

# Program Elements for Building National Core WTO Expertise

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*WTO-Related Technical Assistance  
Symposium for Sub-Saharan Africa,  
Seattle, Washington*

P. Lance Graef  
Vice President  
Nathan Associates Inc.

November 29, 1999



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# Introduction

Over the last 18 months, at the request of USAID, I have been working with trade policy officials and private sector representatives from 20 sub-Saharan African (SSA) countries

- Conducting workshops on the World Trade Organization (WTO),
- Supporting negotiations towards the Southern African Development Community (SADC) free trade agreement, and
- Helping the government and private sector formalize a dialogue on trade policy.

Consequently, I have had a chance to reflect on the opportunities and the challenges posed by the Multilateral Trading System and, as a practitioner of WTO-related technical assistance, I have reached some conclusions about how sub-Saharan Africa can build core competence in negotiation and implementation of WTO and other trade agreements.

## CREATING CORE WTO EXPERTISE: WHY DOES IT MATTER?

Without core WTO expertise a country cannot participate effectively in the multilateral trade system (MTS). But what does effective participation in the MTS mean? On the one hand, it means taking advantage of the benefits MTS affords, such as increased access to markets. And on the other hand, it means meeting the obligations of the system. This is critical, because, as we all recognize, the *benefits* of the system stem from trading partners implementing *shared obligations*. Obligations undertaken in WTO or in regional trade agreements assure stable and predictable trade policies both domestically and in trading partner countries. This stability and predictability, in turn, mark the threshold for sustained trade expansion and sustained increase in investment. The further benefits that arise from negotiating reductions in tariff and non-tariff barriers have been increasingly evident to economists who have studied the advance of East Asia and the more progressive economies of Latin America over the past several years. Little wonder, then, that on his recent appointment as a Deputy Director General of the WTO, Miguel Rodriguez, a distinguished public servant from a developing country, observed that the WTO needs more rather than fewer rules.<sup>1</sup>

This system of shared obligations generating multilateral benefits works, as the explosion in the volume and value of world trade has demonstrated. But the system is sophisticated, and to capture its advantages a country must engage itself in the system and monitor carefully how the system operates. How can this be done?

- First, both government policymakers and private sector trading entities (importers and exporters) must have access to and then must analyze current trade data on performance of the system, focusing on activity in home markets and key export markets.

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<sup>1</sup> Miguel Rodriguez, WTO Deputy Director General, statement of Nov. 11, 1999.

- Second, government policymakers and private sector traders must be well informed about their own national MTS obligations and policies, as well as those of international trading partners. For developing countries, this knowledge will become more important, as many obligations entered into during the Uruguay Round are coming due as LDC phase-in periods begin between 2000 and 2006.
- Third, the transparency provisions of the WTO agreements and the Trade Policy Review Mechanisms give MTS participants the opportunity to monitor and, as necessary, to dispute policies that run counter to agreed upon obligations. When, for instance, trading partners are of unequal size, dispute settlement procedures under the WTO rules-based system provide an opportunity to level the playing field and, in particular, give less-developed partners the leverage to change the policies of more developed partners.
- And finally, with the possible initiation of a new trade round here in Seattle, government policymakers and traders must be ready to take part in negotiations to influence the shape and schedule of any expansion or revision of the MTS.

Clearly, engagement in the MTS—data gathering and analysis, detailed knowledge of rights and obligations, assessment of trade policy performance and use of dispute procedures as necessary, effective participation in negotiations—requires core institutional competence in WTO- and other trade-related issues. In my experience, core institutional competence is, ideally, characterized by

- An *informed bureaucracy*, knowledgeable about the rationale and the details of the nation's multilateral, regional, and bilateral trade agreements;
- An equally *informed private sector* and *citizenry*, sensitive to the market opportunities that trade agreements provide, and able to adapt to global competition;
- Regular and timely access to comprehensive *trade and market information*, for both government policymakers and private sector operators in international trade; and
- Efficient *coordination of action* among the government agencies concerned with WTO- and other trade-related policies, and between government and the private sector.

If this is the ideal of core institutional competence in WTO- and other trade policy issues, what is the reality in sub-Saharan Africa?

### **“TYPICAL” WTO-RELATED TRADE POLICY ADMINISTRATION IN SUB-SAHARAN AFRICA**

Resource scarcity and institutional constraints are fairly common characteristics of trade policy administration in sub-Saharan Africa, but there are signs of real improvement as well.

