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TRADE

GREAT insights

Shifts in trade development

In this issue:

Trade agreements, rules and policies

Sustainability, labour standards and gender equality

Africa, Brexit, and new policies

About *GREAT Insights*
Governance, Regional integration, Economics, Agriculture and Trade (GREAT) Insights is ECDPM's magazine covering a wide range of topics related to economic development in Africa and the developing world. *GREAT Insights* gathers expert analysis and commentary from a wide variety of stakeholders with different perspectives.

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Coverphoto:
Balance of Trade, Photo: Jed Sullivan, flickr.com.

Editorial

How come trade policy seems to be in such turmoil these days?

There is no doubt that trade is an important factor of economic prosperity. As such, it is recognised as an integral part of the UN 2030 Agenda for Sustainable Development, notably as a means of implementation to achieve the sustainable development goals. These are not just about developing countries, but concern all countries.

Yet, trade policy, and in particular trade agreements, are generating increasing fear and opposition among citizens and an increasing number of politicians. The multilateral system seems to be in disarray, with an ever-lasting round of negotiations, which – bar a few exceptions - has failed to deliver any major outcome. This is once more illustrated with the recent failure of WTO members to reach a deal on the Environmental Goods Agreements, in spite of international commitments to combat climate change and promote a more sustainable planet.

No surprise in these circumstances that attention has turned to preferential trade agreements, perhaps further reducing the incentives of reaching new multilateral deals. Regionalism has been on the rise, and high-hopes were set for a new wave of mega-regional deals. But these are also increasingly called into question.

The US President-elect Donald Trump is apparently squashing such ambitions, rejecting the Trans-Pacific Partnership (TPP) and most likely also the Transatlantic Trade and Investment Partnership (TTIP). In Europe, the controversy around the TTIP and the saga on the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada not only illustrates some popular frustrations around far reaching trade deals, but also questions the ability of Europe to conclude such ambitious agreements, even with its closest partners.

The prospect of trade wars seems to resurface, most recently around the controversy surrounding the market economy status of China at the WTO. Brexit, besides the uncertainty it raises regarding the nature of the future trade relations between the EU and the UK, and the implications for their partners, also reduces the credibility of regional integration in general. The EU, long held - at least outside Europe - as a model of strong and deep integration, is painfully exposing its fragility.

While trade liberalisation and integration has also captured the political headlines in many developing countries, in particular in Africa, which is not short of regional integration processes, the reality is more sobering. The rhetoric and vision on developing regional value chains and climbing up the ladder of global value chains remain encouraging, but walking the talk is much more challenging. Take the African Continental Free Trade Area. It makes economic sense on a still very fragmented market, and fits legitimate pan-African aspirations.

But the process is complex, at odds with experience in other parts of the world (remember the failed attempt of the Free Trade Area of the Americas) and building on shaky ground in Africa: who would champion it, beyond the African Union institutions? Without lead countries and private sector interests pushing for it, it will not succeed, let alone respond to African citizens' demands for economic prosperity, not grand political designs.

Here is the crux of the matter: citizens worldwide increasingly feel that they are not benefiting from globalisation, which they consider as bringing prosperity to only a happy few, mainly large multinationals, while they are left behind. Combined with an increasing mistrust toward traditional politics, more and more people feel cheated by market liberalisation, which they blame for rising inequality and job insecurity and losses. They are concerned about how globalisation can be fairer, support core universal values and contribute to better shared prosperity.

One must recognise that many of these fears are partly justified. Economists have for too long ignored the distributional impact of trade and investment liberalisation, on the ground winners' benefits outweigh the costs to losers. Ideology has also too often dominated the debate on globalisation, on both the supporters and opponents' camps. Populist arguments have flourished, building on emotions and resentments, drifting away from facts and reality.

So more than ever, it is important to pause, reflect on the merits and challenges of globalisation, and how to best address them. In this respect, trade policy is not an objective in itself. It is only one of the many policy tools available to achieve sustainable and shared prosperity, though an important one. It does operate in a vacuum, and should not be assigned to aall types of objectives, to be achieved by trade policy alone.There is a need to carefully reconsider trade and investment policies at all levels (multilateral, plurilateral, regional, bilateral and unilateral), in developed, emerging and poorer countries alike.

And the focus should not only be on trade and investment policy-making, but also – and perhaps foremost – on implementation issues, and the nexus between trade and other policy issues and dynamics, such as innovation and equity considerations, to highlight only two.

Building on most recent analyses and knowledge, this issue of *GREAT Insights* brings together a number of key perspectives on how trade can contribute to sustainable prosperity, and the limits to it.

As always, we hope you will appreciate these insights and welcome your comments and contributions. We would like to wish you, our readers, a very happy 2017 and look forward to sharing more insights with you.

Dr San Bilal (Editor), Head of Economic Transformation and Trade Programme, ECDPM

Follow San on Twitter: @SanBilal1

Condolence announcement

We are very saddened by the passing of Ambassador Lingston Cumberbatch, former chairman of the ECDPM Board. He was a true gentleman, a passionate defender of the interests of the ACP countries and an inspiring personality for many of us. We offer our condolences to his family and friends.

African perspectives on trade and the WTO

by Vicky Chemutai and Patrick Low

Swathes of Africa are on the brink of economic transformation, but challenges remain. These challenges call for far-reaching structural change built on regional and global engagement, supported by enhanced infrastructure

Africa's prospective

Africa is a continent on the rise, with the potential to become the next economic centre of gravity. But it still faces significant development challenges. It is generally acknowledged that engagement in the global economy, through trade and foreign investment, is an indispensable accompaniment of progress. The nature of that engagement and the domestic environment from which it emerges are crucial to prospects for progress through development, growth and quality job creation.

The continent remains of great significance to the World Trade Organization (WTO). No less than one quarter of the WTO's membership is African, and seven of the 19 current candidates for WTO accession are from the continent. What happens in Africa will increasingly leave an imprint on multilateral trade relations. Therefore, it is important that the WTO works for and with Africa, particularly in tackling the economic, social and political realities facing the continent.

Salient features of Africa's trade performance

History has repeatedly demonstrated that no economy can prosper without trade. Trade is both a reflection and cause of the health of the domestic economy. In the 21st century, supported by trade, Africa's economy has grown at an average of 5% per year, outpacing global GDP growth by a significant margin. Ten of the world's 16 fastest-growing economies are in Africa. In the last twenty years, Africa's share of global production has risen by 30% and its share of trade by more than one-third. The continent's share of world foreign direct investment has doubled. These expansion rates are built from a very low base. But they are indicative of an Africa on the move.

In terms of the destination of merchandise exports, Africa's trade is skewed against the continent. Only about 18% of Africa's trade is with itself.

The low level of intra-African trade represents a significant loss of opportunity. The continent's core trade destinations for merchandise exports are Asia (China) and the European Union. Just as product diversification of exports is desirable, so too is greater geographical dispersion.

Africa's trade performance has been driven to a large degree by oil and other commodity exports. The commodity price boom fed trade growth. Recent price developments will reverse some of those gains. Commodity dependency in trade points to a structural challenge facing many African economies. They need to diversify into manufacturing and services, thus building greater economic resilience at home, more and better jobs, and trading opportunities abroad. Manufacturing and services provide vital conduits for adding more value domestically and regionally. Foreign direct investment remains critical in this regard.

Opportunities for transformational change

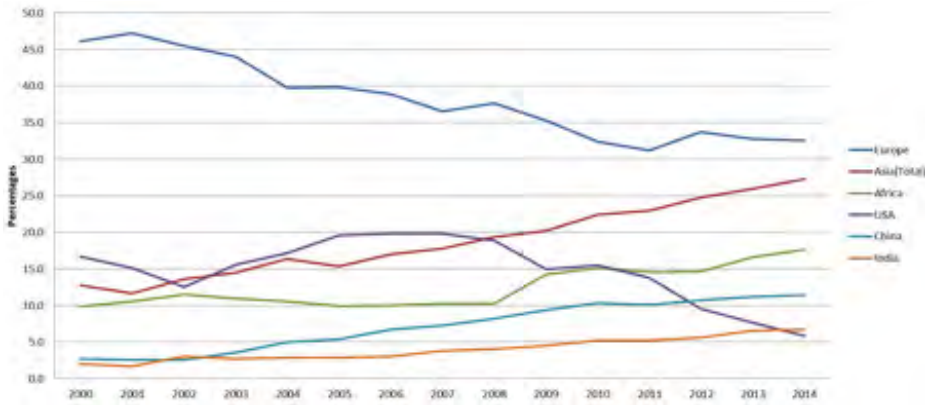
Significant trade and diversification opportunities have emerged in recent years with the development of vertically integrated production structures that span multiple jurisdictions. Research indicates that most African countries are already integrated in global value chains (GVCs) but mainly as suppliers of products that are processed outside Africa. However, Africa accounts for only 2% of global trade in intermediate manufactured goods. On the continental landscape, Africa's regional participation in value chains is driven by Southern and North Africa, which at 78% together account for the lion's share of the continent's total value chain trade, while West Africa accounts for only 14%, East Africa for 5% and Central Africa for 3%.

Endowed with an abundance of natural resources and an increasingly literate population, the continent has the potential to offer a lot more than primary commodities with minimal value added. It is worth noting that African trade is mostly carried out by Small and Medium Sized Enterprises (SMEs). Owing to the fact that SMEs employ 80% of the region's workforce, they have a critical role in Africa's integration in value chains.

The International Trade Centre (ITC), which is fully dedicated to supporting

Sunset on the rising city of Addis Ababa. Photo: Jean Rebiffé, flickr.com

Figure 1: Shift in Africa's merchandise exports by destination, 2000-2014



the internationalisation of SMEs, has placed a spotlight on trade-led growth for SMEs through various projects. In 2015, it launched the Blue Number Initiative, an online networking platform similar to Facebook or LinkedIn for farmers, which connects a sustainability marketplace with other trading partners. There is also the ITC's Ethical Fashion Initiative, which inserts African micro-producers into high-end value chains. Today, bags made in Kenya for Vivienne Westwood are showcased on catwalks in London and Paris, while cotton textiles hand-woven in Burkina Faso or dyed in Mali are distributed in the stores of United Arrows in Tokyo.

These opportunities for component trade through participation in GVCs in both goods and services offer new scope for adding value domestically and regionally. The challenge is for local producers to become involved in a continuing process of upgrading and ultimately the establishment of home-grown, internationally oriented lead firms. Effective change calls for clarity of purpose, consistency, and a sound decision-making apparatus. Efforts must focus on deepening development, generating growth, creating employment and eradicating poverty.

Trade policy challenges

A consensus has emerged that policy neutrality does not exist. This is because even where an economy decides not to intervene in the market, it is effectively taking a policy decision. If there is no escaping policy, it makes it doubly important to ensure that policies are sound and conducive to progress.

Too often, poor policy can become a millstone around the neck of growth and development. This can be for three main reasons. One is to do with policy design. Either through neglect or poorly formulated policies, costs in the economy are needlessly increased.

A second problem may be poor implementation because of a lack of adequate resources, or adequately trained resources, which leads to inefficiencies and added costs. A third problem is corruption, which not only adds costs to production in a variety of ways, but diverts significant resources from development and, more seriously, fractures the moral integrity and the legitimacy of elected leaders to govern. It is within the powers of governments to address all these shortcomings and make their own policy-based contribution to productivity and growth. In broad terms, policy reform may assume a number of different forms. Some policies are enabling or facilitating, in the sense that they remove what might be considered inadvertent costs of doing business. Trade facilitation, customs reform, streamlined regulation, and investment in human and physical infrastructure are among the instruments of enablement.

A second kind of policy reform involves removing or adjusting policies deliberately put in place in pursuit of specific economic, political or social objectives. These policies may have become outdated in terms of their

original purpose or they may reflect errors of judgement, such as an excessive reliance on import-substituting industrialisation, which was a feature of early industrialisation efforts in some economies. A third reform genre involves the introduction of new policies. New policies may respond to changed circumstances or may reflect past neglect. Like anywhere else, policy change in Africa is bound to involve a combination of these three kinds of change.

The idea that prosperity born of growth and economic progress is assured with as little policy intervention as possible is more ideological than scientific. But it is also clear there can be too much intervention, whether as a result of ideology or wrong-headedness, leading to flawed policies.

A government's reasons for intervention often stem from the external consequences of transactions that are unpriced or incorrectly priced in the market. These so-called externalities may have good or bad consequences, but they both warrant intervention. This discussion is related to so-called 'industrial policy', which has sparked fierce debates, often with a certain ideological overlay. There is nothing wrong in principle with governments deploying policy levers to change resource allocation decisions in an economy. Virtually all governments deploy such intervention under various guises, sometimes (but not always) to good effect.

The WTO does not prevent governments from pursuing well-designed and effective industrial policies. Scope exists in multilateral trade rules for the use of industrial development policy for faster poverty-reducing growth, job creation, promotion of public goods, efficiency in resource allocation, sustainable development, and intervention to reverse market failures and realise positive externalities.

The challenge is, indeed, to do it well. This means that the objectives must be clear and the policies must be well designed for efficiency and monitored. Adequate government capabilities are a prerequisite for the successful conduct of industrial policies, as is adequate information and analysis for understanding cause and effect.

In Africa's case, as elsewhere, plenty of scope exists for improving and streamlining the regulatory framework for doing business. In other cases too, there will be justification for lessening the impact of certain interventions. It is argued in some quarters, for example, that import tariffs tend to be too high in some sectors.

The role of policymakers

The African continent is as diverse as it is similar. Its 54 economies are at different levels of development with disparate regulatory frameworks and governing ideologies, but face largely the same challenges. In addressing the continental challenges, African policymakers emphasise the importance of the right kind of engagement with the multilateral trading system to support development and poverty eradication, and the challenges of fulfilling the UN Sustainable Development Goals spelled out in Agenda 2030. They recognise the need for structural transformation, with an emphasis on industrialisation, African economic integration and the need for a WTO that supports African industrial development.

Awareness has grown rapidly in recent years that trade and investment relationships among African economies are poorly developed, and big unrealised opportunities exist. Moves are afoot to eradicate some of the barriers to exchange across the continent, be they of a fiscal or regulatory nature. These are the ideas driving regional integration initiatives.

Through 'smart sequencing', Africa needs to be more ambitious and bold on the home front, increasing the scope, streamlining the regimes and accelerating the full implementation of agreements such as the Tripartite Free Trade Area Agreement (TFTA) and the Continental Free Trade Area (CFTA). These regional initiatives will need to be supported by enhanced continent-wide infrastructure in order to facilitate exchange and lower the costs of transport and communications in particular.

The role of the WTO

Just as many African economies have tended to maintain relatively high tariffs on many products, they have been reluctant to commit to maximum tariff levels through WTO 'bindings'. Where there are bindings, these are often set at levels considerably higher than the relevant applied tariffs. Several reasons can be adduced as to why this may be so, but it does deny the economies concerned an opportunity to use internationally negotiated commitments as a means of locking in policy.

Apart from any gains economies might enjoy as a result of tying down their policy commitments through international obligations, they can also rely on the WTO's system of rules for protection against discrimination and

other non-conforming policy behaviour. These possibilities help to level the playing field and ensure a greater degree of certainty regarding the external policy environment.

Many African economies did not accede to the General Agreement on Tariffs and Trade (GATT) – the WTO's predecessor – through negotiations. Rather they were 'successor' members of the organisation following their political independence from colonial powers.

Those economies in Africa and elsewhere that accede to the WTO through negotiations are frequently required to undertake far-reaching reforms. They benefit from such reforms in various ways, including the enhancement of the capacity to compete. It is argued that African economies that have not been through the accession process might consider adopting long-term reform programmes similar to a WTO accession package.

