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Features

World Trade Organization

International trade agreements

Regional trade integration social dimensions, trade and development

Thematic Focus:

Trade and Development

With exclusive contributions by Dr. Mukhisa Kituyi, Secretary-General of UNCTAD and Lilianne Ploumen, Minister for Foreign Trade and Development Cooperation in the Netherlands.

The multiple dimensions of the trade and development nexus

The 9th Ministerial conference of the World Trade Organization (WTO) in Bali on 3-6 December 2013 will once more attempt to push the trade and development nexus high on the international agenda. While increased trade flows and openness are no guarantee for development, they can, under certain conditions, provide a significant contribution to it. Trade policy, integrated with coherent economic, social and environmental policies, can become a key component of an economic transformation strategy for development. In doing so, private sector integration into regional and global value chains, when well harnessed to domestic production strategies, can play a critical role for diversification, job creation and equitable growth in developing countries.

But the way towards integrating trade approaches for development is far from straightforward. The challenge for developing countries is not simply to better integrate into global value chains per se, but to do so with higher value products, not just primary commodities and in fast-growing African countries, this is particularly important. This requires active and smart industrialisation strategies to improve business conditions and opportunities to purse greater domestic value addition.

In this context, trade policy cannot be seen in isolation, but as part of a broader agenda for domestic structural change. With a rapidly growing population, increasingly concentrated in urban areas, and a rising middle class, the potential for intra-African trade is also quickly expanding. The creation of effective regional markets is a clear priority. Yet, in spite of recent achievements, numerous trade barriers and lack of harmonisation in regional integration are hampering economic transformation in Africa, as underlined by the African Development Bank analysis.

What are the conditions under which regional and global trade can unleash their development potential? Which dimensions have to be taken into account? How does the regional and international agenda frame the trade benefits to developing countries? How to balance the interests and forces at play? Is the promotion of values, social norms and environmental standards a constraint or a boost to trade benefits? How can trade policy relate to broader reform dynamics? How can trade better be facilitated and financed? How to support trade policy reforms and capacity? How are new free trade initiatives among major world partners, such as the US and the EU, affecting African countries?

These are some of the aspects of the multi-faceted dimensions of the trade and development nexus addressed in this issue of GREAT Insights, from a range of perspectives and focus. While there is no one-fits-all recipe to connect trade to development objectives, many developing countries face common challenges. In a rapidly changing international environment, innovative thinking and approaches are more than ever needed to address the complex nexus of trade, economic transformation and development.

San Bilal

International Trade and Development Nexus

Mukhisa Kituyi

The year 2014 will be significant in a number of respects. It will mark the penultimate year of the United Nations (UN) Millennium Development Goals and possibly the launch of a new set of development goals to guide and shape national and international approaches to promoting more inclusive and sustainable growth and development.

2014 will also mark the 50th anniversary of United Nations Conference on Trade and Development (UNCTAD) as an organization dedicated to making trade work for development. It may usher in new dispensations on trade rules depending on the outcome of the Bali World Trade Organization (WTO) Ministerial Conference. Against this backdrop, I wish to discuss how the contribution international trade to sustainable development and poverty reduction can be enhanced, taking into account recent trends that affect the conduct of international trade.

International trade in goods and services is important for poverty eradication and sustainable development. By fostering economic growth through trade growth, international trade contributes to addressing poverty reduction, food security, job creation, gender equality and environmental sustainability. Emerging economies such as China and India are notable recent examples of countries that have mobilised participation in international trade, mainly exports, to enhance economic growth. Dependence on trade for wealth creation is evident. About 32% of global GDP is accounted for by global exports of goods and services in 2011, with the share being 28% for developed countries, and 38% for developing countries. In many developing countries and least developed countries (LDCs), this share is much higher such as 90% in Bhutan, 136% in Cambodia, 118% in Republic of Congo, 102% in Swaziland and 112% in Vietnam.

Despite the substantial contribution of trade to GDP, some countries are more integrated into international trade and thus derive greater benefits than others. Global trade in goods and services rose dynamically from US$7.9 trillion in 2000 (in current terms) to around US$22.6 trillion presently, notwithstanding a slump during the recession of 2008 and weak recovery since then. Developing countries as a group experience faster export growth than developed countries and saw their share of world merchandise exports, for example, increasing from 24% to 44% over the last two decades. Such dynamic growth is however experienced by a few developing countries especially emerging economies and South-East Asian countries. African countries, LDCs, Island Developing States, small and vulnerable economies and middle-income countries continue to have a marginal participation in global trade flows. This is illustrated, for example, by Africa's share in global merchandise exports which is presently about 3% (as compared to 5% in 1971) and that of LDCs at about 1% (as compared to 2% in 1971). Basically over four decades the share of Africa and LDCs in international trade has remained static or even declined.

The varying performance indicates that the actual impact of international trade can be both positive and negative, with the net effect being determined not only by trade policies but even more so by the existence of strong supportive and complementary policies, regulations and institutional frameworks. For example, by participating in multilateral, regional and bilateral trade agreements to liberalise trade conditions within national borders and in other countries via negotiations, countries hope to widen their market base for their exports and imports, and harmonise or coordinate trade-related rules and disciplines to avoid unfair trading conditions. In the process, uncompetitive industries may disappear with attendant job losses, while more competitive industries may flourish and create new, decent and better paying jobs and economic opportunities. For all countries, large and small, economically strong or weak, the domestic market (national and/or regional) is important but cannot be the sole platform for marketing of goods and services produced nationally. Both domestic demand and international trade are required to provide the opportunities for expanding and widening trade and benefiting from its dynamic impact. Hence the importance of joining the WTO, concluding trade agreements under its sphere including the current Doha Round and the negotiating issues facing WTO members at the Bali Ministerial Conference, effectively implementing the agreements and setting out national and regional strategies to take advantage of the opportunities for trade and for modernisation of trade disciplines.

It is important to note in this context that substantial tariff liberalisation has occurred. By 2012, three-quarters of international trade was fully liberalised under the most favoured nation (MFN) clause or preferential tariff regimes. However, we are yet to achieve full free trade. Tariffs remain relatively high in some sensitive sectors, such as agriculture, and in inter-regional South-South trade. Also tariff escalation is evident in the tariff structure of many countries, both developed and developing.

But, it is now well established that trade liberalisation alone is a necessary, but not a sufficient, condition for trade growth and related economic growth. Trade policies by governments create the opportunities for trade to occur and for trade flows to be facilitated, but not the complementary productive capacities and competitive conditions which is the prerogative of the private sector to assess and invest to capture the commercial opportunities. It is thus an essential corollary to trade policies including trade liberalisation that such policies are accompanied by coherent economic, industrial, social and environmental policies, and supported by an enabling institutional and regulatory environment such as good business policies, anti-competitive and consumer protection laws, and the rule of law and governance.

In this 21st century, approaches to international trade and the international trading system cannot be business as usual. Major systemic changes and trends have emerged that affect the way in which international trade is conducted and call for new generation trade policies, disciplines and institutional framework adapted to the realities of today to address long-standing and emerging development challenges and

take advantage of opportunities.
I wish to point out some of these changes that challenge us to think outside of the box in crafting trade and complementary policies to enhance the participation of countries, especially the most marginalised, in international trade and to realise inclusive and sustainable development gains.

The 2008 recession highlighted the fundamental point that with globalisation, countries and economies have become more closely intertwined or integrated. Thus when global trade and economy grow, all countries benefit. The reverse is also true as evinced by this recession. So with greatly increased interdependence, countries need to take measures to boost their resilience to fall-outs from global economic crises. Such measures include building competitive and diversified productive capacities in goods and in services, enhancing value addition, and diversifying markets including in the South.

The engine behind the growth of the global economy in recent years has been the dynamic performance of developing countries, especially emerging economies, and of trade among developing countries. Today developing countries account for nearly half of global merchandise exports, as compared to 25% in 1990; moreover this shift is largely attributable to South-South trade. While rising, South-South trade is largely related to trade to/from and within East Asian countries. For the vast majority of developing countries, trade with intra-regional partners is of a smaller magnitude than their trade with East Asian countries. This trend is both due to difficulties related to regional integration in many developing countries and to integration of East Asia into global supply or value chains. Thus enhancing trade within regional groupings within developing regions must be a priority, including as part of enhancing domestic demand, and drawing upon lessons learnt in South-East Asia.

The intensification of global and regional value chains (GVCs) is serving as a conduit for industrial transformation of countries in the higher value chain production and trade, and the associated benefits of skill jobs, higher wages, good working conditions etc. The unbundling and delocalisation of production processes across countries by Transnational Corporations (TNCs) has opened opportunities for developing countries to beneficially integrate into regional and global trade by specialising in a discrete production process, or "tasks", without having to develop a whole range of productive capabilities. UNCTAD's research, including collaborative work with the Organisation for Economic Cooperation and Development (OECD) and the WTO, show that gains from GVCs are not automatic.

Many developing countries continue to remain outside the margins of GVCs. Also, the type of the production process countries specialise in and the amount of value-added they extract matters. Thus, attention should be paid to helping developing countries move to more value-added segments of GVCs away from simple assembly ("screwdriver") operations.

Advances in new technologies and the rise of the digital economy have opened new possibilities to widen the scope of production and trade between what can traditionally said to be the sphere of comparative advantage of any country. *Creative industries*, for example, are among the most dynamic sectors in the world economy providing new opportunities for developing countries to leapfrog into high-growth areas of the world economy by harnessing the interface between creativity, culture, economics and technology in a contemporary world dominated by images, sounds, texts and symbols. Such industries are also typically produced by small and medium sizes enterprises (SMEs) and hence provide wider benefits to local communities. The value of exports of creative goods grew at an annual growth rate of 8.8% from 2002 to 2011 to reach US$454 billion in 2011, and the value of creative services exports rose grew by 12.7% during the period 2002-2011 to reach US$177 billion. Harnessing the seemly conflicting goals of protecting and promoting biodiversity on the one hand, and creating economic opportunities for rural communities is another area for further development. This was highlighted at the Rio+20 Summit in terms of a transition to various models of *green economy.* Areas where potential positive trade-offs can be realised for the environment, for local communities and for trade (and thus consumers abroad) include bio-trade, organic agriculture, renewable energy, and sustainable forest and fisheries. Trade can contribute to enabling sustainable development locally and spreading it globally. The *services economy* is also an area with huge potential for developing countries including in tourism, movement of persons, supply services and as information and communication technologies (ICT) and logistics services.

These changing conditions governing international trade call for an adjustment, adaptation and/or modernisation, as well as disciplining of trade policies, measures, regulations and institutions, to better deal with existing problems, harness the new opportunities and address the new threats. It also calls for greater coherence among trade and development policies at the national level and international level. In particular, trade policies need to be accompanied by coherent economic, industrial, social, employment and environmental policies, supported by an enabling institutional framework. It needs institutional adaptation such as an updating of the existing 1947-era and 1995 Uruguay Round WTO disciplines. It can also be argued that the phenomenal rise of regional trade agreements to over 500, presently underlines a clear need for strengthening of multilateralism in trade which offers the best global public good in terms of trade architecture for all countries, especially the economically weak, small and marginalised. Moreover, while there has been a general decline in the use of tariffs, international trade is increasingly regulated and hindered by non-tariff measures (NTMs), including sanitary and phyto-sanitary measures, technical barriers, quantity-price measures, export measures and pre-shipment inspects. In addition to

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these mainly governmental measures, private standards have proliferated rendering it more difficult for developing country producers and exporters to have their products access foreign markets. UNCTAD and other agencies working on identifying, classifying and quantifying NTMs and in promoting international cooperation on voluntary sustainable standards will help.

Taking into consideration the above, there is clear need for continuous monitoring of the evolving trading system and trade policy to inform Member States and help them to shape national and international policies. UNCTAD – being the focal point of the UN system on international trade – has a seminal role in shaping the post-2015 development agenda by analysing, identifying and helping countries design and implement trade and related policies that would maximise development gains, and by providing a platform for deeper discussions at the international level on how to ensure a positive and catalysing impact of international trade.

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A World to Gain: Going Faster and Further in Development

Lilianne Ploumen

This article by the Dutch Minister for Foreign Trade and Development Cooperation offers various insights into the merits and limitations of international trade and development and the Netherlands' new strategic agenda, which bridges the traditional divide between aid and trade.

Development is about progress. Remarkably, in a world that seems dominated by recurrent crises, quality of life has improved substantially for hundreds of millions of people. This progress has been achieved through a combination of economic growth, government policies, the engagement of civil society, and a global commitment to the Millenium Development Goals (MDGs). Many people across the globe now enjoy a better standard of living.

> The need for international cooperation has never been greater.

Yet we have to go further and faster. Growing inequality between the global rich and the global poor, mounting pressure on scarce resources, the impact of climate change and instability in fragile states are undermining the gains that have been made. In a world that suffers under such pressure, the need for international cooperation has never been greater.'Business as usual' is no longer a viable option: we must explore new horizons.

My recent policy paper, entitled 'A World to Gain', describes a unified agenda that bridges the traditional divide between aid and trade. Some people regard 'aid versus trade' as a zero-sum game: they fear that an increase in international trade will benefit prosperous countries like the Netherlands at the expense of developing countries. Yet, in my view, the aid and trade approach should clearly benefit both.

The lesson to be learned from every emerging economy – and many of the world's fastest growing economies are in Africa – is that impressive social gains can be made by pairing economic growth with public spending. Conversely, failing to address poverty, weak governance, and inequality renders economic growth unsustainable.

Former aid recipients want to be seen as equal partners: they welcome foreign investment. When I visited Bor in Southern Sudan, a local government official surprised me at the end of our talk by saying, 'The visit was fruitful, but next time, please bring some investors with you as well.' The key is to establish mutually beneficial ventures in which the partners are on an equal footing. Jointly defining an agenda for boosting trade and promoting the rule of law, well-functioning institutions and social change can pave the way for further economic growth. However, I would add one caveat: as a guiding principle, growth must be inclusive and sustainable.

This approach can bring together two worlds that have long been separate. I do not deny that it may cause friction and that hard choices will sometimes have to be made. However, there is much to be gained by seeking common ground and combining agendas that both benefit the poor in developing countries and stimulate business for Dutch companies.

Building a trade relationship starts with opening up markets and promoting private sector development. Entrepreneurs in low- and middle-income countries can then sell their products on European and Dutch markets, while Dutch entrepreneurs gain access to the developing countries' markets. For trade to be possible, the conditions enabling investment and enterprise need to be in place. To this end, we are promoting a positive investment and business climate in low- and middle-income countries. At present, Dutch companies focus on Europe, so we are helping them internationalise their operations. For example, the Dutch Good Growth Fund was established to help Dutch small and medium enterprises (SMEs) invest in developing countries and to enhance local enterprise development.

Economic diplomacy is an increasingly important way of providing Dutch companies with access to sectors like water and energy, which are often dominated by government, and to markets in more remote low- and middle-income countries. Fortunately, we do not have to start from scratch. The experience and networks gained through many years of development cooperation in partner countries make it easier for us to expand our economic ties. In many countries, impressive results have been achieved: in Ethiopia, Dutch companies have boosted the export of locally grown flowers, and in Colombia new technology has been used to improve construction in slum areas subject to frequent flooding.

The Netherlands is implementing our strategy for aid, trade and investment in three groups of countries. In fragile states and countries that lack sufficient capacity to reduce poverty on their own, we focus on aid relationships. In transitional countries with burgeoning economies, we engage in poverty reduction activities while helping to improve the business climate, develop the private sector and stimulate investment. Our focus here is on low- and middle-income countries like Ghana, Kenya, Indonesia, Bangladesh, Ethiopia, Mozambique, Uganda and Benin. Finally, in a third category of countries (e.g. China, Brazil), our relationship focuses on promoting trade and investment that directly benefits economic growth and employment in the Netherlands.

In transitional countries in particular, it is clear that trade and investment do not automatically lead to sustainable and inclusive growth. It is my aim to encourage forms of investment and trade that are good for people, planet and profit, and to create employment opportunities, preferably accompanied by the transfer of knowledge and skills. The cornerstone of this approach is encouraging and facilitating international corporate social responsibility.

This agenda and approach are in evidence in Bangladesh, where the Netherlands is working closely with the Bangladeshi government, the International Labour Organization (ILO), the garment industry, companies, international donors, trade unions and non-governmental organisations (NGOs) to improve working conditions in the ready-made garment industry. As recent disasters in Bangladeshi garment factories have shown, workers are often subjected to unsafe conditions – in some cases in violation of their human rights. With the support of the Netherlands, a new Bangladeshi labour law has been enacted, and garment factories will be thoroughly inspected and renovated. At my request, Dutch companies have also adopted a Plan of Action for a Sustainable Garment Sector. A sustainable value chain in this sector will benefit all parties, including international enterprises, local factory owners and factory workers.

> There is much to be gained by seeking common ground and combining agendas that both benefit the poor in developing countries and stimulate business for Dutch companies.

Achieving a level playing field through the World Trade Organization (WTO) and the Economic Partnership Agreements (EPAs) presents another crucial challenge in order to foster economic growth and poverty reduction systemically and globally.

Developing countries cannot generate economic growth or reduce poverty if they fail to engage in trade and integrate into the global economy. WTO members have expended considerable effort on improving the position of least-developed countries (LDCs) in the multilateral trading system, in terms of both market access and technical assistance. But there is a lot more to gain for these countries.

These countries now clearly have more influence over the agenda of WTO negotiations thanks to their active participation and the coalitions they have successfully formed. Serious consideration should be given to their concerns by offering as many new trading opportunities as possible and by simultaneously helping them adjust to and to reap the benefits of trade liberalisation. It is crucial that we support these countries in their efforts to carry out reforms and escape the marginalisation of past decades.

The 9th WTO Ministerial Conference (MC9) in Bali is within sight. It is very important to reach a deal on elements of interest to LDCs by the end of the year and to provide a coherent approach to trade and development. Especially for Africa, it is vital that promises are translated into quantifiable results. In our view, the coming Ministerial Conference is essentially about two things: achieving a successful multilateral trade deal for the world and further integrating developing countries into the world trade system, especially the LDCs.

Trade facilitation is the core issue: reducing red tape and enhancing customs procedures is critical for the LDCs to tap into global value chains. In many developing countries, clearance times for exports and imports have a major effect on the competitiveness of local industry. Indian companies suffer an estimated 37% cost disadvantage in shipping clothing from Mumbai to the United States compared with Shanghai, purely as a result of delays and inefficiencies in Indian ports. Global and regional development banks are ready to contribute.

Tunisia's export development programme is a good example of the importance of trade facilitation. At the start of the programme, it was estimated that the customs and logistics components of the programme would reduce cargo delays by about two-thirds – from an average of 10.1 days in 2003-04 to 3.3 days in 2010. Not only were significant results achieved at the border, but the programme increased exports by more than US$400 million by May 2010, with over one-third of this amount being represented by new exports to new markets. Moreover, according to the case history, the programme resulted in the creation of some 50,000 full-time and 50,000 part-time jobs for the firms involved.

In addition, the Economic Partnership Agreements (EPAs) offer opportunities for expanding trade, for both developing countries within Africa and the global market. We strongly believe that EPAs can bring important benefits to the African Caribbean and Pacific (ACP) countries. EPAs can foster their integration into the world economy by advancing regional integration and South-South trade. We must ensure coherence between trade liberalisation and development assistance in order to ensure that the ACP countries can seize the opportunities offered by the EPAs. The pursuit of development is a multi-dimensional undertaking. Capitalising on the benefits of trade integration also requires institutional capacity-building and associated adjustment measures.

The EPA negotiations are still ongoing. While progress has been made, contentious issues still remain. It has been difficult to find common ground on some points. The debate over the potential costs and benefits of a full EPA, especially in African countries, has been an issue since the start of the negotiations. At the same time, many countries are concerned about whether their private sectors can compete with companies from the EU.

The EPAs are not regular Free Trade Agreements. I regard the further integration of these countries into the production and trade chain as a major advantage. EPAs are geared to promoting countries' development and therefore include provisions on cooperation.

It is important to inject the development dimension fully into the EPAs and incorporate asymmetry as far as possible. This means we should make full use of the flexibility and asymmetry permissible under current WTO laws, so as to reflect the current variations in development levels and needs of the ACP countries and regions.

2014 is a pivotal year for the negotiations on EPAs. To move the process forward, trust and mutual understanding are essential. The outstanding issues are relatively clear. It is therefore of utmost importance that all parties show full commitment to concluding negotiations soon. By allowing these talks to linger on, precious opportunities for the private sector in Africa will be wasted.

The Netherlands wishes to play a constructive role in the dialogue on EPAs between EU and African stakeholders. In the coming months I will engage with local stakeholders from the private sector, civil society and government to hear their views on EPAs and identify options for moving the negotiations forward.

In a world of increasing global challenges, I see a clear need for innovation. World trade has been growing impressively and will continue to do so. Combining aid and trade will provide the right incentive to capitalise on growth and make it sustainable and inclusive. Aid can trigger investment by Western companies in low- and middle-income countries and provide jobs for poor and excluded groups.

I see this as an opportunity that must not be missed. What we need is allies, partners in both the North and the South who understand that a window of opportunity is opening up and are willing to take concerted action. I hope that many other countries will join us in exploring these new horizons together.

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Supporting Supply Chain Trade

Bernard Hoekman

Supply chain trade has helped many countries expand manufacturing activities, but many others have largely been left out. Redesigning domestic policy formation processes and international cooperation can help expand supply chain trade.

Many developing and transition countries have seen their exports of manufactured products grow rapidly in recent decades. The share of manufactures in total exports of developing countries has increased from just 30% in 1980 to over 70% today. A substantial proportion of this increase reflects so-called supply chain trade (SCT), with lower wage economies importing parts and components and processing them into products that are then exported for further processing in another country.

While all developing countries have benefitted from the high rates of growth that have been sustained by the "supply chain countries", most notably China, to date most of Africa and much of Latin America and the Middle East has not seen a significant shift towards the type of vertical specialisation that has helped drive growth in East Asia, Mexico, Turkey, and Central and Eastern Europe. This matters because supply chains allow even poor countries to engage in manufacturing for the global market, because firms can locate labour-intensive and low-skilled tasks in those economies. SCT offers opportunities to exploit a nation's comparative advantages without having to develop vertically integrated industries that provide final good producers with the various intermediate inputs they need. Fostering greater diversification and participation in supply chain trade can help create employment and increase incomes.

The design of supply chains is determined by lead firms as a function of many factors. Some of these are not under the control of governments, such as geography, but many are. One important determinant of SCT investments is the level of trade costs that prevail in a country. Although traditional barriers to trade, such as tariffs, have fallen dramatically everywhere, average trade costs are much higher for low-income countries than richer ones. Trade and information/coordination costs help explain why a large share of global SCT is in fact centered on three "regional factories": Europe, East Asia and North America (Baldwin and Lopez-Gonzales, 2013).

