

Trade-related Technical Assistance to Developing Countries for WTO Negotiations



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Rue de Vermont 37-39
1202 Geneva, Switzerland
www.cuts-geneva.org

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Table of Contents

Abbreviations	4
Executive Summary.....	6
1. Trade-related Technical Assistance in the Multilateral Trading System and its Recognized Recipients	8
2. The Providers of Trade-related Technical Assistance.....	11
1.1 WTO Secretariat	11
1.2 Some Other Providers of TRTA	12
1.3 Some Observations on TRTA Providers	14
3. An Evaluation of the Contribution of Trade-related Technical Assistance	15
4. Towards Effective and Sustainable Trade-related Technical Assistance .	19
References.....	21

Abbreviations

ACWL	Advisory Centre on WTO Law
CARICOM	Caribbean Community and Common Market
CTD	Committee on Trade and Development
DDAGTF	Doha Development Agenda Global Trust Fund
DFID	United Kingdom Department of International Development
EU	European Union
FES	Friedrich-Ebert-Stiftung
GNI	Gross National Income
GNP	Gross National Product
GRULAC	Group of Latin America and Caribbean Countries
ITC	International Trade Centre
ITTC	Institute for Training and Technical Cooperation
JITAP	Joint Integrated Technical Assistance Programme
LDC	Least-developed countries
MTS	Multilateral Trading System
NGOs	Non-Governmental Organisations
OACPS	- Organisation of African, Caribbean and Pacific States
ODA	Official Development Assistance
SDGs	UN Sustainable Development Goals
TAF	Trade Advocacy Fund
TFAF	Trade Facilitation Agreement Facility
TRTA	Trade-related Technical Assistance

UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organisation

Executive Summary

Trade-related technical assistance for developing countries for WTO negotiations is aimed at helping these countries build their capacity to better understand WTO agreements and decisions, assist them to adjust to WTO rules and disciplines, implement their obligations and exercise their rights of membership, participate more effectively both in multilateral trade negotiations and in global trade, and facilitate their integration into the multilateral trading system. Due to human and financial resource constraints many developing countries often find themselves at a disadvantage in their capacity to prepare for, and engage in, the negotiations therefore requiring assistance to bridge the capacity gaps. WTO Members have given to the WTO Secretariat the institutional responsibility for providing trade-related technical assistance, funded from the regular budget and through extra-budgetary support.

In the discharge of its responsibility the WTO Secretariat has leveraged strategic partnerships with other international organisations to deliver targeted technical assistance. Away from the WTO but connected to the participation of developing countries in WTO negotiations, several inter-governmental and non-governmental organisations and institutions have also committed to providing developing countries with trade-related technical assistance. In addition, for-profit consultancy firms are increasingly being engaged as a TRTA service provider. There is therefore currently no shortage of trade-related technical assistance providers to meet the needs of developing and least-developed countries through analytical and legal support, technical seminars and

training, as well as logistical support. An evolution away from 'tied aid' to a situation where recipients are now given more leeway in the design of and administration of the technical assistance programmes is notable. With these many players in the field, information exchange among them is important in order to achieve coherence, and to ensure that capacity amongst the developing countries is built in a sustainable manner. WTO Members have on several occasions underscored the necessity of the effective coordinated delivery of technical assistance by bilateral donors and relevant international as well as regional intergovernmental institutions, within a coherent policy framework and timetable.

Whether or not technical assistance always achieves the intended purposes has often been debated. Indications in this particular case are that trade-related technical assistance for developing countries in WTO negotiations has indeed capacitated developing and least developed countries to be more proactive. However, the unavailability of all-encompassing data from all donors and service-providers hampers a comprehensive assessment.

A close look at the type of trade-related technical assistance extended to the developing and least-developed countries shows continued concentration around the categories of analytical and legal support, and training. This raises questions as to why this is so when the logical expectation should be that after many years of this type of support capacity should by now have been built. The answer could be: increasing number of issues

on the WTO agenda as well as their evolution, staff turnovers in the Geneva Missions and capitals of developing and least-developed countries, and limited institutional memory.

The contribution of trade-related technical assistance for developing and least-developed countries should be incremental, cumulative and sustainable. Technical assistance programmes must therefore be flexible and adaptive, have at their center the aim of filling clearly identified gaps, with a clear timetable. It is important that all-encompassing data on trade-related technical assistance in all areas and by each provider be collected and be publicly available. There should be resort to valuable lessons already learnt, and to beneficial principles that have been

developed. Providers of trade-related should respond to the call by WTO Members for the reinforcement of information exchange amongst agencies so that all dimensions of trade-related capacity building are addressed in a coherent manner.