Achieving transformation

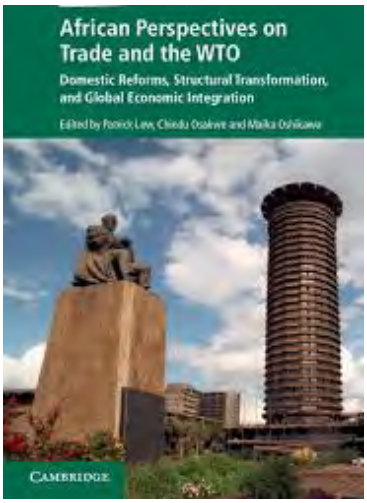
Africa is on the brink of an economic transformation, and the depth, quality and speed of that transformation will largely depend on policies, the way they are implemented and the quality of the governance implementing them. African economies, like many others, could do much to create a more conducive macro-environment with better infrastructure and less cost-ridden policy conditions. Initiatives in these directions would foster trade, development and growth, not least through strengthened intra-African links.

Commitment to openness based on smart policy design and administration is critical for the structural transformation of Africa. Core elements of WTO accession packages can be a blueprint for long-term policy reform. The WTO can also serve as an anchor for coherent domestic policy and a guarantor of consistent and non-discriminatory policies on the part of trading partners.

There is also need for a collaborative engagement between the African private sector and the WTO, with the goal of ensuring that the impediments to the participation of SMEs in global trade are not overlooked. Trade facilitation remains fundamental to economic progress, as it not only enhances stability and predictability, but may also boost foreign investment and job creation.

This article draws on topics presented in the 2016 WTO book 'African Perspectives on Trade and the WTO: Domestic Reforms, Structural Transformation and Global Economic Integration' coedited by Patrick Low, Chiedu Osakwe and Maike Oshikawa.

This publication is a product of the Fourth China Round Table, which took place during the WTO's Tenth Ministerial Conference, held in Kenya in December 2015. Supported by independent expert analyses, the book proposes a range of African perspectives on the role of trade, the WTO and its future agenda.



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From regionalism to cross-regionalism

by Christian Deblock

Commenting on the relationship between prolific and pioneering regional trade agreements and a faltering WTO, the author questions whether the latter can regain initiative and control on trade regulation.

The multilateral trading system is geared towards a disciplined opening of markets and liberalisation of trade. Cooperation is regulated in order to ensure that equal treatment is respected by states, both in their relationships to one another and towards foreign operators on their territory. However, the proliferation of regional trade agreements, with their ever-widening normative influence and the numerous overlaps they entail, not only undermines the universal scope of the multilateral trading system, but also reveals the challenges involved in trying to renew and adapt its rules to our interconnected and globalised world.

Regionalism, an institutional tolerance

The problem of regionalism goes back to the origins of the multilateral trading system. Initially, special regulations were only conceived to deal with customs unions and cross-border traffic, but in Havana, discussions were extended to areas of free trade. A compromise was eventually reached to handle these, and article XXIV of the 1947 GATT was subsequently amended. Free-trade zones thus acquired the same recognition as customs unions and were subjected to the same rules. Still, a certain ambiguity persisted. That the involved countries were cooperating more closely, searching for a tighter integration of their economies and thus contributing to freedom of trade was certainly laudable. Nonetheless, such agreements, preferential by nature, constituted a major infringement of the GATT's founding principle of Most-Favoured-Nation Treatment. Appearances, however, were preserved: beneath the general rules of 'universal' scope are special rules, conditional on the former being observed. Indeed, it is in this manner that the habit (beginning in the 1990's) of qualifying as 'regional' any agreement that is not multilateral should be interpreted. This significantly reduces the scope of the geographic criterion, despite its influence during previous decades on debates and texts, including the Havana Charter, on economic integration. More recently, a new trend has emerged: WTO is now speaking of preferential agreements. This only increases the terminological vagueness surrounding these concepts, since it has also been customary to refer to non-reciprocal agreements between developed and developing countries as 'preferential'.

The fact remains that this terminological imprecision mostly helps to conceal a vast institutional tolerance. In leaving states with a lot of leeway, the designers of the modern trade system preferred to opt for economic realism, considering trade regionalism only from the standpoint of a complementarity to be preserved between itself and multilateralism. Today, the problem has changed. It comes not only from the fact that regional trade agreements exist, but that in turning the rules to their advantage, they have taken new directions and proliferated with enormous success.

Three waves of regional agreements

In short, regional agreements after WWII were mostly aimed at creating large spaces of solidarity. Regional economic integration was actively sought after and deployed in the service of closer cooperation between the countries it involved. This gave rise to many models, and many failed ones, but one emerged from the lot, the European Community model. While the 1980's were years of crisis for this model, the years that followed witnessed the emergence of a new, 'contractual' model, as it was called, which was resolutely geared towards competitive integration, opening of markets and protection of corporate rights. NAFTA was undeniably the flagship agreement for this 'new regionalism'. It paved the way for a multitude of similar agreements, and in doing so, also set the stage for a major reform of the multilateral trading system, which was partially endorsed in Marrakech in April 1994. There were many advances, and just as many obstacles to overcome. Also, far from bringing fresh impetus to the multilateral trading system, the effect of the Doha negotiations that followed the Uruguay ones was mostly to drive it into a dead end. As for regional trade agreements, they are witnessing a new boom. Not only has the movement gained momentum in Asia, it has also started to take on new institutional forms (in the form of partnerships). It has also become more and more cross-regional, giving rise to mega-agreements that rival one another. Yet another noteworthy evolution is the problem raised by the scope and impact of their new dispositions.

The opening of markets is no longer such a central issue as it was before, at least so far as trade in goods is concerned. In this respect, NAFTA and the Uruguay cycle clearly marked a turning point, in particular with regard to services, corporate rights and cross-border regulations. But since it was not possible to move forward quickly through multilateral channels,

the shortcut provided by regional and plurilateral agreements became the default. In the current decade, two trends closely related to the new issues of globalisation have begun to emerge. First, trade negotiations increasingly revolve around cross-border trade, digital trade and value chains. Second, they are characterised by their interoperability. Today's globalisation does not so much integrate as connect. And with interconnection, the problem of international regulatory cooperation arises. This issue is now at the core of discussions within the OECD, APEC or new trade agreements, according to terms and principles very different from previous negotiations.

Reform proposals

Clarifying the rules pertaining to regional agreements has no doubt become a necessity. Nevertheless, it will do little to resolve the underlying problem raised both by the proliferation of these agreements and by their content. Indeed, there can be no turning back, as it is impossible to deny the advantages gained by trade agreements for the contracting parties, nor the positive effects they can have, generally speaking, on the trade and economy of the countries involved. Hence, it is these positive effects that current reform proposals seek to enhance, while also reducing their negative side effects, particularly for developing countries. Amongst the proposals that most frequently come up in discussions, let us mention a possible application of the principle of subsidiarity, borrowed from the European experiment. This would amount to delegating a certain amount of authority to the WTO. Let us also highlight a proposal notably defended by Richard Baldwin and taken up at the WTO. Going from the assumption that regionalism is here to stay, the focus is to 'multilateralise' it and make it more 'multilateral-friendly'. This would be achieved by linking large regional groups to one another through multiple treaties, regrouping bilateral agreements and turning them into plurilateral ones, and extending the preferential terms of the new agreements to other WTO countries.

These proposals, and others yet, while certainly not devoid of interest, come up against a deep resistance to change, notably in that the WTO is an organisation guided and conducted by its members, who, on the whole, remain attached to the notion of consensus. To implement these proposals would require a bolstering of the WTO's authority, turning it into a supranational organisation rather than an international one. The other part of the problem comes from the fact that current mega-negotiations are using new channels, bringing up the litigious issue of regulatory cooperation, which in turn raises democratic problems. Furthermore, it is far from clear whether the WTO is really the best forum to discuss this issue. Indeed, is it not towards the OECD that developed countries have turned, an organisation more skilled in the practice of convergence and regulatory equivalency than WTO?

What future for multilateralism?

Today, most states are members of the WTO and the organisation still acts as a watchdog for international trade, fully playing its role as a mediator in conflict resolution and as a catalyst for negotiations between its members. Far from being marginalised, the WTO today is a widely recognised organisation with great legitimacy. The organisation is far from perfect, much to the contrary, however its weakest link remains the issue of trade agreements. Some would say that there are simply too many members and that interests are too divergent for the organisation to function effectively, and for multilateral negotiations to move forward quickly while the consensus rule is used as its decision-making principle. Indeed, it would be hard to affirm the contrary. Still, the question remains as to whether the growing popularity of trade agreements is caused by this stalemate in multilateral negotiations, or conversely, whether the interest that states find in trade agreements blocks any serious progress on the multilateral front.

While no one has ever truly contested the relevance and usefulness of regionalism, opinion has always been divided as to the place it should occupy within any international system or regime of global scope. Friends or foes, complementary or competitive: how should the dilemma between regionalism and multilateralism or, to state things differently, between the particular and the universal, be resolved? Though this question obviously remains open, it also appears simplistic in light of the problems with which the WTO is currently faced. Indeed, is it not illusory to think of this problem merely in terms of a coherence to be regained between two levels of commercial cooperation? Trade agreements have now moved outside the scope of the WTO and their ambition, henceforth, is to rewrite the trade rules of the 21st century, trade rules for an interconnected and globalised world, not only for an interdependent world. That is the point: the world has changed, regionalism has changed, but what about the WTO?

This text is adapted from an article by Christian Deblock, Le régionalisme commercial. Y a-t-il encore un pilote dans l'avion ?, Interventions économiques, no 55 (2016), http://interventionseconomiques.revues.org/2882 .

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Trade agreements can substantially boost exports

by Swarnali A. Hannan

Trade agreements can generate substantial export gains, on average an increase of 80 percentage points over ten years. The gains are higher when emerging economies have agreements with developed countries. Looking at specific agreements, all the countries in NAFTA have gained substantially due to the agreement.

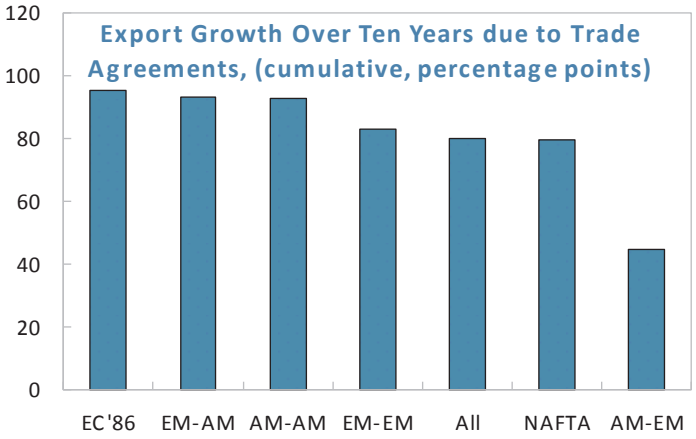
US Soy Exports Infographic. Photo: United Soybean Board, flickr.com

International trade is an essential component of the development agenda to bolster growth. Trade can enhance productivity by promoting efficient allocation of resources, increasing competition, fostering the adoption of more advanced technologies, allowing economies of scale, and encouraging innovation. Trade can also be beneficial for consumers by increasing variety of goods available to them at cheaper prices. An important policy relevant question, particularly for developing countries, is thus how to increase trade integration?

In recognition of the potential of international trade in improving people's lives, there has been a global effort since the 1940s to boost regional integration by partaking numerous trade agreements with the aim to encourage trade by increasing cooperation amongst countries. More specifically, such agreements aim to promote trade by reducing tariffs and other trade barriers. Have these trade agreements succeeded in boosting trade?

Trade agreements can generate substantial export gains

One way of addressing the issue of whether trade agreements actually facilitate exports is by attempting to determine the counterfactual – for a country that has engaged in trade agreements, what would have happened if that trade agreement did not take place? Such an exercise, known as synthetic controls, helps to identify if the increase or decrease in trade following a trade agreement is due to the trade agreement or would have happened in any case, without the help of the agreement.



EM-AM refers to average export gains of emerging markets when they have trade agreements with advanced economies. Same notation structure for other pairs.

When the actual outcome is compared to the counterfactual for 104 country pairs that participated in some sort of trade agreement over the period 1983-1995, the results suggest that trade agreements have substantially boosted exports for countries. The average gross exports of countries with trade agreements is 80 percentage points higher over the next ten years on a cumulative basis using this methodology. This translates into an annual average export growth of 3.8 percentage points higher owing to trade agreements. Overall, the export gains are even larger when the anticipation effect – trade increasing before the agreement is enacted – is accounted for.

The export gains are higher for countries with smaller size, indicating that smaller countries can get a disproportionately larger boost from trade agreements, possibly due to the greater opportunity of trade integration and lower base effect.

Looking across income groups, the gains from trade agreements are the highest for emerging markets when they have trade agreements with advanced markets, with export gains of 93 percentage points over ten years on a cumulative basis. For emerging markets, trade agreements with advanced economies could potentially expose them to large markets for their products, resulting in more export growth. The export gains are also non-negligibly substantial when emerging markets have trade agreements with other emerging markets, with export gains of around 83 percentage points over ten years. The gains are relatively less, compared to the average, for advanced economies exporting to emerging markets.

Looking at specific trade agreements, the exports increased by 79 percentage points over ten years due to the North American Free Trade Agreement (NAFTA), with all the participating countries, the U.S., Canada and Mexico, benefitting due to the agreement.

However, it must be borne in mind that not all countries gain from trade agreements. Of the 104 country pairs studied, there were 24 pairs that showed negative export gains owing to trade agreements. This is a reminder that trade agreements are not magical wands and might need to be complemented by other domestic policies to bolster exports.

A peak at trade diversion

One can question if these massive export gains are at the expense of countries that are not part of a trade agreement. Trade literature often terms this as the trade diversion. Indeed, the results give suggestive evidence of slight import diversion, with average imports from third countries 20 percentage points lower over ten years. For export diversion, the results indicate that exports to third parties not in trade agreements could actually get a small boost due to trade agreements, with average exports to third countries 8 percentage points higher over ten years. Overall, the trade creation owing to trade agreements more than offsets the trade diversion, suggesting that there is overall significant net trade creation.

Trade agreements can be instrumental in promoting regional integration

The finding that trade agreements generate substantial export gains is particularly relevant for policy making in the current context of trade slowdown witnessed in data. In particular, trade agreements can substantially increase trade for emerging markets. However, the scope of the analysis should be taken into consideration when interpreting the results. The focus of interest in this study is exports. While thinking about the broader issue of trade gains for the economy, other factors like welfare gains, labour adjustments, and the impact on inequality are also important to bear in mind.

This article summarises the insights from S.A. Hannan. 2016. The Impact of Trade Agreements: New Approach, New Insights, IMF Working Paper WP/16/117. The views expressed herein are those of the author and should not be attributed to the IMF, its Executive Board, or its management.

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Do international trade rules prevent local content policies?

by Isabelle Ramdoo

International trade and investment rules discipline the use of industrial policies, including local content policies. Yet, developing countries still maintain numerous flexibilities and significant policy space to stimulate linkages.

Many resource-rich countries have not managed to diversify their economies. As a result, they remain vulnerable to commodity market shocks. In an attempt to move away from commodity dependency, a number of resource-rich countries, developing and developed alike, have used various forms of industrial policies to foster and deepen economic linkages and to ensure that the maximum of benefits from production activities accrue to local economic actors. One such form is through pursuing local content policies (LCPs). But international trade rules and agreements partly limit their policy space to do so.

What types of local content policies to stimulate linkages?

Local content policies seek to promote the supply of domestically produced goods and services and the employment of the local workforce. In the extractive sector companies are also required to conduct certain activities, such as technology transfer or research and development in the country where the extractive operations take place.

