Analytical Note
SC/AN/TDP/EPA/5
Original: English

TRADE NEGOTIATIONS IN THE EASTERN AND SOUTHERN AFRICAN REGION: ISSUES FOR CONSIDERATION

SYNOPSIS

This Analytical Note explores some of the main challenges that the countries of the EPA Eastern and Southern African region (ESA) face both in the WTO and in the EPA negotiating processes. It highlights the region's interests in both settings and aims at increasing negotiators' understanding about developmental implications that result from some of the interfaces between both processes.

March 2007
Geneva, Switzerland

This Analytical Note is produced by the Trade for Development Programme (TDP) of the South Centre to contribute to empower the countries of the South with knowledge and tools that would allow them to engage as equals with the North on trade relations and negotiations.

TRADE NEGOTIATIONS IN THE EASTERN AND SOUTHERN AFRICAN REGION: ISSUES FOR CONSIDERATION

TABLE OF CONTENTS

EXECUTIVE SUMMARY

The Economic Partnership Agreements negotiations between the EU and the African, Caribbean and Pacific (ACP) countries are scheduled for completion at the end of 2007. The ESA configuration negotiating the EPAs with the EU encompasses fifteen Eastern and Southern African countries. Even though, countries of this region constitute a large market size, deficient product diversification coupled with poor intra-regional trade means that the EU, which accounts for a large proportion of the region's total exports, is a major trading partner. The ESA region is also characterized by highly heterogeneous development, economic and political conditions. Further, countries in the ESA are parties to diverse, overlapping, regional and sub-regional agreements on trade, political and economic cooperation to which the EPA negotiations add an additional layer of complexity.

This paper apprises the main trade and institutional patterns that characterize the region and explores some of the main challenges that the countries of the region face both in the EPAs and WTO negotiating processes.

The economic productivity of the ESA region accrue to few member countries—Sudan, Kenya and Ethiopia—accounting for approximately sixty per cent and fifty-five per cent of population and regional GDP respectively. Regional GDP per capita of US$266 is mirrored in Uganda and Rwanda while that of member countries such as Burundi (US$104) and Seychelles (US$6,468) vary widely from the average. These figures are, however, reflective of the sector contributions of countries in this region, which suggests a positive effect of shifting from supply of goods (mainly agricultural goods) to the supply of services. The agricultural sector remains overall the single largest contributor to employment in this region. However, the manufacturing and services sectors are major employers in some countries of the region. The tourism sector, heavily concentrated in transport and travel service provision, is very important to the ESA contributing to more than 50 per cent of the region's GDP. Ethiopia and Kenya are again the regional champions in this sector.

The ESA-EPA negotiations, despite the unique overlapping nature of its RECs, are participatory and representative, involving various stakeholders at both the national and regional level. The prioritized areas of negotiations are conducted at the Ministerial level while the formulation of national positions in these areas is pursued by the NDTPF, represented by both public and private sectors, including Non-State Actors. The Regional Negotiating Forum is responsible for convergence of these positions into a regional one. The significance of the RNF which comprises relevant regional NGOs and country delegates cannot be overemphasized. Capacity building of the RNF is of utmost importance.

In contrast with the arrangements described above, countries in the region typically defend their interest at the WTO negotiations through more or less formalized groupings of countries such as LDCs, ACP and African Group and such thematic groups as the G-33 and G-20 in Agriculture. Scheduling strategic positions, coordination and information sharing at the multilateral level become very challenging for ESA member because of the dual policy-making set-up with respect to the interfaces between the WTO and the EPA processes.

WTO and EPAs negotiations raise some challenges as well as opportunities for ESA member countries. Development concerns have long been tabled by the group at the EPAs to compel the EC to incorporate capacity building and regulatory measures plus the financial resources that support the structural transformation of the region, instead technical and financial elements only. The same treatment is required of the WTO negotiations to include the market access and special and differential treatment aspects into a more comprehensive development agenda.

More systematic intra-regional integration has to be pursued if the region is to successfully withstand increased import competition from the EU after the creation of an FTA. Coherence between the EPAs and the regional process of ESA has not been achieved so far. ESA lacks a regional integration programme, as well as, a legal identity. The so-called 'spaghetti-bowl' dimension is even made more complex by the asymmetric developmental stages of the various overlapping RECs.

