

JITAP

Joint Integrated Technical Assistance Programme
Programme Intégré Conjoint d'Assistance Technique



TOOLKIT FOR MODULE 1

INSTITUTIONAL CAPACITY BUILDING: Trade Negotiations, Implementation and Policies

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Chapter I

THE CONCEPT

A. BACKGROUND

1. Phase two of the Joint Integrated Technical Assistance Programme (JITAP), was launched in February 2003, following a positive evaluation of JITAP I and its expiry in December 2002. The programme has three components pertaining to the development of modules and related toolkits:

- (1) Design and development of toolkits for the five substantive modules;
- (2) Implementation of the advanced Track of the modules;¹ and
- (3) Implementation of the foundation Track of the modules.

2. The capacity for beneficial integration into the multilateral trading system (MTS) in partner countries will be built under JITAP II at the individual, institutional and system levels.² The present chapter aims at providing the scope, structure and contents of Module 1 on MTS Institutional Support, Compliance, Policies and Negotiations. It indicates the broad modalities for the design, implementation and monitoring of the toolkit for this module.

B. FEATURES AND OBJECTIVES OF MODULE 1

a. Purpose and scope of this module

3. Under JITAP I, the eight beneficiary countries instituted Inter-Institutional Committees (IICs) with the objective of providing for participatory national

¹ As per the Programme Document, the advanced track of JITAP's capacity-building modules applies to the countries that participated in the first phase of JITAP (Benin, Burkina Faso, Côte d'Ivoire, Ghana, Kenya, Tunisia, Uganda, United Republic of Tanzania), while the foundation track is intended for the countries that joined the second phase (Botswana, Cameroon, Malawi, Mali, Mauritania, Mozambique, Senegal, Zambia).

² As per the distribution of module responsibilities at the meeting of the JITAP steering mechanism of 17 February 2003:

<i>Modules</i>	<i>Lead responsibility for the module</i>
- MTS Institutional Support, Compliance, Policies and Negotiations	UNCTAD
- Strengthening MTS Reference Centres, and NEPs	WTO
- Enhancing MTS Knowledge and Networks	Joint leadership (Programme Coordination Unit)
- Product and Services Sector Strategies	ITC
- Networking and Programme Synergy	Joint leadership (Programme Coordination Unit)

The leadership concept was defined as relating to the responsibility for:

- Proposing the complete contents and structure of the module and the related implementation instruments, including the toolkits;
- Taking the appropriate initiatives for the definition and the implementation of tasks;
- Defining the processes for the implementations of such tasks;
- Ensuring the quality control of the outputs.

coordination and management of trade policy formulation, monitoring of the implementation of WTO agreements, and preparation for trade negotiations with a view to strengthening their effective participation in, and drawing maximum benefits from, the multilateral trading system. The IICs have acted as platforms for analysing negotiating strategies, preparing and supporting trade negotiations, and coordinating and undertaking consensus-building among governmental institutions, and between the Government and the private sectors, academia, civil society and other stakeholders.

4. Under JITAP II, the 16 beneficiary countries will be assisted in developing and strengthening national IICs that can support: (a) constructive dialogue among government institutions, the business sector, academia and civil society with regard to advising the Government of their concerns and priorities relating to WTO issues and other trade agreements (regional, ACP-EU) on which decisions need to be taken by the country; (b) effective participation in the negotiations in WTO, particularly under the Doha Work Programme, and other trade negotiations; (c) formulation of national trade policy in the context of the multilateral trading system in particular and the international trading system generally, and strengthening linkages with national development plans; and (d) effective implementation of rights and obligations under the WTO agreements. The IIC will constitute the institutional mechanism for more effective engagement in international trade and the trading system so as to ensure beneficial integration and realize development gains.

5. The establishment of an IIC, either through a government decree or as part of existing or new legislation, is an important entry criterion for new countries to be included in JITAP II.

6. IICs should encourage the participation of women, as individuals and as organized groups, at all levels of intervention.

b. Main definitions, key concepts and terminology

7. Support will be provided under Module 1 to IICs to build institutional capacity on trade negotiations, compliance and policy formulation. Key concepts and activities relating to IICs are: (1) legal mandate, (2) composition, (3) terms of reference and work plans, and (4) national technical secretariat.

1. A Legal Mandate

8. The IICs should be legally established and institutionalized. The legal instrument (a government decree, existing or new legislation) should provide for:

- (a) The composition of the IIC (i.e. membership);
- (b) The responsibilities of the participating governmental entities;
- (c) The participation of the private sector, academia, civil society and the media;
- (d) Its functions; and
- (e) Its jurisdiction.