Measures to stimulate the use of local content in the extractive sector can be grouped into three main categories.

First, instruments are designed to encourage sourcing of local inputs, with a view to promote *upstream linkages*. These include compulsory mandatory or preference requirements to seek enhanced local procurement, employment of local workforce in the mining or petroleum industry, research and development or local ownership, pending strict penalties. These can take the form of procurement requirements, employment requirements, ownership requirements and spending requirements. Governments can also set specific timeframes for companies as well as reporting requirements.

Second, measures can be put in place to stimulate *downstream linkages,* notably through local value addition or beneficiation. In this case, LCPs attempt to meet two main objectives, through (i) *export-oriented strategies,* to develop local manufacturing capabilities and add value to unprocessed minerals and (ii) *import-substitution strategies,* to respond to growing local demands for processed products. Market restriction instruments include domestic sales requirements; various forms of export restrictions; licensing requirements; trade-balancing measures; and domestic and international market reserve policies.

Third, horizontal measures of general economic applications are implemented, but still focused on stimulating local industries. Examples include tariff or fiscal exemptions, financial incentives available only for local producers, subsidies or creation of industrial zones or clusters.

But are they compatible with international trade rules?

LCPs entail distortionary effects in favour of local actors, which may be considered as too discriminatory, in particular if done in an unbridled manner. LCPs may therefore contravene a number of trade and investment disciplines at the bilateral and multilateral levels, notably in free trade agreements (FTAs), bilateral investment treaties (BITs) and at the World Trade Organization (WTO).

The WTO

In the WTO rulebook, the General Agreement on Tariffs and Trade (GATT) has constrained the use of a number of trade policy instruments, frequently used in the past to foster industrial development. For example:

Under *National Treatment (Article III of GATT),* countries are expected not to discriminate between 'like products' from local industries and imports.

Article XI.1 of GATT completely proscribes the use of *quantitative restrictions* and regulates the use of non-automatic licensing systems.

i. Activities of State Trading Enterprises are disciplined under *Article XVII of GATT.*
ii. The *Trade-Related Investment Measures (TRIMs) Agreement* prohibits the use of most forms of

performance requirements on investment for goods, as provided by its 'illustrative list'. However, developing countries are permitted to retain TRIMs to the extent that the measures are consistent with the specific derogations permitted under Article XVIII of the GATT 1994 by virtue of economic development needs.

Further, various other WTO agreements contain rules that condition the design, application and use of LCPs. These include:

i. *The Agreement on Subsidies and Countervailing Measures (ASCM)* prohibits two types of subsidies: (i) export subsidies, with an exception for least developed countries (LDCs) and low-income countries with a GNP per capita of less than US$1,000 and (ii) subsidies granted to investors or industries contingent on the use of domestic products. Other forms of subsidies are not prohibited but are actionable and may be subject to disciplines if they have 'adverse effects' on international trade.
ii. *The General Agreement on Trade in Services (GATS)* regulates LCPs' impact on foreign investment and employment of local and foreign staff. While the GATS provides clear indications on the types of measures that are allowed or not, local content policies are only regulated to the extent that countries have scheduled specific commitments. As a result, countries maintain significant margins of manoeuvre to design and implement LCPs in service sectors if they have not taken specific commitments.
iii. To respond to political pressures regarding discriminatory treatment in favour of local suppliers for government transacted businesses, such as tendering procedures for contracts above a certain financial threshold, some WTO members agreed to negotiate a *plurilateral agreement on Government Procurement (GPA).* The scope is limited only to its signatories.

Bilateral agreements

In addition to multilateral obligations, resource-rich countries have contractual obligations with their extractive companies and/or have signed up to BITs or FTAs. Those agreements, generally in favour of investors, have attempted to go beyond the scope provisions of the WTO, either by deepening the limitations or by adding new commitments that currently fall outside the scope of the WTO. These have further constrained the policy space of resource-rich countries to use LCPs.
BITs contain at least four types of provisions limiting the scope and use of LCP. These are:

i. *Non-discrimination provisions:* Countries can no longer provide incentives/subsidies or impose any preferences that would apply only to local investors, including state-owned enterprises.
ii. *Fair and equitable treatment provisions (FET)*, aimed at protecting investors against serious instances of arbitrary, discriminatory or abusive conduct by host states. This is an '*absolute standard of protection*'.
iii. *Measures to restrict performance requirements,* in particular the establishment of joint ventures and minimum domestic participation; employment conditions including for foreign labour; location of headquarters in a specific location; procurement of goods and services; export conditions and transfer of technology, production processes, propriety knowledge and research and development.
iv. *Specific measures relating to nationality of board members and senior management.*

Although their scope varies significantly, BITs have become investors' preferred instruments as they are perceived to be more predictable and offer higher security for investors, including in terms of financial compensation in case of dispute. Of the 600 known dispute cases under BITs, it is estimated that 25% relate to the extractive sector.

Investment chapters in FTAs also contain legal obligations that may affect the use of LCPs although their scope and coverage vary significantly. By including investment chapters in their FTAs, parties seek to go beyond the GATS provisions. A new generation of FTAs have more stringent disciplines to curtail the use of LCPs. For instance, in the latest rounds of FTAs negotiated by the EU and the US respectively, investment chapters have a place of choice, and disciplines include additional features. The recently concluded Trans-Pacific Partnership (TPP) contains an extensive list of prohibited performance requirements such as local content or technology localisation requirements. Interestingly, these restrictions apply to all investors and not only to nationals of the treaty parties, which implies that those countries agreed to eliminate certain forms of LCPs on a multilateral basis.

Is there any policy space left?

Although the WTO provides rather clear rules on what types of local content policies are permitted or not, some fundamental policy instruments remain widely available, although in practice, this space may have been eroded, if countries have entered into more constraining bilateral agreements, through BITs and FTAs. These include:

i. *Customs duties and charges:* the GATT does not prohibit the use of tariffs but regulates the level of protection, by requiring countries to 'bind' their tariffs. There is no legally binding agreement that sets out the targets for tariff binding and consequently for reductions. Also, export taxes are not prohibited. Interestingly, few developing countries have used tariffs to stimulate local industries, perhaps because the increasing internationalisation of supply chains is dependent on market access, through low trade barriers, including tariffs.
ii. *Provisions regarding services:* the GATS provides the widest range of policy space for the use of LCPs for resource-rich countries, in particular for those who have not made specific commitments to grant market access and national treatment to service providers and natural persons.
iii. *Subsidies:* despite clear rules regarding the types of LCPs that are allowed or not, the ASCM provides certain flexibilities for developing countries, while distinguishing among three categories: LDCs; countries with a GNP per capita of less than US$1,000 per year; and other developing countries. Other forms of permitted subsidies include general subsidies such as financial incentives, credit finance, infrastructure financing; subsidies on services; sector-specific subsidies, although they are actionable; and government subsidies to support R&D and innovation. The main challenge is the capacity to use these flexibilities. Developing countries often lack necessary financial resources to provide substantive subsidies that can accompany nascent domestic industries long enough, to allow them to reach a critical size to thrive on their own.
iv. Another area loosely regulated by WTO agreements pertains to *state-owned companies and exclusive service providers.* This is particularly relevant for petroleum-rich countries, given the market and ownership structures that surround hydrocarbon production and related downstream activities.

Gold miners, Madagascar. Photo: Rod Waddington, flickr.com.

v. LCPs, through *government procurement* are consistent with WTO rules, unless resource-rich countries are parties to the plurilateral Government Procurement Agreement. In this case, countries need to specify what commitments they are willing to take and the threshold value for procurements to be covered by the GPA.

vi. *Special and differential treatment (SDT)*: there is an explicit recognition of the position of developing countries and their need for derogations from some trade measures, including the support of Infant Industries and remedying Balance of Payments problems. Besides, various Agreements contain clauses that allow developing countries to derogate from the rules, contained under (i) *exception clauses* for particular situations or that may be necessary for security reasons; and (ii) *SDT provisions*, found in all agreements, applying to developing countries and LDCs.

Alternative approaches

LCPs remain a key instrument of linkages development but given legal constraints, resource-rich countries may have to find alternative ways to quota-related LCPs to avoid the risk of being challenged. These include:

i. *Horizontal or non-specific measures,* to entice companies to deploy efforts to source locally or to employ the local workforce.

ii. *Institutional frameworks* in partnership with the private sector, such as the development of suppliers' programmes, to accompany local suppliers in meeting requirements of extractive companies, accessing mining procurement, and sustaining supply on a long-term basis.

iii. Further, LCPs are not an end *in themselves* and hence to be integrated in countries' national development plans or industrial policies. Countries have not succeeded because measures were done to meet expectations regarding insufficient contribution of the extractive sector to the economy, without having regards to the overall role the extractive industry should play in the industrial development of a country.

iv. Finally, *a regional approach to LCPs is essential* to the success of the policies. Many national LCPs contradict the objectives of regional integration, because by design, they only focus on national interests. This can potentially jeopardise regional integration efforts. A coherent and coordinated effort is needed, not only to preserve the regional integration agenda but also to tap market opportunities from neighbouring countries and make use of their comparative advantage to complement national efforts.

This article summarises some of the insights from Ramdoo, I. (2016), Local content, trade and investment: Is there policy space left for linkages development in resource-rich countries? ECDPM Discussion Paper 205. http://ecdpm.org/dp205. The study was conducted by Isabelle Ramdoo when she was Deputy Head of Economic Transformation and Trade Programme at ECDPM.

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Global trade slowdown and SDGs

by Mohammad A. Razzaque

The unprecedented slowdown in global trade can have important implications for achieving SDGs. It is high time for the global community to consider actions that will revive global trade flows and enhance the participation of poor and vulnerable countries in them.

Unlike its predecessor, the 2030 Agenda for Sustainable Development provides an elaborate role – both direct as well as cross-cutting – for international trade in achieving many specific goals (SDGs) and targets. The Millennium Development Goals (MDGs) explicitly mentioned trade only under MDG 8 relating to global partnerships, while in the SDGs trade appears directly under seven goals concerning hunger, health and wellbeing, employment, infrastructure, inequality, conservative use of oceans, and strengthening partnerships. All-in-all, the word 'trade' has been used 19 times in the text of the SDG document that was adopted by the global community. Compared to MDGs, the SDGs go further in clearly identifying the tools, or 'means of implementation', for meeting its targets. It is in this respect that trade has been given a prominent role.

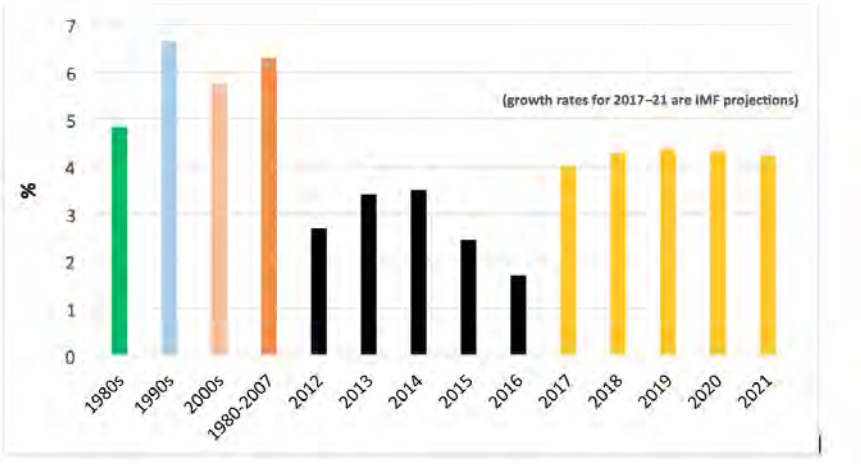
This heartening effort of mainstreaming trade in a global development strategy has, however, come at a rather inauspicious time. More than eight years after the global financial crisis of 2008, the world economy is still struggling to return to its pre-crisis growth trajectory. This is accompanied by a severe trade slowdown that has been unprecedented in nature. The weak economic performance of the euro-zone, further exacerbated by the likely fall-outs of Brexit, growth slowdown in some major emerging economies including Brazil and China, slump in commodity prices affecting export performance of a large number of poor and vulnerable countries, heightened protectionist measures in the aftermath of the global financial crisis, and the failure to conclude the long-running Doha Round of multilateral trade negotiations – all of these have contributed to the very weak on-going trade expansion. In the backdrop of a prominent role assigned to trade in the SDG framework, the current outlook for trade-led economic growth and development appears to be uninspiring and achieving its full potential is likely to be very challenging for many developing countries.

The global trade slowdown

In 2016, world trade is expected to expand by 1.7% — lower than the corresponding growth of the previous year, 2.4%, and representing the slowest pace of yearly growth since the global financial crisis (Figure 1). Indeed, since 2012, for every individual year, global trade has grown at a much slower pace than that of the average growth of about 6.5% achieved over the almost three decades (1980–2007) immediately prior to the financial crisis of 2008. Such a prolonged period of weaker world commercial activities is unprecedented. If International Monetary Fund (IMF) projections are correct, 2012–21 could be the slowest decade of trade expansion since World War II.

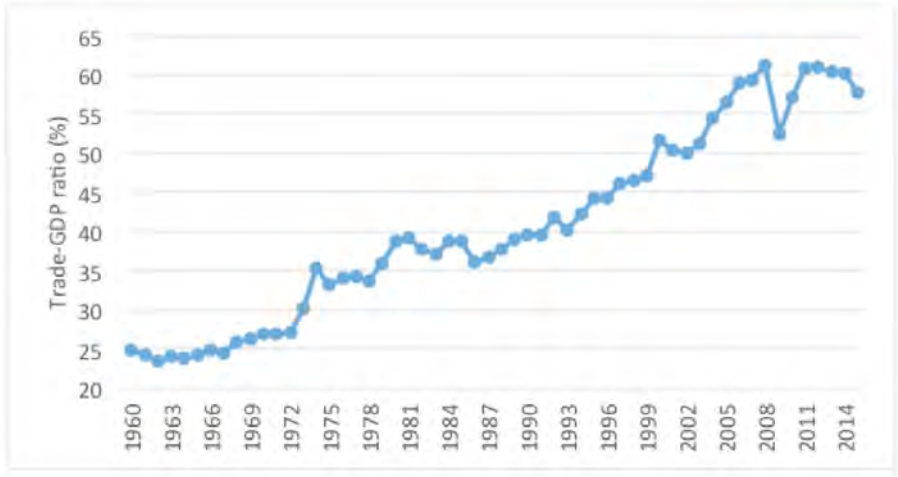
The long-run trend in trade-to-output ratio in the global economy had seen a rapid rise from less than 25% in the early 1960s to over 60% in 2008. This was the time when the growth in trade on average was twice the growth of GDP. However, since the global financial crisis, for most individual year trade growth has barely matched or even fallen short of the expansion in overall economic activities as reflected in Figure 2. While one can argue whether such changes in trade-orientation should necessarily be a cause for concern for the global economy, it is important

Figure 1: World trade growth is historically low for an unprecedentedly prolonged period of time



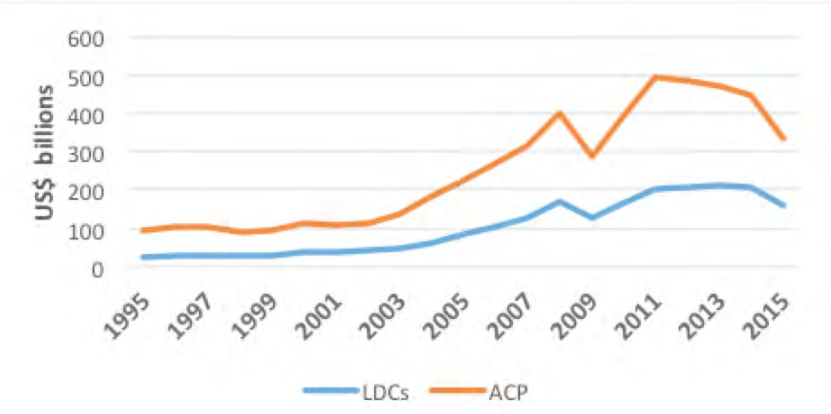
Note: Global trade volume of goods and services. Source: Data are from IMF and WTO.