The negotiations at both levels also have implications on the industrial and agricultural sectors in the region. Tariff liberalisation and the establishment and streamlining of CET should take into account the needs and developmental stages of ESA countries while allowing for the harmonisation of the criteria for selection of sensitive products. There is also the real risk of intra-regional trade being undermined with negative impact for local manufacturers who benefit most from such trade. This is all the more worrying as intra-regional trade often comprise products with greater value added as opposed to the mostly primary commodities sent to the EU. EPAs provide the opportunity to ESA countries (particularly non-LDCs) to maintain preferential access to the EU market, under a contractual basis, after the expiry of the WTO waiver. However, the value of such preferences is being eroded by EU internal reforms, bilateral negotiations of the EU with other countries, and the multilateral liberalisation at the WTO.

Service negotiations between the ESA and the EU have been requested at the insistence of the EC, though, not mandated under the Cotonou or the WTO agreements. To ensure coherence between the EPAs negotiation and WTO rules with regards to services, should it be incorporated into the EPAs, GATS principles and rules regarding RTAs would form the basis for such negotiations. However, various stakeholders have expressed concerns about the ambiguous character of the some of the provisions concerning sectoral coverage and national treatment of service providers.

EPA compatibility with WTO would require flexibility for developing countries to judge the extent and timing of their liberalization in service, provision which is in sharp contrast to request by the EC for MFN treatment.

Evidently, the EPAs and WTO negotiations are interconnected in several respects and how each is negotiated would have intrinsic effects on the outcome of the other. Greater exchange of information and more coordinated action in both negotiations may not only guarantee that the outcomes of both processes is mutually compatible, but may lead to the identification of positive synergies in both negotiations.

TRADE NEGOTIATIONS IN THE EASTERN AND SOUTHERN AFRICAN REGION: ISSUES FOR CONSIDERATION

I. INTRODUCTION

1. The Eastern and Southern African (ESA) Region, as defined under the configuration of the Economic Partnership Agreement comprise Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe.

2. ESA is Africa's largest EPA economic grouping, constituting a market size of 300 million people and generating a GDP of US$80 billion per year. Eleven of the fifteen countries in the region are LDCs, with more than half of their export earnings going to debt service. Countries are also diverse in terms of their economic performance with Ethiopia ranked fourth in top performance in Africa in 2004, and Seychelles and Zimbabwe at the bottom two rungs. ESA's main exports are unprocessed products, mainly agricultural and mineral products, with its main trading partner the EC, accounting for 34% of total exports and 23% of total imports.[1]

3. The development, economic and political heterogeneity that characterises ESA countries contributes to explaining why the region has a wide range of interests in both the WTO Doha and in the EPA negotiations. While the region participates very actively in the EPA negotiations, where it strives to play a leading negotiating role, its ability to effectively influence WTO processes is less clear, with most countries in the region being active through regional or thematic groupings.

4. This note describes the main trade and institutional patterns that characterise the region and explores some of the main challenges that the countries of this region face both in the WTO and in the EPA negotiating processes. It highlights the region's interests in both settings and aims at increasing negotiators' understanding about developmental implications that result from some of the interfaces between both processes.

