative and operation level, MITI is responsible for:

1. The overall coordination on policy-related matters, bilateral consultations (if any), resolution of issues as well as serving as the overall helpdesk by being the central focal point for communication with the FTA counterpart on all sort of issues related to the implementation of the agreement; and
2. The Issuance of COO and Cost Analysis to assess the origin of products. MITI Kuala Lumpur and eight MITI branches throughout Peninsular Malaysia, Sabah and Sarawak process and approve the COO and

(continued)

Cost Analysis applications for all implemented FTAs. All MITI branches report to the Trade and Industry Supporting Division located at MITI in Kuala Lumpur.

The consultations and promotional level involves outreach and export promotional events organised by MITI and its agencies such as Malaysia Trade Development Corporation (MATRADE) and Malaysian Investment Development Authority (MIDA) in encouraging exporters to utilise FTAs. MITI organises regular workshops and events e.g. FTA Pocket Talks, INTRADE (Malaysia International Trade) Exhibition, Export Forum, and Export Clinic throughout the year to reach out to the private sector, various industry players, potential exporters, and NGOs. Moreover, MITI has various ad-hoc engagement events hosted by the Minister, Deputy Ministers, or Senior Officials as a form of dialogue with the private sector and feedback to improve export and import mechanisms. Private entities like Chambers of Commerce and the Federation of Malaysian Manufacturers also collaborate with MITI to organise FTA awareness and education events to encourage their members to utilise FTAs for their exports to the preferential FTA markets.

Implementation strategies and monitoring

Regular meetings with FTA counterparts are also important in ensuring effecting implementation of Malaysia's FTA. Since the MJEPA entered into force on 13 July 2006, Japan and Malaysia have convened three Joint Committee Meetings. The third and most recent Meeting was held in Tokyo on 6 February 2013. The frequency of these meetings varies based on necessity as agreed by both countries. Under the Joint Committee, several Sub-Committees (on rules of origin, trade in goods, technical regulations, customs procedures and the business environment) were established to facilitate bilateral technical issues headed by experts from various ministries and agencies of the both parties. In addition, the MJEPA monitoring mechanism is actively ongoing and MITI coordinates and communicates on issues related to the FTA.

Key challenges

The key challenges that Malaysia faces in the implementation of its FTAs are as follows:

- FTA utilisation by local SMEs in their export businesses.
- Incorporating capacity building elements into the text of the FTA that will push local SMEs to compete with their counterparts in the partner country. Hence, it was deemed important to negotiate issues like technical assistant, technology transfers, and adequate transition periods.
- The slow approval of COOs; however this issue was addressed and more speedy approval of COOs is expected. All of Malaysia's Preferential COOs applications have been automated and the Cost Analysis to assess the origin criteria currently takes five working days to approve. The Preferential COOs will take only a day upon submission of all digital copies of the required documents.
- Customs Clearance and Facilitation procedures were not as efficient they currently are at first; however, both countries now work closely to facilitate speedy customs clearance.

Estimating the benefits from FTAs

In 2007, the year after the MJEPA came into force, the value of Malaysian exports to Japan was RM 673 million (€165 million). In 2014, the exports value under both AJCEP and MJEPA doubled to RM 1.4 billion (€350 million). In addition, it is also important to note that by engagement through FTAs has contributed to strengthening Malaysia's position as a high value-added manufacturing hub and quality investment destination. It also facilitated Malaysia's participation in the regional supply and value chains. Malaysia has also enjoyed indirect benefits like job creation and technology transfers have been observed in some sectors such as bio-technology.

Reviewing FTAs

The implementation of MJEPA and the other FTAs provided valuable exposure and understanding on Malaysia's manufacturing industry, trade partners, and internal agencies involved in the FTA implementation. Malaysia has implemented a 'General Review' article in all its FTAs. This review normally takes place approximately three to five years after an FTA is implemented or at a time mutually agreed by both countries. The review gives the parties an opportunity to fine tune operational rules and procedures under the agreement.

SMEs – are engaged and aware of trading opportunities (and threats) under the FTA provisions. The implementing authorities need to ensure that development cooperation activities linked to their FTAs are geared towards the objectives of the agreement, particularly critical improvements in the business environment and capacity-building for firms ranging from SMEs to large heavy industry. Despite the relative sophistication of Malaysia's border procedures vis-à-vis smaller or less developed countries, FTA implementation still requires a certain teething period in which officials require training and sensitisation in new processes for customs clearance, the management of new rules of origin (depending on the preferential partner), the issuance of certificates of origin, and other border measures.