Figure 2: After a strong rise over the past five decades, the trade-orientation in the global economy has stalled



Source: Data are from World Bank World Development Indicators.

Figure 3: Trade collapse—merchandise exports of ACP and LDCs



Source: Data are from UNCTADstat

to consider what it implies for the participation of poor and vulnerable countries in world trade.

Recent IMF analysis suggests that overall weakness in economic activity (in both developed and emerging countries such as China), including investments, accounts for nearly three-fourths of the trade slowdown. The rest can be attributed to structural factors, which include, among others, China's rebalancing of economic activity away from investment towards consumption and services, with a depressing impact on trade; consolidation of value chain activities in production and trade, leading to domestic inputs being substituted for imported inputs etc. Trade expansion in the 1990s was also triggered by trade liberalisation which has not achieved any further breakthroughs in recent times largely because of stalled multilateral trade negotiations. The drive for unilateral trade liberalisation has also been weak.

Collapse of ACP and LDC exports

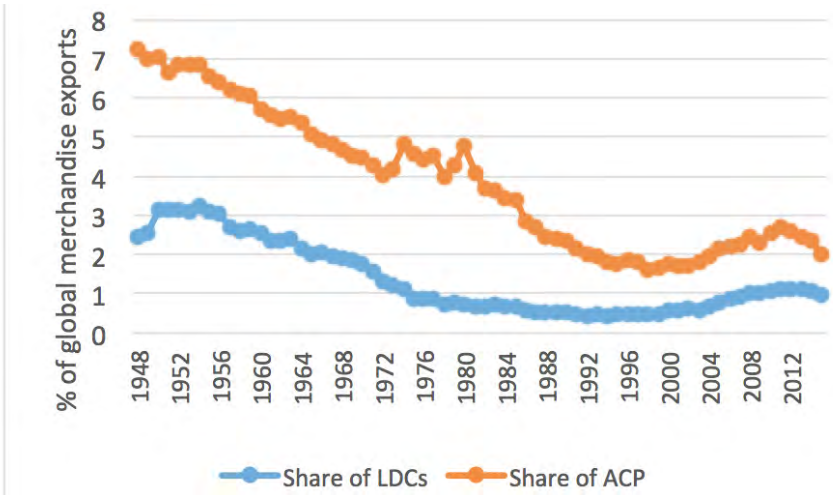
Securing enhanced participation of the poorest and most vulnerable countries in world trade, especially least-developed countries (LDCs), has been a longstanding international development objective. While there was some encouraging progress during the 2000s, consequences in the aftermath of the 2008 financial crisis seem to have reversed the trend. During 2000–2008, LDC exports grew nearly five-fold, from US$43 billion to about US$200 billion, the exports from African, Caribbean and Pacific (ACP) countries rose more than three times, from US$146 billion to US$478.5 billion. However, in 2015, LDC exports stood at only US$201 billion – just about the same as in 2008.

On the other hand, ACP exports in 2015 - US$434 billion - were actually more than $50 billion smaller than they were in 2008. An overwhelming majority of these countries have failed to diversity their export structure, continuing to rely on primary commodities including fuels and other minerals, prices of which collapsed in the aftermath of the financial crisis, causing their export revenues to suffer. As a result, the secular decline in the share of these countries since the 1950s was arrested only for a short period, between 2006 and 2010, when their shares started declining again.

Indeed, it seems that faltering LDC participation in global trade is to deal an early blow to one SDG target as stated under SDG 17.11. Having adapted from the other UN-led initiative—the Istanbul Programme of Action (IPOA) for LDCs for the Decade 2011–2020—this target stipulates a doubling of the LDC share of global exports by 2020. At the start of IPOA implementation, the corresponding LDC share was 1.05%; this declined to 0.96% in 2015. Estimates presented in a Commonwealth Secretariat analysis shows that achieving the target of raising this share to 2.1% will require LDCs to post an average annual export growth rate of more than 25% during 2016–2020. This appears to be an almost impossible task given current trends in global trade.

The global financial crisis has also fuelled a rise in protectionism, with different countries implementing various trade-restrictive measures. The WTO estimates that a total of 1,583 trade-restrictive measures have been imposed by G20 countries since 2009, and only a quarter of these measures have been removed. These restrictions have had a detrimental impact on trade

Figure 4: Share of ACP and LDCs in global trade (%)



Source: Author's calculations from UNCTADstat data

flows, particularly for the world's poorest countries. According to an estimate by Evenett and Fritz (2015), LDCs have incurred a loss of US$264 billion in exports as a result of these protectionist measures. In other words, the value of LDC exports could have been 31% higher if post-crisis protectionism had been avoided.

Way forward

It follows from the above that, as countries start implementing SDG-related actions, they confront a challenging external environment. The sluggishness in trade points to a situation where its traditional role to generate growth and development—for which there is broad-based consensus—is not being utilised. There are well-documented benefits of trade, including efficiency gains that help lower the costs of production and the prices of goods, productivity gains through the spread of knowledge and technology and realising the benefits of economies of scale and scope by allowing specialisation in the goods and services in which countries have a comparative advantage. Reviving global trade flows is an important issue to keep the SDG implementation process on track.

At the same time, the need to revitalise global trade flows and the multilateral trading system cannot be overemphasised. Following the WTO's Nairobi Ministerial Conference, and not least because of the Doha Round running for more than 15 years, identifying concrete solutions to the current stalemate is one of the most pressing challenges for multilateral cooperation. As a first step, effective implementation of the WTO's Trade Facilitation Agreement (TFA) can contribute to enhanced trade flows by reducing costs and renewing commitment to trade multilateralism. Given that tariffs have come down quite significantly, most trade and welfare gains are to be associated with tackling non-tariff barriers and improving trade facilitation measures. According to the World Trade Report 2015, implementation of the TFA has the potential to increase global merchandise exports by up to US$1 trillion per annum, which can certainly help bolster the role of trade as an effective means of achieving the SDGs.

It cannot be overstressed that, without a vibrant multilateral trading system, it will be very difficult to promote and protect the trade and development interests of vulnerable countries. This is particularly so when a number of trade-related development goals in the SDGs are linked to Doha Round-related issues. In this connection, it is imperative to immediately remove all the trade restrictions against poor and vulnerable countries that were imposed following the global financial crisis. Along with this, there should be enhanced trade capacity-building support to ensure the participation of vulnerable countries in the multilateral trading system. Needless to mention, it is the lack of productive capacity that is the most important constraint facing many poor and vulnerable countries. To put things in perspective, 48 LDCs with a total population of 837 million, have combined merchandise exports of about US$210 billion (estimated for 2014), which is lower than what Malaysia, a country of 27.8 million people, exports. With a share of close to 12% of global population, LDCs' contribution to global GDP stands at just above 1%. In order to achieve enhanced and transformative productive capacity, these countries will require reinvigorated and sustained support from the international community. According to the World Investment Report 2014 of UNCTAD, at current levels of investment in the relevant sectors, developing countries face an annual gap of US$2.5 trillion per year in meeting the SDGs by 2030. The SDGs are an important opportunity to address their developmental problems including their enhanced participation in global trade.

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A simple and targeted trade policy for developing countries after Brexit

by Max Mendez-Parra

Although the UK may have achieved the same outcomes working within the European Union, Brexit constitutes an opportunity to improve trade policy towards developing countries, making it simple and skewing its benefits towards the poorest countries.

Photo: flickr.com

For the UK, Brexit implies one of the most important recent policy designing exercises. The definition of a new trade policy will be at the core of it and will represent its most visible element. This policy will affect the trade relationships between the UK and the rest of the world. Given the historical and economic links between the UK and many developing countries, Brexit implies a major challenge for their trade (Mendez-Parra et al, 2016). But also it may represent an opportunity to reshape and improve the existing policies affecting their trade with the UK.

UK-EU future relationship debate

The type of relationship between the UK and the European Union (EU) that will emerge after Brexit will influence UK trade policies towards developing countries. If the UK is part of a customs union with the EU, the policy tools available will be limited to a set similar to the one currently available. The UK will not be in position to define new tariffs, preferences or free trade agreements (FTAs). But also other typical deep integration provisions, such as the harmonisation of standards and regulatory procedures that may or may not be part of the agreement between the UK and the EU, may affect the operation of value chains involving the UK, the EU and developing countries.

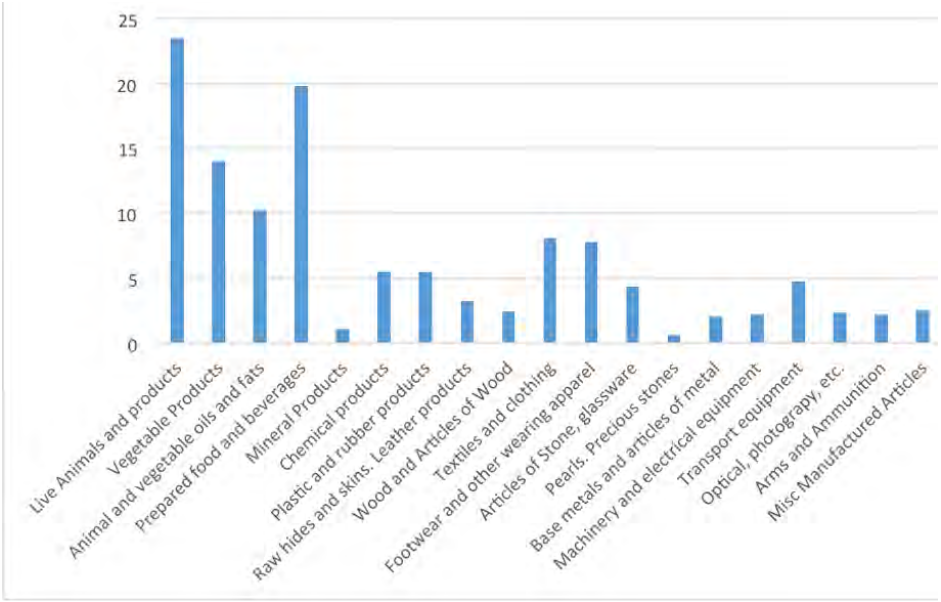
Although the debate in the UK about participating in both the customs union and the EU single market is very active, the discussion is primarily limited to the effects on the UK. This includes the possibility of defining an autonomous trade policy (i.e. FTAs), the financial services passport and immigration controls. Very little is mentioned about how the new trade policy tools can be designed to help developing countries trade more, contributing to their development. Some principles and specific tools need to be outlined considered in the definition of the trade policy, specifically towards developing countries.

Simplicity in tariffs and preferences

Simplicity must rule the definition of each of the elements of trade policy (Winters, 2016). A policy including numerous special regimes and provisions to attend particular situations is costly to administer. This is especially when the policy tries to provide benefits to everyone, without acknowledging the need of defining priorities. The EU trade policy on agricultural products, for example, contains provisions for domestic producers (i.e. high tariffs), developing countries (i.e. preferences) and large exporters (i.e. quotas).

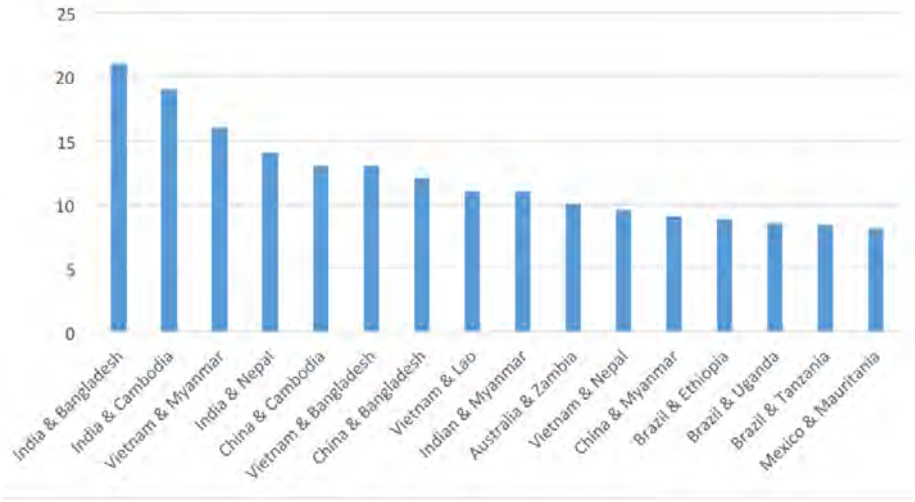
With respect to the definition of its Most Favourable Nation (MFN) tariff (i.e. the default tariff applied to any World Trade Organization (WTO) member), the UK should aim to eliminate the existing tariff peaks and escalation currently applied (Figure 1). Ideally, a uniform, ad-valorem and low tariff applied across the universe of products allows the collection of some revenue and provides some bargaining power in the negotiation of future FTAs. However, assuming that the UK inherits the EU WTO schedules (Bartels, 2016), this sort of tariff structure will be impossible to apply. In more than 1,200 tariff lines, the EU has bounded its tariffs at zero (WTO, 2016). To modify this, the UK will have to negotiate the inherited schedule with all the WTO members. Consequently, the

Figure 1. EU's tariff structure by TDC section 2014 (in %)



Note: Based on 10 digit tariff data. Ad-valorem equivalent tariffs as generated by TRAINS, using UNCTAD method 2. Names of TDC sections were modified for editing purposes. Source: Own elaboration based on TRAINS using EU Common Nomenclature at 10 digits.

Figure 2. Overlapping of LDCs and possible UK FTA partners exports to the UK (2015) (in %)



Note: Finger-Kreinin Index on the UK imports from these pair of partners at HS 6 digits
Source: Own elaboration based on Comtrade using TradeSift

new MFN tariff will need to be defined, in the short run, within the limits of the existing schedules. This, however, does not prevent the reduction of the existing tariff peaks in agriculture, food and textile products.Preferences for developing countries should be based on a simple two-tier system: for least developed countries (LDCs) and some non-LDCs.

For LDCs, it is likely that the UK will put a similar regime to the existing EU Everything but Arms (EBA) with duty free and quota free (DFQF) access to all LDCs in all products. However, the UK should not miss the opportunity to improve the EBA. Common rules of origin with low domestic content thresholds and flexible cumulation rules with other developing countries and UK FTA partners should be part of the system.

Under the Generalised System of Preferences (GSP) the UK, through the EU, provides preferences to many non-LDCs. The UK must replace the existing two-tier system (GSP and GSP+) with a single offer of preferences. However, as preferences for everyone means preferences for no one, the system for non-LDCs must be less generous than the one for LDCs. The offer should not include many key products for LDCs such as coffee, tea, sugar, cotton, tropical fruits and its processed products. Other products intensive in the use of labour, such as some textiles, could also be excluded. Consequently, it should aim to exclude between 10% and 20% of tariff lines to improve the offer for LDCs. Moreover, for the benefit of both LDCs and the small non-LDCs, a simple and transparent general (i.e. not based on products) criterion should be applied to exclude large and competitive developing countries.

The Single Market, standards and value chains

The membership or access to the EU single market will have implications beyond the UK. Compliance of EU standards is assumed for any product originating in any of the member states. Moreover, any imported product that meets EU standards can travel freely within the EU (Holmes, 2016). Flowers

imported from Ethiopia into Holland, for example, can be distributed to UK retailers without any additional certification. This helps the seamless operation of the value chain involving UK retailers, Dutch traders and Ethiopian producers. The customs union secures that products can be traded within it without proving its origin.

