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African Trade Policy Centre

**African Workshop on Economic Partnership Agreements -
Reaping the benefits of the EPAs**

**Taking Stock of the Interim Agreements to ensure African
Countries Reap the Benefits of the EPAs**

Meeting Report (Draft)

8-10 October 2008

African Workshop on Economic Partnership Agreements: Reaping the benefits of the EPAs

Meeting Report and Conclusions

I. Introduction

1. The African Workshop on the Economic Partnership Agreements was held in the United Nations Conference Centre (UNCC) in Addis Ababa from 8-10 October 2008 under the theme “Reaping the benefits of the EPAs”. The workshop was organised by the African Trade and Policy Centre (ATPC) of the Economic Commission for Africa (ECA). Its overarching objective was to take stock of the results of EPAs negotiations in the light of what African countries had hoped to achieve while at the same time evaluating how the progress towards the African Economic Community is likely to be affected. More specifically, the workshop was aimed at discussing and improving elements of a draft template for a pro-development EPA prepared by ATPC. It was envisaged that the draft template would contribute to the African Union’s effort to adopt a consolidated EPAs template for the continent.

II. Participation

2. The following member States attended the workshop: Benin, Botswana, Burkina Faso, Burundi, Cameroon, **Canada**, Central Africa Republic, Chad, Côte d’Ivoire, Democratic Republic of Congo, Republic of Congo, Djibouti, Ethiopia, Gabon, Gambia, Ghana, Equatorial Guinea, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Morocco, Namibia, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, Zimbabwe.

3. The following Brussels based African negotiating groups were represented: Central Africa, West Africa, East and Southern Africa, Southern Africa.

4. The following Regional Economic Community (REC) Secretariats also attended the workshop EAC, SADC, UEMOA, UMA, CEN-SAD.

5. The workshop also benefited from the participation of the following organizations: United Nations Development Programme (UNDP), United Nations Conference on Trade and Development (UNCTAD), Food and Agriculture Organisation (FAO), the African Development Bank (AfDB), the African Union Commission (AUC), the International Trade Centre (ITC), the Commonwealth Secretariat, the ACP Secretariat, the African Economic Research Consortium (AERC), the African Capacity Building Foundation (ACBF), Organization of African Trade Union Unity (OATUU), South Centre, International Centre for Trade and Sustainable Development (ICTSD), European Center for Development Policy Management (ECDPM), Chambre Consulaire Régionale de l’UEMOA, Addis Ababa Chamber of Commerce, Kenya national Chamber of Commerce, SEATINI, TWN, TRALAC, HSRC, the Islamic Development Bank.

III. Issues discussed and key recommendations

6. Breakout sessions for ECOWAS, ESA, EAC, CEMAC, and SADC countries addressed pertinent negotiation issues including regional integration, market access, development, trade facilitation, services. The issues discussed and key recommendations from these breakout sessions are presented in section IV of this report.

7. This section captures the main conclusions and recommendations from the plenary sessions, arising from presentations by UNECA, Commonwealth Secretariat, UNCTAD, FAO, ECDPM, ICTSD, South Centre and ITC on the following topics: interim EPAs, regional integration, trade and environment and trade and labor, issues for consideration for the template, African common market for agricultural food products, institutional setting and monitoring, MFN Clause and article XXIV, safeguard issues and the private sector perspective on the EPAs.

8. Participants identified the need to analyse the implications of emerging issues such as the ongoing financial market problems in the US and Europe to the African economy in general, and in particular to the development dimension of the EPAs, especially within the context of aid to the continent including the Aid for Trade initiative.

9. Participants reaffirmed their conviction that regional integration is key to Africa's economic development. They expressed concerns that EPA configurations will affect the building blocks for the African Economic Community as envisaged by the Abuja Treaty. It was also noted that different liberalization schemes under the EPAs would potentially undermine the economic integration agenda of some RECs especially with regard to their plans to become Customs Unions.

10. Participants noted that the negotiation process was well advanced for some of the negotiating groups. They therefore stressed the need to focus attention on ways of overcoming short falls in the implementation process. For instance, it was pointed out that the implementation of EPAs provisions, in some cases, will be undertaken by institutions that were not involved in the negotiation process. Of particular importance in that regard is the need to seek ways of ensuring that all stakeholders of development issues, notably those involved in infrastructure development and issues related to productive capacity are involved in EPAs activities. ECA was called upon to play a key role in bringing all stakeholders on board the EPAs process, and to assist in developing a mechanism to respond to emerging issues that may influence the implementation of EPAs.

11. The Ambassador of Mauritius in Geneva briefed the Workshop on the latest developments in the Doha Development round of negotiations. He started from the WTO mini ministerial meeting of July 2008. This meeting intended to finalize the modalities for agriculture and NAMA. Since the positions were too far apart on some issues, the meeting failed to achieve its objectives. The contentious issues were the Special

Safeguard mechanism (SSM), the cotton issue, and the systemic issues such as tariff simplification. Similarly, no progress was made on the banana issue. Yet, sub-Saharan African and ACP countries registered some gains during this meeting that consisted of carving out a set of modalities. The way forward is to revise the July 10 text to incorporate the modalities beneficial to African countries. Currently, the negotiations have resumed and aimed at a conclusion on the modalities by December 2008. This target might not be feasible in view of the larger political landscape changes particularly in the USA and in the European Union, as well as the ongoing global financial market crisis.