Other Commonwealth countries – particularly small states –have struggled to put in place effective implementation structures, particularly for wide-ranging FTAs where the so-called 'implementation gap' is relatively wide or where regional obligations have been undertaken. At present, several Commonwealth countries are facing the task of implementing their obligations under the ACP-EU EPA. The Commonwealth members of CARIFORUM face an especially steep learning curve (see Box 23 and the earlier discussion in Section 2.5) given that the breadth of obligations under the EPA represented a sharp departure from previous goods-only/partial-scope FTA negotiating templates. In recognition of these challenges, several Caribbean countries opted to establish stand-alone EPA implementation Units, supported by two EU Member States (the UK and Germany) that launched high-profile initiatives on EPA implementation: DfID's Caribbean Aid for Trade and Regional Integration Trust Fund (CARTFund), designed to further EPA implementation and which provided funding for the establishment of national EPA Implementation Units (particularly within the OECS) and GIZ's EPA Implementation Support Project (2010 to 2014) provided support to both establish and coordinate the activities of national EPA Implementation Units. These National Units – supported by a Regional Unit based at the CARIFORUM Directorate in

Box 23. The challenges facing the CARIFORUM EPA implementation institutions

While the EPA itself does not commit either CARIFORUM or the EU to establishing dedicated institutions for EPA implementations, several Caribbean countries opted to establish stand-alone EPA Units to raise awareness of the obligations and opportunities under the EPA, and coordinate and measure implementation efforts.

Many EPA Units, where they have been established, have been able to undertake a range of activities that have laid some of the groundwork for EPA implementation. The activities thus far undertaken have tended to focus primarily on:

- preparing the national roadmaps and monitoring matrices for implementation;
- disseminating publications and holding cross-sector seminars on awareness-raising and training, including on resource mobilisation (e.g. proposal-writing workshops); and/or
- establishing links (either informal or formal, e.g. through Memoranda of Understanding (MoUs) with selected Business Support Organisations (BSOs) on priority export sectors.

With respect to the capacity of the national EPA Units, this varies widely in practice. The most successful EPA Units are those with strong political support and a good working relationship with other parts of government (e.g. Barbados) and/or a long head start on FTA implementation (e.g. Dominican Republic). Others, despite their smaller size, have been able to show a strong leadership role on EPA issues (e.g. Antigua & Barbuda and Grenada).

Staffing levels range from two persons (Grenada) to forty (Dominican Republic) while resource levels also vary. Surveys conducted by GIZ in 2010 and 2014 show that two thirds of the EPA Units rely on government budgets for funding, which in turn make them susceptible to budget constraints and the level of political priority afforded to EPA implementation – both of which have been significantly impacted by the post-2008 global recession. Consultations indicate that resource problems in some CARIFORUM States have even necessitated a re-think of whether a separate EPA Unit is financially sustainable in the longer term or whether its functions should be reabsorbed into the Trade Ministry. Based on stakeholder consultations, the level of resources is perceived to be inadequate to the challenge of implementation: a series of surveys by GIZ found that only 11 per cent of EPA Units considered their funding to be 'adequate' in 2014. Moreover, reliance on donor funding has made the EPA Units vulnerable to delays in aid programming, which in turn limits their effectiveness.

A regional EPA Implementation Unit was established in 2009 within the CARICOM Secretariat as an initiative of the CARICOM Secretary-General. The support given by the Regional EPA Unit has ranged from legislative drafting and the organisation of consultations to support on specific issues (e.g. mutual recognition in services) and the drafting of strategic plans for priority sectors. The Regional EPA Unit has also played a key

(continued)

role in coordinating the meetings of EPA institutions established under the Agreement, including the TDC, the Joint Council, Parliamentary Committee and CARIFORUM inputs into the Consultative Committee.

Like its national counterparts however the Regional Unit has faced resource constraints with respect to the range of issues and sectors it has been tasked with supporting. The Unit does not have a dedicated resource envelope from which to carry out its activities and often has to search for individual donors and funds for *ad hoc* activities.

Source: *B&S Europe (2014)*

Guyana – undertook a number of activities to both raise awareness of obligations arising from the EPA, as well as prepare strategic documents to plan implementation activities over the medium and long term.

Yet even with this support in place, some national EPA Units have struggled to be effective and sustainable. Staffing levels vary significantly despite the fact that all CARIFORUM countries are bound by the vast majority of the EPA provisions; the level of resources for their work programmes and the level of political support has varied considerably – not only from country-to-country (depending in part on private sector interest in implementation) but also over time, as the impact of the global recession has drawn political attention away from the EPA and its implementation. Despite the potential economic benefits under the EPA, some national EPA Units have become unsustainable to the point where some national governments have given serious thought to re-absorbing their staff and activities back into their parent Ministries of Trade.

4.4 Conclusions: Unlocking trade success through institutional capacity building

Trade outcomes are expensive to implement, and complex to administer. Whether faced with the outcomes of a new trade policy formulation process, or the aftermath of FTA negotiation, or the launching of a new export initiative, many Commonwealth developing countries face a daunting challenge ensuring that key institutions tasked with implementation and administration have the right people and the right infrastructure. Failure to do so is likely to lead to major consequences: a waste of donor and government time and resources; increasingly fraught relations between national policy-makers and key public and civil society stakeholders; potential legal action by dissatisfied trading partners; and more entrenched resistance to any further attempt at reform.