If as part of the agreement with the EU, there is no standard harmonisation, nothing will prevent UK standards drifting away from EU ones. In this scenario producers in developing countries supplying both the UK and the EU will have to meet multiple standards; increasing production costs and reducing economies of scale. In principle, this is unlikely as even British producers, for which the EU is the largest export market, will be affected too. Moreover, the 'great repeal act' would convert all EU regulations in British law on the day of Brexit (DexEU, 2016). Consequently, UK standards are likely to, if not be harmonised, mimic the EU's ones.

However, even when standards may be similar, double certification costs would not be avoided when the products are exported to both the EU and the UK. In the new EU-UK trade agreement, it will be desirable that the mutual recognition of conformity assessment is extended to the products originated from developing countries.

Existing and future FTAs with developing countries

As part of the EU, the UK is a member of FTAs with developing countries, including Vietnam, Central America and the Economic Partnership Agreements (EPAs) with some African, Caribbean and Pacific countries. Some of these countries, especially some members of EPAs, have the UK as a major destination of their exports of goods (i.e. Kenya) or services (i.e. the Caribbean). Although they include LDCs as well, they are expected to have DFQF under the preferential regime for LDCs.

Based on the territoriality clause of the EPAs, these FTAs apply exclusively to the EU territory. Consequently, many non-LDCs covered by these agreements will find market access restricted into the UK after Brexit. Although the UK may have interest in renegotiating these FTAs, they will not be in a high position in the priority list of partners to negotiate with, particularly in a moment where the negotiation resources will be extremely busy (Lydgate et al, 2016). This suggests that a sort of transitional arrangement may be needed to avoid the disruption (Rollo, 2016). This will be complicated when the UK will be in the process of accommodating its position at the WTO. A WTO waiver may be complicated and it will take time. This means that the transitional provisions will need to depend more on diplomacy to prevent challenges by other WTO members, rather than an agreement.

Thinking ahead, FTAs with developing countries need to be thought of as additional trade policy tools towards non-LDCs. They should be available to any non-LDC wishing to improve their access with respect to the non-LDC preferential regime explained above or that want to introduce deep integration elements in their relationship with the UK. This agreement should be based on the non-full reciprocity of preferences (i.e. the UK should bear most of the effort to make the agreement WTO compatible). They should include common rules of origin with cumulation with LDCs, developing countries and other UK FTA partners. In this regard, the UK should aim for a single model of rules of origin in all its preferential regimes and FTAs.

FTAs with other countries

Among the UK's priorities is the negotiation of FTAs with other developed countries and emerging economies such as China, India and Brazil. They are expected to be negotiated under more reciprocal principles. However, they may affect trade from LDCs (and other developing countries) due to the additional competition (i.e. preference erosion) that they may exert in the UK market on the products also exported by LDCs. The magnitude of the effect depends on how similar the structure of the exports to the UK by the LDCs and emerging economies is and on the preference margin offered by the UK (Rollo et al, 2013). An FTA with India, for example, may have important effects on Bangladesh and Cambodia, as their exports to the UK are similar in around 20% of the products (Figure 2).

The UK may need to exclude from liberalisation in the FTAs with emerging countries products that clash with the imports from LDCs and where the preference margin offered is high. Moreover, rules of origin in these FTAs should favour the integration of inputs from LDCs. Additionally, if mutual recognition of certification bodies is agreed, it should be extended to the products originated in LDCs. This may favour the creation of value chains involving the UK, its FTA partners and LDCs.

Full coverage of services preferences

Exports of services have grown faster than exports of goods in developing countries in the last two decades (Balchin et al, 2016). Nevertheless, they are limited primarily to cross-border or regional trade. Although capacity constraints in the provision of services apply in many LDCs, market access issues prevent them from exporting services to far away distances, particularly to developed countries. Restrictions on certain services or certain provision modes (i.e. mode 4 on presence of natural persons) under the General Agreement on Trade in Services (GATS) constitute a major constraint to expand this trade from LDCs.

UK preferences on services, which could be put in place from the very same day of Brexit, should follow the same principles as preferences for goods. They must be simple and provide full coverage. There is no point in offering preferences on services with limited provision capacity from LDCs (i.e. aircraft ground handling), or that exclude key provision modes (notably

Mode 4) or that may benefit only a limited number of providers (i.e. artistic performers). The UK should refrain from using trade-related policies to address other domestic objectives (i.e. curving immigration). These objectives should be addressed using other policy instruments, in a non-discriminatory and fair way.

Trade facilitation

Although procedures are simple and times at customs tend to be short, exports to the UK may be costly for small producers in LDCs. For example, de minimis thresholds for customs are very low. Every import above €150 must pay duties. In addition, imports of more than €22 incur VAT (Pope et al, 2014). Moreover, such low values are also inefficient from the tax collection point of view (Hintsa et al, 2014).

The UK may find it beneficial for LDCs, as well as from the tax efficiency point of view, to raise these thresholds from the very same day of Brexit. To avoid an important loss of revenue and/or unfair competition to domestic suppliers, it should limit these benefits to imports from LDCs, on a strictly business-to-consumer basis, and only for consignments of single or small amounts of units. VAT on these sorts of transactions could also be forfeited. These benefits will help current producers in LDCs but could also develop logistics and packaging activities in LDCs.

Key recommendations

Constraints of a different nature affect policy making, with second and third-best solutions being the typical outcome. Brexit is in itself, far from being an ideal outcome and the UK could have continued working inside the EU to reform it. However, within this context, there is scope for some policy instruments to reduce the damage and, in some areas, to actually improve policy and outcomes.

Trade policy will be at the core of Brexit, operating in the relationship with developing countries. There are a series of guiding principles that should define the UK trade policy, especially towards developing countries. Trade policy must be simple with its results skewed towards LDCs. The principle of preferences for everyone means preferences for no one should apply, even when this may imply some costs for other developing countries. The UK may need to use Aid for Trade to compensate those countries affected by these policy changes. Full coverage and simplicity should also apply in the definition of preferences for services. LDCs' key products should be excluded from the FTAs with certain emerging economies and additional LDC-friendly provisions should be introduced. Finally, there are certain elements that can be introduced on the very same day of Brexit.

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The CFTA clock is ticking…

by Kathleen van Hove

African officials continue to move the Continental Free Trade Area process, discussing the negotiating modalities. Civil society and private sector call for pragmatism.

In June 2015, the African Heads of State formally launched the negotiations of the Continental Free Trade Area (CFTA). This ambitious endeavour aims to bring down the barriers for trade of goods and services on the continent, thereby reducing the cost of intra-Africa trade. It is seen as one pillar of the ambitious developmental Agenda 2063 of the Africa Union (AU), alongside other continental action plans such as the Action Plan for Boosting Intra-African Trade (BIAT), the Accelerated Industrial Development for Africa (AIDA), and the Program for Infrastructure Development in Africa (PIDA). A swift implementation of this comprehensive set of master plans should lead the African continent on the path to structural transformation, economic growth, job creation and sustainable development.

An ambitious agenda

The list of arguments in favour of such a continental trade agreement is long, starting with the creation of a vast market for goods and services, fostering intra-Africa trade, solving the problem of overlapping memberships, stimulating structural transformation, and creating more jobs, among others. Not only have the Heads of State set high ambitions and expectations, they attached a very tight timeframe for the negotiations, namely the end of 2017.

This ambitious agenda is in sharp contrast with the current global trends. The multilateral trade negotiations are at an all time low, Donald Trump announced his intentions to withdraw from some regional trade agreements, and the UK chose to leave the 'regional integration project by excellence' with their Brexit vote. But Africa keeps its strong optimism in regional integration and the heads want to keep the momentum. Given this tight agenda, technical working groups, officials, experts and ministers have been meeting regularly over the past months. At the end of November, the African Trade Ministers met again in Addis to discuss the modalities of the CFTA negotiations. The discussions were heated, and it was far from easy to come to an agreement, but the process continues and in principle the timeline stands.

A call for pragmatism by non-state actors

The CFTA was also the central theme of Africa Trade Week 2016, which took place simultaneously in the same premises. This provided a platform for policy dialogue between key African stakeholders including national and regional officials,

Picture taken by author at Africa Trade Week 2016, Addis Ababa.

civil society, researchers and the private sector. While the officials and ministers were busy discussing the negotiating modalities, the forum debates were focused on the content of the CFTA and the implementation. The final day was spent on identifying a research and capacity building agenda to support the CFTA process.

Most of the private sector actors and researchers did not oppose the idea of a CFTA but several made a call for focusing on the real issues at stake today. The African continent is a patchwork of FTAs and Custom Unions that exist on paper, but that are hardly implemented. The hurdles to intra-Africa trade are rampant, from tariffs to all sorts of non-tariff barriers. Organisations such as Borderless Alliance in West Africa work relentlessly to make trade and transport more efficient and reduce the high transport costs that are caused by bribery, custom delays, high taxes, inefficient procedures and poor infrastructure. Private sector is more concerned in addressing those bottlenecks before embarking on the next grand integration process.

Private sector and civil society alike are also keen on being more effectively consulted and involved in integration processes. They should not only be involved in the implementation and the monitoring of trade agreements, but early on in the drafting and negotiation of these agreements, including the CFTA, so that the results of the negotiations will be commercially meaningful and relevant to (business) people in Africa.

Who are the CFTA champions?

An important determinant of success of such a major exercise is the lead role that key actors can play: the CFTA champions. While the AUC and UN Economic Commission for Africa (ECA) work hard to push the agenda forward, it is unclear which of the big African economies are leading the pack. One of the largest economies seems to be stepping on the breaks, asking for enough time and flexibility. Dr Enelamah, the Nigerian Minister of Industry, Trade and Investment said:

> *"Trade agreements with binding obligations and economic consequences are not to be taken lightly. Trade liberalisation is good but complimentary policies are required. Negotiations must be based on negotiating mandates that reflect national economic priority. Nigeria is reversing the weaknesses and failures that we made in previous agreements. Those failures were made due to insufficient consultation with stakeholders and not taking into consideration the vulnerabilities of our domestic market."*

Nigeria formally expressed a reservation on the decision making for negotiating the CFTA, illustrating the potential underlying tensions in the CFTA process.

In the same vain an experienced trade diplomat from South Africa, Ambassador Faizel Ismael, urged all countries to do their homework. The genuine multi-stakeholder dialogue to define the national development strategy, of which trade policy is a integral part, is time consuming and tough but a pre-condition to engaging in bigger trade agreements. He argued that 70% of the negotiations take place at home with the various constituencies rather than with the other negotiating parties. For a trade agreement to make sense and be inclusive, it needs to be based on real interests. The experience of the Free Trade Area of the Americas, which failed despite five years of negotiations, due to the lack of real business interest, seems to prove him right.

Beyond the timeline, the most important question is whether the political will expressed by the Heads of States of the African Union to establish a Continental Free Trade Area is indeed reflected in sufficient domestic interests in enough African countries to push this agenda forward. For the vision of a vast African market where goods and services can be traded freely to be materialised, some big economies and economic interests will need to step up and champion the process.

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Links between trade and gender in the African services sector

by Irene Ochem

Gender-sensitive policy-making and legislation is needed to address the challenges with gender inequality and harness the great potential that trade in the services sector holds for women's economic empowerment and sustainable development in Africa.

Nigerian Minister of Women Affairs and Social Development, Aisha Alhassan, visiting stands at the 2nd Africa Women Innovation and Entrepreneurship Forum (AWIEF) Conference and Trade Exhibition event, 28 - 29 September 2016, Lagos. Photo supplied by author.

The components of the services industry are defined as elements of economic transactions that are intangible, invisible and non-storable as opposed to goods transactions, and they serve as ingredients for successful manufacturing, agricultural and industrial activities in an economy. It follows that the services sector would encompass such areas as: wholesale and retail trade; information and communications technology (ICT); transport and storage; banking, financial and insurance services; education; health; environmental protection; real estate; business services and advisory; tourism and hospitality; community, social, and personal services.

The services sector is becoming increasingly important as it contributes in a significant measure to Gross Domestic Product (GDP) and trade in many countries. Interestingly too, a progressively larger percentage of those engaged in the services industry are women, underscored by the phenomenon of women moving out of agriculture into the services sector in developing economies and out of other industry settings into services in developed economies. The sector also represents the main sector of employment. A World Bank's 2012 global survey on women employment showed that whereas 30% of women were employed in agriculture, and 16% were in industry, more than 50% of working women were engaged in the services sector.

Trade in the services sector has the potential to be a strong driver of economic growth and sustainable development in Africa and other developing regions of the world. Recent rapid developments in innovation and changes in technology have created new possibilities and capabilities. This article presents a consideration of the relationship between gender and services trade and its impact on the economic empowerment of women in Africa.

Services trade and constraints to women empowerment

Women engagement in the services sector in Africa significantly contributes to poverty reduction, employment and wealth creation. However, despite playing an important role and making

reasonable contributions to their economies, African women as a group are not given adequate attention by their governments and policy-makers. This lack of an enabling policy environment and regulatory framework impedes the development of a more robust services sector in Africa. Trade policy outcomes such as income, employment, empowerment, and intra-household relationships have been seen to be gender-specific or gender-differentiated. In contrast to men, women operating in the services sector are mainly concentrated in micro- and small-scale enterprises and low-productivity activities with many working in the informal settings. In the tourism and hospitality spheres of the services industry for example, women often manifest an innate propensity to assume leadership positions and functions, besides constituting the backbone of activities in the sector. Therefore it would be argued that this industry, at least from this specific viewpoint, offers impressive career development and enhancement opportunities as well as personal realisation for women. Ideally, and also in consideration of the foregoing discussion, it would be expected that the huge potential encompassed in the different sectors of the services industry would be maximally harnessed to foster the economic empowerment of women especially in a world region like Africa where the economic relevance of women's work or its contribution to socio-economic development is not yet fully appreciated.

In a globalised world where women thought leaders, innovators and policy influencers are beginning to take the lead in various spheres of public life, it would be hoped that the necessary enabling environment is created to enable women achieve their potentials in the services sector. Yet trade in the services industry is laden with the same gender-based discrimination, segmentation and limitations that affect the organisational levels of engagement for women and impede their advancement to leadership positions in all spheres of human endeavour. Women in Africa are more negatively affected by the disadvantages of trade liberalisation and face more challenges tapping into opportunities that international trade offers.

Despite the growing proportion of women in services sector trade and the contribution to a country`s economic growth, there still remain several challenges and constraints to economic empowerment of women. These include gender inequalities in access to economic opportunities, gender bias in education and skills development, less access to capital, finance, technology, market information, business networks, and ownership of productive inputs such as land. Women are additionally constrained by disproportional responsibilities for unpaid domestic work and family care, which translates to time poverty and less energy for unleashing their full potential for economic enhancement.

We take as an example the tourism and hospitality industry, a major services sector that offers important opportunities for women's employment, revenue earnings and personal realisation across different African countries. It is widely observed that women's participation is significant in the entire tourism value chain ranging from accommodation, transportation, restaurants, and souvenirs, to guides, tour operators and travel agencies. However, women's job careers and economic activities in this sector remain predominantly at the lower levels of operations with fewer women than men occupying space at the topmost height of the leadership and corporate management ladder. Another example is the case of women informal, small-scale trans-border traders who make an important contribution to economic growth and government revenues in sub-Saharan Africa. On the one hand this offers appreciable employment opportunities and revenue earning for the operators who usually are inhabitants of the border areas. On the other hand women informal cross-border traders are vulnerable to invisibility, stigmatisation, violence, sexual harassment and similar serious abuses, as well as corruption by immigration officials and challenges related to poor infrastructure in terms of communication technology and accessible roads. They endure poor working conditions, illiteracy, data paucity due to the informal nature of cross-border trade, and lack of recognition of their economic worth and contribution.