Recommendations

12 In light of the issues discussed, the following recommendations were made:

- RECs and member States, with the support of relevant organizations, should analyse the implications of emerging issues, including global financial market problems, on the implementation of EPAs, and Africa's development in general;
- African countries and institutions promoting regional integration need to better articulate the impact of EPAs on the continent's regional integration agenda;
- ECA should assist in bringing all stakeholders on board the EPAs process and in developing a mechanism to respond to emerging issues that may influence the implementation of EPAS.

Discussion and Recommendations on the proposed EPAs template

13. Participants noted that some African negotiating groups may have made more progress in certain aspects of the negotiations than the proposals made in the template. In that regard, ECA was called upon to reflect such advanced positions in the template with the view to updating the instrument and taking into account regional specificities. In general, it was agreed that while the different negotiating groups should aim at common positions on key aspects of the negotiations, it was inevitable that they would adopt different positions on other aspects. To that end, it was stressed that the template should capture elements where the different negotiating groups have the same positions vis-à-vis the EU.

14. It was suggested that the section of the template on services should be structured around 3 areas, namely: market access, capacity building and rules. It was also noted that the template was lacking in terms of providing clear guidelines on issues related to rules. Concerns were raised on the ability of African countries to take advantage of market access in the EU especially in light of the existing cumbersome regulatory framework. Overall, it was also noted that the template was a good starting point and that the principles to underpin the section on services should include preserving the architecture of GATS and flexibility. It was also stressed that services should have a wide margin of preference before African countries enter into any agreement.

15. The issue of committing the EU to the development dimension of EPAs was discussed extensively with some participants expressing the view that this should be tied

to market access. Participants also agreed on the necessity for the EPAs to be accompanied by instruments such as compensation and development funds

16. Participants noted that the proposed template had two divergent positions on the MFN clause. On the one hand, the template indicates that the clause is not needed while on the other hand it proposes an exception to the clause. The view that the MFN clause should be removed from services was expressed. It was felt that the clause, which is not in GATT, was not necessary and that it was not required for WTO compatibility.

17. The workshop noted that while it was important to draw lessons from the CARIFORUM EPAs, the text was not necessarily suitable for African countries, especially as the productive and trading structures of the two regions are different.

18. Regarding monitoring of the EPAs, participants were informed of the existence of an ACP and ACP-EC Technical Monitoring Committee comprised of representatives of all ACP negotiating configurations and including the Committee of Ambassadors in Brussels with the Secretary General as the rapporteur. The Committee's terms of reference and membership could be modified to play the role of monitoring the implementation of EPAs with respect to all EPAs regions. It was pointed out that Parliamentarians could play a role in monitoring the implementation of the EPAs. In that regard, progress reports could be presented to them for their consideration.

19. It was generally agreed that the use of the word "benchmark" should be avoided and where necessary replaced by "development indicators" that are objective and widely acceptable. It was suggested that proposed indicators could be tied to the human development index.

20. Participants observed that the issue of subsidies was not addressed in the template and a suggestion was made to develop a position, which could be proposed for negotiation. On market access, it was suggested that the template should include measures to protect infant industries, and that such measures should exist as long as there are infant industries.

21. Participants stressed that African negotiating groups should not be constraint by unrealistic timeframes especially as more work has to be done to ensure that the EPAs are beneficial to the continent.

22. In terms of presentation, a suggestion was made for the template to focus on principles and approaches rather than pointing out texts adopted by different groupings.

23. It was agreed that generic language should be used instead of specific references to existing EPA texts.

24. The plenary emphasized the need to include clear provisions to commit the EU to an EPA development programme within the template. These provisions would tie

- commitments to the trade-related issues; focus on review of liberalisation schedules; and have better development indicators.
25. The plenary recommended that development benchmarks linked to the review process are the red line that the African countries will not negotiate.
 26. On services, the template should have clear text on the three dimensions: market access; capacity building; and rules. The WTO GATS architecture in services should be used to help resist pressure to collapse the modes and to make flexibilities visible and also margins of preferences.
 27. On the red lines, the plenary recommended that the following issues are not negotiable:
 - a. MFN clause (both in goods and services).
 - b. Levies for financing integration programmes.
 - c. Infant industry protection – provisions should not suggest its phasing out but disciplines are welcome.
 - d. Export taxes.
 - e. Development benchmarks linked to the EPAs review.
 28. On the monitoring, it was agreed to have provision for a review of the EPA as and when necessary. The provision should mention issues that might warrant review.
 29. In addition, the template should have provisions that strengthen current framework of institutions instead of creating new institutions.
 30. On the way forward, the Plenary stressed on the importance of the template for harmonization of positions purposes among the various African EPAs.
 31. The UNECA Secretariat informed the meeting on the next steps that included the revision of the EPA template and the finalization of the Workshop's report by the end of October 2008. Once ready, the documents would be circulated and forwarded to the African Union Commission as contribution towards the final template requested by the Ministers.
 32. The African Union Commission will use the template together with the recommendations of this meeting and its own internal efforts to complete the template to put before Chief Negotiators in November/December 2008.
 33. The Chief Negotiators will validate the African EPA template before it is put before the Ministers in February 2009.
 34. After agreeing on the recommendations and the steps forward, the Workshop was closed by the OIC of the Trade Finance and Economic Development Division of UNECA. In his remarks, Mr. Mahamat thanked and congratulated the participants for their rich and effective contributions throughout all the sessions, which

demonstrates their commitments to African trade issues. He assured the meeting that the agreed commitments related to the EPA template would be implemented as well as of the availability of the UNECA to accompany African countries and RECs in the EPA negotiations. At the end, he acknowledged the efforts of the organizers, the contribution of ATPC and all the logistical supports that contributed to the success of this workshop.