SECTION 1

Trade-related Technical Assistance in the Multilateral Trading System and its Recognized Recipients

In the context of this short study, trade-related technical assistance (TRTA) for developing countries in WTO negotiations refers to the provision of analytical advice, training and logistical support aimed at helping these countries build their capacity to better understand WTO agreements and decisions, assist them to adjust to WTO rules and disciplines, implement their obligations and exercise their rights of membership, participate more effectively both in multilateral trade negotiations and in global trade, and facilitate their integration into the multilateral trading system.¹ It is widely recognized within the multilateral trading system that the integration of developing countries into that system is not only important for their economic development, but also for the expansion of global trade through increased consumption and market opening. However, due to human and financial resource constraints many developing countries often find themselves at a disadvantage compared to their developed-country counterparts in their capacity to participate in the WTO discussions/negotiations, implement their commitments, and take advantage of the trading opportunities. A key element of this

lack of capacity pertains to their informed, regular and effective participation in various negotiations in the WTO. While some large developing countries² have exhibited impressive negotiating capacity, with ready support from staff in the relevant ministries and departments in their capitals, the smaller developing-country delegations in Geneva usually comprise of only a few persons who have to cover other issues in other international organisations, besides the WTO. Moreover, the relevant staff in their capitals is also limited in number as well as in requisite knowledge and experience. Technical assistance therefore serves the purpose of bridging the resource gap through enhancing developing countries' human and institutional negotiating capacities.

Experience has shown that WTO negotiations are far from being an academic exercise, and that they require the effective engagement of all Members. To be able to do that, developing countries need to ensure that their negotiating positions and proposals are formulated on the basis of sound research, supported by current data where possible, to correctly reflect what obtains on the ground in their countries for

¹ As amplified in part by WTO Deputy Director-General Mr. Yonov Frederick Agah, who oversees development matters in the WTO, at meeting of the WTO Committee on Trade and Development on 29 September 2020. Available

at https://www.wto.org/english/news_e/news20_e/tech_05oct20_e.htm

² Such as Brazil, China and India

appropriate solutions. In that context, developing countries need to monitor, interpret and respond to the issues on the negotiating agenda in order to not only safeguard, but also to promote, their development interests.

That developing, least-developed and low-income countries in transition are entitled to technical assistance for capacity building in WTO negotiations is accepted and institutionalized in the WTO, and in the multilateral trading system. Successive WTO ministerial conference declarations have recognized the need for the provision of technical assistance to these countries to enhance their capacity. At the 1996 Singapore Ministerial Conference WTO Members recognized the problem of the marginalization of least-developed countries and the risk of the same for certain developing countries, and committed themselves to improved coordination between the WTO and other agencies in providing technical assistance.³ The WTO Members acknowledged that in joining the WTO developing countries had undertaken significant new commitments, both substantive and procedural, and recognized the range and complexity of the efforts that the developing countries were making to comply with these. Therefore, in order to assist them in these efforts, including with respect to developing countries' notification and legislative requirements, WTO Members committed to improving the availability of technical assistance.⁴ Integral to the 2001

Doha Ministerial Declaration is the recognition of the importance of technical assistance and capacity building for developing countries, with WTO Members establishing in various paragraphs firm commitments on technical cooperation and capacity building.⁵ In the 2005 Hong Kong Ministerial Declaration, WTO Members reaffirmed their commitment to ensure secure and adequate levels of funding for trade-related capacity building⁶ and, at the 2011 Geneva Ministerial Conference, reiterated their commitment to contribute in a timely and predictable manner to the Global Trust Fund established in July 1999 to receive extra-budgetary donations from WTO Members to finance technical cooperation activities carried out by the WTO Secretariat.

WTO Members have given to the WTO Secretariat the institutional responsibility for providing technical assistance to developing and least-developed countries. One-time WTO Director-General, Mr. Mike Moore, said that "since the WTO was formed, demand for technical assistance has increased dramatically. We are doing our best to respond to these demands, on our own and in cooperation with other international organizations."⁷ At the 2005 Hong Kong Ministerial Conference WTO Members urged the Director-General to ensure that technical assistance programmes focus accordingly on the needs of beneficiary countries and reflect the priorities and mandates adopted by

3 Singapore Ministerial Declaration, WT/MIN(96)/DEC, 18 December 1996, paragraph 5

4 Ibid

5 Doha Ministerial Declaration, WT/MIN(01)/DEC/1, 20 November 2001, in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43. Members confirmed that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and welcomed and endorsed the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. They agreed that the delivery of WTO technical assistance was to be designed to assist

developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. They further agreed that priority was to be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva.