#### **Resource Scarcity**

At the very outset, let me emphasize that I share the observation of most of my counterparts that too few resources are committed to developing and implementing trade policy in sub-Saharan Africa. Most SSA countries must deal with multilateral, regional, and bilateral agreements simultaneously. Even South Africa, with the most sophisticated commercial policy in the region, has been strained to its limit conducting negotiations with the European Union (EU) and SADC while preparing for the coming round of trade negotiations. In all of the least developed countries (LDCs) of the region

fewer than five officials—in total—deal with trade policy issues full-time. Some of these officials have had formal training in Geneva with UNCTAD or WTO, but most train on the job. And finally, trade-policy related budgets are limited, often severely, precluding travel to important negotiating sessions, including those on very fundamental issues, such as rules of origin and the setting of product standards.

### **Institutional Constraints**

Given the limited resources devoted to trade policy, SSA countries must adopt an efficient model for trade policy administration. To fully understand the importance of this “efficient model” let’s look at current institutional patterns for trade policy development and implementation. The government’s approach to trade policy administration is typically plagued by a cluster of problems. For example, most governments in SSA exhibit three or more of the following characteristics:

- Ministry of Trade has nominal authority over trade policy, but Ministry of Finance controls tariff levels, manages customs, and collects domestic trade data.<sup>2</sup>
- Ministry of Foreign Affairs provides staff for the important trade posts in Geneva, Brussels, and Washington.<sup>3</sup>
- Portfolio of WTO-related responsibilities is often uncovered, or is given to staff with many competing assignments before other international and U.N. agencies.<sup>4</sup>
- Inter-Ministerial coordination most often occurs in the Cabinet or Council of Ministers, a level too high to deal with the details necessary for planning and implementing trade policy in a timely manner—e.g., the Council of Ministers can consider a summary of a negotiation offer, but the details need to be worked out lower down in the bureaucracy.
- Ministries affected by trade policy actions are informed of agreements and obligations undertaken only after the fact.<sup>5</sup>
- Ministries that must implement agreements are similarly informed too late in the process to advise on what is desirable and practical.

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<sup>2</sup> The Ministry of Finance is the dominant Ministry in most SSA countries, and often has the strongest base of analytically qualified staff. Control of the trade data contributes significantly to the analytic dominance of this Ministry. The portfolio of Finance Ministry is, however, so broad that trade policy can be only one of many priorities, and is most often focused on the near-term revenue consequences of trade policy actions rather than on promoting long-term trade expansion.

<sup>3</sup> In contrast most Asian and Latin American WTO representatives are officials from the Ministry of Trade or another Ministry that is coordinating trade policy.

<sup>4</sup> Blackhurst, Lyakurwa, and Oyejide (Improving African Participation in the WTO) report that only 15 of 38 SSA WTO members maintain regular representation in Geneva.

<sup>5</sup> During assignments in SSA I have encountered more than one example of Foreign Affairs or Finance Ministries agreeing to trade policy negotiations, including an imminent deadline for completion of agreements without any consultation with the Trade Ministry. On the other hand, I have also observed instances of effective inter-Ministerial coordination where, for example, the representative of Agriculture was closely consulted by Trade counterparts, and was fully conversant with current and pending agricultural negotiations.

- Views and concerns of the private sector are too often unsolicited by government trade policymakers, or are requested too late in the process of negotiating agreements and formulating policy to have maximum effect.

These characteristics describe a pattern of poor coordination, insufficient dialog with the private sector, and inadequate information exchange.

**Lack of intra-governmental coordination.** Negotiation and implementation of WTO and regional trade agreements often requires that multiple agencies cooperate; and effective trade policy requires intra-governmental coordination with a clear lead agency that can supplement its staff by assigning tasks to other agencies, thereby giving these agencies a voice in trade policy and a sense of ownership of national trade goals and commitments. Unfortunately, the problems posed by limited resources among SSA countries are compounded by poor intra-governmental coordination. And this lack of coordination between implementing ministries further strains resources devoted to trade policy by depriving administrators of resources that could be devoted to trade policy.

**Insufficient dialog with the private sector.** To support trade liberalization, the government must ensure that the private sector is informed of and understands the basic elements of trade agreements. The benefits of open markets are by now well-documented, particularly in academic circles. Countries that have reduced trade protection and exchange controls, and that have maintained stable macro-economic policies, have outperformed those still applying inward-looking policies. But when producers and consumers most affected by an agreement are not consulted trade liberalization seems imposed. For example, producers who are scheduled to lose protection readily see the short-term consequences of losing protection, but not the long-term benefits of increased competition and efficient resource allocation. Moreover, some benefits of trade agreements, such as new export market opportunities, have not always been identified clearly. The balance of benefits can only be assessed when senior officials hear from *informed* producers, importers, exporters, and consumers. New constituencies that emerge from the economic growth associated with increased trade should also be contacted.

