

## Global Economic Situation



# Trending Issues on Trade Negotiations

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## Introduction

Permit me to start this presentation by quoting the WTO D.G (1999-2002) who once said:

*“The WTO is an organization in which all decisions are taken by consensus; where every member government, holds the equivalent of a UN Security Council veto.*

*But there is also no denying that some members are more equal than others when it comes to influence”.*

## Introduction (Cont..)

- ❑ Under the current globalization, national policy choices and formulation, including that of trade, takes place as countries pursuing similar development objectives interact among themselves
- ❑ This development has led to a layer of ‘international’ trade treaties (**known as agreements**) at regional and multilateral levels to be entered into and respected among contracting parties
- ❑ National strategies to achieve individual country’s objectives accounts for national positions when engaging in these international trade agreements negotiation
- ❑ However, the contents and scope of these agreements deepens and the number multiplies they pose additional constraints on national policy choices of countries.

## Introduction (Cont..)

- ❑ The narrowing of national policy options permissible under a growing array of international agreements are increasingly major constraints to developmental objectives of countries, particularly developing countries (DCs) and least developed countries (LDCs)
- ❑ For instance, Nigeria has an array of trade agreements at:
  - *ECOWAS-Common Trade Policy*
  - *EPA with EU*
  - *AEC with AU Members- CFTA*
  - *Multilateral Negotiations at WTO*

# A. Why Trade Negotiations

- ❖ **First**, multilateral or regional trade agreements are commerce treaties between three or more nations (**bilateral is two**) to reduce tariffs and make it easier for businesses to import and export, and making all signatories treat each other the same.
- ❖ The **second** benefit is that it increases trade for every participant as contracting Member country companies' enjoy low tariffs that makes their exports cheaper to penetrate the markets of other Members.
- ❖ The **third** benefit, is that it standardizes commerce regulations for all the trade partners as companies save legal costs since they follow the same rules for each country in the trade agreement.
- ❖ **Fourthly**, Member States in trade agreements permit contracting parties to negotiate trade deals with more than one country at a time, as most of them have in place of principles like Most Favored Nation (MFN) and National Treatment (NT) in such agreements
- ❖ The **fifth** benefit applies to emerging markets like Nigeria,; while Bilateral trade agreements tend to favor the country with the best economy, and thus puts the weaker nation at a disadvantage, a multilateral or regional trade agreement makes weaker nations to have similar advantages irrespective of economic development levels

## B. Issue of Commitments in the Negotiations

- ❑ While a trade agreement facilitates trade cooperation, it does not eliminate the temptations to engage in restrictive practices anyway, hence the issue of **commitment provisions** in trade agreements
- ❑ Even if a country has trade agreements, there can be domestic sources that would constrain her to implement the provisions of such agreements due to:
  - ✓ *When setting trade policy, a government may be unable to make credible economic and/or political commitments to the private sector or the parliament due to a so-called **time-inconsistency** problem.*
  - ✓ *Similar credibility problems could emerge when a government is exposed to political pressures by groups lobbying for protection.*

