

Economic Partnership Agreements

The EPA Policy Space Effect – Manufacturing, Services and Trade Related Issues – Priorities and Challenges for Local Private Sector

Introduction

In any trade agreement, it is crucial that the members possess the capacity to contribute to its elaboration, to be fully involved at all stages of its negotiation, and to ensure adequate implementation and enforcement of its provisions. In this respect, capacity building in ACP countries could increase the effectiveness of any attempt to initiate trade policies. The OECD (2001, p.4) argues that 'the record suggests that no country has been able to achieve substantial gains in trade without an effective trade policy framework'. The limited institutional and human resource capacities prevailing in most developing countries have often obstructed the development of a comprehensive trade policy framework. Yet, it is essential that developing countries adopt a well thought out and structured approach before engaging in complex international trade negotiations.

Though a one-size-fits-all approach to trade policy does not exist, it is possible to identify some key elements needed to construct a trade policy framework adapted to the challenges of international trade negotiations. Trade capacity building should work to establish such a framework. This involves the building of crosscutting systems or networks of the public and private sector, think-tanks and universities, regional and national institutions, etc. Hence, 'capacity development for trade today is [also] about mobilising participatory approaches to deal with complex trade agendas' (OECD, 2001, p.4).

Key elements of an effective trade policy 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 private 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.

Overall, an effective trade policy will identify a country's trade interests in line with its overall development strategy by involving a wide range of actors. In the context of the preparation for trade negotiations, it can be added that:

- identified *interests* should be translated into action: concrete policies measures should be taken;
- *roles* should be clearly distributed among the various actors;
- *resources* for the implementation of these policies should be allocated to them;
- *flexible negotiating strategies* should be designed; and
- preparations should be made for the *implementation of negotiated agreements*.

For this process to be effective, Solignac Lecomte (2001) identifies three key components of best practice.

First, *leadership* plays a central role in driving the process forward. Lack of political interest or commitment will stall the process. The other critical elements for the efficiency of the trade policy process are the *inclusiveness* of the process, and the development of appropriate *institutional capacity*. All relevant actors must be involved in the policy process and institutional capacities must support it. In each country, mechanisms must be put in place to involve all ministries directly or potentially concerned with the trade agreements being negotiated.

Communication with the business community, trades unions and consumer associations is central to ensure their involvement in the trade policy process. Contacts with civil society and non-governmental organisations (NGOs), think tanks and universities will also foster a more encompassing approach, where both independent analyses and various interests are represented. Further, co-ordination mechanisms must be put in place for national interests to be represented and coordinated (or harmonised) at the regional, sub-group and Group levels.

EPA Background.

Zambia, together with 15 other countries in the Eastern and Southern Africa (ESA) group, is in the process of negotiating an Economic Partnership Agreement (EPA) with the European Union. The EPA will replace existing trade agreements with the EU, notably the ACP (Africa, Caribbean, Pacific) system of preferential access and Every But Arms (EBA). The existing trade regime with the EU has to change because it is not consistent with World Trade Organisation (WTO) rules. The deadline for reaching agreement is December 2007. The issue is further complicated by the stalled Doha Development Round of global trade negotiations.

Zambia's interest in the EPA negotiations is important because they will shape Zambia's trade opportunities not only with Europe but within Africa for many years to come. Both COMESA and SADC are moving toward more economic integration in the coming years, and, while these are not formally part of the EPA negotiations, they will affect Zambia's ability to benefit from trade, especially for non-traditional exports.

The negotiations for the ESA group were launched in Mauritius on 7 February 2004, with the adoption of a joint roadmap. Each country has established a National Development and Trade Policy Forum (NDTPF)¹ to ensure a permanent dialogue at domestic level on the EPA negotiations. After a preparatory phase in which each side defined its priorities and negotiating structure, a ministerial meeting, held in Mauritius on 9 February 2006, launched the second and substantial phase of the negotiations. Ministers took stock of the progress achieved in market access and fisheries and agreed to extend discussions to services and trade related issues, and to start drafting a text. They also agreed that discussions on development finance have to proceed in parallel with the negotiating process. In other words, the negotiators are attempting to tie trade and development finance together.

Negotiations, both on the trade and development front, continued intensely since then. Representatives from the EU and the ESA region have come together at several meetings this year to move forward the ESA EPA:

¹ It is not clear how active and meaningful the NDTPF in Zambia has been.

