



**Regional Training of Trainers
on how to design, negotiate, and implement FTAs**

Session 1A: Negotiations & Strategic Planning

**Instructor: Mikheil Janelidze
Senior Consultant, PMCG
m.janelidze@pmcginternational.com**

October 2022



Outline

- 1.Preparing for Negotiations & Managing workflow
- 2.Objectives & Mandate of Negotiations
- 3.Process & Techniques of Negotiations
- 4.Implementation, M&E



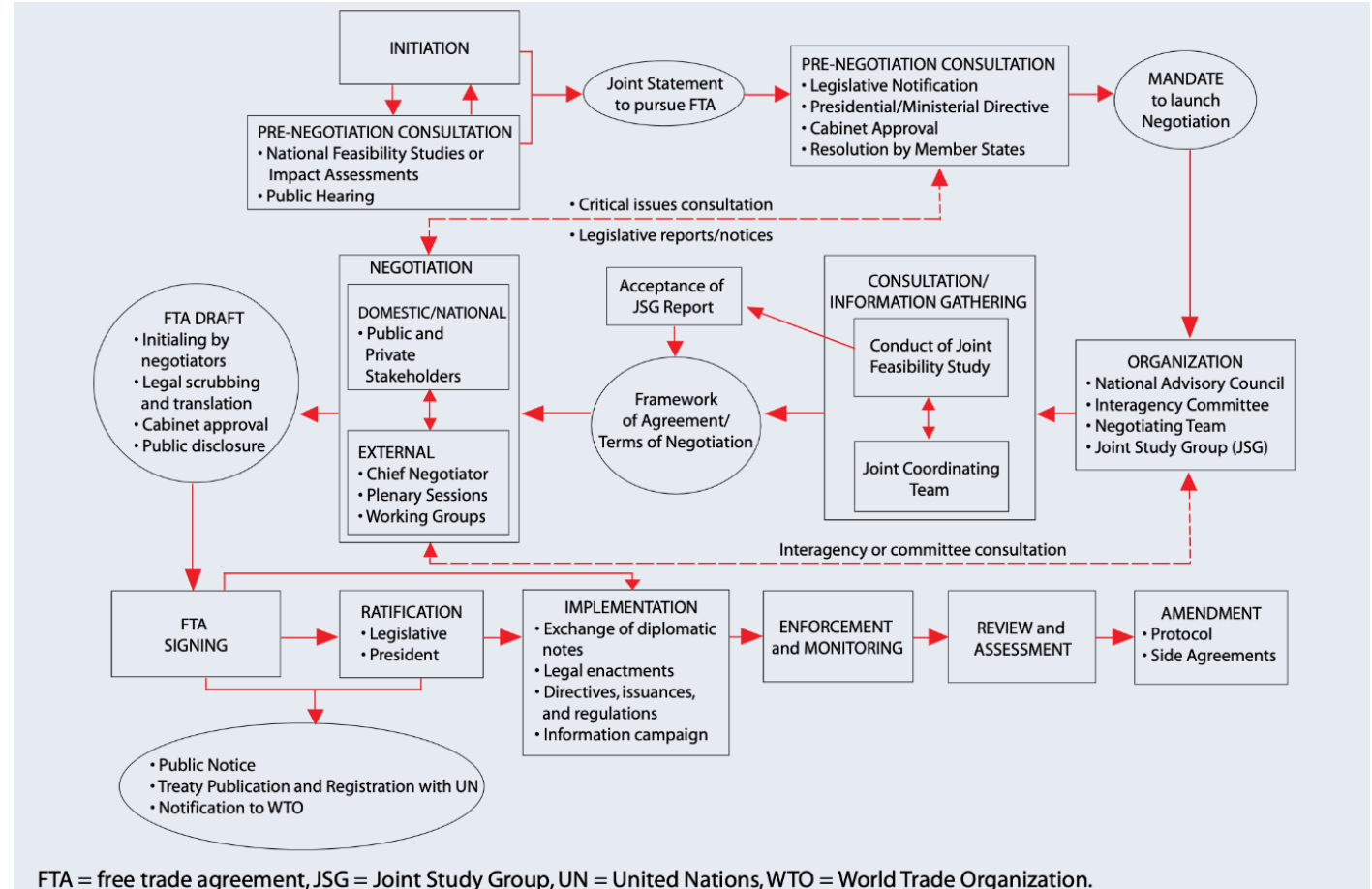
1

Preparing for Negotiations & Managing Workflow

Trade Negotiations Workflow

Trade negotiations is a complex and multistakeholder process which involves different stages, from initiation to review and assessment as described in the table.