6 Hong Kong Ministerial Declaration, WT/MIN(05)/DEC, 22 December 2005, paragraph 54

7 WTO Press/162, 25 January 2000.

Members.⁸ In other words, it is the expectation of WTO Members that technical assistance will be fit for purpose. This principle finds reflection at the global level in the Paris Declaration on Aid Effectiveness⁹ endorsed in March 2005 by more than a hundred countries and international agencies setting out specific commitments for donors and partner countries to enhance aid effectiveness, as well as to improve the quality of aid and its impact on development.

8 Hong Kong Ministerial Declaration, paragraph 53
9 <http://www.oecd.org/dac/effectiveness/34428351.pdf>.
The countries followed-up on the Declaration adopted at the High-Level Forum on Harmonisation in Rome (February 2003) and the core principles put forward at the

Marrakech Roundtable on Managing for Development Results (February 2004) because they believed they would increase the impact aid has in reducing poverty and inequality, increasing growth, and building capacity.

SECTION 2

The Providers of Trade-related Technical Assistance¹⁰

1.1 WTO Secretariat

The WTO Secretariat bears the prime responsibility for the provision of technical assistance to developing and least-developed country WTO Members, as well as to low-income countries in transition. The focus of the WTO Secretariat's technical assistance activities has been on the enhancement of government officials' knowledge about the WTO Agreements; formulation of trade policies and conduct of trade negotiations; familiarizing acceding governments with WTO substantive and procedural matters; accessing and use of WTO data by Members to analyse trade-related matters; access to WTO online training material for self-study; assisting academic institutions and other stakeholders analyse WTO issues and reaching out to policy makers; outreach activities for legislators, journalists, business and NGOs on WTO issues and trade policies; and improving understanding by journalists, civil society and business of WTO issues and trade policies.¹¹ Closely connected to the engagement of developing and least developed countries in WTO negotiations, the Secretariat each year funds interns to be

attached to the Missions of Members acting as regional coordinators for the Group of Latin America and Caribbean Countries (GRULAC), Caribbean Community and Common Market (CARICOM), Organisation of African, Caribbean and Pacific States (OACPS) and LDC Groups.¹² Starting with the 1st WTO Ministerial Conference held in Singapore in 1996, the WTO Secretariat has funded the participation of Least Developed Countries (LDCs) in the Ministerial Conferences through voluntary contributions pooled into a special extra budgetary fund.¹³

The provision of trade-related technical assistance in the WTO Secretariat is coordinated by the Institute for Training and Technical Cooperation (ITTC), while the Committee on Trade and Development (CTD) is the WTO regular body that oversees the trade-related technical assistance activities. Funding for the activities is through a mix of members' regular and voluntary contributions to the WTO budget.¹⁴ WTO Members have committed themselves to strengthen the structures of the WTO Secretariat, and to enhance the Secretariat's resources in order to ensure the effective and timely delivery of trade-related capacity

10 This part presents a few of the key donors and providers of TRTA without in any way claiming to be a comprehensive listing of all of them.

11 Focus as outlined in successive Annual Reports of the ITTC, more particularly in its latest report Institute for Training and Technical Cooperation ANNUAL PERFORMANCE REPORT ON TECHNICAL ASSISTANCE AND TRAINING 2019, in WTO Document WT/COMTD/W/256, dated 5 May 2020

12 Ibid. The allocation of an intern to a regional coordinator is entirely demand-driven and depends on the requests received from those Members who act as coordinator for a region or group of Members, subject to the meeting of application requirements by the intern.

13 https://www.wto.org/english/tratop_e/devel_e/teccop_e/financing_trta_e.htm

14 https://www.wto.org/english/news_e/news20_e/tech_05oct20_e.htm

building. In the context of the current Doha Development Round, Members further committed to ensure secure and adequate levels of funding for trade-related capacity building, including through the Doha Development Agenda Global Trust Fund (DDAGTF).¹⁵ In its report covering the year 2019, the WTO Secretariat observes that the resources available to the Secretariat (from the regular budget and extra-budgetary funds) to finance technical assistance to developing Members and Observers have stabilised since 2016, despite annual fluctuations.¹⁶