II. IDENTITY OF THE ESA REGION

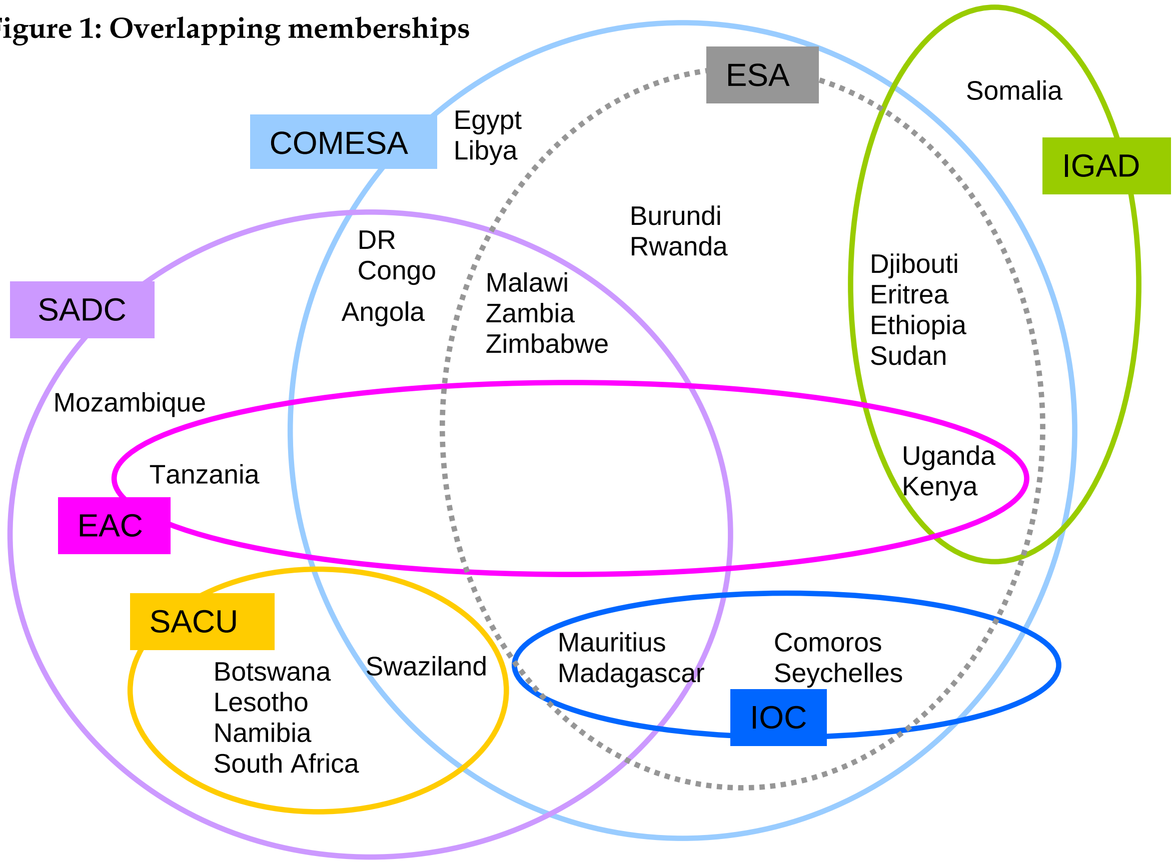
A. General Overview: overlapping membership to RECs

5. Regional integration among ESA countries has been rather difficult considering that ESA member states are involved in several overlapping regional and sub-regional agreements on trade, political and economic cooperation. In fact, countries of the region belong to the following Regional Economic Communities (RECs):

[1] www.ecdpm.org/inbrief14e

COMESA, SADC, the EAC, IGAD, and the IOC.[2] (Please see Figure 1 for an illustration of the various, overlapping regional configurations).

Figure 1: Overlapping memberships



Source: Adapted from *ECDPM. 2006. Overview of the regional EPA negotiations: ESA-EU Economic Partnership Agreement (ECDPM InBrief 14E). Maastricht: www.ecdpm.org/inbrief14e*

6. Overlapping membership to different RECs is made further complex by the fact that the region's RECs have often been active in promoting common policies and setting common objectives, generating an important *acquis* that should be taken into account when negotiating international trade obligations. For instance, COMESA[3], the largest REC in the region, undertakes work in a variety of areas on which EPA and WTO negotiations have a bearing, such as:

a. The creation of a Free Trade Area (not yet fully completed) and Customs Union with the adoption of a Common External Tariff[4] towards countries outside the region, the implementation of which is scheduled for 2008;

[2] www.ecdpm.org/inbrief14e
[3] Membership to COMESA extends beyond the ESA-EU EPA region, and comprises Egypt, Lybia and Somalia that do not negotiate EPAs, as well as Angola, Congo DR, and Swaziland that negotiate EPAs separately under the SADC group.
[4] The 19th meeting of the COMESA Council of Ministers agreed in Kigali, Rwanda June 2006 that the COMESA Customs Union should be attained by December 2008. E-Comesa Newsletter N°95, April 2007.

b. The creation of a programme for the elimination of non-tariff barriers and other obstacles to intra-COMESA trade, including the establishment of a non-tariff barriers (NTBs) reporting mechanism;
c. The agreement of a COMESA Agricultural Policy, pursuing sustainable regional food security and enhanced regional integration through a variety of projects;
d. The pursuance of a Common Public (Government) Procurement policy;
e. The enactment of Common Competition rules and regulations;
f. The establishment of a Common Investment Area (CCIA), including a Regional Investment Agency (RIA) whose main attribute is to promote investment opportunities in COMESA; etc.