While seemingly self-evident, there are clear imperatives why capacity building is essential to trade outcomes. First, there is a *practical* imperative, whereby it is clear that countries struggle to define a trade strategy, manage multiple trade negotiations, unlock the benefits of new investments and implement their trade commitments. Second, there is a *political* imperative, whereby countries – particularly small and least-developed economies – must feel that they are not being left alone to manage the mounting array of trade-related challenges. And third, there is a *systemic* imperative: if the world trading system is to be healthy and sustainable, all parties must have at least the basic ability to participate in deliberations, if not actively shape key outcomes. In an age of the so-called 'single undertaking', where many agreements are negotiated on the basis that all disciplines form part of an indivisible whole, weakened capacity (and thus possible non-implementation) in one area threatens the stability of the entire system.[62]

The capacity to unlock trade success is within reach of Commonwealth governments and their donor partners, as long as the right enabling steps are taken. There is arguably little that many Commonwealth governments can do to dampen the attractions of the global market for their best talent, particularly for small and least developed members who operate under strict budget constraints and multiple demands on scarce resources. Many governments are also limited in their ability to control the size and scope of their policy-making and negotiating

62 Miller (2005).

agenda, given the increasing complexity of trade-related tasks and the demands of regional, bilateral and multilateral alliances.

Yet this chapter has suggested that some measures are still within the reach of Commonwealth policy-makers to build institutional capacity. Where resources are inevitably scarce, trade policies and strategies can allow institutions to allocate expertise to where it is needed most. Where institutions need to be re-tooled for a new generation of trade challenges, a holistic restructuring strategy – backed by a sound training programme – can ensure that institutional structures are not ossified, but rather respond dynamically over time.

Where support for policy-making and negotiating is required, Commonwealth countries – whether as donors or beneficiaries – should advocate the creation of instruments that understand the sensitivities and dynamics of trade success, rather than treating trade merely as a sub-category of a generic approach to capacity building. Where institutions are put in place to serve as the public face of trade policy and negotiation, donors and beneficiaries must prioritise their long-term survival, as a reflection of their commitment to trade success.

5. The global trade-supporting architecture pillar

5.1 The search for coherence

In order to create the conditions for trade success, Commonwealth countries – whether as donors or beneficiaries – need to ensure coherence between different sets of policies. Trade success is an inherently complex undertaking. Any given outcome – from a new trade agreement to a new set of internationally agreed development goals – will inevitably involve several interlinked processes, taking place across multiple forums and organisations. Several different policy areas will be affected, from commercial to environmental to social, with quite often the so-called ‘silo mentality’ impeding effective coordination. Different sources of finance will need to be mobilised, ranging from donors to governments to private companies. Last, but certainly not least, the views of different actors will need to be accounted for, from policy-makers to NGOs to potential beneficiaries on the ground.

This level of interlinked complexity inevitably brings about the risk of incoherence: process, actors and outcomes working either disjointedly or at cross-purposes, creating unnecessary transaction costs and – at worst – undermining each others’ objectives. Thus, for example, an OECD government might substantially increase its technical assistance to agriculture in developing countries, while at the same time substantially increase market barriers and distortions that negatively impact those same developing countries. A developing country government might undertake a time- and resource-consuming process to formulate and launch a national export strategy, yet at the same time take positions in a trade negotiation that undermine the objectives of that same strategy.

The focus on coherence reflects dramatic changes in the global trading order since the early 1990s, when the concept first emerged in discussions among donors. At that time, OECD countries were the drivers of the world economy and their policies impacted strongly on the prospects for developing and lower-income countries. Today, the global economic centre has shifted significantly, with non-OECD members being the main sources of economic growth. This, in turn, has moved the policy coherence debate away from an emphasis on the negative impacts of non-aid policies (‘do no harm’) towards more proactive, synergistic approaches.[63]

On the donor side, the search for ‘Policy Coherence for Development’ aims to ensure that ‘non-development’ policies (e.g. on agriculture, taxation or trade) do not contradict or undermine development efforts or resources. On the trade side, this could imply, for example, ensuring that:

63 OECD (2014).

- internal market reforms (e.g. for domestic support measures to agriculture) do not undermine developing country exporters;
- mechanisms in preferential agreements to address fraud and revenue loss (for example, on the administration of rules of origin) do not overwhelm the need for such schemes to be a simple and accessible as possible;
- delays in development programming do not undermine the aims and objectives of trade agreements; and
- that pro-development/pro-regional integration flexibilities within trade agreements are not undermined by market-seeking considerations.

While discussions on coherence have in the past been generally focused on developed countries (as policy-makers, commercial actors and donors) newer approaches call for a broader approach built on shared responsibility by developing countries as well. On the beneficiary side, the search for coherence suggests, *inter alia*:

- positions taken in trade negotiations do not directly conflict with key development and export strategies;
- investment strategies and projects are focused on areas of opportunity identified in key national strategies and/or created through trade negotiations;
- infrastructure investments are not undermined through regulatory and institutional frameworks working at cross-purposes; and
- political support given to key actors (particularly those in the private sector) is not undermined through lack of funding and capacity.