## Issue of Commitments (Cont..)

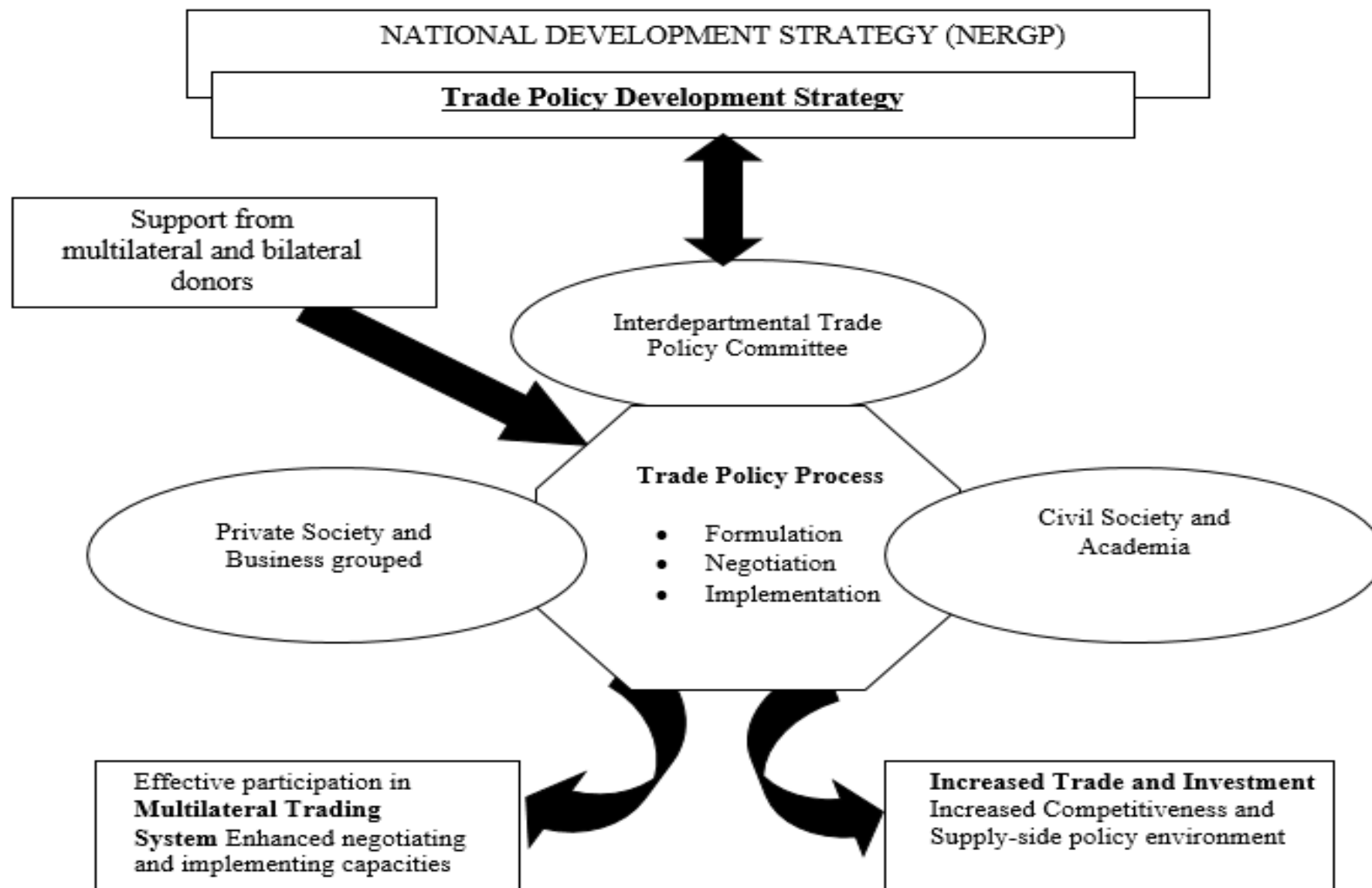
- ❑ In these situations the decision of the government to implement a particular provision in a trade agreement at some future time may no longer be optimal when the future period arrives.
- ❑ Such scenarios suggest while governments in trade agreements undertake binding trade policy commitments among themselves concerning future activity.
- ❑ Apart from such commitments, since future developments are uncertain at the moment of signing an agreement, **flexibilities** should be inserted to facilitate the achievement of deeper commitments to trade liberalization and contribute to the future stability of the trade regime.
- ❑ This is why trade agreements include some form of policy flexibility, because of possible market failures or because of some sectors that are opened but to be reformed at later date.



## C. Situation of Nigeria in Trade Negotiations

- ❑ **Nigeria lack trade negotiating capacity** (until when the Nigeria Office of Trade Negotiation was established in August, 2017); and this has resulted in not having the national interests and perspectives been adequately reflected in the outcomes of these negotiations at WTO, EPA and even ECOWAS.
- ❑ Nigeria has **not likely to be able to make full use of its right** to participate in the ECOWAS, EPA and WTO negotiations and decision-making processes.
- ❑ This has left **the negotiating field, particularly in WTO to those delegations, mainly those from developed countries, that have sufficient negotiating capacity.**
- ❑ Furthermore, under the current consensus-based mode of decision-making in the WTO, **Nigeria have not participated in the initial discussions, particularly in the era of GATT, and is not fully aware of many issues** involved; thus find it difficult to intervene effectively or to raise objections as appropriate