7. Similarly, the East African Community (EAC), is active in several areas that impinge on the EPA and WTO discussions, including:

a. Free Trade Area with concomitant efforts to eliminate non-tariff barriers affecting intra-EAC trade, including steps for the harmonisation of standards and specifications of goods and services;
b. Ongoing studies and discussions for an East African Agricultural and Rural Development Strategy;
c. Ongoing studies and discussions for an EAC Industrial Development Strategy;
d. Ongoing efforts for the promotion of tourism in the region;
e. Investment cooperation among national Investment Promotion Authorities, including the promotion of harmonised investment incentives and codes.

B. ESA economic, productive and export identity[5]

8. The ESA region has a market size of nearly 300 million people generating a GDP of about US$80 billion per year[6]. However, this aggregate figure conceals wide differences among the fifteen countries of the region. In fact, three countries, namely Sudan, Kenya and Ethiopia, account for about 60% of the ESA population and 55% of the regional GDP (See Chart 1).

[5] If not indicated otherwise, all the data used in this section is from the World Development Indicators, 2006. Figures are expressed in real value using 2000 as the base year. In anyalising each economic indicator, only countries for which data is available are included.
[6] ECPDM, 2006, **"Overview of the regional EPA negotiations: ESA-EU Economic Partnership Agreement",** http://www.ecdpm.org/inbrief14e.

9. The region's GDP per capita is US$266 (2005), but figures for each country also vary greatly. GDP per capita ranges from US$104 in Burundi to US$6,468 in Seychelles. The GDP per capita in Burundi is less than half of the regional average. The GDP per capita in Eritrea, Malawi and Ethiopia is also less than three-fourths of the regional average while, in contrast, the GDP per capita in Seychelles, Mauritius and Djibouti is more than three times bigger than the regional average. (See Chart 2).

Chart 1: Regional GDP distribution

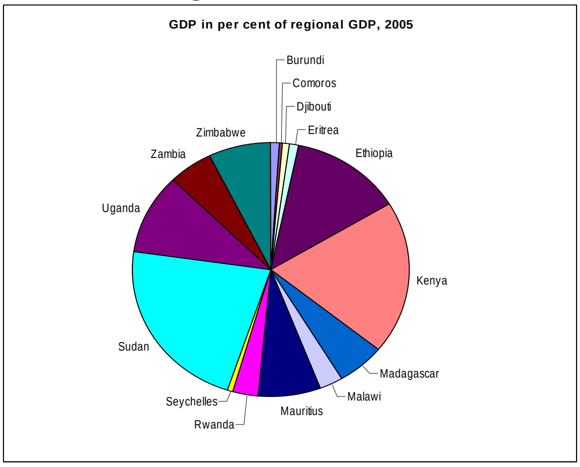
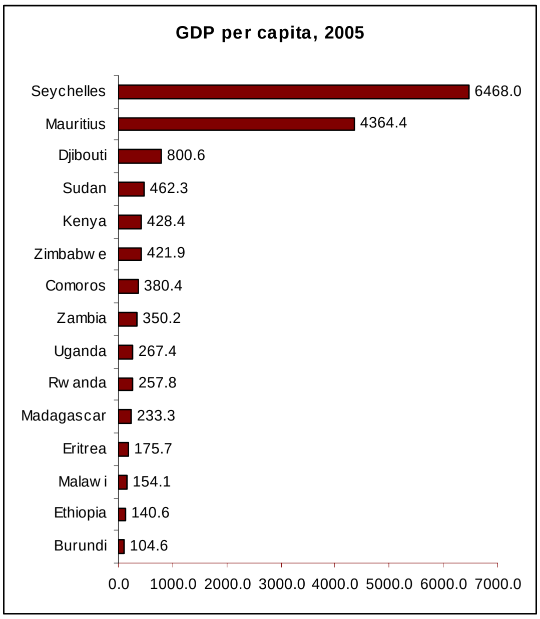