In many instances, the coherence required for trade success has yet to materialise. This concluding chapter argues that for key Commonwealth constituencies – particularly LDCs and small states – the international community (and at time national policy-makers) have yet to create the conditions for trade success and sustainable development. While, on the surface, developing countries appear to be benefiting from more open markets and higher nominal levels of aid than ever before, critical shortfalls and key incoherencies continue to frustrate development targets agreed at the national, regional and international level.

5.2 Coherence for LDCs: The Istanbul programme of action and beyond

LDCs face a particularly high level of incoherence in terms of how the international community supports their development. The Istanbul Programme of Action (IPoA) is a decade-long (2011–2020) strategy adopted by the Fourth UN Conference on LDCs held in Turkey. The IPoA – a follow-up to the previous Brussels Programme of Action – charts out the international community's multi-stakeholder vision for sustainable development for LDCs. Analogous to the Millennium Development Goals, the IPoA sets out five goals/objectives and eight priority areas for action (with 47 associated goals and targets), ranging from productive capacity to good governance, in supporting LDC development.

In 2013 – at the two-year mark of the IPoA – the LDC Monitor IV partnership of consortium of researchers, international organisations and NGOs embarked on a wide-ranging review of progress made in achieving sustainable development for the LDCs.[64] The review found that little progress had been made in key indicators of structural transformation in LDC economies – due to the recent global economic crisis, many LDCs had yet to regain the economic performance lost since 2008; progress on the MDGs remained 'quite average and often off-track'.

More importantly, the LDC IV Monitor review found a number of inconsistencies and incoherencies in the response of the international community to the sustainable development requirements of LDCs, particularly with respect to LDC-specific preferential access schemes, aid flows and graduation out of LDC status.

There is a divergence between the market access opportunities afforded by duty-free/quota-free regimes for LDCs, and the market share of LDCs over time. Relative to the formative years of the multilateral trading system, there are now a number of duty-free/quota-free (DFQF) schemes offered by not only developed countries (e.g. United States, Canada, EU, Turkey and Japan), but also

64 LDC IV Monitor (2014).

Box 24. Decision on duty-free/quota-free access for LDCs at 9th WTO Ministerial

Duty-free and quota-free market access for Least-Developed Countries

Developed country Members that do not yet provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference;

Developing country Members, declaring themselves in a position to do so, shall seek to provide duty-free and quota-free market access for products originating from LDCs, or shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference;

Members shall notify duty-free and quota-free schemes for LDCs and any other relevant changes pursuant to the Transparency Mechanism for Preferential Trade Arrangements;

The Committee on Trade and Development shall continue to annually review the steps taken to provide duty-free and quota-free market access to the LDCs, and report to the General Council for appropriate action;

To aid in its review, the Secretariat shall, in close coordination with Members, prepare a report on Members' duty-free and quota -free market access for LDCs at the tariff line level based on their notifications;

The General Council is instructed to report, including any recommendations, on the implementation of this Decision to the next Ministerial Conference.

Source: *Ministerial Decision of 7 December 2013, WTO 9th Ministerial Conference, Bali, 3-6 December 2013*

emerging and developing countries (including Brazil, China, India and South Korea). In spite of this expansion in preferential tariff access, the LDC IV Monitor found little movement in key indicators and trends, including:

- stagnant progress in the proportion of developed country imports from LDCs admitted free of duty – from 78 per cent in 1996 to 80 per cent in 2010, with virtually no movement in the past decade;
- a failure to dramatically improve the share of LDC exports in global exports;
- a lack of transparency on non-tariff measures that frustrate LDC exports, despite the existence of tariff preferences; and
- a lack of full coverage of key chapters of the Harmonised System, including continued restrictions on preferential treatment for key exports – particularly in agricultural products and clothing/textiles.

These findings stand in sharp contrast to the pledges made by WTO Ministers in Hong Kong at the 6th WTO Ministerial. Following several attempts to enshrine LDC-friendly positive measures within the WTO, WTO Ministers in Hong Kong adopted a declaration[65] that specifically addressed DFQF access for LDCs. Progress on implementing modalities however was slow, and draft modalities for the multilateral negotiation of agriculture and non-agricultural products contain loopholes and weaknesses that undermine their effectiveness for promoting LDC exports.[66]

The urgency of promoting LDC exports was reinforced at the 9th WTO Ministerial in Bali in December 2013, where Ministers adopted a Decision (see Box 24) that further urged Members to provide at least 97 per cent coverage of products originating in LDCs, and to ensure their proper scrutiny by other WTO Members. Underscoring the importance of rules of origin as a separate obstacle for LDC exports, WTO Ministers in Bali adopted a separate and dedicated Decision – once again, building on an earlier call in Hong Kong in 2005 that had gone largely unheeded[67] – calling on Members to make preferential rules of origin '*as transparent, simple and objective as possible*'.[68]

65 Ministerial Declaration of 18 December 2005, WTO 6th Ministerial Conference, Hong Kong, 13–18 December 2005.
66 UNCTAD (2009).
67 Ministerial Declaration of 18 December 2005, WTO 6th Ministerial Conference, Hong Kong, 13–18 December 2005.
68 'Preferential Rules of Origin for Least-Developed Countries', Ministerial Decision of 7 December 2013, WTO 9th Ministerial Conference, Bali, 3–6 December 2013.