IV. Main Conclusions and Recommendations of Regional Sessions:

State of play of EPA negotiations and analysis of the EPA template

Groupe 1 : Afrique de l'Ouest

Introduction

La configuration des négociations en Afrique de l'Ouest comprend les 15 pays de la CEDEAO et la Mauritanie. Les négociations sont menées conjointement par les commissions de la CEDEAO et de l'UEMOA.

Etat des négociations – questions, défis et actions

Au cours de cette session, la Coprésidente et le vice-président de la séance ont d'abord donné un aperçu des progrès réalisés en Afrique de l'Ouest dans le cadre des négociations de l'APE depuis l'adoption de la feuille de route à Accra (Ghana) le 4 août 2004.

En particulier, ils ont indiqué que malgré les efforts louables déployés par les parties concernées, la région Afrique de l'Ouest (AO), n'a pas pu conclure un APE avec l'Union Européenne à la date butoir du 31 décembre 2007 initialement prévue dans la feuille de route. Puis ils ont poursuivi avec un résumé des principaux développements qui ont eu lieu depuis lors, en mettant un accent sur:

- les accords intérimaires paraphés par le Ghana et la Côte d'Ivoire en décembre 2007 ;
- les efforts conjointement déployés par les commissions de la CEDEAO et de l'UEMOA pour accompagner et encadrer les accords intérimaires paraphés par les deux pays en vue d'aller vers un accord global complet pour la région;

Les travaux en cours portent sur :

- le tarif extérieur commun (TEC) de la CEDEAO avec une étude sur la cinquième bande; il a été rappelé la volonté de la région de parachever rapidement les travaux sur le TEC CEDEAO ;
- la détermination de la liste régionale d'exclusion des produits sensibles
- la prise en compte de la dimension du développement de l'APE.

A cet effet, il a été rappelé la volonté de la région d'aller rapidement vers la conclusion d'un accord global qui se substituerait aux accords intérimaires. A ce jour, des travaux ont été menés pour l'élaboration d'un programme APE pour le développement et l'évaluation financière dudit programme. Ce document devrait être finalisé pour décembre 2008.

La présentation s'est ensuite attardée sur les avancées réalisées dans les négociations avec la partie européenne tant entre l'AO et l'Union européenne qu'entre l'UE et le Ghana et, l'UE et la Côte d'Ivoire. Les avancées portent sur les points suivants :

- la flexibilité pour la mise en place du TEC/CEDEAO jusqu'en décembre 2011 ;
- le report de la date de démarrage de l'ouverture des marchés ivoirien et ghanéen au 1^{er} juillet 2009, au lieu du 1^{er} janvier 2009 comme initialement convenu ;
- l'accord de principe pour un traitement approprié de la dimension développement dans le texte de l'Accord global ;
- la négociation d'un système de règles d'origine unique pour l'ensemble de la région et qui s'appliquerait également aux accords intérimaires de la Côte d'Ivoire et du Ghana ;
- l'accord de principe pour l'inclusion dans le texte de l'Accord d'une clause de rendez-vous pour les négociations sectorielles, en ce qui concerne le commerce des services.

Il a été relevé que des points de divergences demeurent encore aujourd'hui dans les échanges avec l'UE à savoir :

- la nécessité de trouver un compromis sur la soustraction du PCS/UEMOA et du PC/CEDEAO du processus de réduction tarifaire, et qui permette le maintien de cette source de financement, qui soit non discriminatoire et compatible avec les principes de l'OMC ;
- la possibilité pour la région AO de réviser le calendrier de libéralisation convenu, dans le cadre des mesures d'appui au développement de ses politiques sectorielles (agricole et industrielle notamment) ;
- la demande de l'UE relative à la suppression des droits de douane et taxes à l'exportation applicables en AO ;
- la mise en place en AO du régime de la libre pratique pour favoriser la circulation des marchandises ;
- la clause NPF qui oblige la région AO à octroyer automatiquement à la CE les avantages futurs qu'elle serait emmenée à accorder à des pays tiers, y compris certains pays en développement considérés comme partenaires commerciaux majeurs ;
- la nécessité d'inclure une disposition sur l'élimination des subventions à l'exportation et la réduction rapide et substantielle des soutiens internes susceptibles de créer des distorsions au commerce de la région AO.

En conclusion, les intervenants ont souligné que l'enjeu majeur du processus de négociation réside dans la traduction concrète dans l'Accord, de la préoccupation

conjointe de faire de l'APE un accord qui favorise le développement durable de la région AO. Les autres enjeux portent sur la nécessité, pour la région, d'accélérer les travaux en cours qui visent, entre autres :

- à la mise en place du schéma définitif du TEC/CEDEAO
- à l'élaboration de son offre d'accès au marché,
- à la définition de son agenda relatif au « programme de l'APE pour le développement »
- et à la rédaction de sa proposition pour le texte de l'APE global régional.