The WTO Secretariat has continued to leverage strategic partnerships to deliver targeted technical assistance that has seen individual WTO Members fund other specific programmes. The French-Irish Internship Programme provides resources for interns from developing countries to gain experience with the multilateral trading system by working in the Mission of their own country in Geneva. The Netherlands Trainee Programme provides resources for interns from developing countries to gain experience with the multilateral trading system through working in the WTO Secretariat. The China LDCs & Accessions Programme provides resources for LDC interns to work on accession issues in the WTO Secretariat, for LDC officials to participate in Geneva-based meetings, and to organize roundtable events on accessions issues.¹⁷

The WTO Secretariat has also partnered with other international organisations such as the

International Trade Centre and UNCTAD in the Joint Integrated Technical Assistance Programme (JITAP) launched in 1998 and designed to build trade-related human, entrepreneurial and institutional capacities in Africa for the African countries to integrate effectively and beneficially into the multilateral trading system (MTS).¹⁸ JITAP is the first trade-related technical assistance programme of its kind in which the three major multilateral trade agencies have joined forces and coordinated their responses.

1.2 Some Other Providers of TRTA

Away from the WTO but connected to the participation of developing countries in WTO negotiations, several inter-governmental and non-governmental organisations and institutions have also committed to providing developing countries with trade-related, consultants-led analytical and legal support, technical seminars and training, as well as logistical support designed to respond to their immediate needs.

One of the components of the Belgium-based TradeComII Programme seeks to contribute to sustainable economic development and poverty reduction in the countries of the Organisation of African, Caribbean and Pacific States (OACPS) through closer regional integration and increased participation in the

15 Hong Kong Ministerial Declaration, paragraph 54. The DDAGTF is the flagship WTO trust fund providing support to a wide range of trade-related technical assistance activities.

16 Institute for Training and Technical Cooperation ANNUAL PERFORMANCE REPORT ON TECHNICAL ASSISTANCE AND TRAINING 2019 available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filena me=q:WT/COMTD/W256.pdf&Open=True>

17 https://www.wto.org/english/tratop_e/devel_e/teccop_e/financing_trta_e.htm

18 https://www.wto.org/english/news_e/pres05_e/pr428_e.htm, WTO Press Release 428 of 14 December 2005. which receives donations from Canada, Denmark, Finland, France, Germany, Ireland, Japan, the Netherlands, Norway, Sweden, and the United Kingdom.

global economy.¹⁹ In the period 2015-2017, TradeComII assisted the OACPS formulate and implement suitable trade policies through, among other things, participating effectively in international trade negotiations and implementing resulting agreements.²⁰ In that context TradeComII designed, in collaboration with the OACPS Geneva Office, a programme to support the OACPS Group in Geneva to participate effectively in the WTO trade negotiations.²¹

The European Union (EU) has funded the OACPS MTS programme²² focusing on the effective participation of the OACPS in multilateral trade negotiations; support for the implementation of multilateral agreements; support for the accession of OACPS candidate countries to the WTO; use of the WTO legal framework, and the development of pools of experts in the OACPS regions.²³

The United Kingdom Department of International Development (DFID)²⁴ runs a Trade and Investment Advocacy Fund (TAF) to provide on-demand technical assistance to developing countries to participate in trade and investment negotiations. The aim of TAF is to increase the technical skills and coordination of trade and investment ministries in developing countries.²⁵ TAF and TAF2+ have funded a large number of projects. Its ongoing trade-negotiations projects include, among others, technical assistance support on WTO issues to the OACPS, the LDC Group as well as to CARICOM.²⁶

The Geneva-based Advisory Centre on WTO Law (ACWL) advises its developing country members and least-developed countries on all issues relating to WTO law, including giving free legal advice and training on WTO law and supporting WTO dispute settlement proceedings at discounted rates. The ACWL enables developing countries to obtain a full understanding of their rights and obligations under WTO law and to have an equal opportunity to defend their interests in WTO dispute settlement proceedings.²⁷

The Friedrich-Ebert-Stiftung (FES) office in Geneva seeks to strengthen the voice of the Global South through contributing to debates by organising and hosting conferences, seminars, workshops and panel discussions, activities that bring together NGO-activists, trade unionists, journalists, academics and parliamentarians, members of diplomatic missions in Geneva as well as staff from Geneva-based international organisations.²⁸ Through its work on trade and development, FES has funded the attachment of interns to the OACPS Geneva Office to enhance the capacity of that office to coordinate the activities of the OACPS Geneva Group in WTO negotiations.

