



2ND REGIONAL SENSITISATION
WORKSHOP
ON THE EAC-EU EPA

“Improving EAC Private Sector Awareness on the EPA and Involvement
in Trade Policy”

Trade Negotiations Techniques

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Trade Negotiations Techniques

■ Outline:

- Definition and Purpose of the presentation
- Types of Trade Negotiations
- Trade Negotiations Techniques
- Key Steps to Negotiations – private sector focus
- Responding to Negotiation Positions
- Making Strategic Choices
- EPA – knowing the EPA issues – Rendez-Vous Clause Issues
- Preparing for Negotiations at National level & Regional - Consulting floor members and CEOs
- Performance at the Negotiations
- Concluding an Agreement
- Post Conference – Action Plan

Trade Negotiations Techniques

Definition

- ❑ Negotiation is a social process that exhibits elements of cooperation and conflict
- ❑ Negotiation is a process designed to improve the status quo

Trade Negotiations Techniques

Negotiations –Types

- Bilateral
- Plurilateral
- Multilateral

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Interests in Negotiations

- Substantive
- Intrinsic
- Instrumental

Process}

Procedure}.....Intrinsic

Relationships}.....Instrumental

Principles}

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Negotiation Processes

Positional or Distributive Bargaining

■ Distributive Tactics

- ❑ Advancing unreasonable proposals (high/extreme initial offers or positions)
- ❑ Low concession rates
- ❑ Concealing information or making threats, bluffs or commitments
- ❑ Last clear chance offers
- ❑ Bargaining chip
- ❑ Distributive compromise

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■ Distributive Discourse

□ Strong or moderately strong language

- rejecting a proposal

- suggesting no alternatives.

eg. “as it presently stands, the proposal from the other party is insufficient and unwarranted”

Or “our delegation opposes the amendment and insist that the other delegation withdraw their offer from the debate or the negotiation table”.

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□ Distributive Discourse (2)

- Language suggesting uncompromising behaviour by another party or parties:

eg. “we (our delegation) have made unremitting efforts to find a common ground/compromise but this has not been reciprocated in equal measure by the other delegation(s) to our proposal”

“if the draft Resolution is put to a vote, we will have no other option but to use our veto power or put in our reservation”.

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■ **The Bluff Effect**

- The Bluff, if credible, has the effect of moving the resistance point closer to the bluffer's most favourable outcome, thus tightening the zone of possible agreement in his or her favour

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■ Objective of Negotiations

“Do not come together to argue and negotiate.
Come together to solve a common problem”

Jean Monnet

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■ Integrative Tactics

- Opening channels for constructive communication
- Reframing and bridging issues
- Issue expansion and issue alternation
- Proposing trade-offs between issues in different proposals
- Searching for package deals

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The Negotiators' Dilemma

- ❑ At the beginning of the negotiation, should I cooperate or should I compete?
- ❑ Should I reveal Information?
- ❑ If so, how much?
- ❑ What should be my opening offer?
- ❑ At what rate should I make concessions?

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Key Steps to collaborative negotiations

Identify your National Interest;

1. What are the Issues/Areas proposed on the Draft Agenda and or Working documents for the Negotiations;
2. Who are the other Interested Parties involved in the Negotiations?
3. Is it a Bilateral; Plurilateral or Multilateral Negotiations
4. Issues/Areas of Interest in the Negotiations e.g. EPA
5. What are the Issues/Areas of Interest to Negotiating Partners?
6. What are the Issues/Areas of Concern to the opposing Parties in the negotiations – EU?
7. What do we want to achieve in the Negotiations?
8. What do they want to achieve in the Negotiations?