Discussions :

Complétant les interventions ci-dessus indiquées, les participants ont apprécié l'avantage comparatif de la sous-région ouest africaine par rapport au nombre et à la qualité des protocoles élaborées pour la mise en œuvre de l'intégration.

Certes, ils sont d'avis que les Etats membres devront redoubler d'efforts dans l'application de ces protocoles s'ils doivent espérer conclure un APE crédible. Estimant que trop d'espoir était porté sur la contribution financière de l'Union Européenne à la dimension développement des APE, ils ont invité les Etats à recentrer leurs efforts sur les capacités de production et de diversification propres à leurs économies qui ont constitué des obstacles majeurs à leur accès aux préférences commerciales dans le passé.

Examen et propositions d'amendements du modèle d'APE

Les co-présidents de la séance ont rappelé et expliqué que la plupart des questions soulevées dans le modèle d'APE proposé par la CEA étaient déjà abordées dans les discussions précédentes du Groupe. Ils ont alors invité les délégués à examiner le modèle en question en vue de faire des amendements à la lumière des principes de négociation déjà arrêtés par les instances dirigeantes de la sous-région ouest africaine. Les participants ont alors procédé à la revue des différentes sections du modèle et ont fait des propositions qui sont résumées ci-après.

Intégration régionale

Les participants sont d'accord avec les dispositions du modèle qui préconisent la prééminence de l'intégration régionale dans le préambule de l'APE conformément à la vision des Chefs d'Etats et de Gouvernements de la CEDEAO.

Développement

Les questions de développement doivent être au centre des APE comme le propose le modèle de la CEA. Il a été rappelé que la sous région ouest africaine envisage de définir le programme de développement dans le cadre de l'APE, d'en procéder à son évaluation financière et d'inclure son financement comme partie intégrante du processus APE.

En plus, les participants ont proposé une référence explicite à la stratégie de réduction de la pauvreté et la prise en compte des questions émergentes telles que l'environnement et les changements climatiques.

Accès aux marchés

Les délégués sont d'accord avec la proposition de la suppression de la clause NPF comme recommandé dans le modèle proposé par la CEA.

Les Mesures Sanitaires et Phytosanitaires et les Obstacles Techniques au Commerce

Les participants ont noté que l'UE applique des mesures sanitaires et phytosanitaires plus contraignantes que les standards adoptés par l'OMC. Dans ses relations avec les pays africains, elle a l'habitude d'interdire des importations sur son territoire sans apporter les preuves scientifiques requises. Pendant qu'il faut reconnaître à l'UE cette prérogative, il est important de prévoir dans le modèle des mesures compensatoires si les risques annoncés ne sont pas scientifiquement prouvés dans un délai à définir. Cette proposition limiterait l'utilisation abusive du principe de précaution.

Services

Les participants estiment que la sous-région n'a pas encore de position sur ces questions, mais ne trouvent pas d'objections aux propositions de la CEA. En outre, ils recommandent la prise en compte de la libre circulation des personnes (visa ACP) dans l'UE comme faisant partie des négociations.

Douanes et facilitation des échanges

Les participants sont d'accord avec les prescriptions de la CEA dans ce cadre.

Fourniture de services transfrontaliers

La libre pratique voulue par l'Union européenne n'est pas conforme à la position de l'Afrique de l'Ouest. En conséquence, les participants ne sont pas favorables à son inclusion dans les APE.

Transparence dans les marchés publics

Les délégués appuient la position africaine telle que contenue dans le modèle, qui consiste à ne pas avoir de règles sur les marchés publics dans les APE, mais plutôt à élaborer et mettre en oeuvre des régimes régionaux dans le cadre de la création et de la consolidation des marchés communs régionaux ou continental.

Propriété intellectuelle

Il n'y a pas eu de recommandations nouvelles sur ce sujet de la part des participants.

Exceptions générales, règlements des différends, dispositions finales

Les prescriptions du modèle sur ces sujets n'ont pas suscité d'observations particulières de la part des participants.

Group 2: ESA Countries

State of play of EPA negotiations: Issues, challenges and actions

Introduction

Six ESA countries (Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe) have signed an interim agreement. It has de facto created two new groups, following the separation with the EAC.

Regional Integration

The 2 groups, EAC, and other COMESA countries make difficult the creation of a Customs Union by 2010, knowing that the offers have been made on a national basis. Regarding the export tax issue (market access issue), it was noted that it has an impact on regional integration. The EC wants to prohibit export tax (even if it is not the case in the WTO). ESA considers that it gives policy space for higher value added products. The export tax has an impact on regional integration as it represents a direct incentive to develop regional exports and, as it offers new opportunities to export on the regional market.

Market Access

Raising tariffs for infant industries and regional integration is contentious on the standstill clause. There is still no agreement on the meaning of “substantially all trade”, on the timeframe and the flexibilities.

Concerning bilateral safeguards, the EC wants to be limited to apply duties. ESA wants to put the safeguards at least at the WTO bound duties and more in some cases.

Development

The development box is still “empty”. There is a need for a development benchmark.

Trade Facilitation

Trade facilitation is a contentious issue particularly in the good governance of the fiscal area. The EC considers that it is in the negotiation mandate whereas ESA does not.

Services

The EC wants to include Investment whereas ESA does not. The ESA is looking for more variable geometry.

Trade related issues

On intellectual property rights, the ESA doesn't want to go beyond the WTO TRIPs agreement.