Who gains from open discussion? Government gains when the private sector begins to have a stake in the negotiations. The private sector gains by understanding how it can take advantage of the benefits and deal with the costs of agreements, by insisting that government monitor the benefits and implement the safeguards afforded under agreements, and by influencing the government's approach to negotiations.

**Inadequate information exchange.** During the 1990s, SSA countries greatly increased the exchange of information between the government and private sector concerning domestic economic policies. Such dialog is, in many cases, too new to have been formalized. At least initially, the dialog on trade has focused on domestic issues—customs delays, inconsistent application of tariff rates or valuation practices, or the paperwork required for importing or exporting—but has not always had the outward focus necessary to support current regional and multilateral negotiations. Only recently has progress been made in discussing regional trade agreements with the private sector. Prior to an USAID-sponsored information program, only three SADC countries had meaningful dialog with the private sector on the trade protocol. Staff and time constraints have also limited discussion. For example, in preparing for SADC talks there was no detailed discussion of “rules of origin” with many affected producers, despite the importance of these details to such potential exporters.

## Positive Trends

Some SSA countries have made considerable progress in achieving the level of understanding and consultation that I will later suggest as the standard for building core expertise. The efforts of several SSA governments and multilateral partners are notable. In fact, the Joint Integrated Technical Assistance Program has begun operations in seven SSA countries, coordinating and delivering some of the types of assistance advocated below.<sup>6</sup> The WTO Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries has supported activities in other SSA countries. Preparations for the coming round of trade negotiations have been supported by Coordinated Assistance Program for African countries on Trade of Services (CAPAS); UNCTAD, which conducted a series of workshops on the new round for LDCs; and the WTO and World Bank, which jointly sponsored Geneva symposiums on the round in general, and agriculture specifically.

The work that has been done to date, especially on implementing WTO agreements, marks an excellent start. But this work has not been completed, as indicated by the insistence of African Ministers that the world's Trade Ministers agree in Seattle to significantly improve the technical assistance available to them.

## PROGRAM ELEMENTS TO BUILD CORE TRADE POLICY CAPACITY

In preparing for this Seattle Ministerial, it has become clear that LDCs need access to more and better coordinated resources if they are to be successfully integrated into the trading system. One of the first acts in the new round will likely be development of an action agenda to enhance the WTO's role in working with other international institutions and incorporating bilateral donor countries when supplying "demand driven" technical assistance to build human and institutional capacity in LDCs.

What are the program elements to build capacity? And which audiences need to be addressed and why?

I propose eight inter-related initiatives for building core WTO-related competence.

### 1. Disseminate Information Widely on WTO and Other Trade Agreements

Information on the economics of trade liberalization and on the operation of WTO agreements must be disseminated widely to government and to private sector producers and consumers. More government officials must be informed, both within the ministry responsible for trade and across all affected ministries and agencies.<sup>7</sup> Presentations should

- Detail the major features of each WTO agreement, including GATT-1994 and GATS;
- Be delivered to multiple government agencies to initiate or strengthen intergovernmental trade policy coordination;

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<sup>6</sup> Those are Benin, Burkina Faso, Côte d'Ivoire, Ghana, Kenya, Tanzania, and Uganda. An eighth African country in the program is Tunisia.

<sup>7</sup> One excellent approach is to select young professionals for training in the commercial and trade policy courses in UNCTAD and WTO, and to form groups of other young professionals for periodic in-depth training on specific agreements or economic issues.

- Be in the form of workshops and seminars led by experts and include concrete examples relevant to the host country's economy. Sessions should be interactive, with questions posed and responded to and comments debated. Summary material and appropriate research pieces should be left behind.

## **2. Inform Public and Private Sector Leaders**

Leaders in the public and private sector must be informed in the same manner. Presentations should bring together government and private sector groups, thereby initiating or strengthening dialog on trade policies, and should be used as an opportunity to gather information on perceived barriers to trade (imports or exports). General presentations should help narrow topics and identify groups for more detailed presentations; and the priorities emerging from general and detailed presentations will suggest topics for research in academia and think tanks. The information presented in training sessions should also be tailored for detailed presentations to specific groups (e.g., customs valuation principles to customs officials and freight forwarders, intellectual property rights to government and private lawyers and judges, trade remedies to government enforcement institutions, and the like).