Reducing trade costs and improving connectivity to regional and global markets is a precondition for attracting SCT investments. This is a policy agenda that revolves importantly around trade facilitation – improving the efficiency of border management – but goes beyond it to include policies ranging from regulation of transport-related infrastructure services, e.g., ensuring there is competition in road, rail, maritime, and air transportation markets, to enhancing skills of workers and improving the business climate. Governments are not necessarily aware of the impacts of prevailing policies on SCT incentives and operations. Moreover, existing trade agreements and similar forms of international cooperation usually are not designed with a view to minimise negative impacts of domestic policies on SCT. Nor are they designed to assist governments to put in place a policy environment that will support SCT specialization and upgrading.

> ...governments will be able to better use the commitment technology offered by trade agreements to reduce domestic supply chain constraints

These considerations have implications for the design of trade agreements and international trade cooperation. Hoekman and Jackson (2013) and World Economic Forum (2013) advocate a "whole of the supply chain" approach to assessing and addressing the effects of regulatory policies on trade costs. The basic idea is that by organizing cooperation to cut across prevailing "policy silos" and focus on the set of policies that impact most on SCT, governments will be able to better use the commitment technology offered by trade agreements to reduce domestic supply chain constraints as well as the trade barriers that result from what trading partners do. A supply chain-informed approach to policy determination and reform can also be used as a mechanism to address the market-segmenting effects of differences in regulation, which is increasingly a source of trade and investment barriers among high-income countries.

Hoekman (2013) suggests a number of elements for operationalising the idea of a supply chain approach:

1. ***Select a number of supply chains or trade lanes.***

A first step would be to select a half-dozen or so production networks that are important for a country and its major trading partners and create "supply chain councils" for each of these. Business needs to be an integral part of this process as governments generally will only have a very incomplete understanding of how value chains operate. It will be important not to limit attention only on existing trade and investment flows, but to consider activities that have significant potential for expansion, e.g. by taking into account how regulatory policies impact on the ability of small and medium-sized enterprises (SMEs) to sell more internationally. Generally, SMEs will be suppliers to lead firms, contract manufacturers or multinational service companies, but they can increasingly use the internet and business-to-business market platforms to sell their products internationally. Taking actions to facilitate greater international participation by SMEs is a priority for all governments, but often they may be unaware of how extant policies impact on the ability of SMEs to expand their international operations. An example is the cost hurdle imposed by security or privacy-motivated regulations such as a requirement to locate servers in the country of the consumer/client. Such regulations are much easier for a large firm to overcome than an SME.

2. ***Identify the set of policies that matter most.***

Once specific supply chains/production networks have been selected, a first task would be to identify the policies that impact negatively on SCT investment and expansion. Active involvement and participation by business is critical here as the effects of policies may not be evident given that they will often be reflected in delays or create uncertainty that gives rise to a need to hold excess inventory stocks or engage in other forms of costly "self-insurance." This process of "mapping" supply chain trade costs and inefficiencies to regulatory policies will require inputs from both business and other knowledge providers. Supply chain managers within firms may not understand or be interested in determining the contributions of various sources of costs and uncertainty and which specific policies have the greatest effects, implying a need for collaboration with researchers and analysts.

3. ***Agree on an action plan***.

Another essential task for supply chain councils is to discuss and agree on an action plan to address the sources of excessive SCT costs. Here again the public-private partnership nature of the endeavor is important. The participation of both the relevant regulatory bodies, and those in government who are responsible for economic policy more generally, will be necessary to decide what can be done to reduce regulatory compliance costs without detrimentally affecting the realisation of the underlying regulatory objectives. Active engagement by the business community can facilitate identification of approaches that lower compliance costs without putting into question the rationale for regulation. In practice defining action agendas will require the engagement of government officials, business, consumer groups and legislators.

4. ***Set performance indicators.***

Measuring and quantifying the "performance" of the supply chain networks that are the subject of deliberations in ways that can be monitored over time is important. The aim should not be to limit the focus to identifying the most binding constraints (sources of trade costs), but to agree on specific targets for improvement. What these performance indicators may be will depend on the type of activities or products involved. Establishing numerical baselines will help both to motivate the need to pursue reforms and to act as a critical ingredient in determining whether progress is being made over time to reduce trade costs. One reason why metrics are critical is because of the scope for policies to substitute each other—removing one source of redundant or duplicative regulatory cost may not have an effect if other policies continue to impose excess costs.

5. ***Monitoring, learning and accountability for results.***

A final element would be to ensure active monitoring and reporting on progress and results. This should be public (published) both to ensure transparency and to increase the incentives of those who are tasked with taking actions do so. This is a function that will depend importantly on having established a quantitative baseline and collecting the data that are required to determine if performance on the chosen metrics is being made. While the analysis of progress made (or not made) and reporting should be done by independent entities, to ensure that conflicts of interest do not arise, business again has a critical role to play as often it will have the best access to the requisite data. Examples of performance indicators might be the time it takes for consignments to satisfy all border management processes, the share of transactions that are physically inspected, or the variance in the average time that is required for regulatory approval to be obtained. Whatever the metrics that are agreed, data on the outcomes that are realised on these metrics will need to come from the business community.

Trade facilitation is necessary but not sufficient

There has been extensive debate in the WTO context regarding the need for, and potential benefits of, concluding an agreement on trade facilitation. It is difficult to comprehend why some negotiators, including from countries that have a high trade cost operating environment, oppose such an agreement given the importance of lowering trade costs to attract SCT investment and to capture the associated employment and income benefits. The extant research, and, more importantly, the experience of countries that used SCT to sustain high rates of economic growth, suggests that investment of political capital and financial resources in trade facilitation will have a high rate of return. But whatever may emerge from the WTO process and the 'Bali Ministerial' in December 2013, it will only partially address the sources of trade costs that inhibit SCT. An approach that is broader and that focuses more centrally on identifying and addressing the factors that negatively impact SCT is needed at the domestic, regional and multilateral level.

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The Impact of Trade Facilitation on Developing Countries

Evdokia Moïsé

Trade facilitation measures currently negotiated in the World Trade Organization (WTO) can bring a welcome boost to the world economy, reducing the costs of trading by 14% to 16% in the case of developing countries.

The World Trade Organization negotiations on trade facilitation are among the central elements of the Doha Development Round and right now one of the main potential deliverables at the Bali WTO ministerial. Their stated objective is to clarify and improve WTO provisions on trade regulations, import and export fees, and formalities and freedom of transit "*with a view to further expediting the movement, release and clearance of goods, including goods in transit*". Contrary to some of the traditional areas of trade negotiations, the whole endeavour is not targeted at the exchange of concessions, but at enhancing the efficiency and reducing the cost of trade procedures so as to increase worldwide benefits of trade for economic growth and development.

Unduly complex processes and documentation raise costs and cause delays not only for businesses, but also for the consumers, and finally for the whole economy. This is true for all economies, but today affects particularly the developing countries. Based on a series of trade facilitation indicators, designed to measure the relative economic and trade impact of the measures under negotiation in the WTO, the Organisation for Economic Co-operation and Development (OECD) found that lower middle income countries stand to gain the most from a comprehensive trade facilitation reform, which could reduce trade costs in this group of countries by 15.5%. Potential cost reductions are almost 14.5% for low income countries and 13.2% for upper middle income countries,[1] while they can reach 10% for OECD countries.[2] Keeping in mind that a reduction of global trade costs by 1% would increase worldwide income by more than US$40 billion,[3] these are reforms that could bring a very welcome boost to developing countries' economies.

Some of the measures that would contribute the most in reducing trade costs, such as the harmonisation and simplification of trade documents, or enhanced availability of trade information, are quite easy and inexpensive to put in place. Extensive harmonisation work in the UN family has produced standard trade documents, which are still not as widely used as they could be, in particular in Africa. A wider acceptance of existing internationally harmonised documents could reduce trade costs for African countries by 2.7%.

Other measures, such as the simplification and streamlining of border procedures or the automation of data exchange and control systems, may entail more significant investment and operating expenses. Yet, even those are relatively low, compared to the potential benefits they bring to the economy. A recent OECD review in a number of developing countries found that the total capital expenditure to introduce trade facilitation measures ranged between US$5 and 25 million, while annual operating costs directly or indirectly related to trade facilitation did not exceed US$3.5 million. Furthermore, considerable technical and financial assistance is available to countries that need it. Donor support, directed to simplifying and modernising border rules and procedures, has increased by 365% in real terms between 2002 and 2011. The largest beneficiary was Africa, which received US$200 million in 2011, a 17-fold increase over a ten-year period.

The benefits from trade facilitation are of course linked to improvements in import procedures, which not only can lower the price of consumer products, but also enhance the competitiveness of domestic production by reducing the costs and improving the access to imported intermediate inputs. However, the OECD Trade Facilitation indicators show that they are equally linked to the increased efficiency of export procedures, making trade facilitation a central factor to upgrading the export performance of firms in reforming countries.

Participation in global and regional value chains offers developing economies an opportunity to add more value within their local industries, drive employment and raise incomes. However, as goods cross borders many times, first as inputs and then as final products, fast and efficient border procedures are essential. Whatever the advances in addressing domestic obstacles to firm competitiveness, they can be stifled if border inefficiencies persist. Trade facilitation is critical in allowing developing economies both to improve their productivity and to reap the benefits from international trade.

The significance of trade facilitation measures is increasingly clear to all countries, and significant improvements have been realised in recent years. The conclusion of the WTO trade facilitation negotiations could lend additional momentum to these efforts and support an important and much needed boost to widespread economic growth and development.

Notes

1. Moïsé, E. and S. Sorescu. 2013. *Trade Facilitation Indicators: The Potential Impact of Trade Facilitation on Developing Countries' Trade*. OECD Trade Policy Papers no 144, OECD Publishing.
2. Moïsé, E., T. Orliac and P. Minor. 2011. *Trade Facilitation Indicators: The Impact on Trade Costs*. OECD Trade Policy Papers No. 118, OECD Publishing.
3. OECD. 2009. *Overcoming Border Bottlenecks: The Costs and Benefits of Trade Facilitation*. OECD Trade Policy Studies.

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WTO Retaliation Rights for Developing Countries:
an Argument for Retaliation based on Consequential Losses

Lorand Bartels

It has been obvious for a long time that small developing countries are unable to force larger trading partners to comply with their World Trade Organization (WTO) obligations. The ongoing efforts of Antigua and Barbuda to force the United States to respect the WTO ruling in *US – Gambling* is a salient example.

The reason is simple. Article 22.4 of the WTO Dispute Settlement Understanding (DSU) permits a successful WTO complainant to retaliate by suspending obligations that are 'equivalent' to the 'nullification or impairment' caused by the illegal measure. This has traditionally been seen in terms of the trade lost as a result of the measure. The problem is that what is substantial for a small complainant can also be trivial for a large non-complying defendant. The damage suffered by Antigua and Barbuda was assessed at US$21m: around 4% of its exports. When converted into a stick, however, this only amounted to 0.002% of US exports.

In negotiations on the review of the DSU, developing countries have made various proposals to address this problem. One proposal is to make monetary compensation mandatory. Whatever its merits, this proposal also has some flaws. In the first place, it presupposes that monetary compensation is a positive outcome. In fact, there is no guarantee that any such compensation would flow back to the affected industries. The compensation paid in *US – Section 110(5)* went to a European performing rights agency, not the Irish performing rights agency on whose behalf the proceedings were originally brought. In addition, an obligation to pay monetary compensation would still need to be enforced, meaning that the problem is displaced, not eradicated.

A second proposal is to introduce collective retaliation, so that a complainant can auction its rights to retaliate to other countries. Again, this might seem better than the current situation, especially for WTO members who do not wish to 'shoot themselves in the foot' by suspending trade obligations. However, this proposal also only goes so far. At best, it is uncertain that any WTO members would wish to exercise any such retaliation rights. This is particularly the case given that the right to retaliate is expressly stated to be temporary, pending compliance, and so it might not be worth acquiring.

A third proposal is to enhance the right to cross-retaliate in another sector, which in practice often means suspending intellectual property obligations. At present, this is only possible when it is not practicable or effective to retaliate in the same sector at issue or under the agreement that was violated. The proposal currently on the table would remove this condition, resulting in an unfettered right to cross-retaliate. While certainly an improvement on the current situation, this proposal is also not a panacea, as the Antigua and Barbuda dispute shows.

Finally, there is an innovative proposal to impose administrative sanctions on recalcitrant wrongdoers. This proposal draws its inspiration from the sanctions applicable to WTO Members in budget arrears, which range from disqualification from participating in WTO committee work to a denial of access to training or technical assistance. This proposal has much to commend it, and one might also look for further inspiration to the EU, where wrongdoers lose more significant voting rights. But it is perhaps unlikely that this proposal will be successful.

Each of these proposals has some merit, but also deficiencies. It is therefore worthwhile reconsidering the source of the difficulty, which is the rule that value of retaliation must be 'equivalent' to the value of the damage suffered.

One way of doing this is to reassess the way the damage suffered by the respondent is assessed for the purposes of Article 22.4. As mentioned, 'nullification or impairment' is traditionally assessed in terms of the trade that would have existed in the absence of the illegal measure. The problem, as others have noted, is that this takes no account of the full range of negative effects of that measure, and such effects can be of particular relevance when the complainant is heavily dependent on the trade that has been lost.

But it can also be argued that this traditional reading of 'nullification or impairment' in Article 22.4 is too narrow. This phrase is actually shorthand for the phrase 'nullification or impairment of benefits accruing to [the complaining member] directly or indirectly under the covered agreements'. And what are these benefits? Contrary to the assumption underlying the current understanding of Article 22.4, these benefits are not limited to the trade flows that would have existed in the absence of the measure. The WTO agreements secure a range of benefits, some of which are contingent on the expectation of market access and non-discriminatory conditions of competition. For example, some panels have found violations of WTO rules on the basis that the respondent's unpredictable behaviour created a climate inhospitable for trade-related investment *(Japan – Leather II (US); Colombia – Ports of Entry)*.

In short, it is arguable that the benefit of WTO membership is not limited to lost trade expectations, but includes the economic consequences of those expectations being fulfilled. If one takes into account these lost benefits in determining the value of retaliatory measures, then WTO members should be able to retaliate by suspending WTO obligations valued not only in terms of expected trade flows, but rather in terms of the expected gains consequent upon those trade flows. This is of particular significance for developing country WTO members, for whom the value of these consequential losses may be significantly higher than the value of lost trade flows.

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WTO Rules: How Could the G-33 Proposal Affect Food Security?

Jonathan Hepburn and Christophe Bellmann

In November 2012, a group of developing countries tabled an informal proposal at the World Trade Organization (WTO), seeking additional flexibility in the global trade body's rules on agriculture.

The group – known as the G-33, a coalition of developing countries with large populations of smallholder farmers – proposed that WTO members seek to fast-track agreement on three paragraphs of the draft Doha accord, at the Organization's Ministerial Conference in Bali, Indonesia, in December 2013.

A number of developing countries - including the G-33 - have argued that concessions on agriculture must form part of the 'small package' of measures for agreement at Bali. The G-33 have argued that progress on agricultural trade is needed in order to balance concessions on an eventual deal on 'trade facilitation' – easing restrictions and red tape at customs, in order to make it easier for goods and services to cross international borders. The G-33 proposal involves three elements related to domestic farm support payments that are exempt from any cuts or ceiling under WTO rules, on the basis that they cause no more than minimal trade distortion – known as 'green box' subsidies by negotiators.

What does the proposal entail?

The G-33's proposal includes three core elements. The first element would ensure an additional sub-category for developing country programmes is included alongside other payments currently allowed under the existing category of 'general services' in the green box. Governments currently use this category to report minimally trade-distorting support in areas such as research, pest and disease control, farmer advisory services, and some kinds of infrastructure payments. The G-33 proposal seeks to add a new sub-category to cover subsidy schemes most commonly used by developing countries - such as land reform, rural livelihoods, and poverty alleviation programmes.

The second change put forward by the G-33 would ensure that food purchases made at administered prices from low-income or resource-poor producers would not count towards a developing country's maximum permitted subsidy limits at the WTO, so long as these were part of a public stockholding programme for food security purposes. WTO rules currently cap such purchases, by requiring them to count towards a country's "aggregate measure of support" (AMS): for developing countries, this usually means the 'de minimis' ceiling, set at 10% of the value of production. However, there are no limits at the WTO on the amount of food that can be bought at market prices for food stocks, or which could be provided as domestic food aid at subsidised prices.

The third change sought by the group relates to a footnote to requirements on food stockholding and domestic food aid. Once again, the language seeks to exempt food purchases "procured generally from low-income or resource-poor producers" from the requirement to count this support towards the AMS.

Price inflation: eroding countries' flexibility?

Since the original informal proposal, a sub-set of G-33 members have circulated two unofficial 'non-papers' in addition to the original G-33 proposal to facilitate discussion amongst WTO members. Both these documents explore options that could help developing countries overcome the problem that rising food prices have reduced the scope for governments to purchase food from producers at administered prices without exceeding current WTO ceilings. The reason for this is that food prices in many countries have increased substantially in the two decades since WTO members agreed on a 1986-88 benchmark for the reference price that is used to calculate the extent to which governments distort trade. Countries currently have to multiply eligible production by the gap between this reference price and the administered price - with 'eligible production' being understood as the totality of the farm product produced in the country. The G-33 argues that this methodology substantially over-estimates the actual degree of trade distortion resulting from domestic programmes in developing countries.

The first such document identified four variables that could potentially be modified or clarified so as to provide developing countries with greater flexibility under WTO rules. These included the 'de minimis' ceiling (which is set at 10% of the value of production for most developing countries), and three elements used to calculate countries' levels of market price support: the external reference price, which is based on a 1986-88 benchmark; the volume of eligible production; and the level of administered prices.

The second 'non-paper' proposed an additional three options that the G-33 subgroup indicated could also help address their concerns. The first option suggests that developing countries could use a three-year rolling average to calculate how much their food stockholding purchases contributed towards their overall farm subsidy limit, instead of benchmarking support against the external reference price. Countries should also be allowed to use last year's average price in the largest 1-3 suppliers of foodstuffs in the country, the group suggested. The second option would be to agree a draft decision allowing WTO members to take into account excessive rates of inflation – higher than 4%, the group suggested – in calculating the contribution of food stockholding programmes towards overall farm subsidy commitments at the WTO. Finally, a third option would be to agree a 'peace clause' exempting these programmes from legal challenge.

How can public stockholding schemes affect food security outcomes?

According to the G-33 proposal, the direct effects on trade of government purchases from low-income resource-poor producers at higher than market prices would be minimal - since these farmers are producing primarily for own consumption and sale in local rural markets. In many countries, public stocks account for only a small proportion of marketed production: in such situations, therefore, the effects on both domestic and international market prices is likely to be minimal. However, as with any market intervention, public procurement is likely to introduce some degree of price distortion. The possible effects on production, consumption, stock levels, and hence trade will depend upon the characteristics of markets and the procurement model used in each country.

Critically, however, the extent and effects of these price distortions will also differ across time, depending upon whether the programme is procuring, holding, or releasing stocks. One of the main risks of excessive involvement of the public sector in purchasing and holding food staples is that it can crowd out private traders. These market actors could be providing marketing services and market infrastructure at a lower cost, and could be more effective in conveying market signals. Furthermore, if private traders are crowded out, the efficiency of marketing channels for both domestic and international markets could also be harmed by declining investments in improved market infrastructure.

> One of the main risks of excessive involvement of the public sector in purchasing and holding food staples is that it can crowd out private traders.

The costs of holding stocks can be fiscally unsustainable, particularly during periods of consecutive average or above average harvests, and the potential for food waste where storage systems are inadequate can be significant. The need to release stocks onto domestic or international markets can result in sales, whether through "commercial" channels or through government-to-government contracts, at below market prices. The timing of release, especially if unpredictable and not factored into traders' decision making, can significantly influence price levels and volatility, both domestically, and, if the country is a significant trader, internationally. There are concerns that the release of large quantities of surplus stock into already thin global markets (such as the case of rice) could have a suppressing effect on international markets to the detriment of other exporters.

Government food stocks can however also contribute to food security in other countries. For example, following the 2007-2008 spike in food prices, India entered into a deal with Bangladesh wherein about 400 thousand tonnes of rice were exported to Bangladesh at US$400/tonne while the world price was as high as US$800/ton. However, such government-to-government deals can, particularly where sustained over time, result in significant shifts in trading patterns, sometimes to the detriment of traditional exporters to the importing country.

Bali

Trade negotiators have made slow progress in informal talks in the run-up to the WTO ninth ministerial conference in Bali, Indonesia, this December. However, in October, delegates moved closer to agreement on how best to make information on subsidised food purchases for stockholding programmes more transparent to other WTO members. The transparency conditions would apply to countries benefiting from an 'interim mechanism' to provide greater flexibility to countries whose subsidised purchases for stockholding programmes could put them at risk of breaching current ceilings on trade-distorting support. Trade officials are exploring whether countries could temporarily agree to refrain from bringing legal disputes, in exchange for various safeguards and conditions. This "peace clause" would then temporarily shield these programmes from legal challenge.

The chair of the agriculture negotiations, New Zealand ambassador John Adank, told negotiators that, by discussing transparency requirements, conditionality and safeguards, "members had already taken steps towards elaborating quite specific requirements on which the flexibility will be dependent", suggesting that the mechanism may take the form of a ministerial decision.

Conclusions

The G-33 proposal can more broadly be seen as symptomatic of the challenges many countries face in designing policies to achieve food security goals in the new price environment. Current disciplines on agriculture in the multilateral trading system deal primarily with the challenges of structural oversupply on global markets that characterised the 1980s and 1990s, but arguably do not respond effectively to problems associated with the volatile and rising prices for food and agriculture that many experts expect will continue to predominate in the years ahead. As a result, while exporting countries are able to rely on a relatively well-developed set of rules and mechanisms to address trade distortions on the import side, importing countries (including the poorest ones) are unable to rely on an equivalent regulatory framework to ensure stability and predictability in the supply of farm goods on world markets. Ambiguities and inconsistencies continue to affect the ability of WTO Members to understand and monitor new phenomena properly, such as support to biofuels. Furthermore, Members have done little to consider the possible implications of future challenges such as climate change – not least due to slow progress on the ongoing round of Doha trade talks. While enhanced flexibilities at the multilateral level could deliver real benefits to low-income, resource-poor farmers, the design of international disciplines on public procurement and domestic food aid could have far-reaching implications for global agricultural markets that need to be given careful consideration both in the run-up to the Bali Ministerial Conference and beyond.