There is also a lack of coherence between aid pledges and actual aid flows, with continuing concerns over the effectiveness of certain types of technical assistance. While the IPoA does not contain concrete pledges for aid envelopes for LDCs, under Goal 8 of the MDGs ('*Develop a Global Partnership for Development*'), the international community pledged to '*address the special needs of*' LDCs, measured, *inter alia*, by net Official development assistance (ODA) as percentage of OECD/DAC donors' gross national income.[69] On the plus side, the LDC IV Monitor found that net total ODA disbursements to LDCs have increased significantly over the past decade. On the minus side, the most recent (2014) UNDP report on the progress under MDG Goal 8[70] found that net ODA flows (to all developing countries) had only recently recovered from two years of declines following the global economic crisis; while a total of 17 out of 28 DAC member countries recorded an increase in their allocations to ODA, 11 reported a decrease.

Flows to LDCs have been especially affected, with the UNDP noting that aid is '*shifting away*' from the LDCs.[71] In 2012, aid to LDCs as a proportion of DAC donors' gross income stood at its lowest level since the financial crisis began in 2008. Currently, only 9 of the 23 DAC member countries meet the UN lower bound target of providing aid of 0.15 per cent of GNI to LDCs.[72] Net bilateral aid to Africa (home of the vast majority of LDCs) had fallen by 5.6 per cent in 2013 – reflecting reduced access to grant resources – as donors shifted their focus to large middle-income countries (albeit ones with large populations living in extreme poverty).[73] Perhaps more worryingly, the LDC IV Monitor suggested that not all LDCs were receiving similar attention – despite the severity of their poverty indicators – as some LDCs are emerging as preferred 'aid darlings', while others remain as relatively neglected 'aid orphans'.[74]

While graduation from LDC status is a key objective, there has been an incoherent approach towards supporting countries that might suffer adjustment costs. The LDC IV Monitor found that, with respect to graduation of LDCs, progress thus far has '*not been very encouraging*': rather than reducing the number of LDCs, the number over time has increased from 25 in 1971 to 49 in 2013, with only four countries (including three Commonwealth countries: Botswana, Maldives and Samoa) graduating to non-LDC status. Three other Commonwealth small states (Tuvalu, Vanuatu and Kiribati) have fulfilled two of the three criteria for graduation – GNI per capita and the 'Human Assets Index', measuring levels of health and education – while remaining classed as LDCs due to their continued structural vulnerability to exogenous economic and environmental shocks.[75]

While graduation out of LDC status is a key objective of the international community, it is not a process without consequences. Recognising these potential consequences, the international community has sought to put in place measures to ensure – in the words of the UN General Assembly – a 'smooth transition' for countries graduating from the list of LDCs.[76] Yet potential loopholes, inconsistencies and adjustment costs remain.

LDCs may suffer *loss of LDC-specific preferential market access*, particularly for heavily preference-dependent countries. The UN has called for, inter alia, a gradual phasing out of tariff preferences in order to allow for proper adjustment (e.g. 5–10 years) – particularly where substantial tariff margins have been enjoyed by the LDC in question prior to graduation – and a dedicated package of technical assistance to assist in the phasing-out process.[77] In some instances, the loss of LDC-specific preference may be lessened by the availability of alternate DFQF scheme into

69 See 'A Global Partnership for Development: Where Do We Stand?', UNDP Website, accessed online at www.undp.org/content/undp/en/home/mdgoverview/mdg_goals/mdg8.
70 UNDP (2014).
71 Ibid.
72 UN-ESA (2012).
73 Ibid.
74 LDC IV Monitor (2014).
75 Ibid.
76 UN-ESA (2012).
77 Ibid.

the same market (e.g. under an EPA); however the rules of origin applicable to that scheme may not be as favourable, nor its coverage as comprehensive. Moreover, the Commonwealth experience of the EPA suggests that many of the UN recommendations may not be fully observed: the preferences under Cotonou were not phased out over time, and the EU resisted any sector-specific aid commitments within the text of the individual EPAs.

LDCs may *also lose ODA flows, budget allocations by multilateral organisations and dedicated technical assistance funds,* especially for those donors and lenders have explicit targets for LDC lending. While donors follow pre-programmed cycles and are unlikely to interrupt a project due to graduation, there is a likelihood that – once current projects have finished – the former LDC will be placed into a different lending category in which they will be competing for resources with other developing countries. The UN has suggested, *inter alia*, that donors – regardless of a country's LDC designation – supplement the current three-criteria framework with other indicators of needs and gaps, particularly those related to vulnerability to external shocks.