- A development session in Mauritius (17 July 2006) where it was agreed that development should be anchored in the EPA, both with a dedicated chapter and across the sectoral chapters in the trade agreement.
- A trade negotiating session, both at technical and senior level (24-26 July 2006, Brussels). There was good progress on the issues already under discussion (market access, agriculture, fisheries) and talks begun on trade related issues and services.
- A meeting of Ambassadors and Senior Officials of the EU and ESA in Mombassa on 27-29 September 2006. At this meeting, both sides discussed the first draft EPA text submitted by ESA at the end of August 2006.
- Ministers from the Eastern and Southern Africa region (ESA) and Commissioners from the European Union met in Brussels on 28th February 2007 and issued a declaration on Joint Conclusions.
- A further meeting took place in Malawi in late April 2007.

Issues and options

- How to reconcile the special status of the ACP Group with the EU's obligations to the WTO? After almost three decades of offering the ACP non-reciprocal preferential access, the EU plans to replace the existing trade regime by Economic Partnership Agreements (EPAs). These would not be fully reciprocal: the ACP argue that poor and small developing countries need asymmetric treatment, which the WTO allows only on a non-discriminatory basis for all developing countries (GSP, for example).
- How to reconcile special treatment for the Least Developed countries (LDCs) with EPAs based on regions of ACP countries? Under the EBA initiative, LDCs have been granted duty-free and quota-free access to the EU for all products. The regions, however, all include both LDCs and others, so either the EPAs must provide for differentiation among members or they will offer worse treatment to the LDCs than they have under EBA.
- How to reconcile the EU's programme of extension of its regional arrangements to an increasing number of developing countries (to the ACP and others) with its support for multilateralism? Multilateral negotiations are needed to deal with the difficult issues on the WTO agenda, such as agricultural reform. Regionalism could undermine the multilateral process both through creating countries with an interest in protecting regional or preferential access and through the strain it places on negotiating resources (especially in LDCs).
- How to reconcile differentiated trading arrangements with development goals? Each additional offer of special treatment to some developing countries, whether through regions or preferences, creates losers in other developing countries.
- How to make the EU's trade policy coherent with its development goals? Member States and small groups within them have protected domestic production and prevented reforms, for example of the Common Agricultural Policy (CAP), which would offer opportunities to developing countries.
- **For Zambia.** How to ensure good access for potential exports to the EU, e.g. sugar, manufactured copper, while providing a measure of protection for industries that could suffer from import competition, e.g. dairy.
- **For Zambia.** How to ensure that trade access is followed up by good "behind the border" programmes and support mechanisms – e.g. export finance, improved transport and logistics.
- **For Zambia.** How to ensure that the benefits from increased trade also accrue to small Zambian businesses and farms.

Some Northern NGOs are also concerned that EPAs are skewed in favour of rich countries and threaten to leave 750 million poor people worse off than ever. They believe that unless EPAs are radically reformed, the impact in African, Caribbean and Pacific countries will be:

- job losses, government revenue losses and cuts in public services as developing countries are forced to open up their markets to the EU before they are ready
- corporate domination as African, Caribbean and Pacific governments' ability to regulate big business is restricted
- weakened democracy as governments will be prevented from choosing their own development strategies.

The ACP Group

Traditionally, the group of ACP countries, now 77 (excluding South Africa), were positioned above GSP beneficiaries in the EU pyramid of preferences. Imports from the ACP received more generous tariff preferences on a broader range of products and were subject to less restrictive rules of origin. The successive Lomé agreements (1975–2000) provided duty-free access for all industrial products (that met rules of origin) as well as for most tropical and mineral products. In addition, some agricultural products received tariff preferences (restricted by quota) and some ACP countries benefited from Special Trade Protocols (for bananas, sugar, beef/veal, and rum) which provided (limited) access to the highly protected European market. Lomé rules of origin allowed cumulation among all ACP beneficiary countries, whereas GSP only allows cumulation within designated groups of countries. Lomé also liberalised its rules of origin over time to allow cumulation to include certain non-ACP developing countries, with exceptions for certain products, and increases in permissible import-content.

Issues

Changes for the ACP group

The Cotonou Agreement (2000) replaced the Lomé Convention and marked a shift from non-reciprocal tariff preferences to establishing reciprocal trade arrangements for all ACP countries. During a preparatory period (2000–2008), the Cotonou Agreement maintains Lomé IV nonreciprocal preferences while the EU and ACP countries negotiate Economic Partnership Agreements (EPAs) that will establish timelines for progressively liberalising trade barriers. The new trading arrangements will enter into force by 1 January 2008, after which liberalisation will be phased in over a period of at least 12 years; the EU expects these agreements to be with regional groupings. The EU intends that EPAs should comply with WTO rules (Article XXIV) regarding preferential trade agreements; i.e. liberalising substantially all trade within a reasonable period of time (10–12 years). In addition to trade in manufactures and agricultural products, EPAs could also cover trade in services as well as other trade-related areas such as non-tariff and technical barriers to trade. The latter could include issues such as investment, competition, protection of intellectual property rights, standardization and certification, and sanitary and phytosanitary measures.