In order to address food security effectively, governments will have to engage meaningfully with a wide range of disciplines and measures on trade – including agricultural export restrictions, biofuel subsidies and a number of other long-standing concerns such as rules on market access for farm goods and trade-distorting subsidies. Negotiators could usefully explore the scope for establishing a post-Bali work programme looking at the full range of trade and food security concerns, with a view to improving the ability of the multilateral trading system to respond effectively in this area.

This article is based on a longer ICTSD/FAO information note, available online at: http://ictsd.org/i/publications/176915/

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The Right to Trade:

A Mechanism for Revitalising Pro-Development WTO Negotiations?

Emily Jones

What would it take to revitalise and rebalance the World Trade Organization? Joseph Stiglitz and Andrew Charlton make ambitious and innovative proposals for revitalising and rebalancing the World Trade Organization (WTO) in a recent report *The Right to Trade: Rethinking the Aid for Trade Agenda.*[1] This article sets out and critically appraises the core elements of their proposals.

Aid for trade: failing to live up to its promises

The reform proposals put forward by Stiglitz and Charlton stem directly from their evaluation of 'aid for trade'. Since its launch in 2005, 'Aid for Trade' has gained a high level of visibility and 25% of all official development assistance is now labelled 'aid for trade'. While Stiglitz and Charlton accept that 'aid for trade' has promoted trade and boosted developing country exports, overall their verdict is a critical one: it has "failed to live up to its promise of additional, predictable and effective finance to support developing countries' integration into the global economy".

While the then WTO Director-General Pascal Lamy recently lauded the 'aid for trade' initiative for raising more than US$200 billion, Stiglitz and Charlton argue that there is "scant evidence" that this aid is really additional. They point out that there is no rigorous mechanism for monitoring and evaluation (the system relies on self-assessment by donors), making it hard to assess additionality and impact. Moreover, financing may be skewed towards the preferences of donors, which puts it at risk of being "just another form of conditionality". Overall they contend that 'aid for trade' has become a "means for both the aid and trade communities to paper over their weaknesses without doing much for the fundamental concerns of poor countries".

Enshrining a 'right to trade' and a 'right to development' in the WTO

Having raised deep concerns about the failure of 'aid for trade' Stiglitz and Charlton make ambitious proposals for rebalancing the global trading system. The first pillar of their proposal is to enshrine and enforce a 'right to trade' and a 'right to development' through the WTO's dispute settlement mechanism.

The 'right to trade' is proposed as a means for addressing the trade barriers facing exporters from developing countries. The 'right to trade' would give developing countries the ability to bring an action against an advanced country if "a specific policy materially impedes the development of an identified community in a poor country by restricting their ability to trade". The complementary 'right to development' is a means for addressing the challenges that arise when developing countries implement multilateral trade rules at home. The authors argue that aspects of the existing trade rules can impair development including by impeding industrialisation, limiting developing countries' access to technology and knowledge, and reducing public budgets.

> Aid for trade has, according to Stiglitz and Charlton, "failed to live up to its promise of additional, predictable and effective finance to support developing countries' integration into the global economy".

The 'right to development' would "limit the applicability of WTO obligations when the enforcement of such obligations would have a significant adverse effect on development". Alternatively put, it is the "right not to be harmed by the imposition of trade rules".

The second pillar of their reform proposal is to create a Global Trade Facility, which would fund "genuine aid for trade" and support developing countries to bring cases under the new 'right to trade' and 'right to development'. The Global Trade Facility would not implement 'aid for trade' programmes directly but would allocate resources based on proposals from a wide range of development organisations. It would provide robust tracking and assessment and be governed in a way that ensures a high degree of developing country oversight. Channelling funds in this way would make the allocation of funds more transparent, predictable and responsive to developing country needs and would help insulate 'aid for trade' finance from the political interests of donor countries.

Stiglitz and Charlton propose that funds be raised from three sources: advanced countries would transfer 0.05% of their GDP (as part of their broader commitment to dedicate 0.7% of GDP to aid); a small fee would be levied on advanced country exports to developing countries (a mechanism for compensating developing countries for tariff revenues foregone as the result of trade liberalisation); and advanced countries would pay the equivalent of 5% of all their agricultural subsidies and 15% of all arms sales.

How feasible are these reforms?

Such bold reform proposals stimulate a series of questions, particularly about the ways that these reforms might be put into practice. Five are highlighted below.

First, what exactly is the *scope* of the 'right to trade' and the 'right to development'? Stiglitz and Charlton make it clear that the 'right to trade' (and presumably the 'right to development') would transcend any existing WTO agreements and apply to all trade-related policies of advanced country member states. While they note that these rights would be 'subject to appropriate safeguards', they do not set out the types of safeguards that they envisage as limiting the scope of these rights. This leaves many questions unanswered. For instance, how much and what type of harm would have to be caused in order for a developing country to invoke the 'right to trade' or the 'right to development'? On what grounds should an advanced country be able to invoke a safeguard?

Stiglitz and Charlton reject calls for greater specificity, proposing that the rights be enshrined in WTO law at a high level of generality so as to avoid circumvention by developed countries (they are concerned that developed countries will devise policies that are consistent with the letter of the law but against its spirit). Their proposals leave the interpretation of these rights and determination of their scope to the experts appointed to WTO panels in individual dispute cases. Whether or not these experts interpret the rights in the manner Stiglitz and Charlton envisage would depend greatly on the selection of experts and the depth of their expertise on development.

> The 'right to trade' would give developing countries the ability to bring an action against an advanced country if "a specific policy materially impedes the development of an identified community in a poor country by restricting their ability to trade".

Second, which *parties* should be granted the right to bring a dispute? One of the most novel aspects of the proposals is to give some private individuals the right to file a dispute. They rightly point out that poor countries may refrain from filing disputes out of fear that they will come under coercive pressure from large countries. To offset these power asymmetries they propose that two other groups be accorded the right to bring a case: groups of developing countries (this is feasible under the current WTO arrangements where countries can be co-complainants), and *"any group of poor individuals harmed by the trade policy of another country"*.

Providing civil society and citizen groups the right to file WTO dispute cases against states is appealing as it would expand participation and could increase legitimacy. However, granting individuals the right to bring cases would fundamentally alter the nature of the WTO, moving it from a purely inter-state to a transnational system of trade governance. Such a move deserves careful reflection, as the ramifications are likely to be substantial. For instance, on what grounds is it justifiable to allow some groups of citizens the right to file a dispute but not others? Why should a group of poor people in an advanced country not have the same right to file a case under the 'right to trade' as a group of poor people in a least developed country? An obvious risk of opening up avenues for private actors such as citizen groups to lodge disputes is that powerful private actors, including companies, are also likely to lobby for such rights.

Third, should the 'right to trade' and 'right to development' only be made available to least-developed or to all developing countries? The authors propose that both rights be made enforceable for least developed countries but that for 'emerging markets' a 'softer' version might be appropriate, whereby they could ask for a declaratory judgement from the WTO as to whether a given rule is adversely affecting their right to trade or development. While it is the case that advanced industrialised countries are more likely to accept such a two-tier system, it is not clear that this more modest 'rebalancing' of the trading system would provide emerging economies with sufficient gains to unlock the negotiating impasse and revitalise WTO negotiations, which is the authors' aspiration.

Fourth, and related, should least developed countries be able to bring a case against emerging markets for infringing on their 'right to trade' and, if so, should emerging markets have the same responsibilities as developed countries to provide redress? The authors are silent on this, but as trade with emerging markets is becoming increasingly important for least developed countries, this question merits further reflection.

A fifth and final question concerns the political viability of the reforms: Why would the key actors in the international trading system (advanced industrialised countries and emerging markets) embrace these reform proposals given that the costs to them could be significant while the gains will accrue almost exclusively to least developed countries?

> Why should a group of poor people in an advanced country not have the same right to file a case under the 'right to trade' as a group of poor people in a least developed country?

Conclusion

The reform proposals made by Stiglitz and Charlton are big, bold and a welcome breath of fresh air in the debate about the way forward for the WTO. At a time when vision and momentum in the multilateral trading system is sorely lacking and we are seeing a turn to plurilateral and regional initiatives, Stiglitz and Charlton are right to demand that we engage in serious debate and action on the fundamental aims of the trading system. A next step would be to critically engage key member states, including least developed countries and citizen groups (the intended beneficiaries), and top legal experts in a detailed discussion about the desirability and legal feasibility of enshrining a 'right to trade' and a 'right to development' in the WTO.

Notes

1. Stiglitz, J.E and A. Charlton. 2013. *The Right to Trade: Rethinking the Aid for Trade Agenda*. London: Commonwealth Secretariat.

This article is based on E. Jones. 2013. *The Right to Trade: A Mechanism for Revitalising Pro-Development WTO Negotiations?* Trade Hot Topics. June 2013. London: Commonwealth Secretariat.

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Potential Effects of EU-US Economic Integration on Selected Developing Countries

Jim Rollo, Peter Holmes, Max Méndez Parra and Sarah Ollerenshaw

This paper is based on a report[1,2] commissioned by the UK Department for International Development (DFID) to the Centre for the Analysis of Regional Integration at Sussex University (CARIS), InterAnalysis Ltd (IA) and ITEAS Consulting Ltd. The remit was to look at the impact of the proposed Transatlantic Trade and Investment Partnership (TTIP) on 43 developing countries (LIC from now on).[3]

The analysis took three main routes: a qualitative analysis drawing on the Sussex Framework[4] for analysing free-trade agreement (FTA), using TradeSift (TS) Software[5] and focussing on impact of potential preference erosion on the top 20 LIC exports to the EU and US at Harmonised Commodity Description and Coding System (HS) 6-digit level. This also took account of LIC competitiveness relative to EU and US exporters and the incidence of non-tariff barriers (NTB). Second, a Partial Equilibrium (PE) econometric analysis of the potential impact of changes in the tariffs facing EU and US exporters in each other's markets. Third, a qualitative analysis of the performance of the LIC in dealing with existing EU and US Sanitary and Phytosanitary (SPS) rules as well as technical barriers to trade (TBT) in the textiles and clothing sector and possible implications.

Headline Results

- TradeSift analysis
  - **Bangladesh, Cambodia** and **Pakistan** top HS6 exports to the EU and US are in categories which attract high most favoured nation (MFN) duties (typically in excess of 10% and often above 15%) and **Ghana** is sensitive to SPS rules;
  - a few top export categories by **23 other LICs** to EU and US appear sensitive to high MFN tariffs or SPS rules.
- Partial Equilibrium Analysis
  - **exports to the** US from **Ghana, Kyrgyzstan, Malawi, Nepal, Niger and Pakistan**, as well as the exports from **Afghanistan** to the EU, show export decreases greater than 1%;
  - for **Bangladesh, Cambodia, Haiti** (US imports) and **Pakistan** clothing exports, the drop to either the EU or the US ranges up to 18%.
- SPS and TBT
  - Some LIC are already coping well with SPS and transatlantic harmonisation could potentially be an advantage;
  - the same is true of TBT, particularly in textiles and clothing sector;
  - countries not coping currently will face further difficulties if regimes change as a result of TTIP.
- Overall
  - Even at HS 6-digit level likely effects are judged to be small (mainly because competitiveness is strong), but may require individual countries to drill down to EU/US tariff line data to be sure.
- Caveat
  - This is static and backward looking analysis

Headline Policy options

- Options are limited: LIC are not in the negotiating room, so their lobbying strategies are limited.
- For top export products and where EU/US MFN tariffs are high, they could ask for compensation:
  - *ex ante* ask for more preferences; this would be easier for **Bangladesh, Pakistan and Cambodia** in the US since their exports currently pay high MFN duties on top 20 exports; it would be harder in the EU where Everything-but-Arms/Generalised Scheme of Preferences (EBA/GSP) means LIC already receive substantial preferences;
  - *ex post* they could pursue compensation under Article XXIV of the General Agreement on Tariffs and Trade (GATT); this is rather unattractive, however, since it would involve a potentially long wait.
- They could lobby for LIC export products which face high MFN tariffs to be excluded from TTIP liberalisation schedules, i.e. be added to any EU and US sensitive products list (but the scope is limited and would be subject to the liberalisation of "substantially all trade" under GATT Article XXIV).
- On regulatory integration, they could ask for the inclusion in any Bilateral Mutual Recognition Agreements and/or aid from the EU and the US to help with adaptation to any new regulatory requirements resulting from TTIP.

Background and more detailed results

No carve outs

The basis of the report was the final report of the US-EU High Level Working Group (HLWG) on Jobs and Growth.[6] According to that, TTIP will aim for:

- elimination, reduction, or prevention of barriers to trade in goods, services, and investment;
- enhanced compatibility of regulations and standards;
- elimination, reduction, or prevention of unnecessary "behind the border" NTBs to trade;
- enhanced cooperation for the development of rules and principles on global issues of common concern and also for the achievement of shared global economic goals.

Focus on Trade in Goods

As a practical matter, bilateral services trade data between the LIC and the EU or US is poor so the focus is on trade in goods and on tariffs, SPS and TBT in particular.

Table 1: LIC Potentially Affected by New Tariff Preferences and Regulatory Integration under a TTIP

Market	LIC with 5 or more of top 20 export products which attract MFN Tariiff > 10%	LIC with 1 or more of top 20 Exports products which attract MFN Tariff>15%	LIC with 10 or more of top 20 Export products which are sensitive to SPS
EU	Bangladesh Pakistan Cambodia Haiti Mauritania Madagascar Nepal	Cambodia Ghana Chad Burundi Madagascar Malawi Togo	Ghana, Kenya Mauritania, Burkina Faso Burundi, DR Congo the Gambia, Rwanda Somalia, Sudan Uganda Occupied Palestine Territories
USA	Bangladesh Pakistan Cambodia Haiti Kenya Madagascar	Bangladesh, Pakistan Cambodia, Haiti Kenya, Ethiopia Guinea, Burkina Faso Kyrgyzstan, Madagascar Malawi, Mali Mozambique, Rwanda Togo, Uganda Occupied Palestine Territories	Ghana Nigeria Malawi Togo Uganda

Table 2 Summary of Effects on LIC by Product

	Exports fall > USD 1 million and < USD 10 millions	Exports fall >= $ 10 millions
Bangladesh		Garments knitted and not knitted ($42.6 millions)
Pakistan	Garments knitted and not knitted ($5.1 millions)	Other textile products ($16.4 millions)
Cambodia	Garments knitted and not knitted ($7.8 millions)	
Malawi	Tobacco products ($2.1 millions)	
Nigeria		Oil ($114.8 millions)
Chad	Oil ($5.2 millions)	
Niger	Oil ($15.1 millions)	
Ghana	Oil ($5.3 millions)	
Haiti	Garments knitted and not knitted ($3.9 millions)	

The Abolition of the MFN tariff in EU- US trade is the key effect of an FTA for the LIC

Average MFN tariffs in transatlantic trade are low (around 4%) which suggests there will be little effect either in transatlantic trade or on third countries from a traditional FTA. However, there are individual tariff lines where MFN tariffs are high and some of these are for products of importance to LIC. Both the TradeSift and the Partial Equilibrium analyses drill down to 6-digit product level searching for high MFN tariffs in products of interest to the LIC in EU and US markets.

Conclusions of Qualitative Analysis

First, the non-fuel imports of the EU and US from the LIC are highly concentrated with 60% of EU and 83% of US imports coming from four countries – **Bangladesh, Pakistan, Cambodia and Ghana.**

Second, the top 20 products (textiles, clothing and footwear mainly) imported from **Bangladesh, Pakistan, Cambodia** face high MFN tariffs, typically above 10% and some above 15%, so there is a potentially significant boost to US and EU price competiveness from their removal in a TTIP. These countries, however, have high import shares and high bilateral revealed comparative advantage (RCA) in these products relative to US and EU suppliers.

Third, the EU and US's non-fuel imports from **Ghana** generally face low MFN tariffs. In the EU however, fish and banana imports face MFN tariffs above 15%. In both the EU and the US, ten of Ghana's top twenty products are exposed to SPS measures.

Fourth, for the remaining 39 countries of the LIC, MFN tariffs on their top twenty products are low and the risk of their trade being displaced is also likely to be small. But there are outliers and 26 LIC face some potential disadvantages from the successful completion of the TTIP. Table 1 provides an overview of LIC potential sensitivity to the TTIP.

Partial Equilibrium Analysis

The technical details of the model underlying the results in Table 2 are set out in Part 4 of the main report. For ease of presentation, the focus here will be on the largest effects by product and country summarised in Table 2. The first point to note is that the partial equilibrium results include oil products which are of particular interest to West African LIC. If there is little room for substitution of sources of supply then changes in tariffs may only have small effects on oil trade flows.

Beyond oil, the products from the garments and textiles categories in Bangladesh, Pakistan and Cambodia are most affected. US Tariffs on some tobacco products are of the order of 70% hence the vulnerability of Malawi to potential imports from the EU.

Assessment of SPS and TBT Issues Associated with TTIP

On SPS stoppages, data suggest that Afghanistan, Gambia, Ghana, Guinea, Kyrgyzstan, Madagascar, Mauritania, Mozambique, Myanmar, Pakistan and Yemen already have difficulties meeting EU rules on fish, nuts and dried fruit. On the other hand, Kenya, Tanzania, Uganda, Zimbabwe and Zambia seem to manage EU and US rules effectively. This may suggest that any harmonisation towards EU norms would provide difficulties for the first group of countries whilst the second group might find such a harmonisation easier to handle and perhaps even beneficial.

TBT issues are more complex in particular with the mix of public and private standards, notably Globalgap in the food market where transatlantic approximation is going forward. This is true in the context of the EU Reach Directive on Chemicals where the US is gradually converging for both labelling rules and standards for textiles and apparel on the use of Azo dyes.

The language of the HLWG report however did not signal great ambition for regulatory integration. The main area of uncertainty is whether the EU and the US attempt harmonisation as with Azo dyes or prefer mutual recognition. Harmonisation could reduce the costs of differing standards to third countries. Mutual recognition, if not offered on an erga omnes basis, could be discriminatory against countries that can establish equivalent standards regimes.

Conclusions

The LIC are outside the negotiating room when the two largest trading areas in the world sit down to discuss increased economic integration. The LIC have maybe more to fear than most third countries since the high MFN tariffs in transatlantic trade are concentrated in areas where they trade intensively. Removing these high tariffs will potentially offer EU and US producers a major improvement in price competitiveness over the LIC in each other's markets. However, for the main LIC exporters, their competitive advantage in these products is very strong and their potential to remain competitive also seems strong. There is not a lot of room for increased preferences to compensate since many of the LIC receive duty free access already. The main exceptions are Bangladesh, Pakistan and Cambodia in the US market where their top 20 exports also pay MFN tariffs alongside EU exports. Giving them zero tariffs would put them back on equal basis with EU producers. Similarly, giving the LIC as a group equal access to any mutual recognition agreements in the regulatory field along with aid to help their producers meet testing and conformity assessment rules would also help to reduce LIC anxiety about regulatory integration in the TTIP negotiation. However, mutual recognition agreements do not work easily even between countries that actually achieve equivalence in their regulatory infrastructure.

Notes

1. Available at tradesift.com
2. The views expressed in this paper and in the original report are those of the authors and do not necessarily represent the views of DFID.
3. Afghanistan, Bangladesh, Congo DR, Ethiopia, Ghana, Kenya, Kyrgyzstan, Liberia, Malawi, Mozambique, Myanmar, Nepal, Nigeria, Palestine, Occupied Territories, Pakistan, Rwanda, Sierra Leone, Somalia, Sudan, Tajikistan, Tanzania, Uganda, Yemen, Zambia, Zimbabwe, Benin, Burkina, Burundi, Cambodia, Central African Republic, Chad, Comoros, Eritrea, The Gambia, Guinea, Guinea-Bissau, Haiti, DR Korea, Madagascar, Mali ,Mauritania, Niger,Togo.
4. See https://www.sussex.ac.uk/webteam/gateway/file.php?name=cariswp01.pdf&site=261
5. www.tradesift.com
6. http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150519.pdf.

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Economic Partnership Agreements: Will Europe and Africa Avoid a Diplomatic Tragedy?

San Bilal and Isabelle Ramdoo

Failure to immediately identify compromises on the trade talks towards regional free trade agreements between African regions and the European Union (EU) could derail the Africa-EU Summit in April 2014 and jeopardize the partnership.

If the Economic Partnership Agreements (EPAs) are not finalised well before the October 2014 deadline set by the EU (see Box 1), it will mean that many African countries will lose some or all of their preferential access to the European market. This would be unprecedented.
More importantly, the risk of serious trade disruption might lead some countries to agree to individual trade deals with the EU, splitting away from their regional grouping. In the case of customs unions, with common trade policy, this would mean the end of the regional economic integration process. This is a potential outcome, for instance with Cote d'Ivoire and Ghana in West Africa, Cameroon in Central Africa, Namibia and Botswana in Southern Africa, and Kenya in East Africa (see Infograph). For the time being, all have pledged regional unity despite attempts in 2007 to preserve national interests by initialling individual trade deals with the EU amidst the expiry of the waiver granted by the World Trade Organization (WTO). But when it comes to crunch time, tensions will flare up once again should regional agreements not be in sight.

For the sake of illustration, consider the case of the Economic Community of West African States (ECOWAS), where after an over three-decade long process, Heads of States have just approved a single customs regime from 2015.[1] And on 29th October, the EU Commissioner for development, Andris Piebalgs, announced 6.4 billion in support of West African development, 1.2 billion of which would go to regional programmes, for the period 2014-2020.[2] However, if the EPAs are not dealt with, then this economic regional integration could break down and result in the de facto collapse of the customs union, as well as wasting billions of euros in EU regional support to West Africa.

Preserving regional unity is therefore a priority. While this is first and foremost an issue for African leaders in their respective regions, the EU should not turn a blind eye to this challenge or be perceived to foster division. As a major supporter of regional integration in Africa, the EU would have much to lose as well, not least in terms of accountability, coherence and credibility.

Box 1: EPAs in a nutshell

The economic partnership agreements (EPAs) are meant to be development-focused comprehensive reciprocal free trade and economic agreements, negotiated and whenever possible concluded by the European Union (EU) on a regional basis with African, Caribbean and Pacific (ACP) countries. They were meant to replace the EU unilateral trade preferences for the ACP initiated under the framework of successive Lomé Conventions and extended until the end of 2007 under the Cotonou Agreement, which required a waiver at the World Trade Organization (WTO).

The EPA negotiations were initiated in 2002. By the end of 2007, only 36 ACP countries had concluded EPAs with the EU. With the exception of the Caribbean, all agreements were interim free trade agreements concluded to preserve the market access of these countries to the EU. Under Market Access Regulation (MAR) 1528 of 1st January 2008, the EU granted duty-free quota-free market access to the all the exports from EPA countries. Since 2008, the other ACP countries have been exporting to the EU under the Generalised System of Preferences (GSP), which provides duty-free quota-free market access to exports from least developed countries (LDCs) under the Everything-But-Arms (EBA) initiative.

