

## Handbook for the Negotiation of Trade Agreements

### The Challenge for Developing Nations in Treaty Negotiations

Treaty negotiators from developing nations may not necessarily have legal training or legal support when carrying out treaty negotiations. For some of these negotiators, English may be their second or third language. Yet, to effectively advance their nation's interests during treaty negotiations, the negotiators require highly technical knowledge about treaties and treaty law. This knowledge gap can lead to agreements that do not reflect desired outcomes and can result in poorly drafted treaties. Unclear provisions and murky language can lead to problems for state parties with respect to treaty interpretation and implementation. How can we remedy this potential lack of legal and technical expertise?

### The Handbook

The Beneficiary identified a need for a handbook for treaty negotiators with little or no legal training, particularly from developing countries, to assist them with their treaty negotiations. Although the target audience would likely be involved in negotiating trade and investment agreements, the handbook would not relate strictly to those types of agreements.

Most resources about treaties and treaty negotiations are aimed at individuals who already possess legal knowledge and expertise. They are often written using technical or academic language with which non-lawyers are unfamiliar and their ramifications unknown. In contrast, this Handbook seeks to provide information in a more accessible and straightforward way and explains terminology with a view to demystifying certain concepts.

### Our Goal

This Handbook opens with a section setting forth guidance on how to prepare for a treaty negotiation. It follows with information about the design and content of treaties. It includes discussions on the general structure of treaties, rules on treaty interpretation, drafting techniques, the importance of choice of terminology in achieving binding treaty obligations, the elements of a model dispute settlement chapter, as well as techniques and terminology used to draft non-binding instruments. It also provides recommendations for additional resource materials and explains how to use some of those tools.

It is not possible to cover all of these elements in detail in this Handbook. Nor is it possible to guarantee that the guidelines and techniques suggested will always lead to desired results. Treaty drafting can take many forms and treaty interpretation is not an exact science; rather, it is an art. Nevertheless, we hope the Handbook will prove to be a highly useful resource for treaty negotiators who have had little prior exposure to treaty drafting.