A number of Geneva-based policy think-tanks offer trade-related technical support to the developing and least-developing country negotiators through regular publications, seminars, and workshops. The most active are the South Centre and CUTS International (Geneva). Established by an intergovernmental agreement in 1995, the

19 http://tradecom-acpeu.org/page.cfm?title_page=Our-mission

20 Ibid

21 <http://tradecom-acpeu.org/imcustom/Programme%20Arch%20Files/ACP%20GENEVA/ACP%20GENEVA%20-%20NL%205%20Programme%20Highlights.pdf>

22 The first phase was for the period 2002-2006, while the second phase was for the period 2009-2014

23 <http://www.acp.int/content/about-acp-mts-programme>

24 Recently merged with the UK Foreign and Commonwealth Office that has been renamed as the Foreign, Commonwealth and Development Office (FCDO)

25 <https://www2.fundsforngos.org/economic-development/dfid-inviting-applications-trade-investment-advocacy-fund-taf2-plus/>

26 <http://taf2plus.com/projects/>

27 <https://www.acwl.ch/>

28 <https://www.fes-geneva.org/about-us/fes-geneva/>

South Centre is a policy research think-tank composed of developing and least-developed countries that helps these countries combine their efforts and expertise to promote their common interests in the international arena.²⁹ The South Centre conducts policy-oriented research and supports developing countries to effectively participate in international negotiating processes that are relevant to the achievement of the UN Sustainable Development Goals (SDGs).³⁰ CUTS International (Geneva) is a non-profit non-governmental organization which collaborates closely with developing country trade negotiators in Geneva as well as their relevant stakeholders in the capitals, and backs them with technical knowledge and updates on issues under negotiation.³¹

A relatively later entrant as TRTA service provider are the for-profit consultancy firms. They are different from other, more traditional TRTA service providers, i.e. inter-governmental and non-profit non-governmental organisations. They are increasingly being engaged by the individual donor countries, as well as multilateral agencies, to deliver TRTA to individual and groups of developing countries. Many of them do not have statutory obligations to share their financial and performance reports publicly. Moreover, no systemic study seems to have been undertaken to assess the efficiency and effectiveness of these TRATS service providers.

1.3 Some Observations on TRTA Providers

Clearly, there is no shortage of trade-related technical assistance providers to meet the needs of developing and least-developed countries, and to assist them build their capacity to participate in the WTO negotiations. With these many players in the field, it is important that their activities benefitting the same constituency are not duplicative, to avoid technical assistance being provided just for its sake, and to ensure that capacity amongst developing countries is built in a sustainable manner. WTO Members have underscored the necessity of the effective coordinated delivery of technical assistance by bilateral donors and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable.³² The Members also committed to continue to work for greater coherence in international economic policy-making and for improved coordination between the WTO and other agencies in providing technical assistance.³³ In the Paris Declaration on Aid Effectiveness, countries resolved to take far-reaching and monitorable actions to reform the ways aid was delivered and managed, to increase its effectiveness. In an effort to align aid delivery, the countries committed in the Paris Declaration on Aid Effectiveness to accelerate progress in the areas of increasing alignment of aid with partner countries' priorities and helping to strengthen their capacities, and eliminating duplication of efforts and rationalising donor activities to make them as cost-effective as

29 <https://www.southcentre.int/about-the-south-centre/>
30 Ibid.

31 http://www.cuts-geneva.org/Who_we_are.html

32 Doha Ministerial Declaration, WT/MIN(01)/DEC/1, 20 November 2001, paragraph 39

33 Singapore Ministerial Declaration, WT/MIN(96)/DEC, 18 December 1996, paragraph 5

possible.³⁴ These principles should be applied equally to the delivery of trade-related technical assistance.

SECTION 3

An Evaluation of the Contribution of Trade-related Technical Assistance³⁵

While the need for technical assistance is not in doubt, its effect on developing countries and whether or not it achieves the intended purposes has often been debated. The question in this particular case is whether or not trade-related technical assistance for developing countries has achieved its intended purpose of capacitating these countries to participate in WTO negotiations.