Lessons and recommendations for policy-making

Women play an important role in trade in the services sector that helps to build African economies and contribute to sustainable development. It is therefore imperative for African countries to facilitate and ensure the policy space, institutional and regulatory mechanisms to make services trade work for women, their equal economic opportunities and empowerment. Governments must put in place appropriate trade policy and gender-sensitive legislations targeted at removing barriers and enhancing opportunities. These can include:

- fiscal policies that provide incentives to encourage exports from women-owned services sector businesses;
- reducing tariffs in services enterprises with high female employment ratios such as tourism and hospitality;
- enhancing access to finance and advancing financial inclusion for women;
- putting in place policies and regulatory frameworks to encourage banks and finance institutions create more innovative gender-focused products and services to boost women entrepreneurship;
- having appropriate education and skills development policies to reduce illiteracy and allow women be more qualified to take up higher-level jobs in the services value chain;
- increased access to STEM (science, technology, engineering and mathematics) education and equitable technical training to enhance women innovation in business and entrepreneurship; and
- instituting policies to reduce women's time poverty by redistributing unpaid domestic and care work.

All in all, it is essential to create the necessary awareness and building capacity that will make women more knowledgeable and aware of their rights to equal economic opportunities. Policies should ensure that women are treated as equal parts of the labour force and are not exploited – "equal pay for equal work" – and that they acquire skills sought by services companies as they expand and trade internationally.

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EU trade policy: Gender-sensitive or gender blind?

by Elina Viilup

A better understanding of the gender dimension of trade agreements would contribute to better policy making. The EU has made considerable progress in mainstreaming gender equality in some policy areas, including development policy, but trade policy has been left too much aside.

There are strong arguments for addressing gender-related inequality. The World Bank has convincingly shown in its studies that addressing such inequalities would lead to productivity gains and in general more benefits from trade liberalisation for all, both in OECD and developing countries. The evidence is particularly significant in the case of developing countries. Some experts have estimated that the average per capita growth over 30 years could have been as much as 64% higher in Sub-Saharan Africa, 40% higher in South Asia and 32% higher in MENA, if initial gender enrolment conditions and enrolment gender gaps had mirrored those in East Asia.

Complex trade-gender nexus

That said the trade liberalisation–gender nexus is far from straightforward. Trade liberalisation and the development that comes with it have created positive impacts for women across the world. It is generally believed that trade liberalisation helps to bring women into paid employment. Globalisation and trade liberalisation have – for some women – brought higher incomes, increased economic independence, replaced unpaid work at home or in informal economy and elevated their social status. For example, it has been estimated that the Free Trade Agreements that Mexico signed with North America and the EU created three times as many jobs for women than men.

This has not always been the case, though, as women are far from being a homogenous group. For example, a 2007 research project that involved several Latin American countries – Argentina, Brazil, Columbia, Chile, Mexico and Uruguay – found that the expansion of international trade into these countries had not resulted in significant incorporation of women to the labour market, nor had barriers been broken down, nor the women's qualifications been taken advantage of. On the contrary, the trade liberalisation had left women with a double burden. A 2011 resource paper prepared for UNCTAD argued that "globalization and trade liberalization bring complex and often contradictory effects on women's access to employment, livelihood and income. In some cases, they generate employment and entrepreneurial opportunities for women; in others, they create burdens by disrupting markets in which women operate".

Hence, while there is some proof that the expansion of international trade may in some cases bring about an increase in paid employment and income, it has not done away with the continued gender bias that manifests itself in job segregation and wage inequalities. The multiple constraints that prevent women from fully benefiting from trade opportunities are well-known and include: a) women's asymmetric responsibilities, b) limited access to productive resources; c) their reproductive and motherhood roles; d) gendered social norms; e) labour market segregation; f) lower skills and lack of training for better jobs; g) lack of public services to assist women in their household tasks; h) restricted access to information; i) consumption patterns; and j) poverty.

These factors affect women worldwide but – again – women in the developing world tend to be disproportionally disadvantaged. Their barriers to accessing productive resources are particularly high and they tend to be concentrated in specific low-paid economic sectors, such as the clothing and textile industry, subsistence agriculture, low-skill services and also the informal sector.

It is worth noting that, among these constraining factors, many studies point out that women's education and skill levels seem to be one of the most important in determining how trade liberalisation affects women's economic and social empowerment, but it is definitely not the only one. Others argue that whether men and women are able to benefit equally from positive effects of trade will depend largely on the implementation or reinforcement of public policies (e.g. availability of childcare, employment policies, support for starting a business, etc.).

Gender in multilateral trade

Gender equality is one of the UN Sustainable Development Goals and gender mainstreaming has become an official policy in many international organisations and developed countries. The 1995 Fourth UN World Conference on Women in Beijing made a commitment that the UN members would "ensure that national policies related to international and regional trade agreements do not have an adverse impact on women's new and traditional economic activities" and "establish mechanisms and other forums to enable women entrepreneurs and women workers to contribute to the formulation of policies and programmes being developed by economic ministries and financial institutions". No tangible progress has been made in this area, however. In particular, there is as yet no consensus among the World Trade Organization (WTO) members whether gender equality should be explicitly on its agenda.

Gender in EU trade policy: a basic principle

Promoting equality between women and men is one of the underlying values of the European Union (EU), enshrined in its Treaties. According to these, the EU must strive for equality in all its activities. Sex discrimination is further expressly prohibited by the

Charter of Fundamental Rights. The EU Member States have ratified the eight Fundamental Conventions of the International Labour Organization (ILO) that, together, correspond to core labour standards. These include Conventions 100 and 111 that tackle equal remuneration and non-discrimination. The EU's internal strategy for promoting gender equality is in a league of its own among other multilateral organisations, many of whom have their own gender equality strategies in place and/or promote gender equality (World Bank, EBRD, UNCTAD, OECD).

The Treaty on the Functioning of the European Union (Art. 207) stipulates that the "the common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action" - creating thus a strong link between the EU's external policies and the trade policy - and the principles guiding the EU's external action. The European Parliament's Committee on Development has further repeatedly argued that the EU's trade policy should comply with Article 208 of the Treaty, which establishes the principle of policy coherence for development by stipulating that "the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."

Not a strategic priority

Mainstreaming gender equality into EU policies is guided by the Strategic Engagement for Gender Equality 2016-2019, a document that covers all EU policies

The EU's trade policy should logically come under the thematic priority areas related to promoting gender equality and women's rights across the world. However, in contrast to the previous 2010-2015 gender mainstreaming strategy, trade policy does not seem to fall under this objective in the new strategy. Instead, trade pops up under the chapter on "Integrating a Gender Equality Perspective into all EU Activities and Policies", which covers all policies not covered by key actions. Gender equality will be considered in impact assessments and evaluations in line with the Better Regulation principles. The Commission Inter-Service Group on equality between women and men will continue to coordinate work in this area and will issue a report on gender mainstreaming in the European Commission in 2017. Trade is specifically mentioned as one of the areas to be covered by the report. As in the previous 2010-2015 strategy, DG Trade is not tasked with any specific actions (specified in the Annex). In parallel, the European Union Gender Action Plan for 2016-2020 (GAPII), an integral part of the above-mentioned strategy and the main instrument for promoting gender equality and women's empowerment in the EU's development policies, includes trade policy in its scope. The measures specified in the annex of this Action Plan include analysing impacts of international trade in connection with trade negotiations.

The wording of the new gender equality strategy and the lack of any concrete commitments in the area of trade speak volumes about the importance allocated to this issue by the Commission. The EU's Trade for All Strategy - the base document providing vision and direction for the EU's trade and investment policy - doesn't mention gender once.It should, therefore, not come as a surprise that gender mainstreaming has not been a high-priority matter for DG Trade. There is a limited awareness among the services of the commitment to implementing gender mainstreaming as an integral part of the Commission's policymaking.

Brussels-based diplomats and officials working on trade issues have, inter alia, suggested that trade policies are per se gender-neutral, pointed to a lack of political commitment to the issue at the highest political level or deemed the trade policy area too difficult to analyse from the gender perspective for lack of gender-segregated data. In some cases, these members of the practitioner community have questioned whether these aspects belong to EU competence at all and suggested they be dealt with at the level of the EU Member States, who implement trade policy in practice (subsidiarity). All in all, the lack of full understanding of and commitment to gender equality goals seems to be evident at all administrative levels in the Commission.

Women's Month launch, 31 July 2014. A group of women re-enact the 1956 women's march to Pretoria protesting against pass laws. Photo: GCIS, flickr.com

Increasingly addressed in practice

This does not mean, however, that DG Trade does not deal increasingly with gender equality matters. In practice, gender equality can be considered from two points of view: the normative content of the agreements and trade policy-relevant regulations, and an evaluation of the impact of these agreements and legislative instruments.

In the normative context, the issue of gender equality is dealt with through human rights and labour market provisions. Human rights clauses have been included in the EU's international trade and cooperation agreements since the 1990s, permitting one of the parties to the agreement unilaterally to suspend its obligations (or to take "appropriate measures") in the event of human rights violations. In addition to the human rights clauses, the EU trade agreements have since 2008 included sustainable development chapters, which have introduced a new kind of conditionality. Modelled on similar provisions in US and Canadian Free Trade Agreements, these chapters contain provisions that require parties to comply with core labour and environmental standards. A recent ILO paper shows that trade agreements with labour provisions bring measurable improvement in female labour participation, closing of the gender gaps in hiring and also the gender wage gap.

While gender equality matters clearly do not enjoy political priority in DG Trade, the area seems to be slowly evolving as gender issues are increasingly dealt with in practice. The Commission has made an attempt to include an ambitious sustainable development chapter in the Transatlantic Trade and Investment Partnership negotiations (ongoing). The EU's proposed chapter includes more detailed provisions than in previous agreements on the Decent Work Agenda, including gender equality (in addition to the objectives of core labour rights, employment creation, social dialogue, and social protection).

Another trade-related tool relevant in this context is the EU's Generalised Scheme of Preferences (GSP), which provides preferential access to the EU's market for developing countries and also includes human rights provisions.

Evaluations

As to the evaluation of instruments, DG Trade applies both Impact Assessments (IA, Commission-wide tool) and the Trade Sustainability Impact Assessment (SIA, trade-specific tool) in assessing the impacts of a given trade initiative -and both look at social and human rights. The SIAs are the main tools used to address the issue of gender equality in trade negotiations, together with labour and human rights issues. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the only convention that covers gender issues specifically. Gender equality is specifically included under guidelines on human rights analysis in the SIA Handbook (2016). In reality, the gender component is usually minimal and such analysis is not carried out in a systematic way. This can be partly explained as a chronological evolution, but not wholly - even some of the recent SIAs (e.g. Canada, 2011) are minimal on gender equality analysis. Beyond SIAs, gender impacts would also be dealt with in ex-post evaluation of trade agreements.

The IA assessment guidelines are set out within the Commission's Better Regulation "Toolbox". The new guidelines include gender equality considerations with equal treatment and opportunities, non-discrimination, and rights of people with disabilities in the "Fundamental Rights "toolbox. They identify a number of concrete questions that should be considered when carrying out an impact assessment. The proposals for legislation will need to be assessed not only as to whether they have a differential gender impact but also as to how. Another potentially relevant toolbox is the one on "Employment, working conditions, income distribution and inequality", which also addresses potentially significant impacts on employment, working conditions, income distribution and inequalities.

Too slow progress

Although addressing gender-related inequality has strong economic rationale, progress in this area is still slow, both in the international and in the EU context. On paper, the EU's gender equality policies are in a league of their own among international organisations. Still, there is a structural issue of implementation not always following the grand political declarations. Only when we see commitment to these issues from the highest levels of management can we see real advancement in the application EU's gender equality framework.

Nevertheless, the European Commission has made considerable progress in mainstreaming gender equality in some of the EU policy areas, including development policy. The trade policy, however, has been very much left aside in the policy process and gender equality issues are currently not yet dealt with in a systematic manner. That said, it seems to be an evolving area and some examples of good practices exist.

This article summarises the study by E. Viilup. 2015. The EU's Trade Policy: from gender-blind to gender-sensitive? In-Depth Analysis, DG EXPO/B/PolDep/ Note/2015_194, Directorate-General for External Policies, Policy Department, European Parliament.

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CSR in international trade and investment agreements

by Rafael Peels and Elizabeth Echeverria M.

While reference to Corporate Social Responsibility in trade and investment agreements is becoming more common and comprehensive, the practical implications are still uncertain.

The proliferation of Corporate Social Responsibility (CSR) schemes has contributed to a global labour governance framework that is increasingly diverse, involving a wide array of policy instruments and institutional mechanisms. This article examines in particular the interplay between these various instruments and mechanisms.

While CSR was once considered as purely private and voluntary, some authors have argued that it increasingly integrates non-voluntary elements and is governed by law. By examining CSR language in trade and investment agreements, this article analyses the increasing regulation of CSR. We focus on labour-related CSR clauses in trade and investment agreements, that is, explicit CSR language, including both principles and references to instruments, such as the Tripartite declaration of principles concerning multinational enterprises and social policy (ILO MNE Declaration) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines). These can be distinguished from traditional labour provisions (IILS, 2009; ILO, 2016), mainly by explicitly addressing the expected behaviour of private business. We also examine the possible implications of CSR references in these agreements for states, business and workers.

Introducing CSR in agreements

The International Labour Organization (ILO) Future of Work Centenary Initiative notes that *"[t]he distinction between the strictly legal and the purely voluntary seems to be getting blurred, not least as accountability and reporting mechanisms are tightened."*(p. 16). For CSR to become more effective, greater clarity is needed on what is expected from corporations; and that clarity needs to come from governments and the international community. The increasing incorporation of CSR language in trade and investment agreements, including in recent agreements, such as the Trans-Pacific Partnership (TPP), the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union or the EU-Vietnam free trade agreement (FTA), is an example where various policy instruments - private and public as well as voluntary and non-voluntary - are combined.

Overall, the inclusion of CSR clauses in trade and investment agreements is in an embryonic state. This means that the large majority of agreements do not refer to CSR but recently the number of countries including CSR language in these agreements is increasing.

Typically, these are the traditional proponents of social development provisions, that is, the EU, Canada, occasionally the US, and more recently the European Free Trade Association (EFTA). Among the first agreements that include CSR are the Joint Declaration concerning Guidelines to Investors, developed parallel to the EU-Chile Association Agreement (2003), the US-Chile FTA (2004), the EU-Cariforum Economic Partnership Agreement (2008), and the Canada-Peru (2009) FTA. Over time, CSR clauses have become more elaborated. Although practices differ across trade partners and agreements, the inclusion of CSR provisions in trade and investment agreements points towards the use of soft language but with higher levels of commitment, that can mention specific references towards CSR instruments or obligations related to CSR, and the possibility to apply more implementation mechanisms provided by the agreements.

Assessing CSR clauses

When having a closer look at these CSR clauses, the signing parties - states - typically commit to cooperation activities on CSR *(cooperation)*, to encourage enterprises to voluntarily incorporate CSR mechanisms *(enterprises' adoption of CSR instruments)*, or to facilitate and promote trade in goods that are subject to CSR schemes *(CSR trade* including labelling, and fair and ethical trade schemes,). These are mainly 'double soft' references, understood as soft language in terms of states' commitment with regard to the support to purely voluntary CSR engagement of the private sector. Nevertheless, these clauses also have potential since the states party to the agreements do commit to taking policy initiatives in the area

School health CSR, Bosch social engagement, India. Photo: Trinity Care Foundation, flickr.com

of CSR, be it relatively soft commitments, which may have implications in the territory of the parties, or overseas in some cases.