General discussion:

The fact that some ESA countries have accepted to open up to 95% (Mauritius and Seychelles) should be highlighted. The EPA should be evaluated according to what it offers to LDCs.

More studies on other regional agreements need to be conducted in order to use the room of maneuver that WTO rules offers in a more pragmatic way.

Analysis of the EPA template

Regional integration

In the preamble, there should be reference to the fact that EPA should assist the establishment of a regional market. In this respect, direct reference to the AU constitutive act should be included.

Reviews should not limit their focus on a single topic, instead they should include any needs as required.

Also, there is a need to identify the regional integration priorities.

Development

There is a need to attach the priority needs matrix and the costs. Additional resources should be requested and extended to the duration of the agreement.

Market Access

There should be a link between market access and development. The issue of adding duties should be assessed in view of ESA interests. Explicit reference to 'substantial trade' and its interpretation should be included and clarified.

SPS Measures and TBT

References should be made to the ESA text. References to EU high standards in SPS and TBT should be made. The key issues raised were technical assistance, the regional capacities constraints, harmonization and the importance of the regional dimension.

Capital movement

There is a need to reinforce the capacities in order to facilitate regional capital flows. The ESA text should be taken as a reference.

Cross border supply of services

It should be made clear that investment is not in the negotiations' mandate. References to other regions by name are not necessary. However, it is important to refer to principles particularly the gradual approach one since the countries interests' levels varies across the region.

Trade related issues

Cooperation should be the basis of any negotiations. There should not be any constraining rules.

Competition

Since the ESA-UE agreement is still being negotiated, references to its texts should be done bearing in mind that it is not adopted.

Other issues

The institutional matters should be dealt with at the all-ACP level. Nevertheless, a recommendation towards strengthening the existing institutions should be prepared. ECPDM has provided a good framework document in this respect.

Group 3: EAC region

Introduction

EAC region is a new negotiating group that emerged towards the 31st December 2007 deadline and comprises five countries (Burundi, Kenya, Rwanda, Tanzania, Uganda). The region has initiated an interim EPA.

Regional integration

The meeting of the EAC group affirmed that EPA negotiations do not support Africa's regional integration agenda and particularly the EAC process. Tariff elimination processes should be harmonized within the sub-region. Countries should take advantage of the transition period to adjust their tariff elimination policies; Clause to review EPAs once elimination is finalized. EPAs should be aligned to regional integration programmes. The emergence of new regional economic communities, involving the participation of countries hampers the realization of regional integration objective. The issues of intra and inter-regional trade promotion should be well captured in the EPAs since this is ignored.

Market access

The group acknowledged that harmonization of the region's market access offers is very difficult. EAC has offered to liberalize 65.4% of its imports from the EU from 2010-2015 to enable Rwanda and Burundi to implement the EAC customs union. EAC also offered to liberalize 14.6% of its imports from the EU by 2023. In 2033, EAC will liberalize 2.6% of its imports from the EU to make a total of 82.6%. During the discussion, some participants noted that liberalization of almost 82% of imports from the EU is too high. The negative effects on the regional industrialization of extensive liberalization were raised. The issue of export tax clause was also discussed. It was suggested that the continent should take position on this critical issue especially after the increase in food and fuel prices. It was recommended that this clause should be revised before signature.

Regarding the analysis of the template, EAC supports the removal of the prohibition of export taxes from the EPA texts. Therefore, the paragraph of explanations and recommendations should stop at "prohibition of export taxes". Paragraph d should remove reference to LDCs.

EPAs should provide for a SSM clause in order to take into account of issues such as subsidies, trade remedies,...

In case the elimination of the MFN clause is accepted then there should also be provisions for exceptions. On rules of origin should be reviewed and simplified.

Development

One of the main areas that should be negotiated is development that reflects the regional integration ambitions. There is a need for a full chapter on development.

It was agreed that EAC Partner states need to cost out all the implications of EPAs, develop a matrix in relation to EPAs, and include it as an annex, particularly for supply-side issues. Partner states are keen on capacity building and additionality of resources. Mobilizing the resources is a big challenge for African countries. Some attention should be given to adjustment costs and compensation. There is also a need to clarify the development funding issue. Trade cooperation should be seen along with development cooperation. However, the fact that development may be limited by the ongoing financial crisis was also raised.

Regarding the template, the meeting agreed that:

- The preamble should stress the importance of eradicating poverty as one of the objectives of EPAs for African countries
- The EAC development strategy needs to be updated and linked with EPAs issues;
- There is a need to identify key constraints to production, trade and competitiveness within African sub-regions;
- The EU should make commitments on funds to support EPA implementation and related costs;
- Funding for development programs should assist the broader development agenda/strategy and not be linked to any narrow EAC-EPA liberalization agenda;
- Development funding for EPAs should be considered as a stand-alone issue and cover all cross-cutting issues;

There should be provisions within the EPAs for RECs to review on behalf of member states, all commitments made within the EPA process to take into account recent economic development issues, in particular the food crisis, the financial crisis and the increase of oil prices.

Trade facilitation

It was acknowledged that resources are required for trade facilitation. It was agreed that trade facilitation should be tackled through a harmonized approach. While discussing the template the following issues were raised:

- Need for drawing lessons from other RECs and coordinate and harmonize trade facilitation policies (efforts are taken towards harmonization of trade facilitation policies within EAC, COMESA and SADC- Summit in November 2008);
- Need to expand the meaning of trade facilitation to include other aspects such as roads;
- Promote the capacity-building and upgrading for key-experts in member countries.