Each year, the prime provider of trade-related technical assistance for developing countries, the WTO Secretariat, presents an annual report on its activities through the IITC to the WTO Members in the CTD. In successive reports, the Secretariat has recorded progress regarding its central technical-assistance activities. The WTO Secretariat presents detailed analyses by region, subject covered, language used, level of training offered, participants' gender, as well as the immediate and long-term results.³⁶ The reports seek to give Members a far-reaching understanding of the achievements of each year and of the

rationale guiding the actions taken in this field, linking technical assistance activities to their associated costs. The observation each year, which WTO Members seem to agree with, is that most of the qualitative objectives for the programmes are always met. The latest report observes that despite the Covid-19 pandemic the objectives were also met in 2020.³⁷

Although the WTO Secretariat keeps developing and implementing the tools to collect data to better measure the results produced by its technical assistance activities, it has cited as a limiting factor the lack of capacity of many of the beneficiaries to gather sufficiently representative data to assess the results of the technical assistance they would have received.³⁸ This is an important point that seems to be true in the case of the many, if not all, technical assistance providers. This might explain why even the WTO Secretariat which possesses data collection tools unmatched amongst the other providers,

34 Paris Declaration on Aid Effectiveness, available at <http://www.oecd.org/dac/effectiveness/34428351.pdf>.

35 This is a broad-brush evaluation based on informal feedback from many recipients in private conversations.

36 The latest such Report is WTO Document WT/COMTD/W/256 15 May 2020

37 Ibid

38 Institute for Training and Technical Cooperation ANNUAL PERFORMANCE REPORT ON TECHNICAL ASSISTANCE AND TRAINING 2019, in WTO Document WT/COMTD/W/256, dated 5 May 2020

seems each year to provide the same kind of technical assistance in the same areas to the beneficiaries. One would expect that since technical assistance has been availed to the beneficiaries since the formation of the WTO, by now developing countries would have been weaned off some forms of these activities, such as repeated training, since clearly substantial amounts of personnel have already been trained.

Since data is not readily available to enable the evaluation of the contribution of the technical assistance activities of some of the other players in the field, one can only rely on anecdotal evidence. The information that is publicly available,³⁹ for example, shows that the OACPS which represents about a third of the WTO's membership is a grouping of developing and least-developed countries that has successively received trade-related technical assistance support from the EU PMUs, from TradeCom and from DFID/TAF since 2006. This coincides with a period of active participation of the OACPS across all areas of WTO negotiations, leading one to reasonably attribute this active participation to the technical assistance the Group received to pursue its common and shared interests. Of course, without deeper study, one cannot be too certain as to the extent of that contribution.

While addressing the OACPS Trade Ministers in 2015, the then WTO Director-General, Mr. Roberto Azevedo, had this to say about the Group's participation in WTO negotiations:⁴⁰

“I would like to start by recognizing the key role played by the ACP in Geneva... The ACP

39 Available at <https://www2.fundsgos.org/economic-development/dfid-inviting-applications-trade-investment-advocacy-fund-taf2-plus/>; <http://taf2plus.com/projects/>; <http://www.acp.int/content/about-acp-mts-programme>
40 https://www.wto.org/english/news_e/spra_e/spra92_e.htm

Group is very important in the WTO's work — and not just because it represents well over a third of the membership, but also because the Group is very dynamic and is always at the forefront of the debate. In recent months it has been very proactive, tabling proposals on S&D and bringing forward a range of other proposals. This leadership will be even more vital as we approach our Nairobi ministerial conference in December (2015).”

Addressing a similar meeting of the OACPS Trade Ministers in the run up to the 2017 Buenos Aires 11th WTO Ministerial Conference, Mr. Azevedo echoed his 2015 sentiments regarding the Group's active role in the WTO negotiations:⁴¹

“The ACP plays a very important part in shaping our work. You are a very important constituency at the WTO, representing over a third of the membership. ACP countries are at the forefront of many of our debates in Geneva, ... This engagement is very positive. I have no doubt that you will continue to play a constructive role on our road to MC11 – and beyond.”

The fact that the WTO Director-General would consider it important to speak to the OACPS, especially each time before a WTO ministerial conference, does speak to the capacity of the Group to engage and to shape the outcomes of the negotiations. It is on record that the OACPS did contribute to the shaping of the WTO Trade Facilitation Agreement as the Group's negotiating proposal was the basis of Section II of that Agreement.⁴² The Group also

41 https://www.wto.org/english/news_e/spra_e/spra194_e.htm

42 Special and Differential Treatment Provisions for Developing Country Members and Least-developed Country Members, in WTO Document WT/L/940, dated 28 November 2014. The novel principles introduced by the

designed and elaborated the WTO Trade Facilitation Agreement Facility (TFAF), a fact acknowledged by Mr. Roberto Azevedo at the launch of the TFAF on 21 July 2014;⁴³

“The Trade Facilitation Agreement Facility that we are launching today ... has been designed in consultation with the Coordinators,... on behalf of the ACP, LDC and African Groups... with officials from a range of developing and least-developed countries, and with donor Members.⁴⁴