First, various trade agreements refer to the inclusion of joint cooperation activities, which may include, amongst others, CSR activities. The annex to the labour chapter of the US-Peru FTA (2009), which establishes a Labor Cooperation and Capacity Building Mechanism, for instance states that

> *"[…] regional cooperation activities on labor issues, may include, but need not be limited to … dissemination of information and promotion of best labor practices, including corporate social responsibility, that enhance competitiveness and worker welfare" (Annex 17.6, Article 2(o)).*

Secondly, the parties may encourage enterprises to voluntarily incorporate/observe CSR mechanisms. For instance, the EFTA-Montenegro agreement (2012) acknowledges in the preamble the *"importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognized guidelines and principles in this respect, such as the OECD Guidelines for Multinational Enterprises, the OECD Principles of Corporate Governance and the UN Global Compact".*

Third, CSR clauses may facilitate and promote trade in goods that are the subject of CSR schemes. The EU-South Korea FTA (2011) for instance deals with CSR under the chapter of trade and sustainable development, as following: *"the Parties shall strive to facilitate and promote trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability" (Article 13.6(2)).*

Fourth, the provisions generally do not clarify where states *should or shall encourage* (or even a softer commitment to 'make an effort' to encourage) businesses to adopt these policy initiatives. Therefore, it could be assumed that this encouragement might also be directed to businesses with operations overseas to apply their adopted CSR policies wherever they operate (i.e. in home and host countries). In this regard, it should be noted that Canadian agreements often establish the commitments of the parties towards the encouragement of enterprises to adopt CSR when they operate within their territories (understanding that enterprises can be national or foreign) or under their jurisdiction (even if this is outside of their territories).

A modest but increasing number of recent Bilateral Investment Treaties (BITs) include references to CSR. One possible explanation of the more limited CSR language in BITs is the relatively limited, and much more recent, public attention towards the sustainable development potential/challenges of BITs.

Implications for states, businesses and workers

As trade and investment agreements are state-to-state agreements, the most important implications of CSR language are for states. However, incorporating CSR language is a way to recognise the role of private businesses in promoting and furthering labour rights, complementary to the role of states. What are the implications that CSR clauses in trade and investment agreements could have for states, businesses and workers, which are the main interested parties to labour-related CSR provisions and moreover the tripartite constituents of the ILO?

Implications for states: Through the support of CSR initiatives in trade and investment agreements, states could play an important role in shaping the conditions for responsible business behaviour worldwide and enhance coherence. As examined before, states commit themselves in different ways, for example, through hard or soft obligations to promote these initiatives (e.g. 'shall strive to', 'should promote', 'shall promote') with the enterprises that are in their territories, subject to their jurisdiction (as mandated

in the case of Canadian agreements) or overseas (when applicable). Notwithstanding the relatively soft character of these commitments, they are included in binding agreements and states can in principle be held 'accountable' through the implementation mechanisms provided in the agreements, where different stakeholders are given a role.

Implications for businesses: Even though the direct implications of CSR clauses are situated at the level of states, businesses would be responsible for the implementation of the policies adopted in their operations, and perhaps will select those CSR instruments particularly promoted by governments. Indirectly, however, it is a strong recognition that private businesses have a role in promoting labour standards and improved working conditions. Consequently, corporations might be scrutinised by stakeholders and the wider public through the implementation mechanisms provided in the agreements. The adoption of CSR commitments may also permeate into Global Supply Chains (GSCs) through the practices of lead firms and subsidiaries. Further, various agreements provide for cooperation on awareness raising and capacity building on CSR.

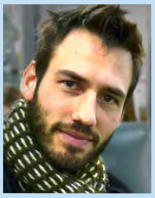
Implications for workers: Workers' organisations have also been involved in the institutional mechanisms provided in the agreements. Therefore, there is potential in the activation of these clauses, in conjunction with other provisions in trade and investment agreements (such as labour provisions) to have a positive impact in workers' and broader human rights. For example, in the cross-border civil society meetings, these have been used to advocate for increased cooperation activities or close monitoring of CSR behaviour of multinational enterprises, and to cooperate with governments and businesses in this matter.

Potential role for the ILO

Current ILO involvement in the follow-up of CSR clauses in trade and investment agreements is limited, but some instances exist that may deliver insights on potential ILO involvement. The ILO is foremost involved by directly addressing states and their obligation to implement the international labour standards at the domestic level. This is the core of the ILO. However, interesting experiences exist where the ILO works in a trade and investment context, by engaging with private businesses, supporting government institutions and involving multiple stakeholders through monitoring, capacity building or social dialogue.

This article summarises some of the key insights of Peels, R., E. Echeverria M., J. Aissi and A. Schneider. 2016. Corporate Social Responsibility (CSR) in International Trade and Investment Agreements: implications for states, business and workers, ILO Research Paper Series, 13. Further key insights can be found in the recently released ILO. (2016), Assessment of labour provisions in trade and investment arrangements. Geneva: ILO, and before IILS (2013), Social Dimensions of Free Trade Agreements, Studies on Growth with Equity, Geneva: ILO.

About the authors



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Labour standards in EU free trade agreements

by James Harrison, Mirela Barbu, Liam Campling, Ben Richardson and Adrian Smith

Our research in the CARIFORUM bloc, South Korea and Moldova suggests there is cause for concern about the EU's ability to protect and promote actual labour standards in its FTAs.

The European Union (EU) has long sought to address labour standards issues through its trade policy. This has happened through conditions attached to its Generalised System of Preferences (GSP+) and Autonomous Trade Preferences, through its efforts to introduce a social clause into multilateral trade agreements, and, increasingly, through labour-related provisions inserted in its bilateral free trade agreements (FTAs). In 'new generation' FTAs, labour and environmental issues have been explicitly addressed in a Trade and Sustainable Development (TSD) chapter. In respect to labour, these TSD chapters typically require the parties inter alia to: implement and uphold International Labour Organization (ILO) core labour standards; protect existing levels of labour law; and establish institutional structures for both state-to-state and civil society dialogue on sustainable development within and between the parties. Civil society in this context includes representatives from business, trade unions, academia and non-governmental organisations.

Aspects of this approach were pioneered in 2008 in the CARIFORUM Economic Partnership Agreement with the Caribbean region, though the TSD chapter arguably crystallised in the 2011 FTA with South Korea. Since then it has become a standard part of the EU's FTA texts. TSD chapters feature in agreements now in force with South Korea, Colombia-Peru, Central America, Georgia, Moldova, Ukraine, and the Southern African Development Community. They are also present in finalised texts with Vietnam and Canada, and in negotiated texts with Ecuador, Tunisia, Singapore, and the US. Finally, the European Parliament has even proposed that a TSD chapter be included in any bilateral investment treaty with China. In the global governance of labour, the regulation contained in the TSD chapters looks set to become increasingly influential.

To assess the effectiveness of the EU's approach we undertook research in countries which have signed this kind of 'new generation' FTA with the EU; namely those in the CARIFORUM bloc, South Korea and Moldova. Based on 90 interviews with state, business and civil society actors in these countries plus 30 more in EU member states, we found evidence that suggests there is cause for concern about their ability to protect and promote actual labour standards. The key problems are set out below.

Differing priorities

Government officials from trading partners do not appear to see the externally imposed TSD chapters as their responsibility. Meanwhile, European Commission officials have prioritised the commercial dimensions of the trade agreements, attending only to the procedural obligations of the TSD chapters rather than its substantive labour standards agenda – an agenda which has its origins in the European Parliament. Nowhere did we find joint committees of state officials clearly aiming to enhance the protection and representation of workers at an institutional level. Instead, they relied on civil society mechanisms to provide the primary impetus on labour-related issues in the agreement. Moreover, although some EU-funded projects have recently commenced which aim at building the capacity of regional labour (i.e. in the Caribbean) and involve sharing experience of labour-related and corporate social responsibility initiatives (i.e. in South Korea), it is also clear that progress on labour issues is not being stimulated in any systematic fashion by EU-funded projects.

Weak civil society capacity

The main burden of raising labour standards issues is assigned to the civil society mechanisms within the TSD chapters. It is true that domestic civil society meetings are occurring, albeit sometimes belatedly, and representatives are meeting with their EU counterparts and raising issues to state officials. Achieving this has not always been easy when some signatory governments have been sceptical or even hostile to the incorporation of labour standards provisions and civil society engagement within trade agreements. Proponents of the EU's approach have therefore treated the slow but steady acceptance of this linkage

Labour Parade, Seoul, South Korea. Photo: JulianBleecker, flickr.com

as something of a victory. Similarly, opposition among EU member states to the incorporation of sustainable development issues, including labour standards, in the EU's trade agreements appears to be diminishing. However, the civil society mechanisms are hampered by inadequate resourcing, infrequent meetings and limited influence upon the state-led committees to which they ultimately report. This has hamstrung their ability to properly monitor and/or address labour issues.

Insufficient targeting

The EU's TSD chapters follow the same basic model, with limited variations, in all agreements. But this appears ill-suited to dealing with the complexity of labour issues encountered within the diverse range of countries it has signed agreements with. For instance, in two of our case study countries ILO core labour standards are not the most pressing labour-related concerns. Interviewees cited trade-related unemployment in the Caribbean and poverty wages in Moldova as bigger issues. In South Korea, core labour standards are a concern, but the government crackdown on trade unions calls into question the utility of an approach based on dialogue and co-operation. There is also insufficient linkage between provisions in the TSD chapters and opportunities to influence labour legislation elsewhere. For example, the acquis communautaire commitments concerning the transposition of EU working and health and safety Directives into Moldovan law is organised separately in the Association Agreement and is not addressed by the institutional mechanisms of the TSD chapter.

Uncertain purpose

Hanging over the three problems identified above is the larger question we posed in the title: what exactly are the TSD chapters working towards? One purpose identified by interviewees is that the chapters are there to positively impact labour in signatory countries. However, there remain some differences of opinion about what kind of labour is being addressed. Business actors and some EU officials thought that labour standards issues must be trade-related for them to be considered within the institutions of the TSD chapters (they cite the fact that TSD chapters talk about co-operation on 'trade-related' social/labour issues). Trade unions, NGOs, and some other EU officials thought that there is no need for labour issues to be trade-related (they cite the fact that commitments to for example core labour standards in TSD chapters are not caveated by reference to trade-related issues). There may be some value in this ambiguity in that it leaves space for civil society activism. A number of trade union and NGO representatives pointed out the difficulties of proving linkage between labour issues and the trade agreement, i.e. that the trade agreement is causing labour violations. This is, in their eyes, an important reason to oppose the idea that such a linkage must be required to voice concerns in relation to the TSD provisions.
Another purpose identified by interviewees is that TSD chapters are there to address the social impacts of the trade agreement itself. All TSD chapters do contain an obligation to monitor the social and environmental impacts of the agreements in question. But no methodology has, as yet, been developed for this monitoring process,

and resources for monitoring appear to be very unevenly applied. In the CARIFORUM agreement, eight years after coming into force, the first efforts at developing a methodological approach for monitoring are only just beginning. A 2014 report provided an initial assessment, but its treatment of labour standards is limited. EU assessments of the social and environmental impacts of the Korea-EU FTA have thus far amounted to no more than a statement of the activities of the institutional structures created by the TSD chapters, although a report by external consultants is due in July 2017 which includes a planned assessment of the effectiveness of the TSD chapter. In the EU-Moldova Association Agreement any monitoring is expected to take place through the civil society mechanism, but as yet little has occurred of a meaningful nature.

Recent pronouncements by the DG Trade Commissioner Cecilia Malmström suggest a final purpose, which is that TSD chapters are ways of making global supply chains 'more responsible' and therefore are concerned with jobs in specific export-oriented industries. To this end we found that in the South Korean case, increasing attention within the TSD institutions is being paid to corporate social responsibility (CSR). This is justified by the fact that many European and Korean companies are producers and employers in global supply chains throughout East Asia. The shift toward supply-chain governance can be seen as part of a wider trend in EU policy, reflected in the use of trade instruments targeted at particular products and non-state actors, e.g. the Conflict Minerals initiative, the biofuels Renewable Energy Directive, and the EU Timber Regulation.

According to this purpose the focus of labour provisions moves away from the responsibility of the signatory countries for labour issues within their own territorial jurisdiction and towards business responsibility for addressing labour problems in their own supply-chains. But there is much evidence pointing to the gaps and limits that come from relying on corporations to voluntarily regulate labour conditions, especially over those firms that they do not source from directly. The danger for labour governance in FTAs, then, is that labour standards provisions become purely promotional mechanisms for doing good elsewhere, and not mechanisms for holding governments to account for the laws they enact and the way they enforce them.

Need for greater scrutiny and accountability

This bigger question about the underlying purpose of labour provisions speaks to the need for separate consideration of the multiple social objectives which the EU is trying to achieve through its trade agreements, and the extent to which (even reformed) TSD chapters are capable of achieving those. If the aim is to utilise the trade agreement to take action on the worst labour violations in trading partners, whether or not these are trade related, then more scrutiny is required as to the feasibility of achieving this with regard to each individual trading partner. If it is to understand and act upon the trade and labour nexus, then there is a need to monitor much more carefully what is actually happening with regard to each agreement and devise instruments to manage their ill-effects. And if it is about tackling labour issues in global supply chains, then policy mechanisms must be based on a rigorous evaluation of how international trade regulation relates to different forms of transnational production, as well as sober recognition of the fact that shifting the focus for labour issues onto corporations could deflect attention from the responsibilities that states have to take action.

This is a summary of an academic paper written by the authors which is available on request from Dr James Harrison: J.Harrison.3@warwick.ac.uk. The paper arises from research undertaken as part of a UK Economic and Social Research Council-funded project entitled "Working Beyond the Border: European Union Trade Agreements and Labour Standards" (award number: ES/M009343/1). The project web-site can be found at: http://www.geog.qmul.ac.uk/research/beyondtheborder/index.html

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The EU trade policy approach to human rights and sustainability: The case of EPAs

by San Bilal

In promoting sustainability and human rights dimensions through EU trade deals like EPAs, dedicated attention must be paid to institutional settings, dialogues, review & monitoring, aid and accompanying measures.

The adoption of the 2030 Agenda for Sustainable Development at the United Nations (UN) in New York in September 2015 and of the Paris Agreement in December 2015 has put the sustainability and climate change ambitions and concerns at centre stage of the international agenda. International trade is recognised as an important means of implementation to achieve the sustainable development goals (SDGs) and specific targets. For a long time, the European Union (EU) has been committed to the promotion of human rights and sustainability, including in its international relations, and has been a strong advocate of the SDGs. To which extent is it reflected in its trade policy, and in particular towards the African, Caribbean and Pacific (ACP) countries with which it has concluded economic partnership agreements (EPAs)?

EU approach to sustainability and human rights

Sustainability has been an explicit core element of the European Union internal policy since 2001 - with its Communication on 'A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development' - and of its external policy since 2002 – with its Communication 'Towards a global partnership for sustainable development'. Later, with the 2005 European Consensus on Development, sustainable development became an overarching objective for the EU and its member states.

The 2009 Lisbon Treaty on European Union further elaborated what those principles should be and enshrined human rights and the three traditional dimensions of sustainable development (economic, social and environmental) as guiding principles for the EU international activities. The EU has also an obligation to comply with human rights in its external policy, as well as to the entirety of international law.
In fact, human rights clauses in EU policy have found some of their origins in the EU partnerships with the ACP, as articulated in the Lomé Conventions and the succeeding Cotonou Partnership Agreement signed in 2000.