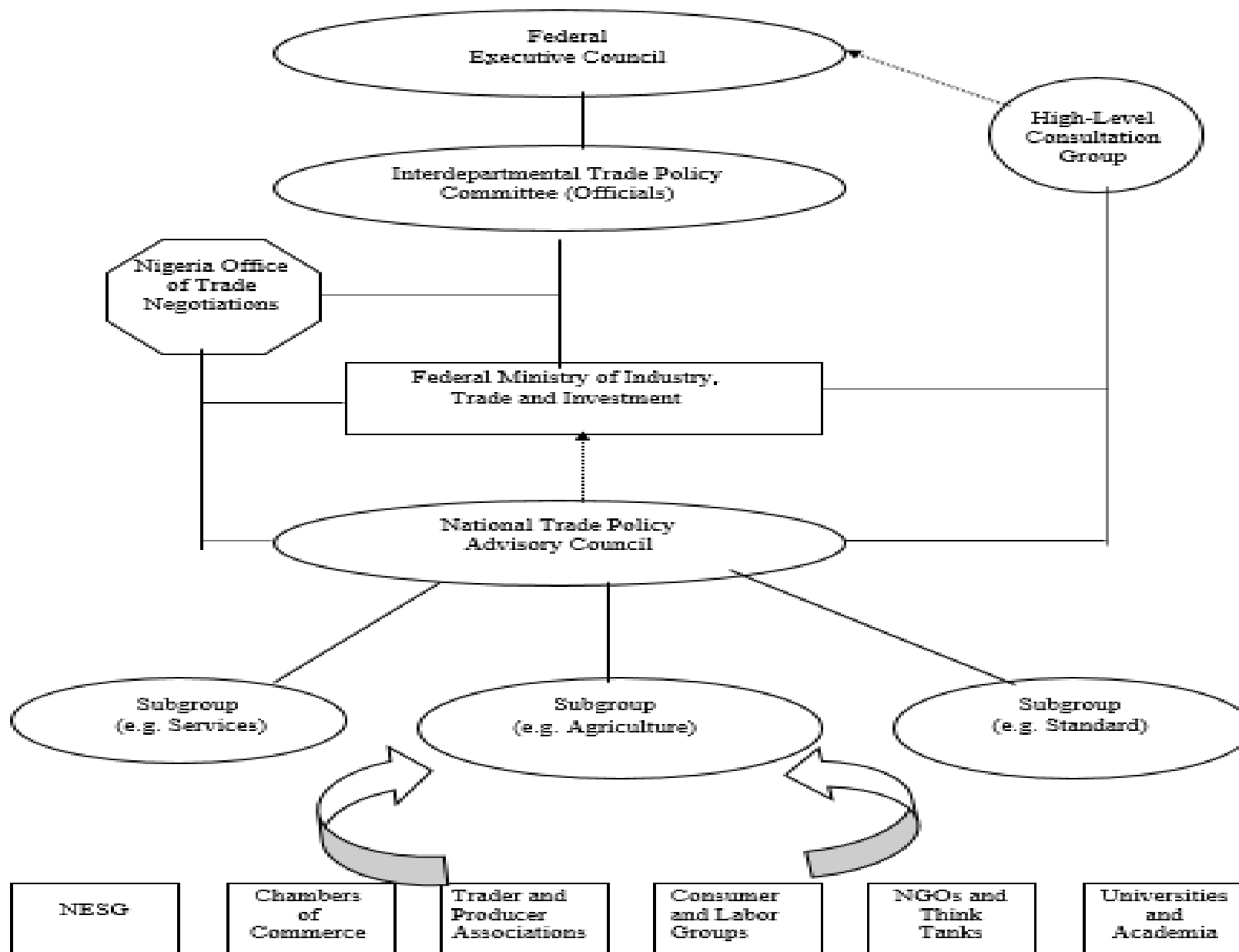
**Figure 2 Trade Policy Development Strategy**