Chart 2: GDP per capita in ESA



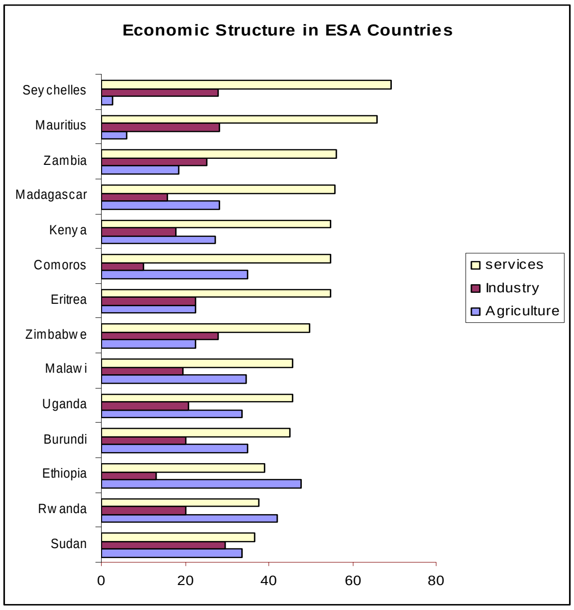
10. Poverty data is not available for most of the countries in ESA, but available data shows that those living below US$1 a day correspond to about 76% of the population in Zambia, 61% in Madagascar, 56% in Zimbabwe, 55% in Burundi, 42% Malawi and 23% in Kenya and Ethiopia.

11. An important trend noticed over the past decade was the increase of the share of agriculture in the economy with a concomitant reduction of the importance of services and industrial production as share of GDP. A decade ago, the share in GDP of services, agriculture and industry respectively corresponded to 51, 28 and 21%. This indicates that, within only a decade, the share in GDP of the services and industry sectors declined by 3 and 2 per cent respectively and the share of agriculture expanded by 5 per cent over the last decade. In 2005, the services sector accounted for 48% of the regional GDP, while agriculture accounted for 33% and industry for 19%.

12. Moreover, the economic composition of the region is heterogeneous, with wide variations in the contribution of sectors to the economies of the region. (Chart 3). Agriculture is the largest sector in Ethiopia (48%) and Rwanda (43%) while corresponding to less than 10% of GDP in Seychelles and Mauritius. In these countries, the services and industry sectors contribute for over 60 and 25 per cent of GDP respectively.

13. Overall, agriculture is also the single largest contributor to employment in the region, but there are variations across countries. Agriculture employs 78% of the workforce in Ethiopia and Madagascar; 70% in Rwanda and Zambia; 18% in Kenya

Chart 3: Economic structure in ESA, 2005



and 10% in Mauritius. In contrast, the industrial sector accounts for less than 10% of employment in Ethiopia, Rwanda, Madagascar, Uganda and Zambia and for nearly 40% in Mauritius.

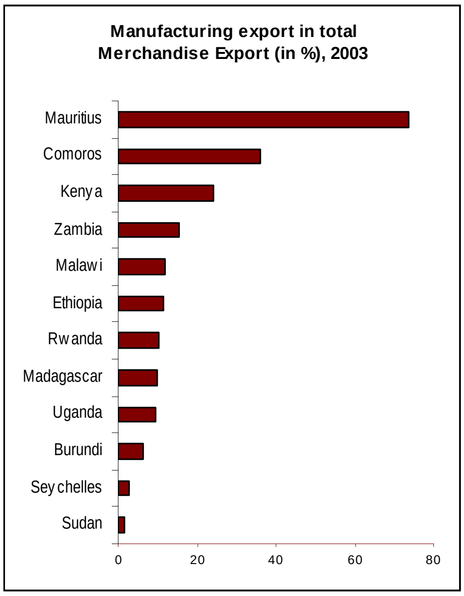
14. Manufactures correspond to 15.2% (2005) of total merchandise exports for the ESA region[7]. Hence, almost 85% of merchandise exports from the region are composed of agricultural and non-agricultural primary commodities. This is confirmed by the fact that many countries in the ESA region rely on only a few agricultural commodities for a substantial share of their export earnings.[8] Only three agricultural exports account for over 70% of total merchandise export in Burundi, Ethiopia and Malawi; and over 50% in Uganda and Rwanda. The major agricultural exports of the region are coffee, tobacco leaves, tea and, to a lesser extent, sugar and cattle (See Table 1[9]).