The EU and ACP countries provide the establishment of EPAs with a number of challenges. First, under EBA all LDCs have full duty-free and quota-free access to the EU market, except for arms (and, until 2009, for bananas, rice and sugar). This removes the incentive (of access to the EU market) for least developed ACP countries to open their markets for EU products, within the context of an EPA. Second, providing differential treatment to ACP states at different levels of development within defined regional arrangements remains problematic. Third, some regions will be divided by EPAs. Egypt, although a member of COMESA, will not be involved in negotiations for an EPA since

it is not an ACP country and has a separate agreement with the EU. Finally, memberships of existing regional organizations overlap, particularly in Southern and Eastern Africa: the South African Development Community (SADC), the Common Market of East and Southern Africa (COMESA), and the East African Community (EAC) all share members.

Market Access

In 2000, imports entering the EU under MFN rates faced a simple average tariff of 5%; the 'normal' GSP average preferential tariff was 3%; and EU imports under the ACP programme and Everything But Arms (EBA) were subject to an average tariff of about 0.1%. Although these preferential tariffs appear to be very low, the average rates include some high tariffs in individual product lines, particularly on 'sensitive' goods. Almost half of all agricultural products are excluded from coverage under the GSP; the Common Agricultural Policy with its goal of high EU producer incomes inhibits market access for competitive suppliers, including those from developing countries. Although the Lomé and Cotonou arrangements reduced the number of exclusions, EBA is more significant because it eliminates them by 2009. In 2000, 34% (\$248bn) of extra-EU imports came from beneficiaries of the EU's GSP and ACP regimes. However, preferential treatment was granted to a considerably smaller percentage of imports from all beneficiary countries (6%, i.e. \$45bn).

The use/value of tariff preferences has been low due to the restrictiveness of rules of origin employed in the various schemes, officially to prevent trade deflection from non-beneficiary countries. Rules of origin under the various EU preferential regimes differ but are based on product-specific process criteria. The process criteria may require that imported inputs undergo a change in tariff heading; undergo specific working or processing in the beneficiary; not exceed a specified maximum percentage of the value of the final product; or, comply with a combination of the above. The type of processing required for some products can exceed production capacity in developing countries or require producers to add an exceptionally high value in order to comply with rules of origin – particularly for certain fish, processed food and textile products. In addition, the complexity and diversity of the rules complicate documenting compliance with EU rules of origin.

Multilateralism versus Regionalism

Trade liberalisation at the multilateral level has a more favourable effect for most developing countries than partial concessions negotiated in bilateral agreements with individual countries or regions. Even though multilateral and bilateral/regional negotiations can be managed simultaneously, expansion of the latter can strain limited negotiating resources, especially in LDCs. More importantly, a system of discriminatory liberalisation is not necessarily efficiency-enhancing, even for members (due to trade diversion), and is clearly bad for non-members (who are excluded from any benefits associated with trade creation and may suffer as a consequence of trade diversion). In addition, regionalism may actively serve to undermine the multilateral process, since regional agreements establish margins of preference for members over non-members. As such, for members of a preferential trade agreement, multilateral liberalisation can have costs associated with erosion of preferences.

In a series of studies, Harvard University economist, Dani Rodrik, has shown that there is little evidence that trade liberalisation is correlated with economic growth. He has shown that whilst no country has developed successfully by turning its back on international trade, none has developed by simply liberalising its trade either. The critical balance lies in each country adopting its own trade and investment policies and strategies, in line with its development needs. A growing body of evidence supports Rodrik's work.

For instance, the *Africa Economic Report 2004* concludes that trade liberalisation alone will not boost growth and poverty reduction in Africa. Instead, the report argues that the successful integration of Africa into the world economy will require better-educated and healthier workforces, improved economic and political governance, better quality infrastructure, and dynamic trade policies, including gradual and targeted trade liberalisation.

A recent report by the United Nations Conference on Trade and Development (UNCTAD) draws a similar conclusion. Trade liberalisation plus enhanced market access does not necessarily equal poverty reduction: most poor countries undertook extensive trade liberalisation in the 1990s, and also received some degree of preferential market access from developed countries, but performed dismally in reducing poverty. UNCTAD warns that if past trends continue, the poorest countries in the world will continue to lag behind the rest in 2015, the year by which the international community hopes to halve the proportion of the global population living in extreme poverty.