EPA negotiations have continued with all African regions and the Pacific, with a view to conclude regional agreements. The EU has given African and Pacific countries until 1st October 2014 to complete new trade agreements between the two, or ratify existing ones, if they do not want their exports to risk facing higher restrictions to the European market.

Instead, the EU should consider to which extent some of the remaining concerns in the EPA negotiations could be addressed in a more flexible manner. So far, EPA negotiations have generally been captured by expert negotiators who have attempted to address technical issues on a case-by-case basis. But it has failed to crack the nut. It is now time to step up a higher political engagement: remaining stumbling blocks should be dealt with in a more accommodating way by trade diplomats under the guidance of European and African leaders, and political implications should be openly addressed, notably at the 2014 Africa-EU Summit.

How to move forward?

The best way to succeed is to prepare for the worst! Leaders should assess the costs of failure to conclude regional EPAs on time, for themselves, their economic actors, African regions and Africa-Europe relations. If common sense prevails, this should translate into politically acceptable trade compromises and commitments. This should not be difficult, as most technical solutions have been explored inside and out.

To solve the deadlock on some sticking points, a truly pragmatic and realistic political agreement on both sides could include, inter alia, the following:

1. In West and Central Africa, some more flexibility is needed concerning the degree of liberalisation of access to African markets (e.g. 70%-75% instead of the 80% requested by the EU) and possibly longer transition period (beyond 15-years).

2. The EU's request to African countries to eliminate export taxes should be solved in a pragmatic fashion, with a WTO-compatible language, which limits export taxes to specific exceptional economic conditions, and subject to a consultation process between the parties.

3. The EU requests a "most favoured nation" (MFN) clause, whereby preferences granted to major third parties would be extended to the other parties of an EPA. Flexible wording should be identified, relative, for instance, to non-automaticity and consultation, and the scope of the clause broadened (e.g. extending to African regions full cumulation in rules of origin as granted to EUROMED countries).

4. To address implementation and adjustment costs of an EPA, 'additional funding' should be mobilised, through Aid for Trade, regional support and in particular using innovative financing modalities such as blending loans and grants, to be delivered through existing or new mechanisms.

But this is no guarantee for success: differences may narrow (as they already have done over the past months), but remain deep enough to prevent an agreement from being concluded on time. Nonetheless, meeting some of the partners' concerns would certainly increase the chances of success and provide a positive political signal of goodwill. Should this prove insufficient, parties should then agree to disagree, and prepare for a 'smooth landing'. Maintaining regional unity should remain the priority.

The EU and African regions might then engage on constructive talks on how best to address the consequences of the loss of preferences for some countries that would embrace a collective decision by their regional grouping not to conclude any EPA. A similar approach towards constructive engagement should prevail if some African countries ultimately opt to break away from a regional position and proceed with individual EPAs.

Beware of the October 2014 deadline

A note of caution is required when considering the 1st October 2014 deadline. This implies that on that date, an EPA will have to be fully in place, that is, that the agreement will have to be *concluded, signed and the process of ratification started*. Unlike the situation that prevailed with the 31st December 2007 deadline, the EU will no longer unilaterally provide full market access to countries that have simply *concluded* EPA negotiations.

Concretely, regional EPA negotiations will have to be concluded several months before the 1st of October 2014 deadline, most likely by the end of this year at the latest, so as to give time for:

- the "legal scrubbing" and translation of the agreements into all EU official languages,
- executive endorsement and the setting of the official signing ceremony of the EPA by all parties, and
- the start of the ratification process.

Should some regions not be able to complete all these steps on time, they will not be able to export to the EU under an EPA. Countries having concluded an interim EPA in 2007 will lose their EPA preferential market access to the EU, unless they take all the steps to implement their interim EPAs. But this is most unlikely should regional EPA negotiations progress well, or be concluded. In fact, it would not be politically acceptable for any government to sign an old (controversial) interim EPA and send it to its national parliament for ratification while a regional EPA is near completion or already concluded. How to address temporary loss of preferences during this transition period is thus likely to become a hot issue in 2014. This will also call for a political approach towards technical solution to avoid an absurd temporary loss of preference.

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1. See http://uk.reuters.com/article/2013/10/25/uk-africa-west-tariff-idUKBRE99O10M20131025 and article by Quentin De Roquefeuil in this issue of GREAT Insights.
2. http://brussels.cta.int/index.php?option=com_k2&id=8025:eu-confirms-its-support-for-west-africas-development-and-integration&view=item&Itemid=54

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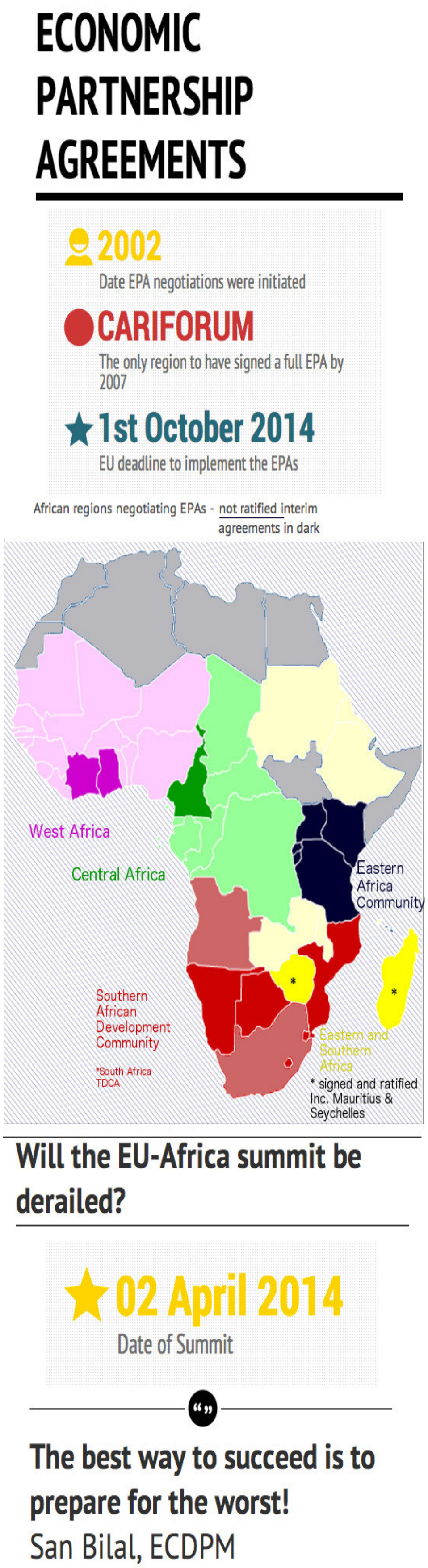
Infograph: EPA Highlights



Preserving Policy Space in EAC-US Trade and Investment Partnership Agreement (TIPA) Negotiations

Kiiza Africa

The role of the state in the economy has always been a controversial issue in public debate. It has become more so with the rise of the neo-liberal paradigm that preaches the virtues of unregulated markets and recommends de-regulation, liberalisation and privatisation.

The push for a minimal, pro-business state (especially in least developed and developing countries) has been further intensified by both the rise of globalization and the many radical neo-liberal reforms implemented. These are often under pressure from multilateral agencies such as the International Monetary Fund (IMF), the World Bank (WB), and the World Trade Organization (WTO) and the continuously mushrooming bilateral treaties.

The 1995 Constitution of the Republic of Uganda clearly spells out the role of the state in development. Under chapters XI-XIII, it is stipulated that "the State shall give the highest priority to the enactment of legislation establishing measures that protect and enhance the right of the people to equal opportunities in development. The State shall stimulate agricultural, industrial, technological and scientific development by adopting appropriate policies and the enactment of enabling legislation, and that the State shall take special measures in favour of the development of the least developed areas."

> ...development would occur faster if market fundamentalism (whose doctrine of the trickle-down-effect is no longer working as markets ontinue to fail the poor) assumed a central role in the economy.

However, the states' role in development has been regulated by the adoption of the neo-liberal doctrine that promotes market fundamentalism with a belief that an imperfect market is better than an imperfect state. The argument made by the Bretton Woods institutions is that development would occur faster if market fundamentalism (whose doctrine of the trickle-down-effect is no longer working as markets continue to fail the poor) assumed a central role in the economy. This would mean that the state would be forced to restructure its state-owned enterprises and rationalise its operations, thus becoming a facilitator in the development process.

Box 1

The Ministers responsible for Trade matters in the EAC Partner States and the United States Trade Representative (USTR) met on 14th June 2012 on the margins of the African Growth and Opportunity Act (AGOA) Forum in Washington D.C. and agreed on the scope of the EAC-US Trade and Investment Partnership. Both parties released a joint statement in this regard and directed their respective technical teams led by the EAC to begin consultations as soon as possible on a regional investment treaty; a trade facilitation agreement; continued trade capacity building assistance; and a commercial dialogue. Since then, negotiations have been ongoing between the two parties.

With the failure of the neo-liberal paradigm to achieve meaningful development results, the state-development nexus still presents a key policy challenge for Uganda. Uganda and all other East African Community (EAC) states should be purposefully interventionist in today's global village because of the more difficult international competition they face as newcomers to industrialization. There is still a weak linkage between the large peasant sector and the small modern sector, which limits the domestic market and the benefits from external economies. This is because of the inability of the private sector to generate sufficient capital to enter certain industries and public services that are regarded as essential to national development. EAC states should therefore engage in investment negotiations with a strategy of making them fill these linkages.

Focusing on the EAC-US

Focusing on the EAC-US Trade and Investment Partnership (TIP) negotiations, it is the role of Uganda and EAC governments to have their own investment model that is anchored in their development objectives and priorities to enable the EAC to negotiate with the US from an informed point of view (see Box 1). The Uganda investment code is still under review and the EAC does not have in place a joint investment policy to use as a basis to advance EAC's interests during the negotiations. Therefore, Uganda and EAC states entering into these negotiations with a joint investment model is imperative.

The role of the EAC states in development will be measured according to their position on the performance requirements clause of the United States Bilateral Investment Treaty (US BIT), which currently prohibits EAC states from imposing performance requirements on US investors. These could include: regulation on limits and conditions on equity, obligations for technology transfer, measures for using local materials, increasing imports or limiting exports, and requirements to employ locally. These are all specifications which EAC needs in order to benefit from such a partnership. Retaining the right to impose obligations on foreign investments will ensure that negotiated investment agreements will be beneficial to EAC and their people.

The role of the EAC states in development will also be viewed on the positions they take regarding Most Favored Nation clause, National Treatment, dispute settlement, transfers and minimum treatment clauses. When critically analysed, these clauses have provisions that put emphasis on the investments and rights of investors, not the outcomes of the investments. They speak the language of laissez-faire where the role of the state in regulating investments and investors is disregarded. That is when the doctrine of the trickle-down effect takes the lead.

"EAC states have to play a big role in negotiating positions that foster their own development priorities. These negotiations have the ability to put EAC on a slippery road towards accepting rules that are difficult to reverse and which would gravely constrain the much needed policy space for development".

> ...a free market system is purely based on individual maximising behaviour and may not achieve socially optimal resource allocation as predicted by the orthodoxy of neoclassical economics.

The article on National Treatment accords foreign investors the right to be treated no less favorably than local investors with respect to the acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory. The article on Most Favored Nation requires host countries to accord to foreign investors and their investments, treatment that is no less favourable than the treatment accorded to investors of any third state. The former article has provisions that erode the ability of EAC states to promote local investors or local industries which gravely need assistance to grow to be able to compete with foreign companies. At the same time, the latter limits the government's ability to choose which countries it would like to offer its preference. In order for EAC states to be able to benefit from this agreement, they should defer these clauses as they are binding and limit their roles in regulating foreign investment without compromising domestic investment.

Adopting a development centred approach

Recognising that with appropriate policies in place, investment can be a powerful tool for poverty eradication and the fostering of sustainable development, EAC states have to play a critical role in ensuring that negotiations are mutually beneficial. This is enhanced by the neo-liberal paradigm which assigns Foreign Direct Investments (FDIs) a central role of development. However, for this assumption not to be flawed, EAC states have to play a big role in negotiating positions that foster their own development priorities since these negotiations have the ability to put EAC on a slippery road towards accepting rules that are difficult to reverse and which would gravely constrain the much needed policy space for development.

In conclusion, a free market system is purely based on individual maximising behaviour and may not achieve socially optimal resource allocation as predicted by the orthodoxy of neoclassical economics. The state should play a central role in directing the development agenda. The African state, as represented by state-owned enterprises (SOEs), has been self-serving and inefficient in meeting the needs of large segments of the African population. Although the market may be efficient at maximising returns from scarce resources, optimal conditions may not always be consistent with the realities of the African political economy. Despite the shortcomings of the state, neither a workable market system, nor sustainable development is likely to be obtained without considerable state participation.

> In order to consolidate the role of the EAC states in trade negotiations, the EAC should have a global trade strategy so as not to play by the rules of the US.

In order to consolidate the role of the EAC states in trade negotiations, the EAC should have a global trade strategy so as not to play by the rules of the US. The redefinition of development as the "Social Factor (SF) + (plus) the Democratic Factor (DF) – (minus) the Imperial Factor (IF)"remains a sound formula if the EAC states have to negotiate investment treaties based on their terms and not on the US's terms. Active trade and investment policies can enhance economic growth when based upon a coherent development strategy (with state intervention at the core) and supported by a range of others. Therefore, it is a cardinal role of the EAC, and the Ugandan government in particular, to assert its right to promote and protect the economy and livelihoods of East Africans/Ugandans who should not be undermined by the US self-serving interests. The urgent task for all stakeholders, and especially policy makers and CSOs, is to have a critical appraisal of the EAC-US TIPA and raise awareness of its implications, both in the medium and long term. The strategic TIP being negotiated should redress, and not perpetuate, the imbalances inherent in the present arrangements, since based on the current mode of negotiations the signs are not encouraging. The role of EAC states in ensuring that the EAC-US TIPA delivers remains unquestionably critical, based on the positions that they will deliver during the negotiations.

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Initial Reflections on the ECOWAS Common External Tariff

Quentin de Roquefeuil

West Africa has just put the final touches to its Common External Tariff (CET), set to come into force in January 2015. This should allow it to become a full-fledged Customs Union by that date, a significant achievement in light of its regional integration agenda. This article describes some of the tensions that policymakers had to grapple with during the design of the CET, some of its salient features, and areas that will require further work for the consolidation of the region's CET.

A long road

The Economic Community of West African States (ECOWAS) has, like many African Regional Economic Communities (RECs), a very ambitious integration agenda, sequenced along the "Balassa" model of integration. Beginning with a Free Trade Area (FTA) and eventually ending in a common market with a common currency, this model of integration has proved frustratingly slow and hard to achieve on the African continent.

Currently, the 15 ECOWAS Members States have agreed to liberalise trade between each other. This mechanism, dubbed the "ECOWAS Trade Liberalisation Scheme" (ETLS) is essentially a FTA. Its implementation remains haphazard, with many trade barriers remaining present in the region.

Originally foreseen in 1975, and "fast tracked" in 1999 and 2000 by ECOWAS Heads of States and Governments, the CET is the next echelon on the regional integration ladder. A CET essentially consists of harmonised tariff rates amongst a group of countries. Having a CET has several advantages: it allows for the consolidation of the internal free trade area, the development of a common trade policy, and sets the basis for further integration. Designing a CET is a very technical matter, with negotiators and technocrats going over thousands of tariff lines to agree on common rates, designing trade defense instruments, common administrative procedures, amongst others.

Some political economy issues in the CET negotiation phase

The technical nature of crafting a CET should not overshadow the hard choices that have to be made over the course of negotiations. By agreeing on common rates, countries have to make hard choices, together. Which (or rather whose) industries are to be protected, and under what condition? What are the policy objectives to be favored? These choices are the staple of trade policy in any country. But they become harder when a group of sovereign nations have to agree on a common approach.

> The technical nature of crafting a CET should not overshadow the hard choices that have to be made over the course of negotiations.

ECOWAS is no exception. One of the specificities of the region is that, prior to the ECOWAS CET, a subgrouping of countries in the region already had a CET of their own (the West African Economic and Monetary Union, better known by its French acronym, UEMOA). The UEMOA CET was structured along four "bands" of 0, 5, 10 and 20%. This structure arguably reflects a wish to promote local value addition: "Essential social goods" are placed in the 0% duty band, inputs and intermediary products in the 5 and 10% bands, while final consumption goods are placed in the 20% band.

Early on in the negotiation phase, it was decided to "migrate" non-UEMOA ECOWAS members' tariff schedules into the UEMOA CET's template. Under this scenario, the UEMOA CET would essentially have been extended to the rest of the region. This proved exceedingly difficult, for the simple fact that these newcomers very often found the 20% rate too low for their own strategic, nascent industries.

In a way, it is not surprising that a country like Nigeria, with significant productive capacities, and a more protectionist trade policy, would find it hard to align itself with a CET designed by countries with different structural features and policy objectives. This led to the creation of the "fifth band", at 35%, for "specific goods for economic development" (see table 1). It was explicitly created to assuage the fears of the largely Anglophone non-UEMOA ECOWAS countries.

Further, whether a good is considered of "social necessity" or of "strategic importance for economic development" is not necessarily straightforward, and can give rise to heated debates. Medicines and pharmaceuticals, for example, are a burgeoning industry in Nigeria and Ghana. But they can also legitimately be considered as "essential" social goods, on which low consumer prices should be the overriding concern. In this example, one has different sets of countries prioritising different policy objectives (industrialisation versus public health).

There are many other cases of hard choices in the ECOWAS CET. Rice and other cereals are another prominent example. There had been a long and forceful advocacy campaign by agricultural producers' organisations to put key rice and other cereals in the fifth band. Interestingly, these voices often came from UEMOA countries, where agricultural duty rates are notoriously low, and where the agricultural sector is relatively well organised at the national and regional level. The regional agricultural policy, the ECOWAP, drafted at the same time as the CET was being designed, also seemed to go in the way of these demands.

There again, however, camps reportedly emerged between countries favouring an approach focused on boosting demand through increased protection, and others more conscious of (urban) consumer prices, and therefore opting for cheap imports. The positions could not be further apart. On one hand of the spectrum countries like Nigeria do not hesitate to charge 100% duty rates on rice and other cereals, or ban their importation completely, should it consider doing so appropriate. Smaller countries like Cap Verde or Gambia, understandably, do not enjoy the same leeway for obvious reasons. The final agreed rate for rice and most other cereals appears to be 10%, although it can be expected that these goods will feature on the list of tariff lines whose rates will be allowed to diverge from CET rates for a couple of years, as explained below.

> Even if it is formally adopted, there are still several issues facing the ECOWAS CET in the future.

Naturally, countries are not monoliths – even in different countries, different social groups favour different options. Importers of agricultural staple goods for example are said to have exercised significant pressure to keep import rates low. Seen in this way, the political economy of integration – at least on trade matters – in Africa is not radically different from that of other countries (interest groups lobby for options that are determined by their economic positions). The author would argue that it is perhaps the way that this trade policy is crafted and applied – the institutional framework around trade policy – that is markedly different in African countries, but this observation would merit additional research.

Even in its "final" form, the ECOWAS CET has not completely solved these dilemmas. Countries will apparently be able to keep divergent rates (up to 70% from the CET rate) for a while on 3% of their tariff lines.[1] At first sight this can be interpreted as a pragmatic decision to go ahead with harmonised rates where compromise could be found, and keep off the most contentious tariffs lines for harmonisation at a later date.

Key issues ahead

Even if it is formally adopted, there are still several issues facing the ECOWAS CET in the future. First and foremost Economic Partnership Agreement (EPA) negotiations: if countries were unable to hold a common regional position, this would result in a "hole" in the CET: imports from the EU to potential EPA signatories would then penetrate other countries' markets (a phenomenon known as trade deflection). Measures could be taken to prevent this from happening, but this would inevitably lower the ambition of the ECOWAS Trade Liberalisation Scheme (ETLS) and common market. This should be avoided at all costs.

The region's leaders have just mandated regional negotiators to adopt a more flexible position in the negotiations, by revising the upper bound of their market access offer, a longstanding bone of contention in negotiations. The EU will hopefully follow through with flexibility of its own.

Secondly, while the flexibility to accommodate divergent rates for a while is a welcome sign of pragmatism, there nevertheless remains a strong need for monitoring the application of the CET in ECOWAS Member States' tariff schedules. Regional integration in Africa in general, including in West Africa, is plagued by the non-application of Member States' regional commitments. In a way, providing flexibility in the application of CET, as is currently the case, is a way of preventing that problem. It avoids putting the bar too high, where no consensus truly exists. But strong monitoring and compliance mechanisms should nevertheless be developed.

> The EU will hopefully follow through with flexibility of its own.

Thirdly, there are some multilateral implications of the ECOWAS CET, namely that some countries could exceed their bound duty rates at the World Trade Organization (WTO). The situation described above, whereby there were strong pressures to "revise" UEMOA rates upwards because of the need to accommodate the needs of non-UEMOA ECOWAS members, is a possible explanation for this situation. This could lead to some of them having to engage in renegotiations, although this will largely be dependent on how much pressure these countries will face to do so. Currently, it seems that ECOWAS countries have the possibility of not applying CET rates where this would lead them to exceed their WTO bound rates.

Table 1: Structure of the ECOWAS CET (March 2013)

Category	Description	Average Duty Rate	Number of Tarriff lines
0	Essential social Goods	0%	85
1	Goods of primary necessity, raw materials and specific inputs	5 %	2146
2	Inputs and Intermediate goods	10 %	1373
3	Final Consumption goods	20 %	2165
4	Specific goods for economic development	35 %	130

Notes

1. See Conseil Extraordinaire Des Ministres de la CEDEAO, Relevé De Conclusions de la Session Extraordinaire du Conseil des Ministres Abidjan, le 30 septembre 2013, available at http://koaci.com/articles-86083.

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The Role of Policy and Regulation in Boosting intra-Africa Trade: A Case of the East African Community

Peter Kiuluku and Caiphas Chekwoti

Regional markets provide a learning-by-doing platform for nascent and less competitive companies. This paper reviews the regional integration processes in the East African Community (EAC) and argues that deeper levels of integration have indeed fostered growth in regional manufacture trade.

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The regional market can be a strategic springboard for companies in the sense that market access barriers are expected to be much lower than in other global markets. Regional markets in this regard open opportunities for companies to enhance economies of scale and thus increase their incentives for investment specialisation and competitiveness.