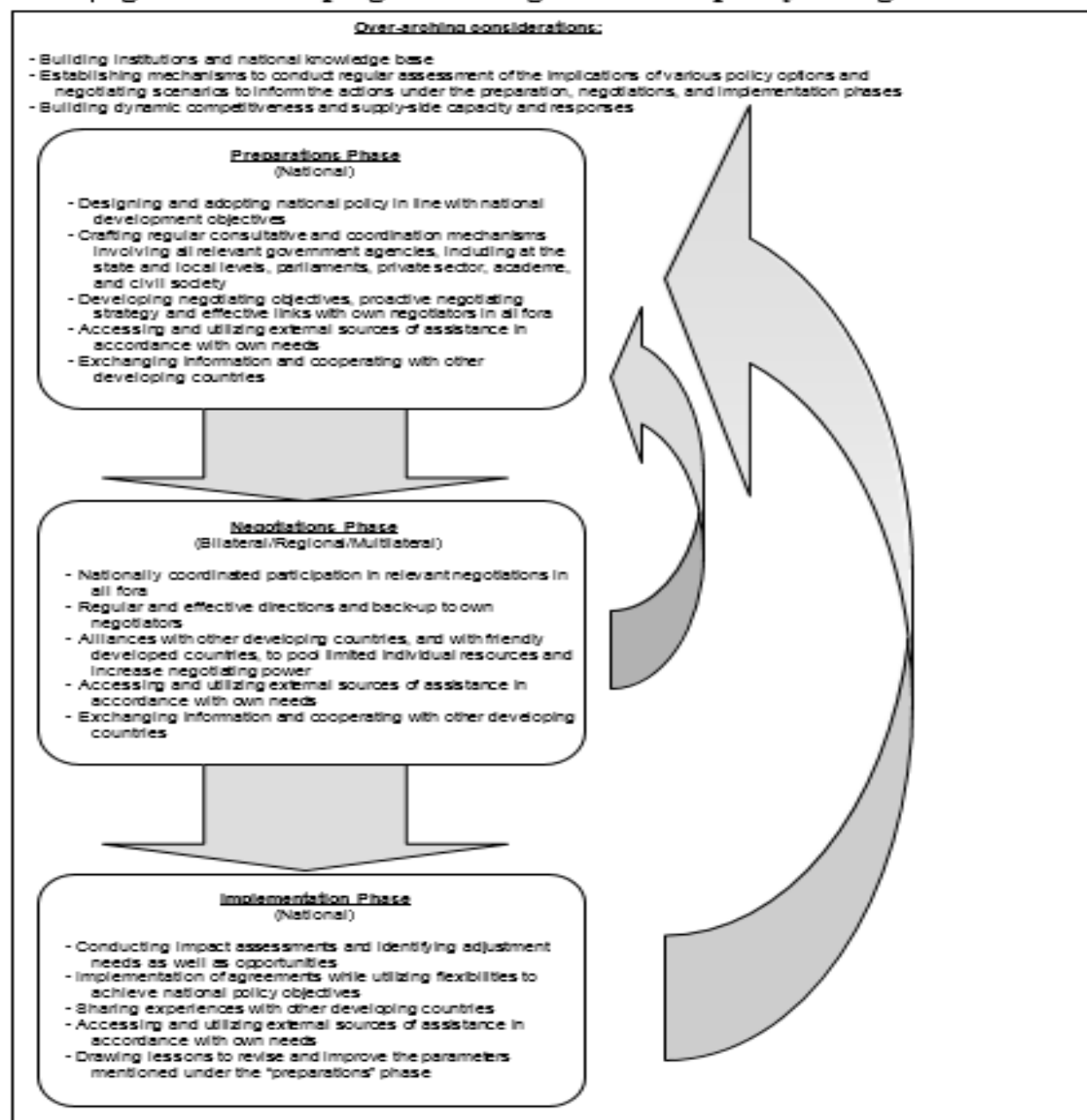
## D. How to Develop National Trade Negotiation Objectives

- ❖ At both the national and international levels, the mechanics of policymaking on trade are fairly straightforward.
- ❖ What is less clear is how national and international policies should be designed in a mutually supportive way that does not overly restrict national policy space yet obey international obligations.
- ❖ This is usually through **negotiation** of trade agreements at regional and multilateral levels
- ❖ In economic negotiations, like trade, countries tend to take **mercantilist approach** (*seeking 'gains' for their exporters and minimizing 'losses' for their domestic suppliers*) .
- ❖ However, before developing national negotiation objectives, there is need to understand the areas and limit to negotiate

**Figure 3: Trade Policy Dialogue and Consultation Process**



**Figure 4. Developing Trade Negotiations Capacity in Nigeria**



## E. Understanding Areas to Negotiate

In designing trade policy/negotiation areas, a country must first and foremost know the areas it can operate; these areas can be grouped into four (two of them primarily domestic and two primarily international).