Table 1: Main exported commodities	
Burundi	Coffee, tea, sugar, cotton, hides
Comoros	Vanilla, ylang-ylang (essential oil), cloves, copra
Djibouti	Salt
Eritrea	Coffee, hides and skins
Ethiopia	coffee, live animals, oilseeds
Kenya	Tea
Malawi	Tobacco
Mauritius	Sugar
Madagascar	Coffee, vanilla, cloves, cotton, sugar, pepper, cocoa
Rwanda	Tea, coffee
Seychelles	Cinnamon bark, copra
Sudan	Cotton, sesame, livestock, groundnuts
Uganda	Maize, cut flowers, coffee, tea, tobacco, cotton
Zambia	Maize
Zimbabwe	Cotton, tobacco

[7] Data was not available for Djibouti.
[8] FAO, 2002, « *FAO Papers on Selected Issues related to WTO Negotiation in Agriculture*", Rome.
[9] WTO. Reports by the Secretariat for the latest Trade Policy Reviews of these countries. Section V: Trade Policies by sector – Agriculture and CIA. World Factbook 2007

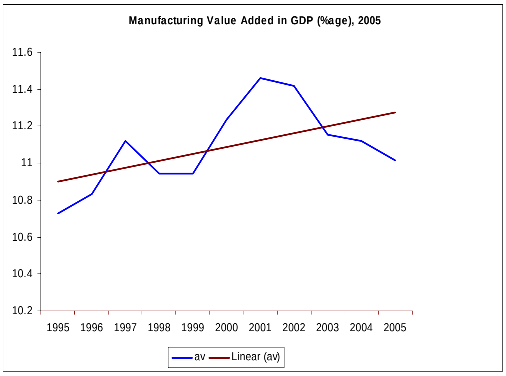
15. With respect to manufacturing, Mauritius stands out with manufacturing accounting for 74% of total merchandise exports. Comoros and Kenya follow with manufacturing accounting for 36% and 24% of total merchandise export. For the remaining ESA countries, the share of manufacturing in total merchandise export is below 20% and even less than 3% in Seychelles and Sudan. (See, chart 4).

Chart 4: Manufacturing in exports



16. Chart 5 shows that for the ESA region on average, manufacturing value-added as a share of GDP has an increasing trend. Manufacturing value added increased from 10.9% in 1995 to 11.2% in 2005. The Chart also shows a high volatility in the share of manufacturing value-added in GDP. This indicates high variability in production and national income. This could be attributed to recurring external shocks that have afflicted the ESA region due to the regions' high dependence on primary commodities.

Chart 5: Manufacturing value-added in GDP (average for ESA) 1995-2005



17. However, disaggregated data shows that, some ESA countries, particularly Kenya, Madagascar, Seychelles and Sudan have experienced noticeable de-industrialization in the last decade. Chart 6 shows trends for share of manufacturing export in total merchandise export for these countries. In less than ten years, the share of manufactured exports declined from 28% (1995) to only 20% (2004) of total exports in Kenya. After an increase, the share for Madagascar sharply declined between 2000 and 2003.

Chart 6: De-industrialization in ESA countries (manufacture in total merchandise exports)

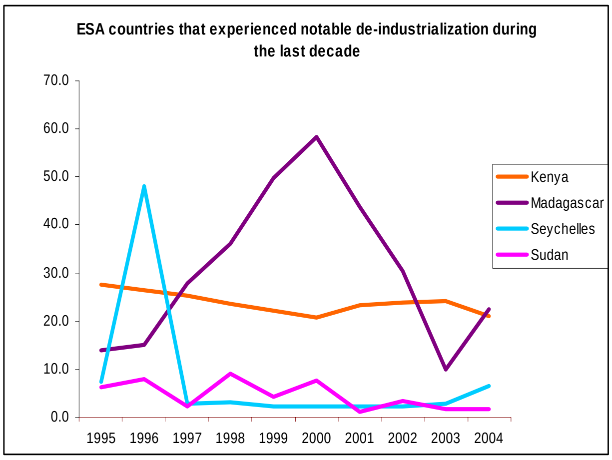


Table 2: Exports of selected ESA countries to Northern markets	
Burundi	59 %
Comoros	72,9 %
Djibouti	3,8 %
Ethiopia	47,5 %
Malawi	52,8 %
Rwanda	13,3 %
Sudan	19 %
Uganda	54,3 %
Zambia	35,4 %

18. The share of manufacturing value added in GDP widely varies among the ESA countries ranging from 20% in Mauritius and 3.5% in Comoros with a regional average of 11 per cent.[10]

19. Finally, but not least, regional merchandise trade is characterised by a marked reliance on the developed countries for exports (Table 2)[11].