More fundamentally, some Commonwealth countries have *questioned the entire framework for graduation*. Samoa has placed on record its objections to graduation criteria that seemed to downplay the continued vulnerability of small states, and over-emphasise the importance of increases in per capita GNI.[78] Tuvalu has also voiced strong objections over its potential graduation, noting that it remains subject to serious environmental threats (particularly climate change), isolation from major markets and an absence of natural resources. These objections were stated clearly by the Government of Tuvalu, who suggested that:

> Numbers and statistics are always important, but they do not tell the whole story. High figures of GDP/GNI (per capita) do not necessarily show welfare and resilience to natural impediments to growth. Data and statistics should be supported by thorough research or site visits to the assessed country to see on the ground, the real difficulties Tuvalu people have to face on a daily basis. Tuvalu honours the UN institutional goals but it requests that its fundamentals and realities, be researched thoroughly as its structural impediments to sustainable development are real, and not statistical computations.[79]

5.3 Coherence in bilateral and regional negotiations: The EPAs

For many Commonwealth countries in the Africa, Caribbean and the Pacific, the search for coherence at the regional level will centre on the implementation and ongoing negotiation of the EPAs. Given the level of resources and analytical study dedicated to the ACP-EU EPA negotiations, the facts on the ground in Commonwealth developing countries suggest – somewhat ironically – that trading relations with the EU are becoming less, rather than more, important over time.

The EU's engagement with competitors in Latin America and Asia and its grant of duty-free/quota-free access to LDCs under its Everything but Arms (EBA) scheme have substantially reduced the value of market preferences into the EU for many Commonwealth small states. With growing markets in Latin America and Asia, trade traditionally destined for former European colonial powers is being increasingly diverted to closer regional and hemispheric markets. Within regions (particularly in Africa), continental integration is being pursued with vigour, backed by major infrastructural projects (such as the North-South Corridor). And within Commonwealth ACP regions, non-European countries (such as China) are increasingly taking a leading role as both investors and political partners.

Yet the EPAs arguably remain a major opportunity for Commonwealth ACP countries – which include both LDCs and small states – due to the breadth of the commitments undertaken

78 *Statement By The Deputy Prime Minister Hon Fonotoe Nuafesili Pierre Lauofo*, High-Level Panel Discussion on Small Island Developing States on the Issue of Graduation from Least Developed Country Status', UNCTAD/UNDP, Samoa, 2 September 2014.

79 'LDC Graduation: The Difficulties and Realities for Tuvalu', Briefing and Update For ECOSOC Members Prepared by the Tuvalu Mission to the United Nations, New York, October 2013.

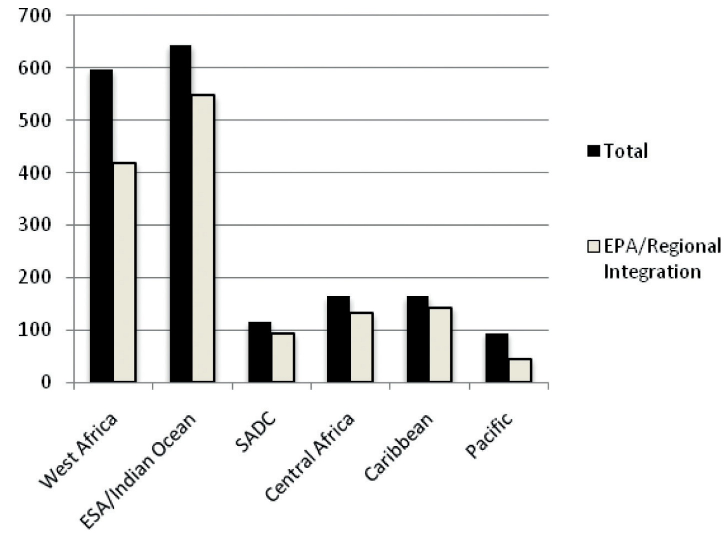
in the EPA (particularly for the Caribbean Commonwealth), and the size of the aid packages that have been attached to the individual Caribbean and East/West/Southern African agreements. The 10th cycle (2008–2013) of the European Development Fund (EDF) – the main channel for EU development assistance to the ACP – contains €22.7 billion in financial resources. Under the 10th EDF, there has been a particular emphasis on regional programming; as seen in Figure 5 below, the substantial majority of those regional funds have been assigned to EPA implementation and/or regional integration. While the programming process for the 11th EDF (2014–2020) is still underway, the funds available for EPA implementation are likely to be substantially higher, as the total envelope exceeds €30 billion and several ACP regions are likely to see significant increases in their regional allocations.[80]

As noted elsewhere in this publication, the ACP-EU EPAs also involve a much more wide-ranging set of obligations than most Commonwealth ACP countries have faced in the past: the CARIFORUM EPA contains provisions ranging from trade in goods and services to intellectual property, competition and public procurement; African EPA texts are less comprehensive but still contain several 'WTO-plus' commitments (e.g. on the use of export taxes and so-called 'MFN Treatment' for future North-South FTAs). In all cases, the EPAs create new institutions to monitor the agreement that require staffing, resources and the allocation of scarce time to properly engage on salient issues. The EPAs also create new trading arrangements – for example, updated rules of origin governing EU and ACP trade – that must be reconciled with past, present and future trade negotiations.