Information gathered from some Geneva-based negotiators close to the processes indicates that the OACPS Group had a steering role at the 11th WTO Ministerial Conference in 2017 in ensuring that negotiations on fisheries subsidies would not go the plurilateral route but would turn into an active negotiation area in the WTO with a mandate for the conclusion of negotiations in 2019 by playing an instrumental role in the adoption of a WTO Decision.⁴⁵

What the WTO Secretariat reports and the experience of the OACPS point to is that trade-related technical assistance for developing countries in WTO negotiations has capacitated developing and least developed countries. However, the picture is rather limited in that the extent of the contribution of technical capacity cannot be measured since comprehensive and detailed information is not available regarding the extent of the countries' lack of capacity before the technical

assistance was received, which could be used as a benchmark. There does not appear to be regular tracking by all technical assistance providers and recipients, for example, of persons trained under the technical assistance programmes to determine if they are currently contributing through their day-to-day work to the intended capacity of their countries.

A close look at the type of trade-related technical assistance extended to the developing and least-developed countries shows a concentration around the categories of analytical and legal support, training, and logistical support, without much variation over the years. This suggests that despite years of the same kind of technical assistance, capacity in those areas for the recipients remains lacking. There seems to be three main reasons for this. One, the issues on the WTO agenda are quite complex and have also evolve with time, requiring regular updating of knowledge and capacity. Moreover, the WTO agenda itself is not static and many so-called “new” issues keep coming up. Two, there is substantial staff turnover in Geneva Missions as well as trade and other relevant ministries in the capitals. Many a time, new staff lacks the requisite knowledge and capacity. Three, there is often limited institutional memory. Admittedly, there may be reasons other than these that could only be identified after further in-depth research. Such research would also help in countering the suggestion that this may be due to a dependency syndrome in the recipients who might be finding it easier to

ACP Group and adopted by WTO Members in the Agreement were that assistance and support for capacity building should be provided to help developing and least-developed country Members implement the provisions of this Agreement, in accordance with their nature and scope; the extent and the timing of implementation of the provisions of the Agreement shall be related to the implementation capacities of developing and least-developed country Members; where a developing or least-developed country Member continues to lack the necessary capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired; least-developed country

Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

43

https://www.wto.org/english/news_e/news14_e/fac_22jul14_e.htm

44

https://www.wto.org/english/news_e/news14_e/fac_22jul14_e.htm

45 WTO Document WT/MIN(17)/64, WT/L/1031 dated 18 December 2017

repeatedly rely on the technical assistance providers to keep meeting their needs.

The limiting factor cited by the WTO Secretariat of lack of capacity of many of the beneficiaries to gather sufficiently representative data to assess the results of the technical assistance they would have received, seems to also come into play here. Certainly, greater information exchange amongst the providers of technical assistance, and between the providers and the recipients, will be helpful.

An inescapable fact is that funding for most of technical assistance activities, including at the WTO Secretariat, is from developed countries. The funds can usually be linked to developed countries as their source. A legitimate question would be why it would be in the interest of developed countries to fund technical assistance activities to capacitate developing and least-developed countries that they negotiate against in most areas of the WTO negotiations? The answer, given earlier in this paper, is that the multilateral trading system needs the greater participation of developing countries for the expansion of global trade through increased consumption and market opening. It should also be recalled that as far back as 1970, a pledge was made in the UN General Assembly by a group of developed countries to commit 0.7 percent of their Gross National Product (GNP) to Official Development Assistance (ODA). This commitment has been reaffirmed by developed countries several times since, including at the 2002 International Conference on Financing for Development in Monterrey, Mexico and the World Summit on Sustainable Development held in

Johannesburg in the same year. The UN Sustainable Development Goals (SDGs) for Agenda 2030 emphasise that developed countries implement fully their ODA commitments and provide 0.7% of Gross National Income (GNI) in ODA to developing countries, of which 0.15-0.20% should be to least-developed countries.⁴⁶ Although the pledge remains unmet at an aggregate level, it is central to the finance-linked commitment made by the developed countries. Against this background, some of the developed countries might feel obliged to tick these boxes by extending technical assistance to the developing and least-developed countries.