20. Reliance on developed countries' markets is also a feature of exports of services from the ESA region. Importing more than 50% of ESA's services, Europe is an important export market for the ESA countries. However, in contrast, the ESA market provided only 6.6% of Europe's services imports with only one sector, namely Transport and Travel, accounting for more than three quarters of EU services imports from ESA (at 77%).[12] Tourism, in particular has stimulated exports of Transport and Travel as, for most ESA countries, tourism has accounted for more than 50% of total commercial services exports.[13] The same is true for Kenya and Ethiopia in the transportation sector, as both of them own some of the biggest airline industries in the region. Overall, trade in services accounts already for about 50% of the ESA region's GDP[14], but exports remain low, representing only about 0.5% of world exports of services.[15]

C. Institutional negotiating framework for EPAs and the WTO

21. Negotiations of the EPA between ESA and the EC are conducted at both the ministerial and ambassadorial/senior official level. ESA has designated six Brussels-based ambassadors and ministers to lead the discussion in the six different areas of negotiation: development, market access, agriculture, fisheries, services, and other trade-related issues. Every six months, on a rotating basis, the ministerial and ambassadorial lead spokespersons each select a chairperson to be the overall spokesperson for the entire region for joint negotiating sessions with the EC at these two levels.

22. At the **national level**, each ESA member state has established a National Development and Trade Policy Forum (NDTPF), represented by both the public and private sectors, including Non-State Actors (NSA), which are all involved in formulating the national positions for the EPA negotiations. These positions are then compiled and processed by the **Regional Negotiating Forum** (RNF), who delivers the overall ESA negotiating stance. The RNF is comprised of country delegates and representatives from regional NGOs dealing with trade and development. The

[10] Due to unavailability of data, the average figure does not include Djibouti.
[11] UNCTAD. The Least Developed Countries Report 2006: Developing Productive Capacities. United Nations 2006.
[12] EU refers to the EU -15.
[13] Some of these countries are: Malawi, Mauritius, Rwanda, the Seychelles, Sudan and Uganda.
[14] The share of exports of commercial services as a share of GDP ranges from 82.1% in Djibuti to 31.2% in Burundi.
[15] Commercial services, WTOs SDB database on line

Secretariat of the RNF are composed of representatives of the secretariats of the various RECs involved in the EPA negotiations – COMESA (lead and coordinating role), EAC, IOC and IGAD. Although the RNF is quite well established at the national level capacities to feed into the RNF are still quite weak due to limitations in both human and financial resources.[16]

23. The negotiating structure is participatory and representative, involving various stakeholders at both the national and regional level. This has been an important aspect in moving negotiations forward, with the region especially being rather strong in taking initiative during discussions.[17] Overall, there has been general satisfaction from ESA's perspective on the negotiation strategy, as they have been able to exert leadership on all aspects of the negotiations, with the EC responding to their positions. However, this strategy hasn't been successful in all aspects of the negotiations, as seen with the services sector.[18]

24. In addition to the RNF, a **Regional Preparatory Task Force** (RPTF) [19] was set up on May 2004, with the aim to address the development elements of the EPA as identified in the Cotonou Agreement.[20] The RPTF was not set up as a negotiation body but is involved in preparations for negotiations. For ESA, the RPTF has acted as an informal negotiating forum where issues are worked out, in a non-binding manner. This is not the case with other regions, where the RPTF has the role of programming the financial assistance under the European Development Fund (EDF). In terms of better aligning the development matrix to the negotiations - the harmonisation of the role of the RPTF, with that of the other regions is seen as important.[21]

25. In contrast with the arrangements described above, no formalised institutional structure exists for the exchange of information or the discussion and harmonisation of positions regarding WTO negotiations. Countries of the region typically defend their interests through more or less formalised groupings of countries active in the WTO. For instance, ESA LDCs are part, and often play an active role, in the WTO LDC Group. Non-LDCs of the region, instead, are part of the ACP Group and African Group. Otherwise, countries of the region also participate in thematic groupings such as the G-33 and G-20 in Agriculture, and the Paragraph 6-countries group in NAMA.