Both the size and scope of the EPAs give rise to a number of challenges and opportunities for Commonwealth ACP countries, including:

- *Incoherence between aid delivery and EPA commitments,* with the risk that time-bound commitments in the EPA conflict with delays in delivering EU assistance. Unlike the WTO Trade Facilitation Agreement, there is no explicit linkage of EPA commitments with the receipt of trade-related technical assistance. In the case of the CARIFORUM EPA, this has resulted, in some instances, in incoherence between the commitments undertaken in the EPA and the region's capacity to engage on several issues. On the issue of geographical indications, for example, EU-supported projects were meant to inform both the establishment of a system of protection of GIs within CARIFORUM and the subsequent launch of EU-CARIFORUM negotiations on GI protection (due in January 2014). Yet – despite the issue being flagged at an early stage during the negotiations – the requisite

Figure 5. 10th EDF Regional Indicative Programmes for Commonwealth ACP Regions



Source: *European Commission (2008)*

80 https://ec.europa.eu/europeaid/node/1079.

funding was not made available under the 10th EDF, and will not be available until the 11th EDF, where previous experience under the EPA suggests that projects may not be underway until three to four years after the beginning of each EDF cycle.[81]

- *Incoherence between regional integration and regional commitments*, particularly where Commonwealth ACP countries have committed to a so-called 'regional preference' clause that commits them to extend, within their own regional grouping, the same treatment afforded to the EU under the EPA. In the case of CARIFORUM, the regional preference commitment in goods creates potential conflicts with internal CARICOM arrangements (where many smaller and/or poorer Member States are legally exempt from tariff liberalisation in regional FTAs); similar commitments in services could potentially conflict with the still-evolving regional integration regime.[82]
- *Incoherence between stated priorities and actual activities,* as rhetorical goals meet the reality of implementation. For example, one of the main development cooperation priorities under Article 8 of the CARIFORUM-EU EPA is to encourage '*the diversification of CARIFORUM exports of goods and services through new investment and the development of new sectors*'.[83] Yet under the 10th EDF, €3.2 million is dedicated to regional cooperation on trade in services – a relatively small share of the overall €46.5 million dedicated to EPA activities, particularly given the importance of services trade to CARIFORUM.

  Another example lies in the area of trade facilitation – a critical theme, given the high trading costs and import dependency of Caribbean Commonwealth countries. Yet despite being (as with intellectual property) being flagged at an early stage for priority attention, support for the sector was not explicitly included under the 10th EDF EPA Implementation focal area. Moreover, the Special Committee on Customs and Cooperation and Trade Facilitation has – over the first five years of implementation – only met for a single session.
- *Incoherence between the preferential arrangements applicable to the EPA and other negotiations*, which is a particularly difficult challenge facing African Commonwealth countries. Different groups of countries in Africa are negotiating separate EPAs with different tariff phase down commitments, (both in terms of products and time frames) different exclusions lists, and different rules of origin. The possible divergences between the EPA and these other bodies – in some cases for major trading partners – could potentially complicate intra-regional trade as a wider scope of controls will be required at the border, thus further stretching weak capacity within Customs and other agencies.[84]
- *Incoherence between maintaining the value of preferences for the ACP and the EU's free trade agenda*, despite the fact that avoiding the disruption of losing traditional preferences for traditional commodities (such as rice, rum, sugar, bananas and fish) was the primary reason for the original 2008 deadline for the EPA negotiations. For example, under the CARIFORUM-EU EPA, both parties commit to consultations on any developments that may affect traditional agricultural products followed by an EU best-endeavour commitment to '*maintain significant preferential access within the multilateral trading system for these products originating in the CARIFORUM States for as long as is feasible and to ensure that any unavoidable reduction in preference is phased in over as long a period as possible*'.[85]

  The first five years of the EPA, however, have seen a steady erosion of those same

81 B&S Europe (2014).

82 B&S Europe (2014).

83 *Economic Partnership Agreement Between the CARIFORUM States of the One Part and the European Community and its Member States of the Other Part*, accessed online at www.crnm.org.

84 'Economic Partnership Agreements and Beyond', *GREAT Insights*, Volume 3, Issue 9 (October/November 2014), European Centre for Development Policy Management, Maastricht/Brussels.

85 *Economic Partnership Agreement Between The CARIFORUM States of the One Part and the European Community and its Member States of the Other Part*, accessed online at www.crnm.org.