In the early years of technical assistance, the oft-heard complaint from developing countries was that most of the technical assistance extended to them was in the form of 'tied aid' requiring that the funds be spent on goods, services and service providers from the donor countries. Indications by some developing country negotiators are that this characterised technical assistance received even as recently as around the middle 2000s. Much of such aid, it is said, got swallowed up in donors and service providers' administrative costs. Things are said to have improved significantly over the years such that now recipients are characteristically being given more leeway in the administration of the funds, including jointly putting together the projects with the donors in a way that is designed to respond to needs.

46 The Addis Ababa Action Agenda (AAAA), paragraph 51. Approved by the United Nations General Assembly in 2015, it provides for a strengthened development financing

framework, identifies action areas and provides for a monitoring mechanism.

SECTION 4

Towards Effective and Sustainable Trade-related Technical Assistance

It is without question that trade-related technical assistance can make a marked difference in the way developing and least-developed countries participate in WTO negotiations by boosting their capacity to engage. The current level of provision of technical assistance by the WTO Secretariat and by other players in the field seems to have met the needs. The biggest drawback at the moment seems to be the lack of data collection across the many providers to show, against clear benchmarks, the contribution that technical assistance is making. The WTO Secretariat has shown that it is possible to collect such data, not only so that good work being done by the technical assistance providers does not go unnoticed, but also that technical assistance can be targeted only in areas needed. There could be a commitment by all the trade-related technical assistance providers to gather data along the lines of the WTO Secretariat and make this data publicly available. In addition, the data could be shared with the WTO Secretariat, the entity designated by the WTO Members as the prime provider of trade-related technical assistance. During the meetings of the CTD to discuss the WTO technical assistance activities the other recognized providers in the field could be invited to share the platform with the WTO Secretariat and share information on their activities with Members. This would respond

to the invitation by WTO Members in 2005 to the WTO Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers.⁴⁷

The providers and recipients of technical assistance bear a responsibility to ensure that capacity is not only built but that it is retained as well, so that successive programmes build on work already done by the same donor, or by other providers of technical assistance in the same area. The contribution of technical assistance should be incremental and cumulative. Sustainability can only be attained through the actual building of capacity, which entails ensuring that a dependency syndrome is not nurtured in the recipients. Care should be taken also that providers of technical assistance are not engaged in the exercise for the sake of ticking the right boxes, but are paying attention to the effects of the technical assistance given. The sustainability approach would avoid the risk that the developing countries could be left adrift when the providers of technical

⁴⁷ Hong Kong Ministerial Declaration, paragraph 53

assistance might not be as forthcoming, or when their funds run out.

The providers and recipients are in a position today to evaluate their experiences and the performance of past technical assistance programmes. Valuable lessons can be learnt, and beneficial principles developed. It is an encouraging development spoken of by some developing country negotiators that donors are now more willing to jointly design programmes with beneficiaries, and that the days of tied aid appear to be ending as donors embrace the use of consultants and service providers from recipient countries also. Recipients should resist the temptation to apply for technical assistance simply because it happens to be there, even in areas where similar support has already been received. On their part providers should avoid the temptation to offer same support in the same area. There are situations where donor interventions are necessary, and situations where such interventions are not. Technical assistance programmes must therefore have at their center the aim of filling identified gaps with a clear timetable.

The COVID-19 pandemic has underlined the fact that technical assistance needs to be flexible and adaptable. Almost across the board, the technical assistance activities for 2020 had been designed for mostly face-to-face delivery, requiring that methods be quickly adapted to allow for virtual means of delivery because of the pandemic. However, virtual means of delivery do face their own challenges as pointed out by the WTO Secretariat in reference to the challenges

faced in areas with low or no connectivity with regard to e-learning.⁴⁸

Trusted relationships between some donors and think tanks, and the developing and least-developed countries seem to have been established. Most of the donors do understand the context of the developing countries' participation in the WTO negotiations, while the developing countries now know who amongst the providers will provide quality and trusted assistance that responds to their needs. Based on such relationships, both the providers and recipients of trade-related technical assistance are now positioned to make mutually beneficial decisions that contribute to ensuring that the original idea behind technical assistance – that of filling capacity gaps – is realized. This entails avoiding unnecessary duplication of effort and regular incorporation of lessons learnt into subsequent interventions. Also important will be regular exchanges between providers and recipients, and structured feedback on areas where the technical assistance activities are providing the most benefits, and where they are not.

48 Institute for Training and Technical Cooperation ANNUAL PERFORMANCE REPORT ON TECHNICAL ASSISTANCE AND TRAINING 2019, in WTO Document WT/COMTD/W/256, dated 5 May 2020 available at

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filena me=q:WT/COMTD/W256.pdf&Open=True>

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