As far as developments on the trade policy front in Africa are concerned, regional integration initiatives have dominated the trade policy process and negotiations over the last decade. Among the regional blocs that have made significant progress is the East African Community (EAC), currently at the level of a Common Market. Except for the Association of South East Asian Nations (ASEAN) which grew at 6.1%, the EAC grew at an average of 5.8%, faster than all other economic communities during 2001-2009.[1] Intra-regional trade has also been very significant in the EAC bloc relative to the other African Economic Blocs. EAC is reported to have realised an increase in its intra-regional trade of 23%, which was the highest among the African regional blocs[2]. The five EAC countries have all undertaken a series of trade reforms, principally as part of the structural adjustment programmes of the 1990s and more recently due to the deeper integration initiatives within the EAC common market. This was expected to have translated into dramatically reduced customs duty rates and hence foster increased intra-member trade.

One of the stylised facts about the evolution of intra-African integration observed in the UNCTAD report in 2013 is that African merchandise trade has been rising faster than hose of the developed and developing economies.[3]

In the same report it was noted however, that Africa still remains a marginal player in world trade accounting for only about 2.6%. Trade statistics as illustrated in Figure 1 reveal a progressive increase in intra-regional trade. There has been an observed eight-fold increase in intra-EAC trade on value terms between 2000 and 2011. However in terms of levels, there is greater scope for higher intra-regional trade levels. Poor implementation of commitments made by member states at the regional level, coupled with a host of non-tariff barriers and inadequate infrastructure in key areas such as energy transport and storage, account for lower levels than it would have been observed.[4]

An area in which intra-regional trade has unexploited potential is in manufactured goods. It is observed that the share of manufactured goods in intra-African trade is higher than its share of extraregional trade but with falling importance in intra-African trade. However, this share has been declining, signaling a process of de-industrialisation. In EAC, the bulk of intra-regional exports are manufactured goods[5] and at 58.3%, the share of manufactured goods in intra-EAC trade was the highest between African Regional Economic Communities during 2007-2011.[6]

Given the forgoing, could the trade policy initiatives and reforms undertaken within the region be one of the drivers for this outcome? To garner more insights, we assess the potential correlation between intra-regional trade patterns and trade policy reforms undertaken within the EAC and use the Economic Community of West African States (ECOWAS) as a comparative.

Policy Environment

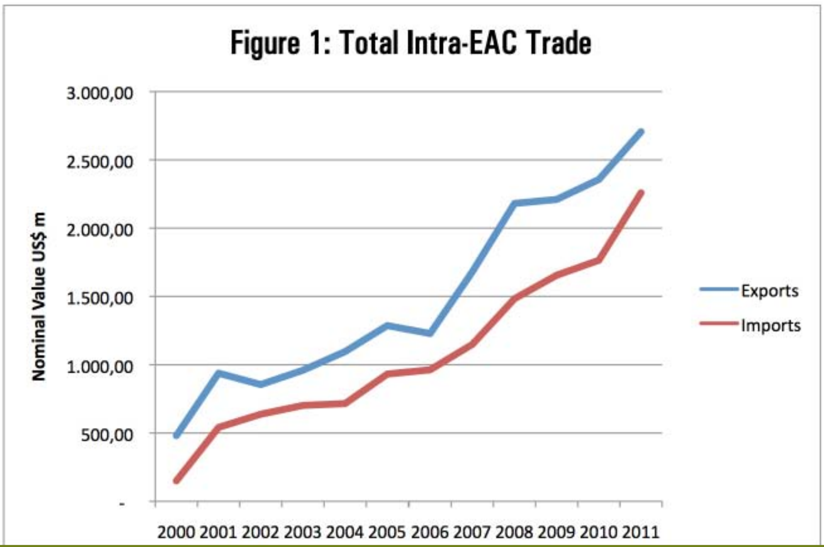
Effective trade policy direction, formulation and implementation are highly dependent on the quality of the institutional framework, given the direct effect on policy coherence and indirect effect on policy outcomes. The trade policy process and institutional structure within the EAC countries is shaped importantly by their membership of regional and multilateral trade organisations. The obligations motivate the countries to undertake domestic economic and sectoral reforms. The World Trade Organization (WTO) commitments made by the countries have also influenced the direction of the trade policies in these countries as well as the trade policy reviews (TPR) conducted by the governments and the WTO Secretariat.

Kenya, Uganda and Tanzania have a long integration history that dates back to the original EAC, which was created in 1917 and collapsed in 1977. The EAC is currently at the level of the Common Market in terms of the linear integration ladder with Rwanda and Burundi acceding as member states in 2007. The common market protocol was put into force in 2005 and preceded the East African customs union created in 2000. The member states are yet to fully implement some of the agreed provisions of the protocol. This ushered in the EAC common external tariff (CET) that reduced average tariff protection in Kenya and Tanzania but increased for Uganda.[7] Currently all internal tariffs have been eliminated.

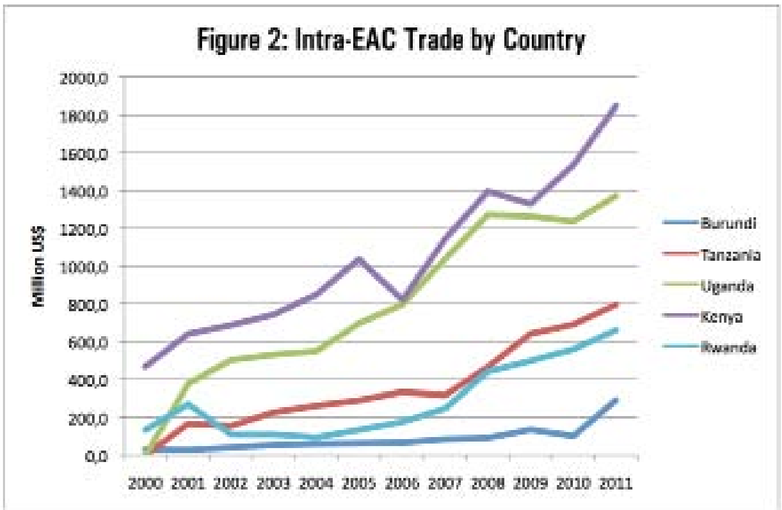
However, it is observed that Non-Tariff Barriers (NTBs), including nonharmonised technical standards, sanitary and phyto-sanitary requirements and roadblocks, constitute a major constraint to intra-EAC trade. Although the EAC partner states agreed to eliminate the NTBs identified by the EAC Secretariat, the majority of the rules and regulations have not been eliminated. In this regard, Kenya and Uganda were identified as imposing significantly more rules on their imports than other sub-Saharan African countries.[8] In an effort to address NTBs, a

National Monitoring Committee (NMCs) was established in all the EAC member states and these report quarterly to the EAC Sectoral Committee.[9] The enhancement of industry competitiveness due to deeper integration is even greater thanks to joint corridor initiatives and regulatory harmonisation. In addition, some of the key policy initiatives undertaken by the EAC member states, with potential bearing on intra-regional trade, include harmonisation of approximately 1200 voluntary standards and the enactment of Economic Export Processing Zones (EPZs) to ensure uniformity in line with the EAC Customs Union (CU) EPZ provisions.[10]

Each of the five EAC member states has initiated a series of policy reforms that have a bearing on intra-regional trade. The implementation of the Revenue Authorities Digital Data Exchange programme (RADDEX) on the customs borders has fostered information exchange. Coupled with a series of NTB elimination using non-intrusive methods[11] and the operationalisation of the One Stop Border Post (OSBP) initiative, the transaction costs and border delays are expected to significantly reduce. Similarly, landlocked member states such as Rwanda have initiated trade facilitation systems. Examples include the operation of the electronic single window system and extended opening hours at the border posts. There is still however, some progress to be made on harmonisation regarding export regimes and export taxes.[12] For example, a duty remission rule ratified by the EAC, which requires manufacturers using imported input to only export outside the region or pay full duty, seems to raise a bit of concern from the manufacturing firms.[13]



Source: EAC website (accessed on 29 October 2013)



Source: EAC website (accessed on 29 October 2013)

Intra-Regional Trade Trends

An examination of the trend in merchandise trade in East Africa over the last 20 years shows significant growth in the last decade. It is reported that intra-EAC trade increased 16% between 2005 and 2010 albeit constraining the high cost of doing business.[14] This may be attributed mainly to various reforms undertaken by the EAC countries towards easing the tariff rates or total elimination of tariffs, such as within the EAC CU and now the Common Market.

Examining the trends in intra-regional trade for both exports and imports within EAC, it is evident that the pattern shows a positive trend during 2000 to 2011 period, as illustrated in Figure 1. This is supported by conclusions that relatively larger intra-regional shares for EAC exist, as indicated by intra-regional intensity and revealed trade preference indices.[15] However, a closer look at the shares of intra-regional trade reveals a declining share of intra-regional trade. During 1996-2000, EAC had 13.8% share of intra-regional trade, 13.1% during 2001-2006 and 12% during 2007-2011.[16] This may be reflective of the increasing bilateral trade between the EAC member states and other African countries in the other regional blocs.

The positive and growing trend of intra-EAC trade since 2006 is indicative of a potential positive impact of trade reforms within the EAC integration process. The coming into force of the East African CU in January 2005 ushers in relevant trade reforms expected to motivate entrepreneurs and traders to target the regional market. This appears to correlate with an enhanced increase in EAC intra-regional trade as illustrated in Figure 1. This may support the assertion that the signing of the EAC treaty has had an effect on the partner states (total trade and trading pattern).[17]

Heterogeneity is also evident given the different economic environment in each of the five EAC countries as illustrated in Figure 2. Kenya, the economically more powerful member of the region, exhibits the highest levels in value terms whereas Burundi, being relatively the smallest economy, exhibits the lowest levels in value terms. One interesting trend is that all countries show a significant increase in intra-regional trade in value terms from 2007. Since this coincides with the coming into force of the EAC Customs Union two years earlier, it may be interpreted as facilitative outcome of the reforms enshrined in the commitments member states made in the CU protocol.

The positive tendencies in intra-regional trends may be understated given that there are very high reported levels of informality among these regions. Informal economy accounts for about 38% on average for sub-Saharan Africa.[18] Kenya, Uganda and Rwanda are big players in the intra-COMESA and EAC trade with significant trade (exports and imports) taking place in comparison with other export markets.[19]

Conclusions

There seems to be a discernible correlation between the trade policy reforms and regulations and the growth of intra-regional trade. This seems apparent in the EAC regional bloc notwithstanding the existing NTBs.[20] The intra-trade growth observed after 2007 is likely to be reflective of the lagged positive effects of the reforms associated with the entry into force of the Customs Union in 2005. This is also supported with the high intra-regional growth rates.[21] Trade indices show that Ugandan exports and imports exhibit high integration with EAC.[22] It is also observed that one of the main obstacles to boosting the potential of intra-regional trade is sluggish implementation of the signed trade agreements governing the regional blocs. Intra-EAC trade data shows that, other than Burundi, total trade has been on the increase for the other partner states. The four countries have had trade relationships for a long time and can be considered natural trading partners. Data shows that the EAC countries have maintained trade relationships even after the breakup of the 'first community'. Kenya, Uganda and Rwanda import more from EAC partner states since the 1990s. The effect of the EAC treaty has been the dramatic increase in imports and also largely exports. Since the 1990s, Tanzania has exported more in the EAC countries. Since the coming into force of the EAC treaty both imports and exports have increased, mostly to Kenya.

The role of trade policy in facilitating intra-regional trade appears positive and especially trade measures that have seen tariffs and tariff-related barriers shrink. The EAC borders are relatively more open now than in the pre-2000 period and border measures, though still constraining to trade, are responsible for increased formalisation of cross-border trade.

Notes

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2. http://www.thecitizen.co.tz/News/IntraEACtradehighestinAfricaneconomic-groups//1840392/187674 0//1yfupbz//index.html.
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7. WTO. 2006. *Trade Policy Review report for East African Community,* WT/TPR/S/171
8. World Bank. 2012. *Special Focus: Deepening Regional Integration in the East African Community (EAC),* Edition 6, http://siteresources.worldbank.org/INTAFRICA/
9. Tralac. 2012. *Trade Policy Review of the East African Community*, commentary by Willemien Viljoen
10. WTO. 2012. *Trade Policy Review report for East African Community*, WT/TPR/G/271
11. WTO. 2012. *Trade Policy Review report for East African Community,* WT/TPR/G/271. The methods include scanning import/export cargo at the port, use of electronic tracking system and Mega port initiative implemented by Kenya
12. Manufacturers are required to sell 80% of their products outside the EAC under the Harmonized export promotion instruments which include mainly manufacturing under bond, export processing zones, and duty remission schemes. The export taxes applied applied by some EAC countries include export taxes on hides and skins which was increased in 2006 from 20% to 40% of the f.o.b. value by Kenya and Tanzania; an export tax of either 15% of the f.o.b. value, or US$160/tonne on raw cashew nuts maintained by Tanzania; a cess of 1% on exports of coffee, 2% on cotton, and US$0.8/kg on raw hides and skins maintained by Uganda.
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Economic Integration is for Development in Africa

Francis Mangeni

"I am African" is a slogan the African Union (AU) has adopted to promote ownership of the continental integration programs and institutions among the people, especially children and the youth. At the special summit of the African Union on 26 May 2013, marking 50 years since the establishment of the Organisation for African Unity (OAU), the Heads of State and Government adopted *AU 2063*, a vision that Africa should be peaceful and prosperous by 2063.

At the continental level, the Heads of State and Government have decided that a Continental Free Trade Agreement (FTA) should be formed by 2017, and the Continental Customs Union by 2019. The COMESA-EAC-SADC Tripartite FTA, expected to be in place in 2015, will be the building bloc for the Continental FTA. While ECOWAS, ECCAS and AMU are expected to emulate the COMESA-EAC-SADC Tripartite FTA initiative, it does not appear that much progress is being made in that direction, except for a brief exploratory meeting organised by the AU Commission in the margins of the AU Conference of Ministers responsible for integration held in Mauritius in 2013. This would suggest that if this matter of forming the Continental FTA and Customs Union is not addressed soon, the timelines will come and pass without much to show.

The Treaty establishing the African Economic Community provides for the gradual establishment of the continental community, through progressive stages. The eight Regional Economic Communities (RECs) recognised by the AU are building blocs for the continental integration program. If the building blocs fail to make progress towards deeper integration into customs unions and common markets, the continental objective will not be achieved. The political and economic implications would therefore be vast. Similarly, if the Tripartite FTA negotiations fail to result in the Tripartite FTA, there will not be a Continental FTA, since the Tripartite FTA, given its economic and geographical size, is the key building bloc or the cornerstone for the Continental FTA.

Economic integration as a development strategy in Africa has reached a crossroads. The time has come to take a stand. This is because implementation of regional integration programs is in quite a crisis. In COMESA for instance, some member states, for different reasons, are yet to join the free-trade area, established way back on 1 November 2000; namely, the Democratic Republic of Congo, Eritrea, Ethiopia, Uganda and Swaziland, being five out of the 19 member states of COMESA.

The Customs Union was launched on 7 June 2009, but the three year transition period within which it was supposed to become functional passed without any member state indicating that it was ready to implement the Customs Union, and a number of reasons were advanced for this state of affairs.

The Treaty establishing the African Economic Community provides for the gradual establishment of the continental community, through progressive stages.

Obstacles to Customs Union implementation

Member States that aim to become duty free zones would find a Customs Union's common external tariff (CET) with positive duties to constitute policy reversal. For Mauritius and Seychelles, about 85% of their tariff lines are already at a 0% duty rate, and about 50% of their national tariff lines have rates that are different from the CET rates. Egypt and Zimbabwe have a large number of tariff lines with a 5% duty rate, which would need to be adjusted to the CET's 0%, 10% and 25% duty rates on raw materials and capital goods, intermediate products and final products respectively. These two countries have argued that raising the duties from 5% to 10% or 25% would reduce the competitiveness of their products due to higher duties of inputs and would reduce the welfare of the people due to higher consumer prices especially for essential products such as foods. On the other hand, reducing the 5% duty rate to 0% would cause revenue losses for the governments. Sudan and Zimbabwe have pointed to the currently prevailing bad economic situation as posing difficulties in implementing the Customs Union. Sudan has pointed out that it lost key oil assets to South Sudan at the independence of South Sudan, while Zimbabwe has pointed to the decimation of its economy under the prevailing economic sanctions imposed by some economically significant countries of the world - which have weakened the domestic industry and caused a shortage of government revenue - as difficulties in implementing the Customs Union. Some member states progressed well in implementing the transition period in terms of domesticating the key Customs Union instruments, but with change of government, new policy directions were adopted that slowed down the implementation. Zambia for instance, is now reviewing its trade agreements as a new government policy, and this has been understood to include the Customs Union.

Some member states, notably Egypt and Mauritius, have raised the matter of having to renegotiate their tariff schedules at the World Trade Organization (WTO), arguing that the CET will result in raising their tariffs beyond the bound rates at the WTO. They have maintained this fear, though it has been explained that the overall level of tariffs under the CET is lower than the overall level of national tariffs and therefore adoption of the CET would not require renegotiation. These are the arguments that have blocked progress on implementation of the COMESA Customs Union, and are likely to be the arguments against any customs unions involving these countries, especially those with CETs with positive rates and rates that are different from those under the national tariffs of the member states.

A key issue is whether the short-term revenue losses from elimination or reduction of customs duties on certain tariff lines, can be addressed. Analytical assessments, for IDS[1], clearly demonstrated that revenue losses resulting from elimination or reduction of customs duties can usually be recouped from slight increases on the rates of trade taxes such as VAT or excise. Even without the slight increases on trade taxes, the recent experience of the East African Community (EAC) following the adoption of the CET at the formation of the Customs Union in 2005, has demonstrated that increase in trade, resulting from the formation of the FTA or the Customs Union or the general good economic performance, will more than offset the temporary revenue losses. Moreover, the COMESA Adjustment Facility has already been used by a number of member states to address their temporary revenue shortfalls resulting from entering the COMESA FTA or the EAC Customs Union. In the first round, Burundi and Rwanda got disbursements from the Fund and in the second round, all 14 eligible COMESA member states will get disbursements for adjustment to implementation of COMESA obligations.

> Some member states, notably Egypt and Mauritius, have raised the matter of having to renegotiate their tariff schedules at the World Trade Organization (WTO), arguing that the CET will result in raising their tariffs beyond the bound rates at the WTO.

On the broader benefits of economic integration, recent work by IDS (2013), for instance, estimates that a Tripartite FTA involving elimination of duties and non-tariff barriers, as well as trade facilitation, will generate additional new trade worth US$7.7 billion annually, constituting an increase of about 20% over the 2014 baseline; whereas mere elimination of duties would generate just US$250 million annually. The analysis has shown further that every member state has industries that will gain from the Tripartite FTA, where growing incomes and jobs will be generated.

On loss of sovereignty, there can be no doubt that this is a concern that is critically dear to the governments of the member states. This has always been the case since the days of decolonisation. However, the matter was addressed by the principle of *uti possidetis,* under which existing borders, though they were colonial boundaries, were maintained and the sovereign equality of member states recognised. Beyond that, the member states clearly saw their limitations as individual member states in light of the grave political and development challenges they faced, and on this basis agreed to joint efforts which necessarily entailed a degree of limitation of sovereignty through joint decision-making. That was under the OAU. After the 1994 genocide in Rwanda, and other serious divergences from African norms of the good life that resulted in loss of life, the African Union introduced an important modification to the principle of non-interference, in order to allow collective action to address serious breaches of the peace in member states that results in un acceptable loss of human life. The AU, in addition, reinvigorated the economic integration programs, by reorganising the Commission, setting clearer integration priorities for instance under the Minimum Integration Program, strengthening relations with the Regional Economic Communities (RECs), and launching initiatives for the Continental FTA and the Continental Customs Union. All these initiatives, by definition, entail some agreement to joint action in a manner that limits unilateral action, the promise being that together the member states are stronger and can jointly address cross-border challenges whether they be political, social or economic. In terms of challenges to sovereignty, the source is not economic integration. It is not the FTA or the Customs Union that will undermine sovereignty of the member states. The source will be weakened populations and governments, resulting from under-development and disunity, as has always been the case.

The 0-10-25% CET structure reflects the industrial policy adopted by the COMESA region of: promoting the importation and the use of low-priced raw materials and capital goods through a 0% duty rate; attempting a balance between low-priced inputs and promoting the emergence and growth of industries in the region producing intermediate products, which increases trade in inputs and vertically integrated production structures; and protecting industries that produce finished products with a duty rate of 25%. For each tariff line, a number of considerations were then taken into account in determining the rate, such as the need to promote competitiveness in the region, availability of or potential capacity to produce the product, and revenue implications of the tariff rate.

COMESA is due to formally launch its common market by 2015 though already legally being established by Article 1 of the Treaty. In considering the common market, the FTA and the Customs Union will provide the inescapable backdrop. Implementing the common market is much harder than implementing the FTA or the Customs Union, because of the deeper nature of the integration and the policy implications for the powers of governments in jointly implementing rules on free movement of services, persons, labour, capital, and enterprises; all of which can be considered as politically sensitive areas. It is therefore important at this point in the long trajectory of economic integration in Africa, to think clearly and design a way forward in terms of relaunching the integration programs or modifying them, but either way, to take decisions that can be implemented with gusto and with results.

The state of regional integration in COMESA holds out many best practices for the entire continent, but also raises some issues that need urgent attention, and addressing which is destined to shape the entire continental integration process due to the similarity of most integration issues across the continent. It is therefore a unique opportunity to have a closer look and decide what to do, bearing in mind the history and the future of Africa in the world.

Note

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Trade is a Key Ingredient in Changing Farmers' Lives

Stevenson Nzaramba

Trade has been integral to the strategies for increasing agriculture productivity and also a key pillar in most of the governments' approach to development as reflected in key development policies and strategies of our governments. Of recent, one of the phenomena that has caught the attention of everyone, is the issue of regional integration.

The main objective of integration agendas is to enhance trade, liberalise trade regimes, minimise barriers to trade, as well as implement policies to promote competitivenes and export development rather than protecting the failing industries. This is a clear indication of the importance attributed to trade.

It has become common knowledge that the agriculturel sector is the backbone of the East African countries' economies and the means of livelihood for most of the rural population. It is the mainstay of the East African Community (EAC) countries directly contributing an average of 26% of the GDP annually to their respective economies, and another 25% indirectly. The sector accounts for an average of 65% of the region's total exports and provides more than 70% of the population within the EAC with informal employment in the rural areas. The agricultural sector therefore, is not only the driver of East African countries' economy, but also the means of livelihood for the majority of the people.

Smallholder producers, a majority of whom are women, account for 65-70% of food consumed in urban areas of East Africa; this means that investing in this segment has the potential to result in increased trade and incomes of the farmers if appropriate investments in the production sector, as well as a conducive policy environment that supports marketing, farmer institutional development and value chain governance are in place.