9. A legal provision and mandate for IICs facilitates their operation and their sustainability for a number of reasons.

10. A legal mandate affords an avenue for the IICs to have direct recourse to governmental budgetary outlays. They would have to function utilizing budgetary resources from the entity that acts as the secretariat of the IIC, which in the case of JITAP I countries has been the Ministries of Trade and Industry. Ideally, the IICs' operations should appear as a budget line in the resources allocated to that ministry to fully perform its assignments. This situation will allow for the sustainability of the IICs beyond the duration of JITAP II. Also, legally instituting the IICs enables them to source direct technical cooperation support from various sources (other than JITAP) to supplement their own budgets. In any event, since trade negotiations are an issue of national interest, the country's capabilities in trade policy formulation and negotiations cannot be subject to the availability of technical cooperation resources, and should thus be sustained by permanent budgetary outlays at the national level.

11. A legal mandate also enables the decisions and recommendations of the IICs to be seriously considered by the responsible governmental entities. It needs to clearly delineate the jurisdiction and functions of the IICs so that they can act as institutions with legitimacy in the governmental decision-making processes.

12. Furthermore, a legal mandate allows for participating governmental institutions to be given the human resources required for the operation of the IICs. Thus, responsible functionaries would be designated to the IICs in the different governmental entities. It alleviates a problem posed by the often high rotation of personnel representing the governmental agencies, and the fact that public officials have other permanent responsibilities, often in areas different from those addressed by the IICs. The same applies to representatives of the other stakeholders.

2. Composition of the IICs

13. Under JITAP I, most IICs operated a two-layer structure, namely a plenary of all members and specialized subcommittees dealing with specific trade agreements and/or thematic issues of interest to the country.

14. The IIC Plenary (or Assembly) is open to participation by all members. It would be convened by the JITAP National Focal Point, normally the Ministry of Trade and Industry, which is responsible for international trade. It can meet periodically, at least monthly, to be informed of the status of negotiations, to review the progress of implementation, and to provide inputs to negotiating objectives, priorities and strategies. Participation by business associations, academia, civil society and the media, as well as parliamentarians, should be encouraged. The participation of parliamentarians may be facilitated by an arrangement whereby the IIC reports to a relevant parliamentary committee on a regular basis, so that members of Parliament will be able to share information with the members of the IICs. The Plenary provides the overall guidelines for subcommittees and is responsible for the IIC's work programme.

15. IIC Subcommittees (or Working Groups) on specific issues would be composed of a more limited number of members directly concerned with the specific issues. They could be established on different subjects under negotiation, such as agriculture and SPS, services, market access for industrial products, TBT, TRIPS and

WTO rules, according to the importance attached thereto. The structure of subcommittees should focus on specialized technical work while providing for flexibility to address the evolving nature of trade negotiations.

16. The structure of the IIC can be rationalized without compromising the required transparency and the degree of institutions' participation. The participation of non-governmental entities can make important contributions to the definition and implementation of negotiating objectives and strategies. However, not all institutions would be able to participate in all levels of decision-making if efficacy is to be attained. The number of members should be limited to allow for the effective functioning of the IICs, particularly in subcommittees. Furthermore, the incorporation of institutional members should meet clearly established criteria with a direct relevance to the issues likely to be discussed in subcommittees.

3. Terms of Reference and Work Plan

17. The core responsibility of IICs is to identify national interests and define negotiating objectives for multilateral and other trade negotiations, make recommendations for trade policy formulation, encourage and facilitate dialogue between government and key stakeholders, and monitor and coordinate the implementation of obligations under WTO agreements. Specific terms of reference should be prepared for the Plenary and each subcommittee within the framework of the legal mandate given to the IICs. A work plan would have to be drawn up to provide a time frame for the implementation of IIC activities.

18. The mandate of the IICs could be extended to cover all international trade negotiations. Since most JITAP countries are involved in a multitude of multilateral, interregional and regional negotiations with overlapping agendas, it would be advisable that the IIC issue-specific subcommittees address all negotiations. This would allow for consistency throughout the various negotiations. In the past, there was a proliferation of subcommittees in some JITAP countries to address the growing number of trade negotiations and negotiating issues. However, such proliferation presses heavily on scarce human and financial resources of JITAP countries, and thus needs to be avoided.

4. Secretariat of the IICs

19. The effectiveness of the IICs will depend, to a large extent, on the capacities of the institution that will act as its national secretariat. In this respect, three issues can

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