This complexity requires relevant institutional set-up and human resources equipped with adequate technical and soft skills across a government to make the process effective and successful for a country.



Source: ADB 2008

Pre-negotiation Phase

- A decision to explore a possibility of a trade negotiation is based on countries and regions foreign and economic policy agendas and are mostly dependent on high-level government-to-government initiatives.

***Case Georgia-China:** a match of political initiatives and trade-economic policies of the countries to pursue active regional integration and free trade agreements. Before the launch of this process, both countries had experience of negotiating comprehensive and modern FTAs.*

- Despite the match of general polit-economic interests, there is a need to conduct a feasibility study in order to get support of national public and private stakeholders.

Stakeholder Consultations

- Results of feasibility studies are generally presented to national stakeholders and interest groups, which may include other government bodies, parliament, employers and trade unions, NGOs and academia.
- How countries manage the consultation process differs based on the country governance models, traditions and readiness of the stakeholders to engage in substantive discussions.
- Transparency can be achieved through digital information exchange mechanisms and platforms.

National Trade Portals

Trade related portals provide information help traders find useful information about trade agreements and their implementation. They allow to ensure participatory process and help government negotiate provisions that cater to the needs and interests of stakeholders.



[Contact](#) [GEO](#) | [ENG](#)



[ABOUT](#) [NEWS](#) [AGREEMENT](#) [IMPLEMENTATION](#) [COORDINATION](#) [LEGISLATION](#) [INTERNATIONAL SUPPORT](#) [DCFTA FOR BUSINESS](#)

DCFTA for Business
How to trade with the EU



International & Regional Trade Portals

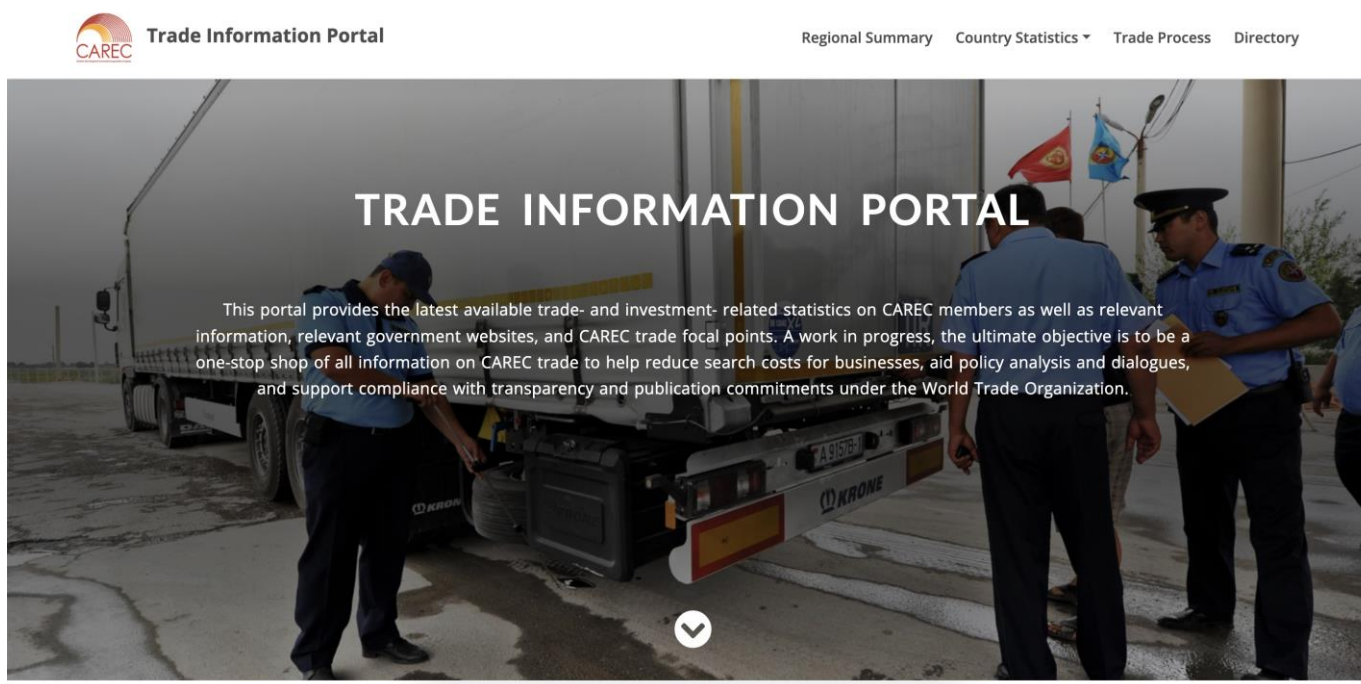
There are various regional and global trade information portals, which can serve as good sources for trade negotiators when preparing for and conducting FTA negotiations, for example:

aric.adb.org/fta

trade.unescap.org

wits.worldbank.org

CAREC Trade Information Portal is the most recent regional portal that aims to be a one-stop shop of all information on CAREC trade trade.carecprogram.org





2

Objectives & Mandate of Negotiations

Objectives of Trade Negotiations

- Countries identify the objectives tailored for each proposed agreement or in accordance with the general economic and trade policies.

Case of RCEP: The objective of the RCEP Agreement was to establish a modern, comprehensive, high-quality, and mutually beneficial economic partnership that would facilitate the expansion of regional trade and investment and contribute to global economic growth and development, bringing market and employment opportunities to businesses and people in the region.

- Liberalizing not only trade in goods but also in services, removing tariff and non-tariff barriers (NTBs) to trade can be aligned with strategy of countries for diversification of trade as well as demands of domestic business and consumer markets.

Negotiating Mandate

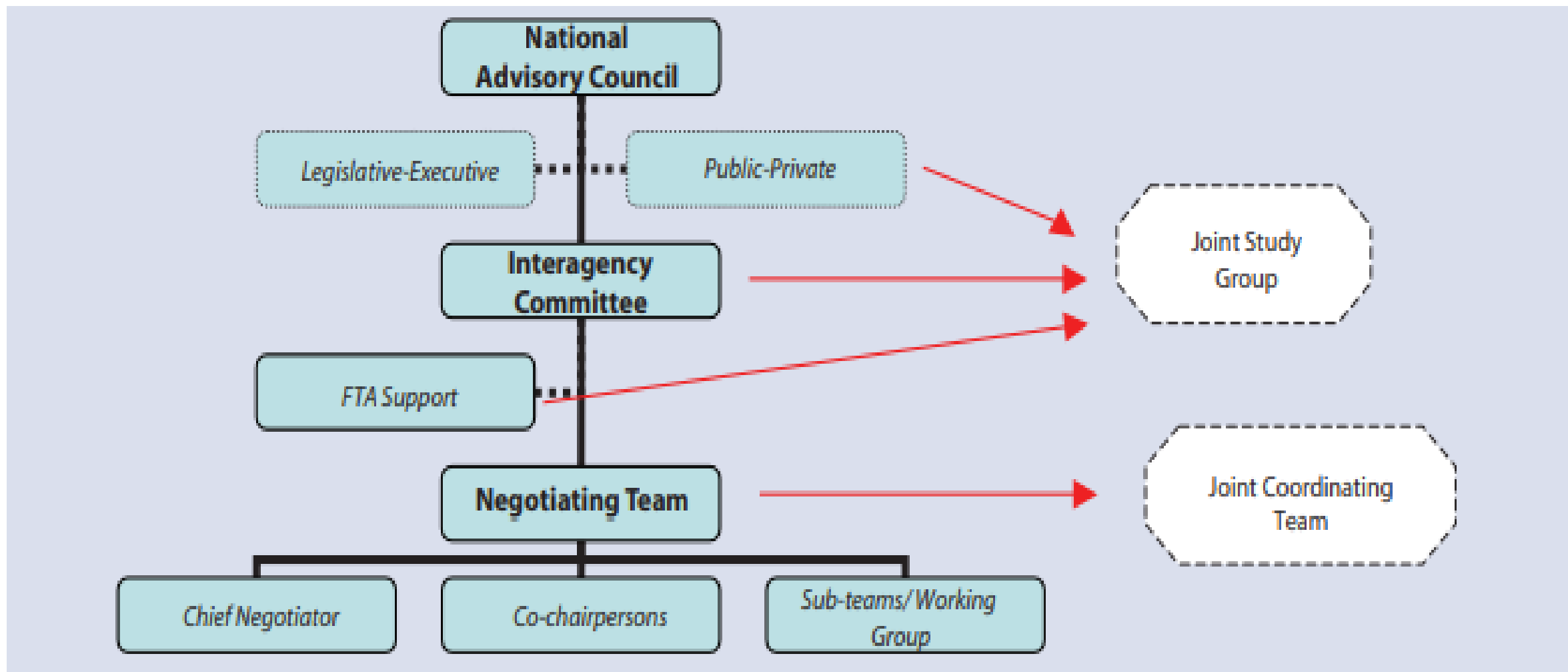
- Based on objectives, respective governments issue official negotiating mandate for launching formal negotiations, authorizing group of negotiators headed by the chief negotiator to represent the government, and in some cases, setting limits for the scope of the agreement and positions in the negotiations.
- Strict limitations in the mandate creates obstacles in the process of negotiations. In cases when more flexibilities are provided to the negotiating team the results can be achieved more effectively.
- The lack of authority of negotiators may lead to complete failures of the negotiation process. At the same time, the negotiating team and especially the chief negotiator should keep regular and effective communication with the national stakeholders to have them engaged in the process and by that strengthen the mandate.