The trading of agriculture commodities has triggered the movement of food from surplus areas to deficit areas. As a result of trade, the EAC region has been fed and this has resulted in the region being food secure. It is estimated that by 2030 the demand for local and regional urban food markets across Africa is expected to jump from US$ 50billion to US$ 150billion and foreign demand for commodities and high value exports is projected to grow from US$ 8 billion and US$ 3 billion respectively to roughly US$ 10 billion in each category by 2030[1]. This demand of food to feed the growing urban centers can only be serviced with increased local, regional and international trade.

> Smallholder producers, a majority of whom are women, account for 65-70% of food consumed in urban areas of East Africa.

Trade has been critical in uplifting the living standards of people as well as generating rapid economic growth. That said, trade has also led to expansion of the agriculture sector due to the fact that it has enhanced increased production in all levels of farming. Increased trade at domestic, local, regional and international level has led to improved incomes and livelihoods for the agriculture communities as a result of increased trade volumes and improved food availability in the region. The common market protocol at the EAC and the Common Market for Eastern and Southern Africa (COMESA) regions for example provides opportunities for small holders and commercial farmers to integrate into profitable value chains. Improved access to markets has been a key precondition for the transformation of the agriculture sector from subsistence to commercial production. Not only this, small scale farmers have benefited from the few existing efficient markets and have been more exposed to competition which has created a level of innovativeness among farmers.

The EAC Common Market is an important platform for ensuring food security in the region while, at the same time, a good opportunity for farmers to earn a decent living out of their farming activities. The 2009 Economic Report on Africa[2], explicitly recognised the potential regional agricultural value chains possess supported by agri-business and agro-processing as a basis for linking especially the smallholder producers to markets for food and other agricultural products. Therefore, the EAC Common Market provides the best opportunity for building such value chains, because it provides a framework for exploiting economies of scale in the production and supply of food. With a population of over 125 million people, the EAC boasts one of the largest single-bloc regional markets in Africa. This market is made even bigger by a series of mutually beneficial partnerships with regional blocs such as COMESA and the Southern African Development Community (SADC), boasting a combined population well over 400 million. But that is not all. EAC countries also qualify for duty-free access to the US market under the African Growth and Opportunity Act (AGOA), as well as to the EU under the Everything-But-Arms (EBA) initiative for Least Developed Countries (LDCs) (i.e. all except Kenya which is not an LDC).

The EAC Common Market protocol, among other protocols at EAC, provides an opportune moment for the smallholder and commercial farmers to integrate into profitable value chains. To achieve this from the farmers perspective is not an easy task, farmers have to reform themselves and play their private sector role effectively, especially through creation of enterprises, building the entrepreneurial capacities of their members and participation of farmers in the value chains in an organised way. One of the major challenges in reforming farmer organisations is national policy. It is already widely accepted that cooperatives are best suited to drive this agenda for farmers, however, the policy design does not give autonomy to the co-operatives and hence they suffer the brunt of government interference at various levels which affects the quality of service delivery to members. Eastern Africa Farmers Federation (EAFF) has identified this challenge and carried out in-depth consultations with its members and, in the process, developed a draft regional co-operative policy framework. EAFF prefers to use a regional approach to this issue due to the hardline stance taken at the national level by the governments, as evidenced by creation through law of co-operatives regulatory bodies/entities e.g. SACCO Societies Regulatory Authorities (SASRA) in Kenya. EAFF have approached and involved the regional parliament – EALA (East Africa Legislative Assembly) in these discussions and they have a buy-in to the process; EAFF however, would like to formalise their relationship with EALA through an MoU and work closely with the agriculture and tourism committee of EALA in developing EALA's annual agenda and hopefully organise a regional dialogue with national government representatives through EALA with a possibility of adopting a common regional co-operative policy framework.

Main challenges

Farmers are not participating in structured trading regimes whilst many value chains (except for some grains) are not efficiently working due to high transaction costs. There are many market models to learn from within EAC, one example being the Kenyan horticulture-export model that has worked well over the years: the model brings together the major chain actors, links them within the chain, develops a demand based Market Information system, builds capacity on product development, regulations etc., and farmers have a role as chain actors, chain partners and/or chain owners through horizontal or vertical integration into agribusiness value chains.

Capacities of farmers to participate and integrate into the various commodity value chains is weak. There needs to be an intervention targeting the strengthening of technical and management skills for the farmers to master the commercial requirements of producing for a competitive market and to successfully manage business risks and product innovations. The sanitary and phytosanitary (SPS) measures, as well as compliance standards required to access the developed competitive markets such as the EU, are quite challenging to most agriculture producers in the EAC. There is a need for capacity building coupled with the required assistance to produce and package the agriculture products in a manner to enable the farmers to actively engage in these competitive markets. EAFF has participated in the harmonisation of policies and standards currently underway in the EAC.

There is a lack of reliable and credible information and knowledge on activities by farmers in this region. The current market-related systems being established e.g. food balance sheets, MIS systems; commodity exchanges etc., will only work sustainably if there is information on availability of agriculture produce. On the flip side, farmers who want to engage in regional trade lack information on potential cross-border trading partners in insurance, transport, processing etc. This gap also contributes to reduce trade due to high transaction costs.

The legal and regulatory framework pertaining to the agriculture sector in the region is weak and in some cases obsolete; this has led to the proliferation of poor quality agricultural inputs such as fake seeds/fertilisers, substandard vaccines, and counterfeit and adulterated agro-inputs that have resulted in a decline in agricultural production. These unscrupulous trading practices need to be addressed through harmonisation of laws and regulations in the region, including updating them in order to redress and deter the harmful practices. Also due to the ineffective policies, legal and regulatory frameworks, agricultural trade and marketing policies are inconsistent and unpredictable. There are also inconsistencies in agricultural policies limiting private sector investment and commercial activities. Despite the signing of the Free Trade Area (FTA) agreement by 11 of the 19 members states of COMESA, countries have continued to impose barriers to regional trade in staple and other foods, including periodic import and export bans, superfluous SPS requirements, and duties and other charges on cross-border trade. In addition, there is lack of clarity on public engagement with the private sector, resulting in poor delineation of public and private roles and functions.

How has EAFF intervened?

As a matter of fact, it is the small-scale farms that produce up to 80% of the food consumed in African countries, much of which does not enter the formal market. Small-scale farmers produce most of the food consumed in Africa and are responsible for the lion's share of investments in agriculture. They provide employment for 70% of the population, both directly and by stimulating local economies, and constitute the only potential solution for absorbing the growing population of unemployed young people.

It is for this reason that EAFF embarked on developing a Trade & Agribusiness strategy as a new item to strengthen EAFF and members' capacity to focus on trade in the region by giving strategic direction on opportunities and challenges related to regional trade in agriculture commodities. The strategy has proposed various policy and programme interventions that will facilitate the integration of small-scale producers into value chains as active players and regional cross-border markets.

EAFF has also initiated other programs and projects that will strengthen smallholder farmers as active actors in the value chains; for example we have developed programs to integrate small-scale farmers into formal trading systems to facilitate their access to national and regional markets. EAFF has facilitated the formation of regional networks of farmer organisations in targeted commodities, strengthened the capacities of farmer organisations to engage in selected value chains through various structured trade options, advocated for enactment or implementation of enabling policy, trade and regulatory regimes where such environment is restrictive, and developed a sharing mechanism for farmer organisations engaged in structured trade.

Since our new strategic plan's inclination (2012-2020) is on commercialisation, we have embarked on organising farmers into very formidable farmers' cooperatives that are regionally recognised, able to protect their interests, and have a strong lobby power to carve out their way into better opportunities for a more dignified life. Furthermore, EAFF has organised farmers into producer organisations coupled with the formulation of favourable policy interventions.

Notes

1. EAC Development Strategy (2011-2015) August 2011.
2. Economic Report on Africa 2009 "Developing African Agriculture through regional value chain mechanisms".

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Trade, Labour and Socio-Economic Dimensions

Marion Jansen

Increased availability of information and tools on how to seize opportunities while addressing the challenges arising from trade opening make it easier for developing countries to manage the socio-economic impacts of trade opening.

When economists are asked to describe the effects of trade liberalisation, they tend to argue in terms of 'benefits' and 'costs', with benefits reflecting, for instance, numbers of jobs created and costs reflecting numbers of jobs lost. Although such numbers are doubtlessly useful for making policy decisions, they only remotely reflect what policy makers, businesses and ordinary people experience on the ground when trade reforms are introduced. What they experience is change.

They experience change in the environment surrounding them and this change brings about opportunities and challenges. Opportunities take the form of new business opportunities. Challenges can take the form of existing businesses getting under pressure and maybe shedding labour. Opportunities can take the form of the availability of new and better-paid jobs in companies that manage to export. Challenges can take the form of individuals having to migrate in order to get those jobs or of individuals going through periods of unemployment. Empirical evidence consistently indicates that, in the long run, this combination of opportunities and challenges will lead to benefits for the economy. Yet, how well a society handles the period of change is likely to determine how large the benefits of trade are, how they are distributed and how rapidly they materialise.

There are reasons to believe that in this latest wave of globalisation, the balance of opportunities and challenges is rather tilted towards the 'opportunity' side for developing countries. First, developing countries have more information about the opportunities than in the past and often that information is tailor-made. Second, we have a far better understanding nowadays of how the labour market challenges can be handled and again, solutions tailored for developing countries are increasingly available. Third, growth patterns and the nature of globalisation may allow for more opportunities than before.

Many types of shocks to or changes in the economic environment trigger the type of opportunities and challenges mentioned above. One of the nice aspects of trade reform is that its design is in the hands of policy makers and that the changes in the competitive environment they trigger are to some extent predictable. Predictability is increased by the fact that most trade agreements build in implementation periods for policy reforms. It is therefore possible to get a sense of where opportunities and challenges lie before the reform is actually implemented. This gives policy makers a powerful tool to prepare societies for change and help them to make the best out of it.

The multilateral trading system provides additional assistance in this context. Through initiatives like the Aid for Trade initiative and the Enhanced Integrated Framework, developing countries have access to advisory services that can help them to determine where opportunities for new business lie. Developing countries can also receive assistance to determine how to best prepare the workforce forthe upcoming change. In particular, policy makers can receive guidance on the type of skills that need to be emphasized in order for the workforce to be ready to take advantage of new trading opportunities.[1]

Developing countries also increasingly make use of policies that assist households in coping with some of the challenges triggered by trade reform. In industrialized countries, social protection systems have been around for a while and they assist households in getting through periods of unemployment and income loss. Increasingly such systems are also being introduced in the developing world, partly because the understanding of how to design, implement and fund such systems in developing countries has increased a lot in recent years. Programs tend to differ across countries in their components, scale and beneficiary selection. Their funding mechanisms also differ and can be adjusted to country specific circumstances. Exports can actually contribute to funding social protection systems as in the case of countries like Bolivia, Botswana and Brazil where mineral based taxation contributes to the financing of social protection.[2] Strong social protection systems have many benefits and one of them is that they can facilitate transitions following trade reform and provide shelter to poor households in cases where the local economy is exposed to shocks transmitted through global markets.

With the amount of information available on how to help local business and families to reap opportunities from trade and with stronger tools available to protect against possible challenges of openness, developing countries are better equipped than before to reap the gains from trade. The external conditions they face also appear to be favourable for many. Growth remains strong in the emerging world and countries with large populations such as China, India and Nigeria are experiencing a middle class boom. This implies increased demand notably for commodities. Many least developed countries (LDCs), notably in Africa, are rich in oil, gas, minerals and arable land. These countries are already taking advantage of high commodity prices and can probably continue to do so in the near future. If some of the benefits from this boom are used to manage the socio-economic impacts of trade openness, this is likely to contribute to future sustainable growth and to stronger support for openness within the population.

Notes

1. See for, instance, information on ILO, OECD, World Bank and WTO work on this theme available at: http://www.wto.org/english/tratop_e/devel_e/a4t_e/global_review13prog_e/sideevents14_e.htm.
2. Bachelet, M. 2011. *Social Protection Floor for a Fair and Inclusive Globalization*. Report of the Advisory Group chaired by Michelle Bachelet and convened by ILO with the collaboration of WHO, Geneva.

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Supply Chains and the Private Governance of Labour Rights

Axel Marx and Jan Wouters

Private international labour governance has emerged as an important instrument to govern transnational supply chains. It has made a difference. However, this contribution argues that one should not overestimate its potential, while leaving open the question of how to integrate private labour governance initiatives in more comprehensive approaches.

Introduction

The early 1990s saw the emergence of new forms of private governance, which aimed to implement international labour standards across the whole value chain. Leading examples include the Fair Labour Association, Worldwide Responsible Apparel Production Program, Ethical Trading Initiative (ETI) and the Social Accountability International. These pioneering initiatives brought together business enterprises, NGOs, unions, governments and international organizations to create new forms of international regulation (Gereffi, et al., 2001). The rise of private forms of international labour governance is now considered as a leading institutional governance innovation (Cashore et al., 2004) and these systems are regarded as instruments in ratcheting up labour standards on an international scale (Sabel et al., 2000). More recently, however, doubts have been expressed concerning the potential of these private governance systems to effectively improve labour rights in supply chains. Both academic and journalistic accounts point to weaknesses in their design to effectively enforce international labour standards. The debate gained prominence after some notable disasters in Bangladesh and Pakistan. Also a recently published book by Richard Locke (2013) provides an excellent, though sobering assessment of the potential of private governance systems. The top-down auditing form of enforcing standards, on which private systems rely, is considered not to be effective. Three arguments are presented here.

Selectivity of Audits

First, several authors have criticized the selectiveness in the improvement of labour rights. They argue that one can observe improvement on certain standards but not on others. Researchers assessed the degree to which private systems contribute to the improvement of identified labour rights. In general, private systems include standards with regard to several core International Labour Organization (ILO) conventions (ILO, 2003) including conventions on minimum wage (C131), freedom of association (C87) and minimum age (C138). Several authors note that private systems address some of the issues listed in some of these conventions but are not capable to address the complexity of the combination of the many conventions and issues embedded within them. In a detailed study on the impact of the ETI in various countries, Barrientos and Smith (2007) conclude that the impact of the systems is uneven. They make a distinction between process rights and outcome standards. Process rights are enabling rights such as the freedom of association and non-discrimination, which are embedded in the core ILO conventions and provide the opportunities to generate an improvement in outcome standards such as specific rights of employment (working hours) and health and safety policies. Barrientos and Smith (2007, p. 723) conclude that private systems contribute to improving outcome standards, but much less to improving process standards. The selectivity in addressing certain rights, especially regarding child labour, and not others, has also been noted by other researchers (Schrage, 2004).

Quality of Information in Auditing

Second, the quality of information in auditing has been questioned. Auditing relies mostly on a checklist approach. Auditors visit different units with questionnaires and fill out this questionnaire. On the basis of the results of the questionnaire an assessment is made. An advantage of this approach is that it allows for quantification of conditions via different indicators and it makes different units comparable. However, this approach has been heavily criticized for not capturing the full picture and for being incomplete. First of all, it is argued that this approach does not sufficiently take into account the voice of local stakeholders (workers, communities, etc.) into account in a more qualitative assessment of the implementation of standards (Maquila Solidarity Network, 2005). Secondly, it is argued that standardisation leads to routinisation resulting in auditors doing a 'quick' job and missing crucial information (O'Rourke, 2000). In 2000, Dara O'Rourke did participatory observation with auditors and wrote a highly critical report of their practices arguing that they missed clear violations of standards and were too quickly assured on remediation of breaches of standards. Similar accounts can be found in the work of Esbenshade (2004) and Locke (2013, especially chapter 2).

In addition, some observers (Locke, 2013) argue that due to an inherent conflict of interests (auditors are paid by the business enterprises) auditors have strong incentives to 'underreport' practices and give in on the stringency of their audit reports in order to please the ones who order the audits. These dynamics between auditors and inspected enterprises have recently been illustrated by Kim (2012) in an analysis of code enforcement and implementation in Vietnam's Apparel and Footwear Factories.

Auditing in Complex Supply Chains

Third, it is argued that auditing is unable to capture the complexity of present-day supply-chains. Three elements are highlighted. First, many multinational firms do not only have thousands of suppliers but even these suppliers outsource. The stitching of footballs provides an example. Although the football industry is a quite consolidated sector with relatively few players involved (Nadvi, 2011), the effective making of a football involves many actors. Hence, only the making of one simple product already requires the auditing, against a set of standards, of a few hundred entities. To do this in a systematic and sufficiently frequent way via auditing is a very demanding task. Several researchers question whether this can be done at all (Locke, 2013).

A second element relates to the dynamics within supply chains between buyer and first-tier supplier. Several authors argue that, due to the dynamics in supply chains, it is impossible to comply with all requirements and standards. The main issues concern the demands of major retailers to have very short supply times, which are flexible to shifts in demand and product requirements and which are at low cost. Locke (2013) provides several case studies and examples of business enterprises which are extremely demanding in the flexibility they request.

This flexibility is a result of current day consumer markets which allow consumers to 'assemble' their own products according to their own preferences, leading to tailor-made production. This directly impacts upon working time, excess hours and labour cost. The flexibility also implies that workplace practices change very quickly, which is difficult to capture in an annual audit.

A third element concerns the assumption that auditing can be pursued down the supply chain. This is true for buyer-driven commodity chains which are dominated by brands or large retailers. Large retailers or strong brands can often determine labour rights downstream in the supply chain. If these upstream actors require stronger labour rights, this will play out downstream, generating employment effects further down the supply chain. However, there is also some evidence that intermediaries in the supply chain, especially large Chinese firms, are becoming more powerful and change the balance of power in supply chains (Levi et al., 2012) limiting the potential of Western retailers to pursue policy throughout the supply chain.

Finally, short-term ownership and mobility of factories in supply chains might also influence the effectiveness of using audits for monitoring labour rights. In several manufacturing industries, factories, or capital sustaining them, are highly mobile and are searching constantly for locations with the lowest input costs (Levi et al. 2012). As Levi et al. (2012, p. 22) note: "When challenged by workers forming unions or pressured by MNCs trying to induce compliance with private regulatory schemes, many factories will simply shut their doors without paying severance to workers and re-locate."

Conclusion

The arguments outlined above do not suggest that private international labour standards governance systems are completely ineffective, but they point to several limitations. Overall, they indicate the limited potential of private governance systems to protect labour standards throughout the supply chain. This is not to argue that they do not make a difference. There is sufficient evidence that they do, at least with regard to certain labour standards. However, one should not over-estimate their impact and potential to govern labour standards throughout the supply chain. A key question will be how private governance systems can be integrated in more comprehensive approaches to address labour standards in a global economy.

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Trade – Financing Facilities:

A Counter – Cyclical Role in the Current Global Context?

Ana María Alvarez

There have been several efforts from the international community to counteract the effects of the global financial crisis; firms operating in developing countries, which rely heavily on trade finance to support exports and imports, still face the lack of finance necessary to cover their financing needs. This situation hinders them to maintain their production and trade activities.

The trade finance formula

How does trade finance support production of goods and services from developing countries? Trade finance refers to methods and instruments designed to support importers and exporters through the trade cycle. Exporters extend credit to importers until they pay, and at the same time, they need to finance their own import and purchase of raw materials and production to support their export sales. The transaction encompasses a circuit where firms extend credit and secure financing to customers and simultaneously receive credit from their suppliers. On both sides the transaction involves the risk of non-payment and therefore, can generate shocks.

Trade financing involves a wide array of instruments, structures and mechanisms, depending on the parties to the transaction, the sector, country of destination, term and conditions of the contracts, etc. Generally, the most important issues behind trade financing are financing the cash-to-cash cycle of the exporter and importer, as mentioned above, and risk mitigation needs related to the importer and/or the importer´s country (country risk and commercial risk). The general premise is that exporters want to accelerate their cash-to-cash cycle, thus seeking shorter tenors as well as lower as much as possible the risk profile of a trade transaction, and importers need to extend the payment tenors.

A bipolar world of access to trade financing

Large corporations, retailers and traders, at the helm of the global supply chains (GVCs), have succeeded in building a strong network of banks over the years and therefore have excellent access to a wide variety of financing structures and channels, which protect them even in times of crisis. Unfortunately the majority of the small and medium size enterprises (SMEs), mostly in the least developed countries (LDCs), are in the opposite situation. Besides being weaker financially wise and in higher risk countries, they lack the necessary formation and information of available trade financing products. To make it worse, the potential volumes are small as compared to the first group, therefore lacking the necessary leverage to insure access to banks and trade financing lines with interesting tenors and products. Hence the GVCs and related financing are dominated by large corporations and their network of banks with very little inclusion of SMEs which, when included, are obliged to accept difficult trading conditions with long repayment tenors when exporting or short payment terms when importing, all of this under very limited financing access.

Accessing international value chains through trade financing

The intermediation of financial institutions is therefore needed because of the opposite necessities on both sides of a trade transaction. Trade financing structures and products allow the parties in a transaction to maximise their working capital cycles, and also mitigate the risks involved in a transaction, shifting the risk away from the trading partners to a financial institution. To achieve that purpose there is a diversity of financial agents, from private and government owned banks, ExImbanks and DFIs, to trade financing funds, among others.

The role of government owned and multilateral trade financing agents

A number of multilateral development banks have played a key role in ensuring trade financing flows in the post-financial crisis period. This has been translated into an expansion of trade-finance facilitation programmes by these institutions. In this regard, the G-20 Summit's Initiative (2009) was useful to mobilise additional short-term finance and guarantees to support trade. The role played by the Trade Finance Facilitation Programs of institutions such as the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter American Bank, the Islamic Development Bank, and the World Bank, have been widely recognised. These institutions have been supporting the Aid for Trade (AfT) Initiative launched in Hong Kong in 2005.

There are also a number of development finance institutions (DFIs) and ExImbanks from developing countries and emerging economies focusing on supporting trade in goods and services, including through GVCs; increasing the internationalisation of SMEs and its integration into GVCs, and developing infrastructure projects (energy, transports, communications), among other domains. Given that their membership is composed almost exclusively by developing countries and emerging economies, DFIs and ExImbanks can assess better the needs and priorities at country and regional level, and this may also give a signal to enhance the institutions, including an increase in resource allocation. Some of these institutions also follow solidarity and regional integration as a guiding principle for their cooperation initiative, and embrace socially inclusive goals. This is, for example, the goal of the proposed Bank of the South and the Bank of the Bolivarian Alliance for the Peoples of Our Americas (Spanish: Alianza Bolivariana para los Pueblos de Nuestra América, or ALBA).

Support from DFIs and ExImbanks to trade in goods and services of developing countries, particularly LDCs, and emerging economies is required in every phase of the production process; this becomes crucial when firms from these countries, and particularly SMEs, wish to join GVCs.