Challenges for the ACP in negotiating a regional EPA:

The capacity to develop a coherent trade policy and initiate the accompanying institutions can not be build over night. The training of civil servants within ministries and delegations abroad, the strengthening and building of institutions and the process of involving relevant stakeholders, all require a long-term strategy. As a result, developing countries are often seen as being weak, if not marginal, participants to international negotiations, whether on trade or other issues. Indeed, if one assume that economic and political power are the sole determinants of the outcome of negotiations, the prospects for developing countries to effectively pursue their interests seems very bleak.

Moreover, a lack of experience, knowledge and resources within the ACP group only adds to the groups' disadvantage compared to their developed counterparts. Still, power is not the only determinant of outcomes and some gaps can be bridged. Developing countries, including the smaller ones, have increasingly shown that effective participation is possible. As Sheila Page notes in reviewing the last 15 years of multilateral negotiations, 'developing countries have proved first that they can modify the outcome, then that they can block a settlement, and finally that they can initiate their own issues' (Page, 2003).

The experience of developing countries in participating to negotiations on preferential trade agreements, notably with industrial entities such as the EU, indicate that some key elements might be adopted to increase the effectiveness of the preparation and conduct of such negotiations. The problem facing the ACP –one typical for developing countries in general- is that negotiations are conducted while their preparation is just underway, putting the ACP under considerable time pressure. Moreover, they are required to negotiate as a group, at the regional level, which require an additional regional co-ordination.

Finally, their negotiating partner is the EU (represented by the European Commission), which possesses a most sophisticated institutional framework, extensive resources and capacity, as well as significant experience in conducting such negotiations, for which it has mainly set the agenda.

Overall, the conditions under which EPA negotiations are taking place are not favourable to the negotiation position of the ACP countries. In that respect, it is all the more necessary for each country to prepare optimally for the negotiations, whether at the all-ACP, at the regional or at the national levels. In view of their particular vulnerability in terms of negotiation capacity, and the

implicit danger of aid dependency steering the negotiations, the need to properly identify their own trade interests and develop their own positions in the negotiations is all the more essential.

The additional challenge for the ACP has been to develop such capacities not only at the national level, but also being able to co-ordinate their strategies, position and preparation at the regional level.

In view of this, the proposed EPAs if not well negotiated constitute a real threat to development and poverty reduction as they may lead to notable issues such as;

- construct new and unfair trade rules by creating free trade areas between the EU and regional groupings of ACP countries
- reduce the policy space that ACP countries need to develop their economies and eradicate poverty
- lead to significant losses in ACP fiscal revenues
- lead to de-industrialisation in ACP countries
- undermine African regional integration
- Grant European corporations greater rights over African economies.

Issues for the local private sector

1. Priorities

- i. Since Zambia is still at an early stage in the development of its non traditional exports, its long-term interests lie in ensuring that the field is left as open as possible. HOW???
- ii. Reform of national trade policies and their efficient implementation to comply with domestic legislation and international obligations without harm to local capacity.
- iii. Monitoring of trade and trade policy issues by government and other independent stakeholders for timely decision making.
- iv. Build coherence in national development plans; (definition of strategic trade objectives and priorities including decisions to achieve them)
- v. Promotion of country interests reactively and actively within the ESA group.
- vi. Given the dominance of the mining industry, there is probably needs to be some protection of those local industries that could become competitive. eg; manufacturing, services and tourism.

2. Challenges

- i. The December 2007 deadline for the negotiations is probably not sacrosanct, even though the EU will try to say that it is. Not sufficient has been done at home.
- ii. Lack of inclusiveness for small and medium sized enterprises and the wider civil society in the articulation of the national interest over and beyond government view.
- iii. Lack of financial support (Enterprise development funds) and capacity building programmes for private sector transformation and growth in view of anticipated challenges EPAs will pose. e.g.: compensation for the loss of preferences and also to enhance competitiveness.

- iv. Provision of technical and financial assistance to the Zambia Bureau of Standards and other trade certification agencies to assist them to meet existing and new regulations and to build the capacity to monitor, test and certify and then defend their own standards as being equivalent.
- v. Possible influx of subsidised manufactured goods may render locally manufacture ones to be uncompetitive.
- vi. Job losses arising from enterprise/industry failures due to unfair competition from imports and multinational corporations' dominance.

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