Negotiating Team

- An authority for trade policy development in most of the countries is in the hands of a head of an executive branch, the backbone of a negotiating team is mostly comprised of a staff of a lead institution (ministry, agency, etc) responsible for trade policy implementation.

For example, in China and Pakistan these are units under ministries of commerce. In Turkmenistan and Uzbekistan, it is under the Ministries of Trade. In Mongolia, trade negotiations fall under the competence of the Ministry of Foreign Affairs.

- Organizing a negotiating team involves not only enlisting those who will be at the negotiating table but also forming an advisory committee, an interagency committee, and other committees to guide and give technical support to the negotiators.



Source: ADB 2008



3

Process & Techniques of Negotiations

Launching a Negotiation Process

- There are no established formal and universal procedure for conducting trade negotiations but there are some practices which are followed in many cases.
- It is important that negotiating parties agree on the guidelines and modalities of the negotiations at the zero round of negotiations. The negotiators may adopt a sectoral approach, a dual approach (i.e., the modalities-and-rules approach in the GATS), a gradualist approach (from simpler to more complex issues) or a template approach.

Case of RCEP: a key tool for negotiating with large number of parties was early agreement on guiding principles formalised in the Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership.

Conducting a Trade Negotiation

- FTA negotiations are conducted between chief negotiators (especially on sensitive issues) and between sub-teams at plenary sessions and at working group level (for specialized or technical matters).
- It is critical that in parallel with the external trade negotiations domestic negotiations take place with stakeholders from both the public sector (e.g., policy makers, cabinet members, and regulatory bodies) and the private sector (e.g., business or industry groups, NGOs, workers' unions, environmental lobbyists, civil society, and consumer groups).

Trade Negotiation Timeline

- Negotiating an FTA usually takes one to two years, subject on the issues covered and the complexity of the proposed treaty.

Case of RCEP: RCEP was first proposed at the 2011 Summit in Bali Indonesia, the negotiation started in 2012 and expected to be concluded in the 2015 but it was signed five years later. 31 negotiation rounds, 15 ministerial meetings, and four Leader's Summits were held before signing it.

Case of Georgia-China FTA: negotiations started in 2015 and the agreement was signed in 2017 and entered into on 2018. The Georgia-China FTA timeline is unusual in that although no timetable was set, substantive part of the Agreement was negotiated in a record seven-month period, and it was the fastest FTA negotiation process that China had with a partner by then.