In Latin America and the Caribbean, the Development Bank of Latin America's (CAF) strongly support to the development of the vital physical infrastructure and the processes of integration and international competitiveness of the region, especially aimed at the areas of roads, energy and telecommunications among others. The Brazilian Development Bank (BNDES) is an example of an institution that is committed to national development but also increasingly guided by an internationalisation strategy. BNDES-exim provides Brazilian producers of goods and services with an important source of financing for trading with the rest of the world. Among its efforts, the increasing support of Brazilian companies trading in South America has been emphasised, in response to their strategy to strengthen commercial and financial ties across the continent. The Brazilian Export Financing Program (PROEX), which is managed by the Banco do Brasil, supports Brazilian exports of goods and services, especially by SMEs. The Central American Bank for Economic Integration (CABEI/BCEI) and the Foreign Trade Bank for Latin America (BLADEX) have noticeably gained high credit standing in the international community. CABEI has undertaken initiatives that promote intermediated credit to SMEs and has become the main regional provider of funding to the sector in Central America. It began with intermediated financing of microcredits and has gradually expanded its scope of action through other activities. BLADEX specialises in providing trade financing for the entire region, from Argentina to México and the Caribbean. It is a supranational bank originally established by the central banks of Latin American and Caribbean (LAC) countries to promote trade finance in the region and is also listed in the New York Stock Exchange (NYSE). The Latin American Association of Development Financing Institutions (ALIDE) has played a key role in promoting joint actions and coordinated participation of development banks and financial institutions focusing on Latin America and the Caribbean's socioeconomic progress and promotes exchange of experience with institutions from other regions.

The African Export Import Bank, whose goal is to stimulate a consistent expansion, diversification and development of African trade, has recently been awarded for its work in support of Africa's SMEs. The Nigerian Export Import Bank (NEXIM) aims to promote the diversification of the Nigerian economy and develop the external sector through the provision of services in support of non-oil exports, which includes the creative industry. NEXIM and the ExIm Bank of India have been cooperating in this field: a number of trade financing and infrastructure financing initiatives were introduced by the Export-Import Bank of India, including specific programs to support micro and SMEs. The latter has been awarded recognition from the Association of Development Financing Institutions in Asia and the Pacific (ADFIAP) for its unique financing programme targeting the export-oriented Indian creative industry, which includes financing individual entrepreneurs, establishing infrastructure facilities for the creative industry and providing capacity building, reinforcing and promoting creative entrepreneurship.

Trade finance support is driven by the two main policy institutions in China, namely the China Development Bank (CDB) and the Ex-Im Bank of China. As an example of the type of negotiation that China is undertaking, it is possible to cite the CDB's infrastructure-related bilateral arrangements signed with selected countries linked to petroleum projects. Furthermore, the Korean Ex-Im Bank (KEXIM) has also been quite active in promoting South-South cooperation and the Türk ExImbank has partnered with the Nigerian ExImbank (NEXIM) to support activities in the non-oil Nigerian sector. ExImBank Malaysia, a government-owned development financial institution, provides a diverse range of products and services to Malaysian exporters; and the Philippines Export Credit Agency (Philguarantee), provides export loans and guarantees.

Constructing a new global financial architecture (suggested sub-heading)

As part of their long-term view to promote stable economic growth and help local firms to obtain cheap funding, cooperation initiatives among DFIs and ExImbanks have included the extension of lines of credits, exchange of staff, promotion of joint projects, among others. The Global Network of DFIs and ExImbanks (G-NEXID), composed of 24-members, aims to promote global trade and investment flows, especially between developing countries, within the framework of South-South cooperation. The Network was established in 2006 at the hands of the Secretary General of UNCTAD and is currently chaired by BLADEX.

Setting up national development banks and/or ExImbanks requires a significant effort as well as bold decision making by governments, including the status of the institution, the most appropriate models of export credit, insurance and guarantee institutions that should be used as a reference, and the services that could be provided.

Nevertheless, given the rapid changes in the conditions and requirements of trade in today´s world, the dominance of open account terms of trade, accounting for more than 80% of the trade transactions, and the need for speed and efficiency, ExImbanks and DFIs traditionally specialised in mid to long term financing products, have an urgent task to adapt by reducing the lengthy processes and cumbersome paperwork, as well as increasing the range of short term financing, structures and risk mitigation products.

South-South cooperation is at the forefront of the debate on international economic development. Accordingly, the ways in which trade financing supports trade in goods and services and cooperation should be a major topic of debate and analysis in exploring joint work programs between development banks and ExImbanks. The existing partnership between UNCTAD and G-NEXID provides a useful means to facilitate such cooperation.

The impact of trade finance programmes in every stage of the production process, and particularly in the process of integrating national, regional and global value chains, deserves particular emphasis and involves different economic actors. Strengthening trade finance institutions should therefore be part of any post-financial crisis reform.

More information on the role of development banks is included in the discussion paper DP152, Trade Finance Opportunities through South-South Cooperation, which can be found at www.ecdpm.org/dp152. The paper shows the need to strengthen national and regional institutions and financing trade of goods and services including through GVCs. It also praises the importance of coordinating activities and coming up with common policies to improve the conditions for and availability of trade financing. Some examples of cooperation initiatives such as G-NEXID, the Berne Union, the Prague Union, the International Development Finance Club (IDFC), the Amman Union, the Asian ExIm Banks Forum, ADFIAP, ALIDE and the proposed Brazil Russia India China South Africa (BRICS). Development Bank illustrate effective cooperation between institutions that adhere to different ideologies, face different levels of development and/or are geographically distant.

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The opinions expressed in this paper are those of the author and do not necessarily reflect the views of UNCTAD nor those of other experts or institutions that are mentioned therein.

Delivering Sustainable Support to Trade Policy Making: A Practitioner's View in the Case of Rwanda

Nick Charalambides and Armin Lalui

This note outlines the approach taken by the Long Term Technical Assistance (LTTA) of Trade Mark East Africa (TMEA), implemented by Imani Development, within the Rwandan Ministry of Trade and Industry (MINICOM) to providing capacity building and technical assistance.

The approach is built around an understanding that the Ministry of Trade is just one player in a broader network of actors required to develop evidence-based trade policy. A system geared toward good trade policy development includes technical leadership of the process, the ability to harness expertise and inputs from a range of stakeholders, and the ability to reach agreement at political level. The LTTA has therefore focused on strengthening the system rather than focusing on a single department or on individuals. At the outset, a quick capacity audit revealed that while individual staff were knowledgeable, the external trade department as a whole struggled to consistently deliver evidence-based, validated policy. Furthermore, there were, and still are, challenges in the operations of the trade policy network necessary for efficient policy development. Challenges include: precisely defining what decisions are to be made, when they are to be made, what evidence needs to be provided to make the decisions that would best represent the interest of Rwanda, and a lack of understanding amongst stakeholders as to their respective roles.

In response to this challenge, technical support was structured around developing a smarter system with the capacity to deliver effective, evidence-based policy in an efficient and sustainable manner.

Effective

Effective trade policy should be aligned with, and prioritised according to national development priorities. To achieve this, a comprehensive roadmap for negotiations (negotiation timetable) was first drawn up. Upcoming negotiations are prioritised according to relevance and anticipated level of impact. This allows for advanced planning and preparation.

An effective system also appoints the most appropriate expertise within the system to undertake technical analysis. Dialogue with the private sector should be led through the key private sector representative organisations; revenue implications should be assessed by the Revenue Authority; issues related to product standards are dealt with through the Bureau of Standards etc. In some cases, capacity building is required, in other cases, the stakeholders are more than capable of leading the process. From time to time external experts will need to be brought in to undertake specific work.

Efficient

An efficient system (1) standardises and strengthens the process for regular and key deliverables, and (2) leverages existing research, avoids duplication of activities and uses the most appropriate individuals in a network to conduct analysis.

Part of our approach to capacity building for efficiency has been very simple. We have worked with our counterparts to identify key and regular deliverables that the external trade department is responsible for. We then developed, with officials, "templates" for standardisation and speeding up the business of government. Crucially, this allows us to train to task rather than offer generic training.

There is a wealth of information in existing strategies, policies and nationally validated studies. Our approach to benefiting from existing work has been to distill previous studies and strategies in new areas of work. Older, but still relevant, research is distilled in terms of information, direction and analysis, making it easy for the officials to see what these studies and strategies provide. In our experience to date, it has been important to frame previous work in the context of the key policy questions that officials have to answer in the course of their on-going work.

Sustainability

Sustainability ensures the system continues to function effectively after assistance is withdrawn. It is a key challenge and one that capacity building in trade policy seems to only rarely meet. We have attempted to build sustainability into our entire approach.

Developing templates and training on the tools needed to complete and update them means the department will be able to provide its key deliverables more efficiently, without outside assistance. Creating an evolving benchmark of policies, strategies and studies in trade policy will help to ensure institutional memory. Sustainability within the External Trade Department has been bolstered through the introduction of a two year Young Professional Programme. Two local, junior economists have been employed by TMEA to work directly under TMEA's/Imani Development senior technical support team to transition them into full time Ministry positions.

The focus of capacity building in Ministry of Commerce must be around building and strengthening the system required to deliver trade policy, drawing on both short- term and long-term technical assistance. The benefit of this approach is that it does not rest upon the capacity of a few individuals, but rather leverages capacity and knowledge across a number of institutions.

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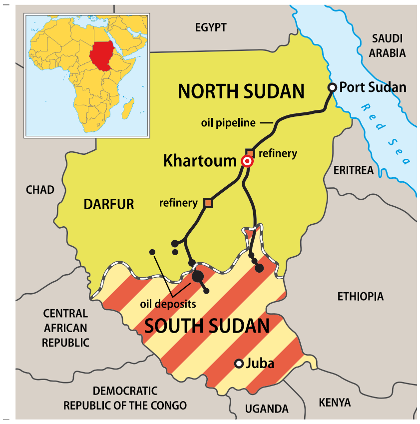
Establishing a Framework for Trade Policy in South Sudan

Constantine Bartel



Newly independent post-conflict South Sudan still has a long way to go even just to reach the starting line of the liberalisation race.

Although it has only just celebrated its second Independence Day, the Republic of South Sudan is already deeply enmeshed in international trade flows. As a post-conflict, oil-dependent, land-locked LDC, South Sudan depends on imports for virtually all manufactured goods and much of its food. It finances its engagement with neighbouring exporters through a combination of oil exports and foreign aid, making it arguably a deeply "globalised" economy already.

What South Sudan lacks, however, is the capacity to implement its 2012-2014 Strategic Policy Framework and put in place a modern trade policy regime, starting with the very basics: an actual tariff structure. Rather than paying tariffs, imports pay across-the-board taxes through a regime that is not articulated with the country's development goals, and riddled with tax-exemptions granted to politically favoured importing firms. Little thought is given to protecting sensitive products, or to easing the flow of imports essential to development.

South Sudan's nascent state structures and embryonic private sectors are ill prepared to serve as launching pads for a liberalising agenda as enormous institutional gaps remain. Even to discuss a liberalising agenda in this context is to miss the mark: the predominant form that liberalisation and regional integration negotiations take in Sub-Saharan Africa surround the question of tariff abatement. But in South Sudan, there is no tariff structure to serve as a starting point for such talks, highlighting the scale of the preliminary challenges the country must face. In fact, the most prominent factors holding back the country have little to do with tariffs. Key non-tariff concerns include the lack of access to financing; weak road, air, and river transport infrastructure, unpredictable bureaucratic procedures, and weak administrative capacities.

The absence of a modern trade regime is just one more symptom of the precarious capability of state institutions in the new country. In South Sudan, much of the bureaucracy of statehood that is taken for granted even in the poorest (but longer-established) African countries is simply missing. In that context, calls to establish a tariff structure must compete with policy-makers' attention with a host of other urgent concerns, many of which will strike them as more directly relevant to people's well-being. South Sudan's priorities for post-conflict economic growth centres on building resilience to economic and environmental shocks. Adverse weather and a difficult security situation leave many of its people facing acute livelihood insecurity, with around half the population classed as food insecure.

In such circumstances, investment in the rural economy - where 80% of South Sudanese now seek a living - is a first priority. This includes efforts at

- Increasing agricultural productivity
- Increasing activity in the agriculture value chain (simple milling, marketing, etc.)
- Providing basic services (roads, health, primary education, water and sanitation)
- Creating the rudiments of a financial sector and a private enterprise development system.

These concerns have tended to dominate policy-makers' agendas in the early post-independence period, to some effect. The new government has managed to put in place policies that have led to a booming financial sector, aided by a favourable official exchange rate administered by banks.

The number of banks has gone from 2 to 18 in just four years. More than 10 other banks are lining up to open branches in the country. Juba has seen the number of airlines landing at its airport rise from 2 to 11 airlines, with daily direct connections to its neighbouring countries, North Africa, and the Middle East with easy connections to the rest of the world.

Nonetheless, major constraints remain. Infrastructure remains among Sub-Saharan Africa's poorest, with cities, towns and villages routinely cut off from the outside world as rainy-season downpours make the roads impassable. An ongoing insurgency in Jonglei state and tensions at different spots of the Northern border keep security a primary concern. An on-again-off-again threat from Khartoum to close off oil exports renders the country vulnerable to major external shocks, such as the impasse that kept most oil exports shut-down throughout 2012. In this context, it is perhaps not so surprising that calls for trade regime modernisation struggle to rise to the top of the political agenda.

Elements of a Development-Oriented Tariff Structure for South Sudan

Notwithstanding the many other challenges faced, a modern tariff structure should inform the next steps of South Sudan's development strategy. While such a structure must take cognisance of the need for a more open economy able to attract foreign capital inflows and also imports, it must reflect the post-conflict country's desire to join the East African Community (EAC) and eventually become part of a regional market and customs union.

Without a baseline tariff structure, the country is not able to quantify its benefits and losses from bilateral, regional or international trade.
In determining South Sudan's tariff structure, the following must be considered:

1. The appropriate level of protection based on the country's level of economic and trade development.

2. Membership of implications of joining the EAC, Common Market for Eastern and Southern Africa (COMESA) and implications of the envisaged customs union, being mindful of the pitfalls of multiple memberships in regional

economic communities (RECs) especially now that it needs to improve its non-oil trade balance that currently is in favour of, and dominated by, its regional trading partners.

3. Ongoing multilateral negotiations, which have emphasised reduction in average tariff, rates without taking into consideration the peak rates prevailing in some of countries.

In line with the longstanding - though recently weakened - consensus in the multilateral system, South Sudan must be mindful to designate specific agricultural tariff lines as Special Products, preferably identifying those lines through indicators for food security, livelihood security and rural development.

When negotiations for the agreement on agriculture and industrial tariffs are relaunched in the near future, South Sudan should at least be in a position to take its seat at the negotiating table. A tariff structure is the basic tool that will enable it to do so. Properly implemented, a modern tariff structure can serve not only as a baseline for liberalisation but also as a development tool: modernising production, increasing value addition and enabling the growth of key sectors.

Diversification

The government of South Sudan derives nearly 98% of its budget revenues from oil. The shutdown of oil pipelines due to a political dispute with Sudan had a devastating social impact and impact on formal-sector GDP, which declined by at least 55% in 2012. The 2012 crisis sparked a broad recognition of the need to diversify the economy.

The question, therefore, is whether and how South Sudan can overcome Dutch Disease and diversify its economic base in an era of increasingly open trade.

The Government made it a priority to focus on the development of non-oil sectors to achieve long-term sustainable growth. An aggressive trade facilitation agenda is under discussion, including major infrastructure projects such as the Lamu Port Southern Sudan-Ethiopia Transport (LAPSSET) pipeline-road-and-rail link with Kenya's northern Lamu Port, as well as projects to create 'One Stop Border Posts' (OSBPs) to establish efficient and transparent customs administration. Together, such initiatives could significantly contribute to economic dynamism that shifts the government's fiscal base away from purely oil-based revenues.

The Government of South Sudan already operates a single point of contact for all business transactions in South Sudan. Investors are in contact with a single entity in a streamlined and coordinated process. Company registration and incorporation takes 24 hours. Since independence over 19,816 businesses have been registered in South Sudan.

Although institution building continues to lag, Parliament has already acted to give a legal basis to many of the institutions needed. It passed one of the few comprehensive tax laws in Africa: the investor-friendly Taxation Act of 2009. The act provides a sound tax policy framework; a strong basis for tax administration, and a modern, easily administered tax law given its low and simple rate structure. Business profit tax is 10% on small and 15% on medium-sized businesses. Yet, for all its positive features, this tax structure cannot supplant a properly thought-out system of trade tariffs.

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Obstacles to SME Financing and Growth

For many small businesses in South Sudan, however, the key barrier to growth has less to do with laws and public policies and more to do with financial constraints.

Even though it is well understood that small and medium-sized enterprises (SMEs) carry out 90% of economic activity, many still have difficulty securing financing because they have few assets to offer as collateral for loans from traditional debt-based financial intermediaries, such as banks. Equity markets have typically failed to bridge the gap and provide badly needed capital to small firms.

Yet the preponderant barrier to SMEs development is the lack of skilled personnel, rather than a shortage of funds. Banks require well-formulated and sound business proposals, but few SMEs are in a position to formulate them. Moreover, newly registered SMEs lack a track record, making it hard for new financial institutions to assess their creditworthiness.

It is important to bridge the skills gap through more than just primary education. A skills agenda must look to on-the-job training, mentoring and exposure to different environments as key elements in helping create an entrepreneurial class. Close supervision of management to overcome both informational asymmetries and moral hazard.

There is a need to target incentives that support tapping into the expertise of international firms and experts. Such sources of expertise can help ease the skills, production and financing shortages and assist local producers and service providers to upgrade products and services.

In conclusion

The pillars for private sector development are slowly taking shape in South Sudan amid one of the world's most challenging environments. These include a policy framework that facilitates an enabling environment to build investor confidence, ensure a level playing field, low administrative barriers, and good economic governance. Policy development has focused on contract law, company law, investment authority, sector-specific laws working closely with Ministry of Legal Affairs and building capacities to manage government procurement procedures.

The development of a modern framework for Trade Policy Making is just one aspect of this much broader institutional and capacity development agenda, and understandably often fails to garner sustained attention from top-level policy-makers. The basic initial need is the establishment of a coherent, modern tariff structure that eases imports of key products, protects sectors sensitive to development. In parallel, an agenda to tackle non-tariff barriers to trade, especially in infrastructure and access to finance, must be vigorously pursued. These two sets of issues should serve as the basis for a liberalisation agenda in South Sudan.

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The Curious Case of Environmental Standards and its Trade Impact: An Integrated Indian and Norwegian Perspective

Archana Jatkar

This article reveals the dichotomy of environmental standards and eco-labels in the global textile market. Whereas on the one hand, the labels provide necessary information and guidelines in the complex textile market, the knowledge of eco-labels is limited to consumers worldwide. On the other hand, these standards/labels impede trade, keeping the producers away from vital markets in Europe and North America.

Introduction

The dismantling of the quota regime from international trade in the Textiles & Clothing (T&C) sector and lowering of tariffs was expected to generate more production, employment and export. However, with the advent of globalisation, patterns in the textile sector began changing. Today, one witnesses a shift from a 'production-led' to a 'demand-led' mode of production, as a result of which the importance of retail activity has increased.

Consumption patterns and consumer taste in industrialised countries suggest increasing environmental & other concerns due to rising levels of air, water and soil pollution, leading to evolution and increasing adoption of regulations aimed at protecting the environment. This has naturally resulted in an increased emphasis on issues of quality control and management, traceability and certification, which is found challenging by producers in developing countries for various reasons. This is important especially when production base has gradually shifted from developed countries to developing.

This article is based on the triangulation of data and methods under the project entitled 'A Study of Environmental Standards & its Trade Impact on Indian Textiles & Clothing Sector': The goal of this study was to promote dialogue on environmental standards and labels between producers in the South and consumers in the North, especially those associated with India and Europe. It was based on a range of surveys, workshops and interviews conducted with producers in the T&C sector in India and consumer associations and consumers in select European countries of Germany, France, England, Norway and Sweden, as well as other stakeholders such as retailers, brands etc in Norway.

Awareness about Environment Problems for Sustainable Development

Both the Norwegian and Indian stakeholders agree that the T&C industry is facing environmental challenges and the survey shows that there has been an increasing understanding on the environmental impact on the industry among these stakeholders. However, the designer community in Norway is more specific and informed.

On the other hand, the growth in the T&C sector in India tells a compelling story of sustainability-related challenges faced by it. The Indian survey and capacity building programmes demonstrate that T&C manufacturers are aware of the environmental impact of the textile production along the supply chain and some of them have also attempted to address these challenges (Table 1). However, it has been pointed out by stakeholders that the industry lacks resources to take the necessary steps to adopt these practices at a greater scale.

The survey in India further attempted to capture the awareness and level of conformity of others in the supply chain, such as knitters, spinners, weavers and ginners as they are the most important suppliers to textile and garment manufacturers. Approximately 39-40% of the textiles and garments companies surveyed stated that they insist their suppliers follow eco-friendly practices (about 50% according to industry associations surveyed). The survey points out that textile companies feel that, although the suppliers are aware of the standards and the compliance requirements, they are not interested in making the extra effort required for compliance. Further, the acquiring of such certifications among the Indian textiles and clothing manufacturers is low, due to cost and other technical barriers. This then acts as a barrier to market entry.

Table 1: Environment Friendly Activities

Sample Size (n=105)	
We properly dispose the waste products	20
We try not to harm the environment	18
We have sense of responsibility to preserve the environment	10
We maintain eco-friendly environment	5
We recycle the waste products	5
We follow the necessary norms	3
We use latest technology	3
We do not waste materials unnecessarily	3
We strictly follow eco-label norms	3
We try to avoid pollution	2
Others	12
Don't Know Can't Say	21

Environmental Standards and Eco-labels: An Evaluation

Nevertheless, the growth experienced by the T&C industry has increasingly stimulated the industry to address the sustainability challenges in the textile production chain. Owing to this, an increasing number of T&C firms are paying more attention to these issues and the most popular approach seems to be adoption and conformity with eco-labelling. The two key driving factors for textile and garments companies for adopting environmental standards and various eco-labeling schemes are:

- Better acceptance of products in international market; and
- Consumer recognition and demand.

Almost one third of the interviewed stakeholders have ranked 'Better acceptance of product in international market' as the most important reason for subscribing to environmental standards. Furthermore, the survey in India points out that among several environmental standards, the majority of respondents (73%) are aware of ISO (International Organization for Standardization) 14001 and about 65% of Registration, Evaluation, Authorization, and Restriction of Chemical (REACH).