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Preparing to Negotiate

- Do a Diagnostic Study in order to scientifically or empirically analyse and justify why you recommend a position for your Government
- Translate your Identification of National Areas of Concern and/or Issues of Interest into a National Position.
- Do Pre-Negotiations Brainstorming Sessions in Working Groups and SubCommittees e.g NCCT

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Preparing to Negotiate

- Formulate Brief for the Leader of Delegation to use during the Negotiations
- Brief must analyse issues and recommend Offensive, Positional and Fall Back Positions
- Leader of Delegation should study his brief thoroughly and pick up contacts made in previous meetings in order to build alliances.
- Leader of Delegation to make an opening statement early in order to signal what country expects from the meeting; even seek to be a member of the Bureau.
- At the Conference table manage expectations. Accept that a proposal you make is not necessarily to be accepted as drafted or submitted

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Key Steps to collaborative negotiations

- Focus on issues to which you have assigned a high priority in the preparatory phase of your delegation
- If you have not already done so, identify parties sharing your interests and objective
- In collaboration with like-minded parties, identify the interests and objectives of the opponents.
- Be able to differentiate substantive interests from those based on process, procedure or principles.

Trade Negotiations Techniques

During the negotiations:

- ❑ Be creative and consider possible options for integrating interests – propose compromise language formulations
- ❑ Suggest creating an informal group if a proposal encounters difficulty in plenary sessions
- ❑ Never lose sight of the alternatives to a negotiated Agreement.

Responding to a competitive Negotiating posture

- Before responding, carefully analyse the situation and try to identify the motives behind the offer or a proposal.
 - Use conciliatory language and stress subordinate goals
- “ Our delegation sympathizes with the interest of the other delegation’s offer; however, we feel that the proposal as it stands will be difficult to accept. We suggest that the Committee examine ways to address the problem (issues) in the next session”.

Responding to a competitive Negotiating posture

- Seek Assistance from third Parties (other member delegations) that have demonstrated or voiced neutral position on the floor
- Buy time to invent options
- Or Suggest that time may not be ripe to address the particular option

What are Your Strategic Choices?

- We can cut the pie in two; in other words, we can make a distributive compromise of each product and choose the price
- We can try to maximise our mutual gains by identifying the products which have a greater relative value for each of the two parties.

Log-rolling

- Negotiating Process of trading off issues or interests between two or more negotiators, where each Party concedes on the low priority issues to achieve the goal of attaining what one wants on issues or interests having a higher priority.

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Private Sector Preparation for EPA

- Knowledge of FEPA content
- What are the ISSUES to be negotiated or under negotiations?
- Cluster issues/Rendezvous Clause of FEPA
 - Direct
 - Implications for other trade agreements commitments, e.g. EPA vrs EAC regional integration process
 - Implications for national policies

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Private Sector Preparation for EPA

■ Secure Documentation & Handbook

- early access to documents regarding issues to be negotiated provide advantage for preparation Information:
- identification of Interest, influencing the issues/items to go on the draft agenda, negotiating set-issues
- Logistics – time, location, duration (open-ended, deadline, follow-up?)
- Be proactive

Preparing for Negotiations- National Level

- **Consultation at National Level**
 - stakeholders and interest groups to hold meetings
- **Composition of National Negotiation Team – Private Sector Input IMPERATIVE –**
- **-National Development and Trade Policy Forum (NDTPF) or National Trade Negotiations Committee (NTTC)**
 - **Hold meetings chaired at Political or PS level**

Trade Negotiations Techniques

- Identification and designation of Chief Negotiator/Leader of Delegation/Spokesperson
- Strategy/Consultations prior to, during and after Trade Negotiations.