Negotiation Techniques

- It is important that not only the chief negotiator, but all the negotiating team members have the basic knowledge of negotiation techniques. The best way is to learn through practice, including through simulation exercises.
- Adherence to the certain established rules and protocols of negotiation is key to successful negotiations which should be first of all ensured by the chief negotiators.
- Good faith negotiations lead to credibility and mutually accepted outcomes, within the set national mandates for negotiators.

Role of Negotiators

- Negotiators should be able to articulate clearly the negotiating positions and understand the positions of the counterpart.
- It is important that the counterparts have good working relationship ensuring the trust and the trust is also built on the ability of the negotiators to defend the negotiating positions at home.
- it is crucial for the chief negotiator to be prepared with a best alternative to an agreement. Developing one's best alternative to a negotiated agreement-BATNA and considering the partner's BATNA are also very important in strengthening bargaining power during negotiation and strategizing the options available.

Negotiation Skills and Habits

- *Listen actively*
- *Ask questions*
- *Use Silence*
- *Organize brainstorming sessions*
- *Use objective criteria*
- *Practice role reversal*
- *Listen to and record all proposed options*
- *Be sensitive to cross-cultural dynamics, gender, and language*
- *Build a reputation*
- *Create a win-win mentality*



4

Implementation, M&E

Implementation

- Implementation of a trade agreement requires adopting of new legislation or amending existing laws to comply with agreement commitments
- After an agreement takes effect, administrative procedures need to be also amended.
- The procedures are more complex to implement the nontariff provisions of a trade agreement
- All relevant state authorities have to be involved in implementation process to fulfil agreement obligations and benefit from new market opening.

International Monitoring

- WTO Transparency mechanism for Regional Trade Agreements
- WTO Members must notify the WTO as soon as RTA is ratified and WTO secretariat must prepare factual presentations based on this notification.
- WTO Members can notify the WTO about RTAs under negotiation or ones which are signed but not yet in force, about changes of an agreement and its full implementation.

National Monitoring

- National mechanism for compliance monitoring requires resources and intensive effort not only from the lead agency but especially from implementers and regulators.
- Coordination among agencies is essential especially between those agencies that will put into operation provisions of agreements and those that will eventually review agreements and provide for necessary amendments.
- Other possible mechanisms for monitoring and compliance are regular consultations with private sector and full use of technology to gather comments from other sectors, including consumers.

Review of Trade Agreements

- Some trade agreements provide review clauses to analyze the impact or progress of their implementation. Impacts can be assessed through
 - Macroeconomic indicators
 - Industry utilization indicators
 - Increase in trade volumes
 - growth in market shares
 - Use of Non-Tariff Measures
- Another important aspect is identifying the proper agency to evaluate impact of a trade agreement.
- Frequency of reviews depends on each agreement

Trade Impact Assessment (TIA)

- In 2022, UNCTAD has published a Guidebook on Trade Impact Assessment which is designed to help trade policymakers and practitioners in developing countries to have comprehensive information on:
 - When and how to conduct an impact assessment;
 - Where to obtain detailed and technical information on the conduct and use of impact assessments; and
 - How the results of the impact assessments may be interpreted and put into practice.

Principles for Conducting TIA

- Impartiality and independence of the analysis from the policy implementation functions;
- Transparency of the process, including wide dissemination of results by appropriately skilled and independent experts;
- Participation of stakeholders in the process to ensure that impact assessments incorporate different perspectives and views; and
- Timeliness of the presentation of relevant, clear, and concise information to policymakers.

Components & Phases of TIA

Components

- A robust analysis of economic, social, human rights, and environmental impacts, using, among other methods, modelling techniques and causal chain analysis; and
- A consultation process involving stakeholders in FTA member countries to gather information and disseminate results

Phases

- The first Inception Phase is to clarify the methodology, analyze the policy texts, propose different scenarios, map out and consult key stakeholders and vulnerable groups
- The second-phase activities include setting up models for quantitative analysis, refining scenarios, elaborating assumptions and risks of the quantitative work, and extensive consultations with various stakeholders from line ministries, the private sector, civil society, and academia.
- The third phase is to generate the Final Report.

Strengthening Knowledge and Capacities for the Design and Implementations of FTAs Involving CAREC Countries



Thank You