At a later stage of the information campaign, government and private sector facilitators should be trained to lead discussions in business associations, community service organizations, universities and think tank-sponsored conferences, and the media on the general features and objectives of trade agreements.

Neither the government nor the private sector should be neglected when building human and institutional capacity. Governments must negotiate, implement, and enforce trade agreements. The private sector, which encounters trade barriers directly, should evaluate production and trade opportunities. The exchange of information between the two is thus essential to successful trade policy. Policies that are not supported by either will be difficult to implement.

The SADC trade protocol enshrines private sector participation in an annex. While the public and private sectors might not always agree on the policy to be followed they must agree on the facts upon which the policy is based. The SADC approach is a move in the right direction in formalizing contact between the two.

## **3. Draw upon International Expertise to Solve Specific WTO-Related Technical Issues**

Capacity development may be assisted in several ways. A country may need general assistance in modernizing aspects of its trade-related legal and regulatory regime or in making that regime consistent with specific WTO requirements; or a country may require specific technical assistance in implementing WTO agreements.<sup>8</sup> A more ambitious approach would be to prepare a diagnostic

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<sup>8</sup> The implementation of regional trade agreements has increased pressure on SSA governments to take temporary measures to protect domestic industries consistent with the WTO agreements. For example, the reduction of duties to agreed common external levels in the WAEMU might increase imports sufficiently from third parties to injure some industries. Applying zero duties within a Free Trade Agreement to free trade partners may also cause or threaten injury. Under most regional agreements, temporary actions are governed by WTO agreements on anti-dumping, subsidies and countervailing measures, and safeguards. Most SSA countries do not have domestic legislation or procedures to allow (and limit) such remedies.

survey comparing all current laws and regulations with WTO requirements, or to combine such a survey with broader analyses of economic policies conducted by international financial institutions or bilateral donors. The Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries began with a self-diagnosis, which, because of the passage of time, might require some significant updating.

With the approach of WTO implementation deadlines for developing countries, specific support might be necessary to institute practices consistent with WTO agreements. Such support might be especially useful for the agreements on

- Customs valuation (deadline 2000),
- Trade-related intellectual property rights (deadlines 2000, 2005, or 2006 for LDCs),
- Technical barriers to trade (deadline 2000 for LDCs), and
- Sanitary and phytosanitary standards (deadline 2000 for LDCs).

In some cases financial support may be required, for instance, to supply laboratory equipment for testing imports or exports for conformity with standards. Or farmers or manufacturers may need assistance in evaluating and commenting on new export requirements, in changing production methods or practices to conform to requirements, or in obtaining access to certifying marks.<sup>9</sup>

#### **4. Use Technical Assistance to Help Create Databases and Analytic/Research Capabilities**

Ministries need assistance in developing the skills and data needed to formulate policies. The WTO's integrated database and Trade Policy Review Mechanism (TPRM) reports contain a wealth of information useful in identifying new markets for traditional exports or in identifying new exports. Members of WTO and most regional trade agreements are required to submit electronic files of current tariff levels and recent import and export data to a database available to all members. The collection and analysis of such data needs to be assessed and modernized, if practical, and the data itself should be made user friendly and accessible to private sector firms and institutions.

Domestic and external data on tariffs, other trade barriers, and trade flows also needs to be analyzed. Trade ministries need to develop analytic and research capabilities to monitor export and import performance, to identify internal and external barriers to trade, and to explore the backward and forward linkages of export products. Local universities and consultants can help with this process. Based on our experience in working with trade ministries such analysis has revealed unintended "negative effective protection" to downstream processing industries, or revealed an overall anti-agricultural bias in tariff structures.

#### **5. Emphasize Preparation in Trade Negotiations**

While SSA countries are already considerably skilled in the conduct of negotiations, most successful negotiations also depend on thorough preparation. Once a country's goals have been identified, external data must be analyzed to prepare positions for pending negotiations. Such analysis might

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<sup>9</sup> To implement the agreements on Subsidies and Countervailing Measures (elimination of export subsidies) and Trade Related Investment Measures, countries need only provide notification and elimination, activities that do not require technical assistance.

combine domestic and external data to identify both points of leverage and opportunity in the negotiations.<sup>10</sup> International institutions have training vehicles to develop preparation and negotiating skills.