Human Rights Day celebration, 21 March 2013, Mbekweni, South Africa. Photo: GCIS, flickr.com

EU trade policy

In the context of its trade policy, human rights and sustainability dimensions are taking different forms. However, it is important to remember that in the EU approach, trade policy is not intended as a single, isolated means of addressing human rights and sustainability concerns, but is to be seen as part of the arsenal of EU tools (e.g. initiatives, policies, institutional frameworks) to address them, and should thus operate in close coordination and synergy with these other approaches.

The EU adopted different tracks in addressing sustainable development in trade agreements. The approach has evolved over time, shaped by particular circumstances in partner countries or on specific areas that were subject to challenges. Trade agreements signed after the Lisbon Treaty have specific clauses on 'sustainable development' where the general contours of what parties understand by the term are defined. Reference is often made to internationally agreed declarations, principles and agreements such as UN Charters and Conventions, the Cotonou Agreement, Millennium Development Goals (MDGs) declarations and now the SDGs, and standards set by the International Labour Organization (ILO).

The 2015 EU Trade for All strategy puts a strong emphasis on sustainability, next to the objective of promoting business opportunity to deliver growth, employment and innovation. Accordingly, its trade policy should contribute to promote European and international values, fostering free and fair trade, social justice, human rights and high labour and environmental standards. In the words of European Commissioner for Trade Cecilia Malmström: "Trade policy cannot just be about economic value. It must also be about the fundamental values that make up European identity, like respect for human rights, labour rights and the environment. And it's not just about protecting those values at home. But about projecting and defending them around the world." (Meeting with Eurocities, Milan, 18 November 2016).

Human rights and sustainability clauses have thus increasingly been introduced in the EU trade policy regime, in its general system of preferences (GSP) and its free trade agreements (FTAs). The approach to human rights and sustainability in its trade agreements includes:

i. the 'human rights clause' - also called *essential elements* - in its international trade and cooperation agreements;
ii. social issues and labour rights, which have received increasing attention;
iii. environmental sustainability provisions, also increasingly more prominent in EU FTAs;
iv. economic sustainability, which is proper to trade agreements with developing countries, such as EPAs;
v. additional EU commitments to promote responsible business conduct through corporate social responsibility (CSR) and other voluntary schemes towards sustainability, including the promotion of fair and ethical trade, as outlined in the EU Trade for All strategy;
vi. the institutional setting of EU FTAs also provides important channels for dialogues and constructive engagement on sustainability dimensions, as well as possible remedies: an innovative feature of recent EU FTAs (including most EPAs, except the SADC EPA) is the establishment of a formal platform for non-state actors dialogue (generally referred to as Domestic Advisory Group, and in EPAs as Consultative Committee), to foster multi-stakeholder engagements of the parties, and feed into the formal mechanism of the implementation of the agreement; and
vii. EU FTAs with developing countries, as in EPAs, are also accompanied by development cooperation and capacity building support to facilitate the implementation of the agreement.

It is also worth noting that in its trade negotiation process, in order to take into account the sustainability implication in shaping its position, the EU engages in regular civil society dialogues and systematically conducts sustainability impact assessments, though the extent to which these dialogues and assessments have influenced the outcomes of the negotiations has been questioned.

EPAs

The economic partnership agreements negotiated by the EU with the ACP at regional levels aim to use trade as a tool for achieving development. It follows that all aspects of the EPAs are relevant in considering their sustainability and development impact. Yet EPAs, like other EU FTAs, also contain a specific trade and sustainable development (TSD) chapter. But unlike other recent EU FTAs (e.g. with Vietnam, South Korea and Canada), the EPAs with African countries in particular are less detailed on the human rights, labour, social and environmental dimensions.

EPAs are enshrined in the Cotonou Agreement, which they all refer to, at least as a whole and often in more specific ways. By doing so, they explicitly, or *de facto*, import the sustainability, human rights, social, labour and environment commitments and endeavours of the Cotonou Agreement, which then have at least equivalent effect. However, not all of these provisions are explicit or refer to international standards and agreements.

Of greater potential concern is the pertinence of the reference to the Cotonou Agreement after its termination in 2020. A narrow interpretation may suggest that these will have no legal effect once the Cotonou Agreement expires. However, the most reasonable legal interpretation is that since the parties in the EPAs do recognise and commit to the provisions of the Cotonou Agreement and its *acquis*, such commitments extend beyond 2020, with the CPA's references maintaining their full legal effect. Possible challenges are unlikely to arise out of legal arbitration, and could be addressed through dialogue.

Some EPAs also contain explicit provisions, referring to international standards and agreements, or specific additional commitments. The CARIFORUM EPA, concluded in 2007, is clearly the most comprehensive EPA, including in terms of its coverage of sustainability and human rights issues.

Somewhat surprisingly, the following EPAs, concluded in 2014 with the East African Community (EAC), the Economic Community of West Africa States (ECOWAS) and a group of countries from the Southern Africa Development Community (SADC), have been less thorough, including in their sustainability and human rights provisions. One possible explanation is that the partners have focused first and foremost on reaching an acceptable deal for all, concentrating on key substantive provisions of the agreements by the EU self-imposed October 2014 deadline.

This arguably sub-optimal outcome has raised concerns among some stakeholders, in particular among civil society organisations, trade unions and members of (European) parliament, who critically view the recently concluded EPAs' inability to meet current EU standards and practice in FTA negotiations and live up to the ambitions of the 2030 Agenda and the new European *Trade for All strategy.*

Comprehensive approach

Yet, this controversy should be put in perspective. Most EU FTAs provisions are meant for constructive engagement, rather than following a punitive, sanction-driven approach, at least so far. Besides, all EPAs cover principles on human rights and sustainability. It is also important to look beyond the specific sustainability and human rights clauses and consider other pertinent elements, such as:

- EPA institutional framework: any issue arising from the implementation of the agreement, including on human rights and sustainability dimensions, can be addressed in the partners' joint institutions. The EPA Consultative Committee can play an important role in this respect.
- Review and monitoring of the EPAs, as foreseen in EPAs provisions, should be carried out thoroughly, with appropriate tools and mechanisms covering all sustainability dimensions.
- Development cooperation chapter of EPAs should lead to effective accompanying measures ensuring EPAs positive contribution to sustainability and human rights.
- Rendezvous and revision clauses allow for the future extension, strengthening and adjustments of some of the EPA provisions, including in terms of sustainability and human rights commitments.

Recommendations

It is clear that the EPAs are far from perfect, and will present many challenges to the parties. But they also offer opportunities for strengthening the sustainability and human rights dimensions of the trade and development relations of the parties. For this to materialise, some recommendations can be identified, including, ***inter alia:***

- *support EPA monitoring mechanisms and institutions,* including non-state actors participation, notably through the Consultative Committee;
- *Monitor beyond compliance and the EPAs,* to address sustainability and human rights dimensions, preferably in synergy with other monitoring endeavours, in particular on regional integration related issues, as well as the monitoring of the specific sustainability and human rights dimensions (e.g. by ILO), and more broadly the 2030 Agenda for Sustainable Development and the commitments under the Paris Agreement;
- *provide adequate development cooperation,* paying attention to human rights, social, labour and environmental dimensions of the EPA;
- *support multi-stakeholders approaches, and foster responsible business conduct initiatives;*
- *consider rendezvous and revision clauses* as an opportunity to negotiate an update and strengthening of the human rights and sustainability provisions of the EPAs.

This article summarises some of the insights of S. Bilal and I. Ramdoo. 2016. Sustainability and human rights in EPAs: A comparative analysis between the Caribbean and African EPAs, ECDPM Discussion Paper 198, http://ecdpm.org/dp198

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The Weekly Compass

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EU Development Cooperation & Humanitarian Aid in Situations of Fragility & Protracted Crisis

Weekly Newsletter, 12 December 2016

This new paper by Alfonso Medinilla and Alisa Herrero Cangas, with the support from Matthias Deneckere, sheds light upon the complexities regarding the coordination between humanitarian aid and development cooperation to tackle the issues of fragility, security, migration and other challenges of Europe's external action. The new EU Global Strategy, which originated from the need to find a more harmonious EU response to the ongoing crisis context in many developing regions, calls for a "joined-up and truly comprehensive approach" to external policies.This new Discussion Paper analyses the incentives and disincentives and institutional obstacles to joint approaches and presents options to foster more effective collaboration.

Joint paper by FAO and ECDPM: Promoting regional trade in pulses in the Horn of Africa

Weekly Newsletter, 12 December 2016

The UN declared 2016 as the International Year of Pulses, to increase awareness of their nutritional qualities and their benefits for creating more sustainable and climate-resilient food systems. Chickpeas, lentils, beans, etc. are also important as a cash crop for local, regional and international markets, with increasing demand for processed food based on pulses offering opportunities of employment and entrepreneurship for women and youth. These benefits show the strong role that pulses can play for Africa's goal to feed itself, as voiced in the Malabo Declaration, and its ambitious target to triple intra-African agricultural trade by 2025. This new paper, the first ever joint publication between ECDPM and FAO (the UN agency leading international efforts to defeat hunger), highlights the main challenges in strengthening regional pulses value chains in the Horn of Africa, where intra-regional trade in pulses has particular potential, and points to the importance of effective public-private dialogue at regional level.

Stronger together: Amplifying partnerships to finance the SDGs in Africa

Weekly Newsletter, 5 December 2016

Last week, the government of Kenya hosted the Second High-Level Meeting of the Global Partnership for Effective Development Co-operation (GPEDC). The focus of the meeting was mainly on the implementation of Agenda 2030 and of the Sustainable Development Goals (SDGs). In this blog, ECDPM's Luckystar Miyandazi raises the issue of financing the implementation of the SDGs in Africa. Whilst the continent still heavily relies on external funding and on Official Development Assistance, there is a greater need for Africa and the African Union to seek for strategic partnerships and for greater financial independence.

Towards a better Africa-Europe partnership for regional migration governance?

Weekly Newsletter, 28 November 2016

Last year in November, European and African Heads of States and Government met in Valletta to strengthen cooperation and deepen partnerships in the area of migration. Since then, efforts have been made to implement agreed actions and the EU has adopted a new Partnership Framework. Yet, the perceptions diverge in terms of whether the current approaches by Europe promote 'true' partnerships. In a new ECDPM Discussion Paper, Anna Knoll and Frauke de Weijer contribute to this debate by analysing the narratives, values and beliefs present in African and European frameworks and policy processes on migration, and by exploring convergence and divergence around the perspectives between Europe and Africa.

Talking Points

Our blogs aim to deepen the dialogue on policy issues, and get to the heart of the matter in an honest and concise way.

Hopes for a global approach to Tax Avoidance in 2017

Talking Points, Uzo Madu, 16 December 2016

The third and last contribution to our series of blogs ahead of the 2017 Challenges Paper is by Uzo Madu, founder of What's in it for Africa, an online platform dedicated to EU-Africa current affairs. By looking at the steps taken by the EU and by African countries in 2016 to face tax avoidance, Uzo Madu expresses her visions and hopes for a more global approach to the issue in 2017.

Donor coordination and transport in West Africa – towards people, partnership and prosperity?

Talking Points, Bruce Byiers, 9 December 2016

Trade facilitation can seem a somewhat mundane topic – it's mostly about procedures and logistics after all. But once you grasp the importance of transport costs and bottlenecks in a region like West Africa, what drives those costs and the political implications of reforms become pretty interesting.

Should Europe pay to enhance military capabilities in Africa?

Talking Points, Lars-Erik Lundin, 9 December 2016

The second contribution to our series of blogs ahead of the 2017 Challenges Paper is by Mr. Lars-Erik Lundin, Distinguished Associate Fellow at the Stockholm International Peace Research Institute (SIPRI). Looking ahead into one of the critical debates that will shape discussions on EU external action financing in 2017, Mr. Lundin raises the question whether the European Union should provide more capacity building assistance to military actors in Africa to promote security and development, and briefly assesses the benefits and the risks involved.

Development for Policy Coherence? How migration took over EU-Africa relations

Talking Points, Judith Sargentini, 2 December 2016

In the first of our series of blogs ahead of ECDPM's 2017 Challenges Paper, MEP Judith Sargentini shares her perspectives on the challenges of migration in 2017 and beyond. Traditionally, the US has been in charge of ensuring the security of the Western hemisphere, whilst the European Union had the ability to be more of an 'ethical' force in the world. With Trump taking over the White House and the migration 'crisis' taking hold over the EU's external policies, those days are over.

Latest ECDPM publications

Bilal, S., Große-Puppendahl, S. 2016. Blending 2.0: Towards new (European External) Investment Plans. (Discussion Paper 207). Maastricht: ECDPM.

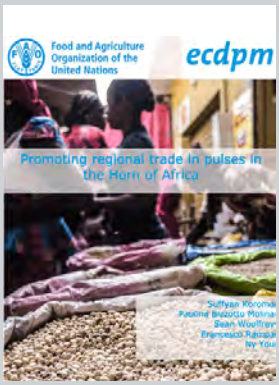
The UN 2030 Agenda for Sustainable Development places new emphasis on the need to mobilise financial resources to achieve the 17 universal sustainable development goals (SDGs). The ambition is to 'move from billions to trillions', mobilising much higher resources in the pursuit of sustainable development (MDBs, 2015). Contrary to the Millennium Development Goals (MDGs), aid is no longer at the centre of a transformative development agenda. Blending Official Development Assistance (ODA) with other sources of finance is one of the forms taken to stimulate and leverage private investments and finance for sustainable development.

Medinilla, A., Herrero Cangas, A., Deneckere, M. 2016. 'Living apart together': EU development cooperation and humanitarian aid in situations of fragility and protracted crisis. (Discussion Paper 206). Maastricht: ECDPM.

The complexity and longevity of today's crisis situations brings humanitarian and development actors more and more on each other's turf: Protracted crises require longer humanitarian interventions, including activities such as basic service delivery, livelihood support and social protection. At the same time, development cooperation is increasingly framed by a 'societal' resilience narrative, be it in the Sustainable Development Goals or in the EU's ambitions to address the root causes of vulnerability, fragility and conflict.

Ramdoo, I. 2016. Local content, trade and investment: Is there policy space left for linkages development in resource-rich countries? (Discussion Paper 205). Maastricht: ECDPM

Local content policies (LCPs) seek to promote the supply of domestically produced goods and services and the employment of the local workforce. They generally require that a producer sources part of its inputs or labour force from the domestic economy. In the extractive sector, it may also require that companies conduct certain activities, such as technology transfer or research and development in the country where the extractive operations take place. These are essentially aimed at reducing the volume or value of imports or at restraining the employment of foreign labour.



Koroma, S., Bizzotto Molina, P., Woolfrey, S., Rampa, F., You, N. 2016. Promoting regional trade in pulses in the Horn of Africa. Accra: FAO.

Through the Malabo Declaration on "Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods", African leaders strongly voiced their determination that Africa should be able to feed itself by 2025. This ambitious agenda, completely aligned with the SDGs, but even more ambitious for setting the goals five years before the SDG horizon of 2030, stresses the need to increase public and private investments in agriculture, necessary to boost production and productivity.

Karaki, K., Medinilla, A. 2016. Donor agencies and multi-stakeholder partnerships: Harnessing interests or herding cats? (Discussion Paper 204). Maastricht: ECDPM.

Promoting and supporting partnerships is a complex and iterative process, requiring considerable resources, knowledge, and time. This paper studies the roles of donors in a selection of partnership related instruments, with a view to better understanding their challenges and opportunities, constraints and incentives. It shows that there is a gap between donor agencies' policy objectives and their current practice, which in formal terms is overly passive in terms of funding mechanisms and administration systems towards supporting partnerships. This diminishes the benefits that might be gained from the large palette of resources and capabilities of donor agencies. That said, informally donor agencies go further than their roles stricto sensus, implying a gap between policy and practice.

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