> preferences. In 2009, the EU and several Latin American exporters signed the Geneva Banana Agreement to end their long-running legal dispute at the WTO and committing the EU to reduce tariffs from €176/tonne to €114/tonne within eight years – a development met with disappointment by some Caribbean banana exporters, despite the subsequent agreement on a new batch of EU adjustment funds. The same time period also saw the continuation of reforms to the EU sugar regime (2006) and rice (2003), albeit also accompanied by dedicated adjustment funds for affected ACP exporters.[86]

These incoherencies need to be resolved urgently, even in those regions that have already concluded a 'full' EPA. While Commonwealth countries in the Caribbean and East/South/West Africa have concluded regional EPAs (i.e. with either the full complement or a subset of the original regional economic community) there is still a substantial outstanding negotiating agenda, one whose progress can be easily blocked by an incoherent approach from either the EU or the ACP countries. While the African ACP regions have signed goods-only EPAs, each contains a 'rendezvous clause' committing the signatories to commencing negotiations with the EU on issues such as trade in services, so-called 'trade and sustainable development' (i.e. labour and environmental issues) and intellectual property. Even the CARIFORUM EPA, which covers all of these thematic areas, has further liberalisation and review clauses in, *inter alia*, trade in services, rules of origin and intellectual property.

5.4 Coherence at the global level: Concluding on the post-2015 Development Framework

Only now, the global debate on the international objectives for development policy is grappling with some of the key elements of trade success. Following the 15-year implementation period of the MDGs, the international community is expected to adopt a new set of Sustainable Development Goals (SDGs) out of a process focused on an inter-governmental Open Working Group.[87] For Commonwealth developing countries – particularly small states and LDCs – the critical 'fix' required when moving from the MDGs to the SDGs is to redirect the focus of the international community, away from pure short-term poverty alleviation and towards the long-run determinants of growth.

For the many heavily trade- and FDI-dependent Commonwealth developing countries, particularly small states and LDCs, structural transformation, diversification and improvement in productive capacities lie at the core of their long-run growth.[88] While the value of the MDGs is universally recognised, some argued that by focusing on the social sectors, the MDGs – which featured trade and investment only as sub-goals of MDG 8 – reduced the importance that donors previously attached to infrastructure, agriculture and industrial development, with a possibly detrimental effect on growth, job creation, and poverty reduction:

> The more fundamental concern relates to the MDGs themselves, i.e. are they really developmental? The MDGs place great weight on goals and targets in the social sector, but this begs the question of whether social development can be achieved, and more importantly sustained, without economic development. For instance, while it is important to improve literacy rates, it may be asked how it improves people's lives if there are no jobs that enable them to benefit from being more literate. Similarly, there have been impressive – largely aid-driven – improvements in and expansion of health services in many poor countries, but without economic resources, how will these countries sustain such improvements? ... MDGs represent an agenda for development, but the agenda is not necessarily developmental.[89]

The case studies and analysis contained in this Part of the *Commonwealth Trade Review* point to the efforts of Commonwealth Member States to create the conditions for trade success, and thus transform their economies, reduce

86 B&S Europe (2014).
87 For detail on the Open Working Group, see https://sustainabledevelopment.un.org/sdgsproposal.
88 LDC IV Monitor (2014).
89 ODI/DIE/ECDPM (2013).

Box 25. Goal 8 of the Sustainable Development Goals

Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

8.1 sustain per capita economic growth in accordance with national circumstances, and in particular at least 7 per cent per annum GDP growth in the least-developed countries

8.2 achieve higher levels of productivity of economies through diversification, technological upgrading and innovation, including through a focus on high value added and labour-intensive sectors

8.3 promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage formalization and growth of micro-, small- and medium-sized enterprises including through access to financial services

8.4 improve progressively through 2030 global resource efficiency in consumption and production, and endeavour to decouple economic growth from environmental degradation in accordance with the 10-year framework of programmes on sustainable consumption and production with developed countries taking the lead

8.5 by 2030 achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value

8.6 by 2020 substantially reduce the proportion of youth not in employment, education or training

8.7 take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, eradicate forced labour, and by 2025 end child labour in all its forms including recruitment and use of child soldiers

8.8 protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment

8.9 by 2030 devise and implement policies to promote sustainable tourism which creates jobs, promotes local culture and products

8.10 strengthen the capacity of domestic financial institutions to encourage and to expand access to banking, insurance and financial services for all

8.a increase Aid for Trade support for developing countries, particularly LDCs, including through the Enhanced Integrated Framework for LDCs

8.b by 2020 develop and operationalize a global strategy for youth employment and implement the ILO Global Jobs Pact

dependencies on certain sectors (e.g. commodities), donor support, and traditional markets. While some elements of vulnerability may be either inherent or changeable only over the long-term, Commonwealth countries have been taking a multi-dimensional approach to boosting their trade and investment prospects. Whether in strengthening their trade policies and negotiating positions, or through improvements in trading capacity, investing in institutional capacity, or by advocating for more coherence within international support measures, the case studies point to the potential and challenges of trade success facing Commonwealth policy-makers.

It also suggests that many Commonwealth policy-makers understand that a post-2015 agenda for the international development community needs to ensure that the *economic* dimension of development is fully reflected. The proposal for the SDGs emerging from the UN-sponsored Open Working Group process suggests that this advice is being heeded.

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