Services

The meeting acknowledged that EAC was not ready to negotiate on services. Studies have been commissioned to provide a state of play. Services should be treated on cooperation basis instead of on commitment basis.

On the template, the following issues were raised:

- EAC is still undertaking internal consultations in view to make a joint offer to EU;
- EAC supports the position that services negotiations should be based on the GATS architecture;
- EU ambitions are much higher and unless guided by a good framework African countries might lose out;
- EAC will exclude negotiations on investment together with services.

Trade- related issues

Although Partner states are interested in this issue, they did not make any offer yet. Capacity building is required in this area.

Concerning the template, the group discussed the following issues:

- Negotiations should commence after African countries have completed their regional frameworks on these issues and also put in place sufficient capacity to enable negotiations take place;
- There are decisions already made by the Council of Ministers at the All ACP Level in 2002 on Trade Related Issues and this should guide the negotiations;
- EAC will need to formulate some policies/laws where they do not exist, such as intellectual property policies.

Furthermore, while analyzing the template the following topics and issues were discussed by the EAC group.

SPS Measures and TBT

- Need to harmonize SPS and TBT policies within the sub-region;
- Request EU to provide for capacity-building;
- Follow as much as possible international standards, in particular WTO standards;
- SPS should not be used as a trade barrier to African exporters;
- Exporters should be given adequate time for them to adjust to the new international environment.
- Negotiations on SPS and TBT issues should be guided by mutual recognition between the EU and the African countries.

Current payment and capital movement

- EAC proposes a comprehensive study on this issue and assessments of implications on the African economies
- EAC is not willing to liberalize the capital account, although some countries have already taken steps towards the liberalization of the financial sector under IMF

framework. For those countries, there is a need to set up regulatory frameworks to address negative implications

Transparency

- African countries have already national policies on issues such as intellectual property, Government procurement etc. and should therefore tread carefully on committing to new policies under bilateral Agreement such as EPAs;

Other areas

- It was stated that Article 62(5) needs revision (to be clarified)

Groupe 4: Afrique Centrale

Introduction :

Les participants ont rappelé que la configuration des négociations de l'Afrique Centrale est « CEMAC-RDC-STP », et implique un comité des négociateurs CEMAC/CEEAC.

Etat des négociations – questions, défis et actions

Pour l'espace Afrique Centrale, les négociations ont repris en mai 2008 avec en perspective la conclusion d'un accord global qui mette l'accent sur le développement. L'Afrique Centrale a réitéré son offre d'une libéralisation de 71% des produits et une exclusion de 29%, avec une préparation de 5 ans et un calendrier de désarmement tarifaire étalé sur 15 ans. La partie européenne maintient sa proposition de 80% et 20%.

En matière de commerce des services, quelques avancées substantielles ont été réalisées, mais les négociations buttent principalement sur :

- le niveau quantitatif du concept de 'l'essentiel des services' (taux)
- le refus de la partie européenne d'accorder les modes 4 et 3 de libéralisation des services.

Relativement aux questions de développement, les échanges ont porté sur le financement du FORAPE pour lequel l'UE n'a pris aucun engagement, et envisage de poursuivre son appui au développement par le biais du FED. La partie Afrique Centrale a réaffirmé que cette question ne pourrait plus être éludée.

Débats sur le contenu et les enjeux des négociations

Les discussions ont porté sur l'équation de coexistence entre les APE et le processus africain d'intégration économique ainsi que sur les voies et moyens d'optimiser les avantages qui pourraient découler de ces accords.

Les constats majeurs et les suggestions faites peuvent être synthétisés comme suit :

Question de l'intégration régionale

Les APE dans leurs dispositifs actuels contiennent des risques potentiels évidents pour le processus africain d'intégration.

- Aucun des espaces de configuration ne se recoupe formellement avec une CER ou CESR africaine. Dans le cas de l'Afrique Centrale, la ZLE envisagée avec l'UE va créer un 3ème espace de coopération économique et commerciale qui va se juxtaposer avec ceux de la CEMAC et de la CEEAC, avec des calendriers et des instruments spécifiques.
- Les accords intérimaires, s'ils règlent temporairement le problème de l'accès au marché européen pour quelques produits de base (banane, café, cacao), sont des facteurs d'amplification de la contrebande et du commerce informel transfrontalier. Ils affectent la cohésion et les solidarités régionales et peuvent

- déstabiliser les économies de la région (balance des paiements pour les pays signataires, recettes budgétaires pour les non-signataires)
- Le champ d'action de l'APE peut affecter les financements de l'intégration si les prélèvements communautaires sont inclus dans le schéma de désarmement tarifaire. Il y a donc un risque majeur de réduire les capacités opérationnelles de la CEMAC et de la CEEAC, les produits européens représentant, en valeur en 2006 53% et 60% des importations des deux communautés. Les participants ont recommandé :
 - L'harmonisation à l'échelle continentale du contenu des APE, à défaut d'une reconfiguration des espaces de négociation ;
 - Confirmer l'objectif d'accords régionaux en lieu et place d'accord intérimaires séparés ; il est donc impérieux de poursuivre les négociations
 - Exclure formellement les prélèvements communautaires des champs des négociations. Le désarmement tarifaire doit porter exclusivement sur le droit de douane.