### 1. Wholly domestic

Some policies fall wholly within a government's competence, such as those on domestic markets that determine how far any change in import or export prices are passed on to consumers and producers

### 2. Largely domestic

Other policies are largely a domestic preserve but **within parameters set externally**; this would be the case, for example, with domestic arrangements that are influenced by WTO rules such as on allowable domestic subsidies, or changes to tariff rates agreed with aid donors as part of policy-based lending.

## Understanding Areas to Negotiate (Cont..)

### **3. Externally negotiated**

These are policies that are negotiated externally between the developing country governments and other countries or actors – with the European Union (EU), for example on EPAs; or with other countries as part of the WTO negotiations.

### **4. Externally non-negotiated**

These are policy changes in which a developing country government, like Nigeria, is not a negotiating party and hence, has no direct control such as preferences. For instance, the EU's changes to its agricultural policy and autonomous changes to private sector practice; (if Nigeria is able to influence them at all, it would only through persuasion)

## F.. Setting Priorities Between Domestic and External

- Clearly, a high priority must be to ensure that the policies set domestically are the right ones as the government will have the greatest degree of control (within the bounds of existing international commitments).
- Priorities must be established in which high impact domestic policies have the highest priority followed by high impact changes in the external areas.
- In addition to attempting to influence the external areas, governments must be ready to adjust to the resulting outcomes, through possible changes as some domestic policy may also require governments to initiate dialogue in yet other areas as well
- The next question is: **Which are the high impact domestic and external policies?** The answer is that they vary, of course, between countries and change over time on :regional, continental and at multilateral including the EPAs levels



## G. Formulating Nigeria's Trade Policy for Negotiation

- ❑ Given the above setting of priorities, the first step towards preparing to negotiate in various trade fora (ECOWAS, AU, EPA or at WTO) is to evaluate the coherence of the national trade policy say, of Nigeria.
- ❑ Such evaluation will determine those exclusively domestic and those which are determined via external actors and institutions as explained above.
- ❑ The starting point of such an analysis should be a government's development policy objectives like the **National Economic Recovery and Growth Plan (NERGP), particularly the current Focus Laboratory.**
- ❑ This obviously require that the trade policy objectives should be redefined in relation our national development strategies
- ❑ Such activity will lead to the creation of detailed internal and external trade policies which will, in turn, inform the basis for negotiation strategy at regional and multilateral levels
- ❑ Unfortunately, Nigeria has no **ideal trade policy** as at now to be used in negotiations at these levels

## Formulating Trade Policy (Cont..)

Key elements of an effective trade policy formulation for developing countries, as identified by the ***DAC Guidelines on building trade capacity (OECD, 2001)***, include:

- ❑ a coherent trade strategy that is closely integrated with a country's overall development strategy;
- ❑ effective mechanisms for consultation among three key sets of stakeholders: government, the enterprise sector and civil society;
- ❑ effective mechanisms for intra-governmental policy co-ordination;
- ❑ a strategy for the enhanced collection, dissemination and analysis of trade-related information;
- ❑ trade policy networks, supported by indigenous research institutions;
- ❑ networks of trade support institutions; and
- ❑ a commitment by all key trade stakeholders to outward-oriented regional strategies.