In preparing for negotiations and in identifying constraints and opportunities, SSA countries must maintain contact with their private sectors, including key agricultural and fishery producers, manufacturers, service providers, and labor groups. Private sector institutions know how domestic and external barriers affect sales and production. A means of transmitting information between the public and private sector about current and pending agreements needs to be developed and formalized.

## **6. Support Building Trade Policy Analysis Capability in the Private Sector**

Private sector institutions also require support. These institutions are more likely to identify the domestic as well as external policy constraints to trade than government agencies. Individual and collective business associations and labor unions hold obvious stakes in trade policy. Sharing information with associations that have strong import, anti-import, or export interests, is particularly important. Surprises at the end of a negotiation should be avoided. Individual groups can express only disparate views, based on relative assessments of comparative advantage. Such views must be aggregated and debated to ensure decisive rather than contradictory advice. Gains and losses must be assessed and sensitive industries identified and agreed to. Contact with or development of umbrella groups that assemble individual associations in manageable policy advice is especially important. Associations representing firms grouped by size or market position, especially small, medium or disadvantaged enterprises, should be encouraged and contacted regularly.

One private sector group that merits special attention is academia, broadly defined to include think tanks. Academia has conducted significant research on the impact of the Uruguay Round agreements on developing countries and the negotiating issues presented in the new round sponsored by the World Bank. Much still needs to be done, however, to ascertain how the Uruguay Round and the issues in the new round are affecting individual countries. The African Economic and Research Consortium in Kenya, which is supported by many donors—including the World Bank, USAID, Canada, Sweden, Denmark, the Netherlands, as well as private U.S. foundations—is one particularly effective sponsor of such work. Once priorities for research are established in the dialog between the government and private sector, academia's support should be solicited and funded. Technical assistance should also support curricula development for trade theory and policy studies. Curricula for related fields, such as commercial and intellectual property law, might also be useful.

## **7. Widen Trade Policy Analysis Capability in Government**

More government personnel need to be trained to develop and execute trade policy. To improve the terms of policy debate, analytical capability must be strengthened in several ministries and agencies so discussions are not dominated by a single ministry or by a single issue, such as static revenue

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<sup>10</sup> One of the first rules of negotiation is to try to receive reciprocal concessions for policy reforms that should be made anyway. Often the need to make or offer concessions in a negotiation becomes the rationale for implementing such reforms.

losses from tariff reductions. For example, the possible growth in sales and production and therefore in other tax revenues must be estimated and considered. And such estimates are best developed through ministries in regular contact with producers.

### **8. Establish and Nurture a Strong Inter-Ministerial Coordinating Body for Trade Policy**

Decisions should be based on analysis and debate, rather than executive discretion; and trade policy should be considered on the basis of contact with many interest groups, even though *ex parte* contacts between decision-makers and interest groups will always occur. Therefore, debate on trade policy would be best led by a strong inter-ministerial coordinating body, where nominal and actual responsibility would converge. Such coordination often exists now in a Cabinet or Council of Ministers, but coordination mechanisms at lower levels should be developed to speed decisions and preparations. Uncontroversial decisions might be made at the level of the deputy Minister or National Director. Inter-ministerial cooperation in debating and deciding policy will ensure cooperation in implementing agreements, which often require cooperation among multiple government agencies. The actions of implementing agencies should also be subject to review and amendment.

## **CONCLUSION**

I have focused on what is needed to develop core expertise relative to the WTO. But these same program elements apply equally to effective negotiation and implementation of regional agreements to liberalize trade. Most regional trade agreements in Africa have earlier implementation requirements than those in the WTO for tariff and non-tariff barrier elimination. Thus, the impact of these agreements will be experienced earlier and, in a sense, will pave the way for implementation of WTO obligations.

Whether the focus is the WTO or Africa's regional trade agreements, the essence of core competence for trade policy negotiation and implementation is the same: an informed public sector, an informed private sector, timely and comprehensive information, and coordinated action within government and between the government and the private sector. Furthermore, as I have suggested, this core institutional expertise for trade policy is developed through the interaction of the diverse groups implementing or affected by a nation's trade agreements. For liberalized trade policy regimes to work, each group must have the resources and the information to play a part in policy design and implementation. Technical assistance can be useful in this regard, by providing information resources, tools, and training to reinforce institutional and human resource capacity among government and private sector groups, and by helping to assure transmission of information among all key participants in the national trade policy process.