Trade Negotiations Techniques

- **Composition of National Negotiation Team**
 - Composition of Clusters of Experts (public and private) & thematic and sectoral issues experts
 - Identification and designation of Chief Negotiator/Leader of Delegation/Spokesperson
- **Private Sector input at National Level**
 - Private sector – need for apex bodies to organise consultations at:
 - CEO level
 - General membership level
 - Documentation: national private sector brief/position papers on issues under negotiations
 - Communicate same to Ministry of Trade (EPA Unit) & call for Dialogue

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- Trade Negotiation Strategy and Approaches
 - Translating National Strategy into Negotiating Position
 - Private Sector to Translate its concerns/issues into Draft National Positions to be communicated to PS MinTrade – dialogue- inclusion in National Position
 - Understand priorities and positions of key actors in the negotiation process;

Forging a Regional Common Position

National/Regional Position (Consultation)

- Harmonizing National Negotiation Positions into (Public & Private sectors) a Regional EAC position on each cluster
- Arriving at EAC Regional Position forging 5 positions of 5 Partner States into an EAC common negotiation position on each EPA Cluster issue under negotiation
- Private/Public Sector National/Regional Position(s) – subject to evolution, reformulation & redrafting periodically.

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- Identify gaps in information and strategies required to support Regional and future negotiations and appropriate follow-up action at national and regional level;
- Build relationships with regional partners as part of a long –term process of co-ordination around market access and development.

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- A negotiator must:
 - demonstrate commitment to successfully negotiate &
 - achieve a mutually favourable outcome;
 - be reliable in negotiation deals and compromises on the sidelines which can contribute to a favourable overall goal in the negotiations – to achieve and Agreement.

- Trust –
 - A negotiators must:
 - demonstrate that he/she is trustworthy in whatever he/she says in trying to address issues with a view to solving the problem of contentious issues on the negotiation table.

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■ Core Skills to do the Negotiations

- how do you market your position
- pursue your negotiation objectives
- achieve a successful outcome.

■ Communication skills

Trade Negotiations Techniques

- **A trade negotiator must:**
 - have first class communication skills.
 - have sharp ears to pick the minutest information (signals) from his/her opponent and even from his/her partners;
 - be observant.

Trade Negotiations Techniques

■ A Trade Negotiator must:

- be very articulate in communicating to his opponents and partners his/her views on issues
- Be persuasive and have influential powers in order to “pull” to his side his partners and/or opponents.
- have incisive questioning skills in order to search of answers and utterances from opponents which he/she could use to strengthen his/her negotiation position(s) in order to achieve his/her negotiation objectives.

Trade Negotiations Techniques

- **A Trade Negotiator must:**
 - Articulate complex problems and arguments
 - Identify needs and resources
 - Identify and analyze the interest of other parties
 - Identify and prioritize options and arguments
 - Articulate criteria by which a decision is made
 - Achieve consensus
 - Reach agreement at best

Trade Negotiations Techniques

Conclusion

- **Technique 1 – Identify and Focus on Interests:**
 - Negotiators must:
 - be prepared to continuously reconsider &
 - rewrite positions and targets without compromising their interests.

Caution: An unchangeable position can lead to the negotiations becoming deadlocked – which is not the aim of any negotiation but can be used - as a tactic to achieve one's negotiation aim.

Trade Negotiations Techniques

Conclusion

■ Technique 2 – Communication:

■ Negotiators need:

- to use communication and dialogue skills
- to promote their interests successfully while accommodating the interests of others.

■ Core skills should include ability:

- to assess the perspectives and interests of others,
- reframe questions
- articulate criteria for decisions
- respond positively to conflictual aggressive or negative situations &
- refocus discussions.

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Conclusion

■ Technique 3- Strategy Building:

- Effective negotiators need to identify their teams' core capabilities
- Phases of the negotiation &
- Techniques appropriate to each phase.

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Conclusion

- **Technique 4: Post Conference Action Plan**
 - Draft Back-to-Office Report – Recommendations
 - Organize Briefing Meeting for CEO and Members of PS Apex body (actual manufacturers, importers & exporters)
 - Take fresh mandate on Way Forward
 - EPA Agreement reached – ensure Ratification & Implementation
 - PS call for technical assistance to implement – taking advantage of provisions in favour of private sector.
 - Request regular meetings with Cabinet Minister for Trade during implementation phase of EPA ensure private sector involvement in monitoring and evaluation.

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Conclusion

- *Thank you for your kind attention*