# Formulating Trade Policy (Cont..)

- ❑ Based on these OECD guidelines, and taking note of trade capacity policy making, the process of the trade policy formulation in Nigeria would therefore be as follows:
  1. *Design development policy objectives (which is currently NERGP-Focus Lab)*
  2. *Identify trade objectives and strategies on the basis of the NERGP development policy objectives (using **Executive Trade Policy Formulation Organogram in Figure 1**)*
  3. *Design domestic trade and external trade policies and strategies (using **Figure 2: Trade Policy Development Strategy**)*
  4. *Prioritize among various areas to negotiate external trade policies (using **Figure 3: Trade Policy Dialogue and Consultation Process**)*
  5. *Evaluate effectiveness of internal and external trade policies*
- ❑ As at now, Nigeria has the NERGP, but the trade objectives and strategies within the NERGP are yet to be thoroughly identified, neither is the trade policy dialogue and consultation process in place.
- ❑ *The issue is how best can Nigeria defend her trade interests in negotiating the ECOWAS economic integration, the CFTA, EPA and at WTO without a trade policy?.*

## H. Capacity Improvement and Coalition Building

- ❑ Power imbalances in WTO negotiations can be remedied through
  - *capacity improvements on the part of developing countries, and*
  - *coalition-building among themselves*
- ❑ Availability of sufficient negotiating capacity at the national level of developing countries is the foundation of effective participation in the negotiations
- ❑ Also, coalition building will facilitate their ability to work together for their common interests, influence agenda-setting and decision-making in their favour, and substantially affect the negotiating outcomes.

# 1. Capacity Improvement

- ❖ Complex trade negotiations (whether at the bilateral, regional, or multilateral levels) require countries to develop and improve human, technical, financial, and physical infrastructure resources necessary to have sufficient capacity at the various negotiations
- ❖ Nigeria, like many developing countries continue to face challenges and resource limitations in developing negotiating capacity for effective and substantive participation in trade negotiations.
- ❖ Such negotiating capacity has two aspects: **the first** – its **institutional and technical mechanism** to achieve the policy objectives through the negotiations; and **second** – its **political competence** – comes from being able to use negotiating capacity to address and influence the balance of economic and political power among the negotiating partners and so shape the negotiating outcomes.

## Capacity Improvement (Cont..)

Well-organized and coordinated institutional mechanisms that can provide:

- ❑ negotiating experience,
- ❑ technical expertise (both on the issues and on negotiating tactics),
- ❑ policy research and analytical preparation and support,
- ❑ the physical and financial infrastructure necessary to ensure that the country's negotiators have sufficient information (about their negotiating counterparts' positions and interests),
- ❑ technical resources, and
- ❑ actual physical negotiating presence, enable negotiators to effectively develop and carry out their negotiating strategy.

Nigeria, and most developing countries often fall short in terms of providing for the institutional and technical aspect of negotiating capacity.

## Capacity Improvement (Cont..)

Such situations often result in a **diminished negotiating capacity at the technical and institutional levels** which comes up as :

- ❑ difficulties in defining and promoting a clear national negotiating policy position in trade negotiations due to a lack of coherence in both national policies and national policymaking institutions and to the lack or insufficiency of coordinated involvement of relevant agencies and stakeholders in the policy-making process;

## Capacity Improvement (Cont..)

- ❑ a lower level of technical preparation with respect to trade negotiations due to the limited resources made available to support national trade negotiators;
- ❑ Lack of coordinated national policymaking institutions and mechanisms and coherent national policies as well as inadequate preparations;
- ❑ Incoherence national economic and trade policies making identification of negotiating needs and priorities unclear; and
- ❑ Poor inter-agency coordination in policymaking often is the result of unclear, conflicting, or uncoordinated lines of decision-making authority within and among agencies over a given issue.



## 2. Coalition Building

- ❑ The need for strategic and united collective action on the part of developing countries in the international arena has long been recognized.
- ❑ *The only effective means of countering the negotiating strength of the developed countries in the WTO is through the elaboration and articulation of common positions by the countries of the South*
- ❑ The words of the South Commission in its 1990 report entitled “The Challenge to the South” on “the need to agree on a global strategy for South-South co-operation” that could “serve as a basis for elaborating more specific regional, sub-regional, and national programmes of co-operation” continue to be relevant in this context.
- ❑ The establishment of South-South political and economic cooperation mechanisms such as the G-77, the Non-Aligned Movement (NAM), the various Southern regional cooperation and economic integration organizations, are all reflections of this recognition of the need for South-South unity and cooperation.