Figure 1 illustrates the relationship between exports and environmental compliance of T&C firms in India. There is an upward sloping relationship between the two, indicating that exports do increase with environmental compliance. In other words, better compliance with environmental standards reduces uncertainty in market access.

When it comes to adherence to these standards, the survey depicts that environmental standards such as REACH and Global Organic Textile Standard (GOTS), that are applicable to the EU, are widely complied with by the Indian T&C sector as Europe is a major export destination for these firms.

A large number of European consumers, who are well-aware of eco-labelling schemes, agree that such schemes can be trusted and help them make better choices while shopping. Interestingly, the survey suggests that European consumers are more aware of their respective national eco-labelling schemes as against the regional/ international.

With regard to environmental concerns while buying clothes, the sensitivities differ from country to country as depicted in Figure 2. Norwegian consumers are least concerned about the environment while buying clothes when compared to consumers in Germany, France and Sweden. Overall, respondents across Europe strongly believe that their respective governments must take strong initiations towards popularising eco-labelling programmes and making the T&C sector environmentally sustainable.

Are Eco-labels an Effective Communicative Tool?

The survey findings attempt to provide some clue to the degree to which eco-labels are looked upon as an effective tool in the textile market dialogue. The positions of various actors vary and reflect their interests, both in India and Norway. The surveys in Norway and other European countries suggest that there is jungle of labels in this sector, which may not be an issue for consumers as only a few of these labelled clothes are found in the market. However, this certainly poses challenges for the industry and the retailers. It becomes more complex when global companies like H&M prefer using global or at least regional labels like the EU flower on their products, whereas some, such as the foundation for Eco-labelling in Norway, would rather place their focus on smaller national labels like the Nordic Swan because the consumer knowledge about this label is already high. These conflicting ways and solutions to the challenges connected to labelling further create another barrier for the success of eco-labels.

The jungle of eco-labels creates confusion and bewilders producers in India as to which environmental standards/eco-label to adopt. Other issues associated with compliance of eco-labels are that small and medium-sized enterprises (SMEs) in India need substantial cost for upgrading their level of technology in order to meet foreign environmental standards and the cost of compliance is considerably higher for Indian T&C firms.

In the stakeholders' workshop in India, it was argued that harmonisation and mutual recognition of different eco-labels would be beneficial for all stakeholders and that there is a need to rationalise the existence of different eco-labels. A possible solution would be to have a single eco-label for a particular region/sector so that compliance becomes simple.

Conclusion

The main conclusion taken from this study is that the increasing understanding of the environmental impact of textile production and consumption has not, so far, materialised into effective policy tools to meet these challenges. While in Norway the various stakeholders may clearly see their individual contributions as meeting the challenges, they are still waiting for consumers' response in the market. On the other hand, the consumer survey and stakeholder interviews identify this as a problematic strategy. Consumers are confused, and producers deterred from adopting an ever-growing array of environmental certification schemes. There is a need to enhance networking activities among these relevant eco-labelling schemes. Global Eco-labelling Network is working in this area. However, it needs to work more towards mutual recognition of standards, whereby countries would develop eco-labelling schemes that recognise the differing conditions and environmental standards of exporting countries. The harmonisation of international labelling standards to facilitate compliance with eco-labelling requirements could also be a solution.

Furthermore, going green and more responsible has now become an immediate and compelling necessity for textiles companies in India. Without certifications, companies would find it much harder to

Figure 1: Exports and Environmental Compliance

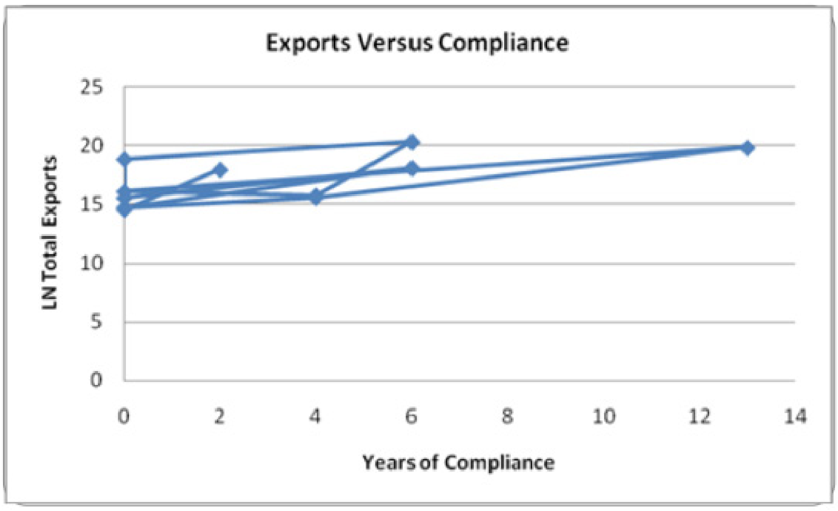


Figure 2: Consumers' Preferences while buying clothes

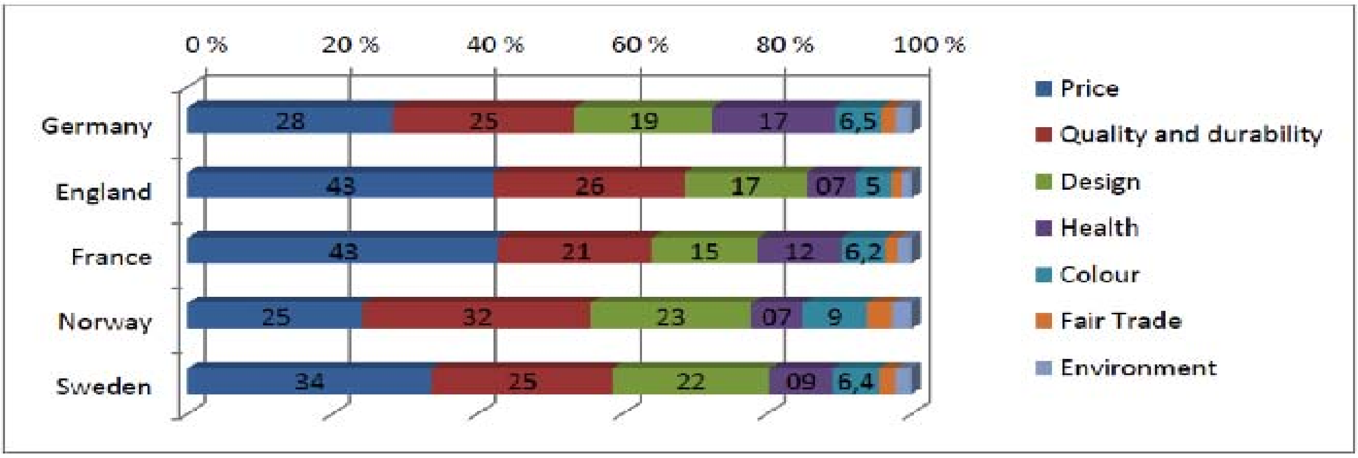
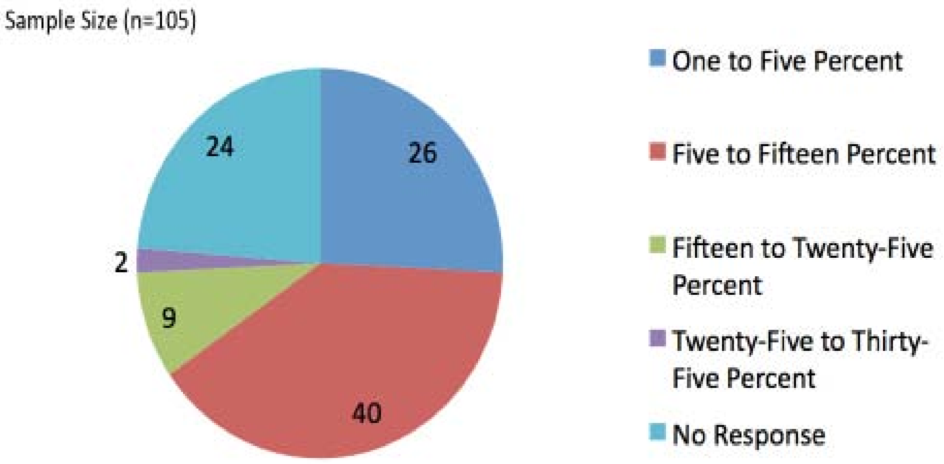


Figure 3: Incremental Cost of Environmental Compliance by Indian T &C firms



prove their sustainability credentials and draw benefits from them. Indian producers have to prepare themselves for new environmental standards and labelling regimes. This is necessary because large global textile players are taking initiatives to enhance environmental standards in their supply chain processes, despite the lack of pressure from other stakeholders and consumer demand.

Thus, the answer to dealing with this issue is striking a balance between safeguarding market access and protecting environment. The key is to set appropriate standards and enable exporters to meet them.

This article is based on the project titled *'A Study of Environmental Standards and its Trade Impact on Indian Textiles &Clothing Sector'*, supported by Norwegian Foreign Ministry, through the Royal Norwegian Embassy, New Delhi and in partnership with National Institute for Consumer Research (SIFO), Norway. The views expressed here are those of the author and can therefore in no way be taken to reflect the positions of the Norwegian Ministry of Foreign Affairs and National Institute for Consumer Research (SIFO), Norway, & CUTS, India.

Notes

1. The full study is available at www.cuts-citee.org/SESTI/pdf/Report-Environmental_Standards_Trade-A_Study_of_Indian_Textiles_and_Clothing_Sector.pdf
2. From Austgulen, M.H. and Stø, E, 2013. *Barriers to the success of eco-labels for textiles, a report from stakeholders interviews in Norway*. Oslo: SIFO, Project report 1-2013
3. From Austgulen, M.H. and Stø, E, 2013. *Consumer perspectives on eco-labelling of textiles*,, a report from online consumer survey in select European countries. Oslo: SIFO, Project report 1-2013

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Monthly highlights from ECDPM's Talking Points

www.ecdpm-talkingpoints.org

Time to Consign Today's Corporate Social Responsibility to History's Dustbin, Talking Points, David Sogge, 7th November
David is a guest blogger. Corporate Social Responsibility (CSR) activities "have not made a significant contribution to the achievement of the broader policy goals of the European Union." That is the headline conclusion of a massive research effort to assess the impacts of CSR on Europe's economy, society and environment. Having enthusiastically endorsed CSR in many policy realms, including international cooperation, the European Union must now re-think its position. And quickly too, for the research blows important holes below CSR's waterline. The decision to assess CSR impacts took place after the European Parliament in 2007 (...)

Challenges 2014: Win-wins affect interests, can they effect economic transformation?, Talking Points, Bruce Byiers, 30th October 2013
ECDPM Challenges blog series. Post number three ... Will 2014 be a year of implementation? If 2014 is to be a year in which we see genuine moves towards economic transformation it will likely rely less on the international agenda than domestic politics and how these interact with global economic processes. Economic transformation will only take place when governments and the private sector can align interests to make partnerships work. Otherwise, we are unlikely to see much progress in 2014. We have a busy agenda ahead of us.... On-going discussions on the post-2015 agenda will offer opportunities for further promoting the economic transformation agenda, with (...)

"Doing less and choosing better": Pacific perspectives on the future of the ACP Group, Talking Points, Geert Laporte, 25th October 2013
The Pacific always has been regarded as "the small boy in the ACP class". With the exception of the "Pacific giant" Papua New Guinea, the region mainly includes small independent islands states such as Niue, Tuvalu or Nauru. Some of these have less inhabitants than an average European village or hamlet. Under the leadership of former Nigerian President Obasanjo, the ACP Group recently established an Eminent Persons Group (EPG), that will reflect on the future of the ACP Group. Regional multi-stakeholder consultations are now being organised in each of the six ACP sub-regions (...)

Challenges in 2014: Modernisation of EU development cooperation, kick-started or running on the spot? Talking Points, Florian Krätke, 23rd October 2013
ECDPM Challenges blog series. Post number two ... The European Union's Agenda for Change is a case of evolution over revolution. The EU's new development policy sketches an aid-centric reform strategy that introduces significant changes for the European aid and development cooperation landscape in 2014-2020. With Europe in crisis and aid under pressure, the EU wants to increase the effectiveness of its development assistance. What are the biggest implementation challenges, and how fit is the EU to do so? The year 2014 will close the circle from policy to programming to practice. The EU's aid (...)

Monthly highlights from ECDPM's Weekly Compass Update

www.ecdpm.org/weeklycompass

European Union Policy Coherence for Food Security: Aligning Parallel Agendas, Weekly Compass, no 166, 31st October 2013
While the EU is the world's major development actor on food security, some of its other policies are still contested as harmful to global food security and agricultural development. This paper from ECDPM discusses how far the EU's commitments and institutional mechanisms for Policy Coherence for Development (PCD) have supported its development objectives in the area of global food security. Derived from the PCD Work Programme 2010-2013, four EU policy areas with a potential impact on food security are discussed: agriculture, fisheries, trade and biofuels. Much remains to be done to increase PCD's usefulness as a guidance and reporting tool. Recommendations to enhance PCD efforts for food security include: stronger linkages between the development and PCD agendas, clearer targets, stronger but realistic political engagement and a broader knowledge base on impacts. Without a strong political drive, there is a distinct lack of scope to promote genuine change towards more development-friendly EU policy-making the paper finds.

Road to regional integration still rocky, Weekly Compass, no 166, 31st October 2013
Africa's political leaders have taken bold steps to strengthen and promote production and competitiveness that would normally accelerate the momentum for regional integration. But this has not been the case, according to the new edition of "Assessing Regional Integration in Africa" jointly published by the African Development Bank, the UN Economic Commission for Africa and the African Union. The publication themed "Harmonizing Policies to Transform the Trading Environment,"stresses the need to remove trade barriers and harmonize policies to promote regional integration. The authors note that while countries have achieved some milestones on the path towards integration, "the road to completely dismantling barriers to trade is strewn with obstacles and requires a thorough understanding of regional integration and trade policies."

Conference: Are EU-Africa relations still fit for purpose?, Weekly Compass, No 165, 25th October 2013
On Monday 28 October, the European Think Tanks Group meeting: 'Looking beyond 2013: Are EU-Africa relations still fit for purpose?' will take place in Brussels. This invitation-only high level conference will bring together speakers from both continents to discuss the shifting and complex internal and external dynamics in Europe and Africa. Four sessions will take place on: the role of private sector, governance and EU political conditionality in Africa, food security and dialogue on peace and security challenges. The conference will also feature a keynote speech from Pedro Pires, former President of Cape Verde, which will be livestreamed through the ECDPM youtube page at 7:30pm (GMT+1). You can also follow the event throughout the day on Twitter using the hashtag #AfricaEU2014. The conference is being run by ECDPM, the Overseas Development Institute, FRIDE and the German Development institute. The results of the conference will be presented to the Africa-EU Joint Task Force the following day. For more information on the issues, follow our blog on Africa-Europe relations featuring contributions from prominent stakeholders from Europe and Africa.

What is the impact of the aid and development effectiveness agenda on capacity development support? Weekly Compass, No 165, 25th October 2013
This paper from the German Development Institute analyses to what extent the aid and development effectiveness agenda has been applied in the area of capacity development support, with a specific focus on the use of developing country systems. The paper is based on a literature review and a limited number of semi-structured interviews, as well as a review of available research evidence on capacity development support practices in Mozambique, Nepal, Rwanda and Vietnam. Three main conclusions are drawn from this paper. First of all, available research confirms that aid and development effectiveness achievements in the area of capacity development have been slow and disappointing, owing to reform-resistance of key stakeholders involved. Secondly, considerable potential remains to strengthen the effectiveness of capacity development support by further adapting approaches to design, deliver and evaluate interventions in reference to key aid and development effectiveness principles.

EPA Update

This section covers recent EPA developments to all ACP and EAC regions.
Stay tuned for coverage of negotiations in other regions.

Quentin de Roquefeuil

All ACP

EU Trade Commissioner Karel De Gucht last week travelled to South Africa, Cameroon and Cote d'Ivoire in an effort to boost EPA negotiations with Southern, Central and West Africa. He also addressed the important issue of trade facilitation ahead of the 9th WTO Ministerial Conference in Bali from 3-6 December.[1] This should be seen in the context of recent rapid developments in all of these regions (see below for details).

West Africa

West African leaders re-launch EPA negotiations, put final seal of approval on Common External Tariff

West African leaders, meeting in Dakar, Senegal, on October 25th, have decided to go ahead with Economic Partnership Agreement (EPA) negotiations on the basis of a new market access offer; nearly a year after the region had initially started contemplating softening its position on the controversial issue of market access.

As we have reported in these columns over the past months, the ECOWAS Commission and its Member States have been working on a new market access offer since the beginning of 2013. It reportedly stands at around 74% of market opening, up form the region's previous stance of 70%.

The decision comes amidst strong statement by civil society organizations in the region, which have long been opposed to the prospect of opening West African markets to the European Union (EU). A statement released before the Summit read: "We reject the new 75% market access opening offer that is about to be validated by Heads of State in Dakar. This offer is economically unsustainable and socially catastrophic for West Africa".[2] The statement was signed by unions, farmers' organisations, business associations and civil society at large.

The European Commission (EC) and its West African counterparts have not held a negotiating session since April 2012 when negotiations broke down over, inter alia, the level of Market Access opening the West African side was ready to offer the EU. The opening of West African markets to European goods is the centrepiece of the EPA, meant to replace the unilateral preference regime that countries in the region had previously enjoyed.

The EC has long argued that 80% is the minimum threshold that it would accept, citing fears of challenges at the WTO and "precedent setting" for future negotiations. DG Trade also argues that an offer designed on strictly "development" grounds would easily meet the 80% criteria.

According to our information, a negotiating round with the EC is planned in the coming months, if not weeks. It remains to be seen if the EU will meet West African negotiators halfway, or what kind of horse-trading could take place vis-a-vis remaining contentious issues in the so-far elusive quest for compromise over the EPA package.

With the October 1st 2014 deadline approaching fast, and regional tensions potentially aggravated between would-be EPA signatories and more reticent countries, the Summit has put President Macky Sall of Senegal in charge of monitoring negotiations "in pursuit of a mutually advantageous outcome".

At the same Dakar Summit, the region's Heads of State and Government have also finalised the design of the Common External Tariff (CET), largely validating the orientations given by the Ministers of Trade and Finance on September 30th. The two taxes financing the regional commissions (UEMOA and ECOWAS) will coexist side by side for a period for five years, after which a review will be undertaken towards possible harmonisation.

Additionally, countries will be able to keep 3% of their tariff lines at a maximum of 70% divergence from the CET rates, using the two "complementary measures" designed to accompany the CET, up until 2015.[3]

East African Community

EPA awaits Ministerial meeting

The EU has proposed to hold a ministerial meeting with the East African Community (EAC) to thrash out the last remaining high-profile issues in the EAC region on 19th or 20th December 2013, although this has yet to be confirmed. The two parties have agreed to hold negotiating sessions at technical and senior officials level prior to the ministerial, in order to attempt to resolve some of the smaller divergences.

Central Africa

Cameroon reported to be preparing to ratify IEPA

According to reports in the local press, Cameroon is now seriously considering to ratify its Interim Economic Partnership Agreement (IEPA), breaking away form the broader regional grouping.

Reports had already surfaced this summer that reflections had started at the highest political level on cementing Cameroon's IEPA.[4] The outgoing EU Ambassador to Cameroon, Raul Mateus Paula, seemed to confirm this when he stated that the local authorities had "indicated that the ratification process was imminent". "[Ratification] is on course, at least that is what authorities have confirmed to me".[5]

Other articles in the local press indicate that the debate was still raging between different members of the government in Cameroon, but that the decision now rested with the country' president, Paul Biya. He is apparently in favour of such a move.[6] European and Central African negotiators have not met since 2011 in Bangui, Central African Republic.

Samoa Ambassador to the EU: "plan B has now kicked in"

The prospect of reaching a regional agreement between the EU and the Pacific appears to be fading fast according to the regional press and recent statements by Pacific officials.

GREAT has not been able to gather details of the latest meeting between Pacific and EU officials, which took place on October 21st, but, apparently, a meeting with Karel de Gucht did not go ahead as planned.[7] The negotiations have broken down over fisheries related issues, where the EU is seeking enforceable commitments on sustainable management of fisheries, and the pacific an extension of the "global sourcing" provision.[8]

It is in this context that the *Sunday Samoan* reported the statement of its ambassador to the EU: "I think that Plan-B has now kicked in which means we walk away from the negotiation". The statement was made on the margins of the Eminent Persons of the African Caribbean Pacific (ACP) Group Meeting, which is meant to reflect on the grouping's future.

This follows an unusually public exchange of harsh words between EU and Pacific officials that had unfolded over the summer.[9] "We have now said 'let's take a break', there is no time frame in terms of another meeting" said the Samoan Ambassador.

SADC

At the Joint EU-SADC EPA negotiations meetings on 19-27 September in Johannesburg, three rendezvous clauses were concluded on competition, government procurement and services & investment. Agreement seems also to be almost completed on the standstill clause. The negotiations on remaining unresolved issues continued last week (8-13 November) in Johannesburg but GREAT have yet to get an update on the outcome of these.

EU Trade Commissioner Karel De Gucht travelled to South Africa early last week (week beginning 8th November) to meet his counterpart Trade Minister Rob Davis. According to press reports,[10] the EU will offer to open its market to South African sugar, with a 320,000-tonne-a-year sugar quota. The EU will also offer to expend duty-free quota for South Africa's wine to around 95 million litres a year. The Parties hope to be able to conclude a EU-SADC EPA by early 2013 at the latest.

Notes:

1. http://europa.eu/rapid/press-release_IP-13-1057_en.htm
2. See http://www.inter-reseaux.org/IMG/pdf/DECLARATION_VERSION_FINALE_POSCAO_VERSION_24_OCT.pdf, (author's own translation).
3. For more detail on the ECOWAS CET read the article in this issue and our past EPA update (GREAT Insights, Volume 2, Issue 7).
4. http://tinyurl.com/pucawup
5. See http://www.camer.be/index1php?art=29516&rub=11:1 and http://tinyurl.com/npa3hoz
6. http://tinyurl.com/ohx8s5z
7. See http://brussels.cta.int/index.php?option=com_k2&id=8022:epa-eu-trade-talks-with-pacific-stalled&view=item&Itemid=54
8. See our July/ August issue.
9. ibid
10. http://uk.reuters.com/article/2013/11/11/uk-eu-southafrica-trade-idUKBRE9AA0DT20131111

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ACP-EU Trade Calendar

December 2013

19/20 December 2013	EAC-EU Ministerial meeting (TBC)
December	ECOWAS-EU Negotiating session (TBC)

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Key Trends in International Merchandise Trade, UNCTAD/DITC/TAB/2013/1, October 2013, United Nations Conference on Trade and Development, New York and Geneva

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