Accès aux marchés

Le constat majeur qui s'est dégagé des discussions est que la conclusion d'un APE aurait les mêmes effets de déstabilisation que les accords intérimaires séparés dans les Etats d'Afrique Centrale si les tarifs extérieurs restent différents et les règles d'origine assez contraignantes. Par ailleurs l'acceptation du principe du cumul des valeurs peut conduire les Etats africains à élargir les bénéfices de la libéralisation tarifaire à des Etats non-membres de l'Union européenne, sans réciprocité.

Recommandations :

- Accélération des négociations et conclusion du TEC CEMAC/CEEAC avant la signature d'un APE régional,
- Adoption de règles d'origine en adéquation avec la structure des prix de revient des entreprises de la région.
- Adoption d'un schéma de désarmement linéaire pour une absorption harmonieuse de l'impact budgétaire de l'APE.
- Rejet du concept de cumul des valeurs.

Question de développement

Les participants ont rappelé que tous les traités africains d'intégration régionale – régionaux comme continentaux- ont privilégié des approches combinées commerce et développement avec l'adoption de politiques sectorielles et la mise en place de fonds régionaux dédiés aux projets intégrateurs. Un APE sans instruments d'accompagnement induirait des déséquilibres majeurs entre les deux partenaires en termes de partage des coûts et profits de la ZLE envisagée.

Recommandations :

L'objectif développement doit être au cœur d'un APE profitable aux Etats d'Afrique Centrale à travers :

- le financement d'un mécanisme de compensation partielle et temporaire des moins values budgétaires des Etats africains, et
- le financement d'un fonds d'appui au développement des infrastructures, sans préjudice des instruments d'aide déjà existants (FED)

Services et questions liées.

Les participants ont constaté la très faible capacité des Etats d'Afrique Centrale en matière d'offre de services. Ils ont rappelé l'importance des libéralisations autonomes réalisées dans le cadre des Programmes d'ajustement structurels (PAS) nationaux et des Documents stratégiques de réduction de la pauvreté (DSRP) (Privatisation de plusieurs secteurs de services : Télécommunications, électricité, Eau, Transport aérien).

Recommandation :

Les Etats d'Afrique Centrale doivent prendre des engagements qui correspondent aux libéralisations autonomes déjà faites en matière de services, et en faire la base de partenariat avec l'UE.

Examen et propositions d'amendements du modèle d'APE

Relativement au cadre de référence proposé, les participants du groupe Afrique Centrale n'ont pas pu analyser de manière optimale le document en raison d'une contrainte de temps et de la non disponibilité d'une version en langue française.

Les participants ont recommandé la prise en compte des acquis et des enjeux des autres processus de négociation. A cette fin, ils mettent à la disposition de la CEA les rapports les plus récents sur l'état des négociations entre le groupe Afrique Centrale et l'UE.

Les participants recommandent que le document cadre proposé prenne en compte les questions et préoccupations essentielles ci-après, au niveau des principes de base et des normes spécifiques :

- Signature des APE régionaux et non nationaux ;
- Harmonisation des niveaux de libéralisation et des taux d'exclusion ;
- Principe de signature des APE après harmonisation des tarifs extérieurs de chaque région ;
- Prise en compte du problème des moins-values budgétaires qui seront générées par l'APE ;
- Prise en compte de la question du développement à travers la mise en place d'un fonds d'appui au développement des infrastructures en complément au mécanisme traditionnel de l'aide (FED) ;
- Exclusion des prélèvements affectés au processus d'intégration régionale du champ des négociations ;

- Adoption des règles d'origine qui prennent en compte les réalités des entreprises de la région.

Recommandations :

- Les participants ont recommandé que le document cadre soit soumis pour avis aux structures négociantes régionales avant notification à l'Union Africaine.
- Ils ont par ailleurs recommandé que la CEA, à travers ses bureaux sous-régionaux soit associée aux structures négociantes sous-régionales.
- Ils ont recommandé la tenue d'ateliers de renforcement des capacités au profit des experts nationaux pour une gestion optimale du processus de négociation.

GROUP 5: SADC

State of play of EPA negotiations

Introduction

Within the SADC region, individual interim EPAs have been initialed. The Signing has not taken place (for implementation on July, 1 2008) due to technical and administrative issues (i.e. translation and legal vetting of the text). Some Members States are ready to sign (Botswana, Lesotho, Mozambique and Swaziland) whilst others are not ready to sign because they have concerns with regards to the text that needs to be addressed prior to signing.

The Challenges

- Member States who have initialed the interim EPA text fear that they may lose their preferences from the EC if they do not sign and implement the interim EPA.
- Member States who have not initialed fear that early signature of the I-EPA will have implications on how their concerns will be addressed.
- Subjecting Parliament to two ratification processes, i.e. the interim EPA and the final EPA.

The Action

- Assessing if there is a threat of losing the market access if countries do not sign and ratify the interim EPA.
- To seek political guidance from the just ended ACP Summit and the SADC-COMESA-EAC Tripartite Summit.
- Assessment of the implications of early signing on the process of addressing the concerns
- Engagement with the EC to conclude all outstanding issues and hence sign and ratify one single agreement which is accommodative of all parties.