## Coalition Building (Cont..)

- ❑ However, collective South-South action presupposes that individually, developing countries have already identified their own strategic national developmental policies, priorities, and negotiating interests which could then serve as the basis for their individual engagement in South-South coalitions and groupings for the WTO negotiations.
- ❑ To this end, significant resources and political will may, therefore, need to be invested in establishing such coordinating mechanism for trade policymaking and negotiations at the national level.
- ❑ Having an effective and coordinated trade policymaking and negotiations mechanism at the national level that has the support of the country's political leadership as well as trade stakeholders is necessary before engaging in coalition
- ❑ It will also provide for a clearer match between the country's strategic objectives in trade, the negotiating strategies and tactics used by its negotiators, and their engagement in and use of South-South coalitions or groups in the WTO negotiations.

## Coalition Building (Cont..)

- ❑ Weaknesses in national-level technical preparedness of trade negotiators among developing countries can to some extent be mitigated, ***but cannot be substituted by***, closer coordination at the technical and working levels among developing country delegations (at the regional as well as multilateral level).
- ❑ Southern-defined, and technically-sound negotiating positions might need to be adopted and put forward by developing countries through their coalitions and groupings.
- ❑ Developing countries need to discuss, agree upon, and be aware of their individual as well as group “walk-away” negotiating positions. These positions need to be calibrated according to the importance of the issue being considered to their development interests and to the responses of their other negotiating partners.

# Conclusion

Recall that I started this presentation by quoting the WTO D.G (1999-2002) who said:

***“The WTO is an organization in which all decisions are taken by consensus; where every member government, holds the equivalent of a UN Security Council veto. But there is also no denying that some members are more equal than others when it comes to influence”.***

- ❑ From this statement, discussions and negotiations at the WTO do not take place on a level playing field in terms of both power and negotiating capacity among WTO Members.
- ❑ WTO decision-making is theoretically on the basis of equality, with each Member being entitled to one vote (in the event of decision-making by voting) or with the effective right to veto (in the case of consensus decision-making),
- ❑ However, both power and capacity imbalances may essentially negate this fundamental legal equality to participate in decision making provided for in WTO law.

# Conclusion (Cont..)

- ❑ However, from the outcome of the 11<sup>th</sup> World Trade Organization (WTO) Ministerial Conference (MC 11), it is clear that the credibility of various International Trade Theories about the benefits of free trade is put in doubt, while the negotiating function of the WTO to guarantee efficient and effective trading among its Member States is gradually being questioned.
- ❑ We are now facing the inability of both the Trade Theories and the multilateral trade arrangements, under the WTO, to adapt and adjust to emerging global trade priorities as expected.
- ❑ Thus, the high level of economic interdependencies brought about by globalization within the global space as well as the growing challenges in pursuing international collaborative actions among nations to address urgent sustainable development challenges is becoming a difficult task.

# Conclusion (Cont..)

- ❑ The Doha Round (MC 4 of 2001) of trade negotiations under the WTO, which was expected to address the yearnings of the '*vulnerables*' has remained in an '*intensive unit*' with no one attending to it for survival over several years and no real perspectives for it even in the near future.
- ❑ Yet, New Issues of Negotiations are being put on the table even at MC 11.
- ❑ Whatever factors may be put forward to explain the stalemate in the Doha trade talks raises uncertainties about credibility of the future of the multilateral trading system.
- ❑ All these developments, among others, have generated new tensions among countries leading to overlapping economic integration arrangements and unending emergence of trade partnership agreements among WTO Member States; thus, weakening the cherished multilateral trade arrangements under General Agreement on Trade and Tariff (GAAT) of between 1947 and 1994

## Conclusion (Cont..)

- ❑ In spite of these, international agreements are needed to ensure fair and equitable interactions between states.
- ❑ They are equally desirable because they provide various benefits, assurances and predictability that can only come from cooperation
- ❑ However, there is need for Nigeria to put in place appropriate structure, capacity improving and coalition among relevant countries in negotiating regional and multilateral agreements
- ❑ Also, because of multiplicity of various trade negotiations occurring simultaneously, a need arise to appropriate restructuring and engagement of national stakeholders to secure their mandate