ANSA Concerns

The major issues raised by the group are the following:

- Definitions of Parties in the Agreement
- Infant industry protection measures are insufficient
- Prohibition of export taxes
- The MFN Clause
- Impact on regional integration

The Challenges

- Up to now, there has been no serious engagement with the EC on the concerns.
- There is no collective ownership of the concerns.

The Action

- Reach an understanding on the collective ownership of the concerns to facilitate engagement with the EC.

Market Access

The Issues

- The market access issues for South Africa are still outstanding.

The Challenges

- South Africa is not party to the I-EPA.
- Negotiations are still on going but facing difficulties with respect to agriculture.
- South Africa wishes that the negotiations on market access must be addressed together with the concerns.

The Action

- Conclude the outstanding issues on tariffs as soon as possible
- Options are being analysed on how the I-EPA can be implemented in the absence of South Africa (in case the outstanding tariff issues are not resolved).

Development

- There is a need for a firm commitment in the I-EPA for development assistance to address the supply side issues.

Regional Integration (RI) and trade facilitation

- How does the EPA fit into the overall regional integration agenda of SADC?
- There is no evidence to support the view that EPAs facilitate or support regional integration.
 - South Africa, a member of SACU, is not party to the I-EPA
 - Some SADC members not negotiating services
 - No common view on the issue of signing
 - No common view on the concerns
 - EPA schedules not in tandem with the SADC –wide programmes for an FTA and Customs Union.

Trade-related issues

- Some Member States are not negotiating investment and services.
- On investment, the SADC EPA signatories desire a cooperative arrangement whilst the EC would like liberalization of investment.
- On services, the agreement is that one services sector should be liberalized by end of 2008.
- SADC has not yet advanced its process of defining its offensive and defensive interests.
- Difficulty in meeting the December 2008 deadline in view of the complex nature of the services negotiations.
- Dealing with issues that are being discussed at the WTO
- Implication of the services negotiations on the SADC –wide initiatives to come up with a services protocol.

Analysis of the EPA template

Introduction

- Template is a mere guide, not a binding document on the member States or their representatives. It would give a general framework or parameters for negotiation and for harmonization of the regional EPAs.
- Recommendations to set up a technical working group at the AU level and the ideas or views from this workshop would be used as an input to formulate a template

Regional Integration

- EPAs are supposed to promote regional integration.
Concerns:
 - The effect of the IEPA on SACU is not one that support regional integration - South Africa, a SACU member, has not signed onto the IEPA as they still have outstanding issues. 4 other SACU members have initialed the IEPA. This raises challenges, including issues relating to implementation, for SACU.
 - Differentiation of SA in SACU.
- The language of text does not recognize existing instruments for RI. For example, the impact of EPA on SACU is detrimental to its coherence and even existence. On net, EPA appears to undermine RI than otherwise.
- Template should give precedence to RI. There is therefore agreement on draft template's suggestions.

- Comprehensive EPAs should refer not only to the Regional RECs but also to the RI at the continental level.
- Provide for identification of priority integration programmes as indicated in *the AU* and RECs development strategies.
- On sequencing of trade related issues to follow completion of regional integration regimes should also include *services*.

Development

- There is a need for a firm commitment in the IEPA for development assistance to address the supply side issues.
- Development assistance should not be for the implementation of EPA, but should be for genuine development aspirations.

Market Access

- On the list of issues to be addressed on market access should be elimination of stand-still, prohibitions of export taxes, MFN clause, prohibitions of quantitative restrictions, etc.
- Add recognition the situation of post-conflict countries.
- Where ACP countries have raised concerns of market access, those should also be addressed.
- Inclusion of an effective clause on protection of infant industries.

SPS measures and TBT

- [ECA's suggestions endorsed]

Current Payments and capital movement

- [National Treasury departments best placed to comment]

Customs and trade facilitation

- [ECA's suggestions endorsed]

Cross-border supply of services

- Do not support the view that the Cariforum text can be used as a basis for negotiating services. Their situation is far different from what obtains in Africa – they have done more work on services than we have done.
- Rather SADC should follow a more gradual approach
- Negotiations should follow the GATS model for services. Suggest that EPA builds on GATS and not go beyond the current GATS negotiations (preserve the architecture of GATS and ensure no add-ons)
- Use flexibility on those negotiations.
- Regulatory frameworks must be examined to see if they meet our requirements.
- On the regulatory frameworks emphasis should be on capacity building and a later review to assess the state of readiness for member States to negotiate for further liberalization.
- Regulatory frameworks should be applied only where there is commitment in a particular sector.
- Inclusion of a special safeguard mechanism for services.
- Exclusion of non-services sectors in the chapter and from liberalization.

Trade related areas

- Adopt a gradual approach which foresees cooperation and capacity building first.
- In trade related areas we are not negotiating rules.

Transparency in government procurement

- Same position as above in trade related issues –not to negotiate rules.

Investment

- It is a cooperative arrangement based on regional instruments.
- Exclusion of liberalization commitments.

Competition

- [also included in the trade related areas above]

Other important EPA areas

- Intellectual property: Same as in trade related issues as above.
- Ensure that it does not go beyond TRIPS agreement.
- General exceptions: use of GATT language recommended.
- Dispute settlement: avoid notion of collective responsibility for violations by one member.
- Final provisions:
 - Legal definition of parties should be made clear to take SA concerns. As the case is now it creates a person/entity that does not exist, e.g. SADC EPA which does not exist in international law.
 - This is particularly problematic in individual country dispute with the EC.