26. One consequence of this dual policy-making set-up is that there are no formal vehicles for sharing information, coordinating and creating strategic positions with respect to the interfaces between the WTO and the EPA processes. Of course, at the national level, at higher ministerial level, both negotiations are conducted by the

---

[16] www.ecdpm.org/inbrief14e.

[17] ECDPM (2007) *Preliminary Overview of On-going Article 37(4) Review of the EPA Negotiations.*

[18] UNECA-African Trade Policy Centre (2006) *EPA Negotiations: African Countries Continental Review: Draft Review Report.*

[19] The aim of the RPTF is to facilitate linkages between the trade negotiations and development assistance.

[20] Activities which address capacity-building, supply side constraints, and regional integration.

[21] UNECA-African Trade Policy Centre (2006) *EPA Negotiations: African Countries Continental Review: Draft Review Report.*

same department or unit. However, at the more technical level both processes are conducted separately, which means the team dealing with one negotiation is only superficially aware of the topics being treated under the other negotiation.

III. CHALLENGES AND OPPORTUNITIES ARISING FROM THE INTERFACES BETWEEN WTO AND EPA NEGOTIATIONS

A. Development dimension

27. The mandate, objectives and negotiating texts of both the WTO Doha Round and of EPAs abound in developmental rhetoric. However, the record and extent to which development has been effectively incorporated in both negotiations is far from encouraging. One particular reason for this is a consistent and substantive reduction of the scope of both negotiations to their market access dimensions. Another reason is the lack of shared understanding about the definition of development. Other reason might be the lack of awareness by developed countries about the specific needs and concerns of developing countries and their little understanding of concepts such as "policy space". Finally, issues of sequencing, i.e. the order to discussion of developmental and market access issues, have also hampered progress in both negotiations.

28. In the WTO, a long-standing request of developing countries and LDCs alike has been that development is an all-permeating concept and that it is not possible to separate it from the core areas of negotiations. While technical and financial assistance or even Special and Differential Treatment (SDT) are critically important and add up to a developmental package, the developmental dimension of the Round cannot be reduced to these concepts only. For instance, the extent and pace of tariff liberalisation must also incorporate a developmental dimension by being flexible and recognising the importance that tariffs continue to play in the promotion of industries in poor countries.

29. Under the EPAs, the ESA region defines development by focusing on capacity and regulatory measures, and financial resources to support the structural transformation of the region into a competitive and diversified economy. The EC has refused to acknowledge these two aspects of the development dimension, which has caused a major delay in negotiations.[22] The EC, instead, has reduced development to its technical and financial assistance aspects only (e.g. by separating RPTF, EDF from the EPAs).

30. During a meeting between ESA Ministers in November 2006, the region declared that "if this condition is not acceptable to the European party, continuation of negotiations in other areas would be compromised and will have to cease."[23] Given all these constraints, more time to enhance the capacity of the ESA region is

[22] Ibid.
[23] UNECA African Trade Policy Centre (2006) *EPA Negotiations: African Countries Continental Review: Draft Review Report.*

strongly supported. An extension of three years, as requested by the ESA region, would give more time for individual governments to mainstream EPAs into their national trade and development policies; facilitate more information flow within the ESA negotiating bodies; address the issue of ESA configuration; and, coordinate with other regions.[24] The ESA region seems to also hint at looking into other alternatives to the EPA, due to fundamental differences between the two parties on the development dimension.[25]

B. Regional Integration

31. Countries in the ESA region participate in a multiplicity of economic integration schemes. Of particular relevance are those of EAC, COMESA and SADC which have different trade liberalisation programmes and policies. These will need to be reconciled for purposes of creating an economic identity and integrated market among the ESA countries (including a common external tariff to third countries, rules of origin, etc.). The EPA negotiations with the EU add a new layer of coordination to this complex process..

32. One of the purported objectives of EPAs is to contribute to the strengthening of regional integration processes, by complementing and supporting ongoing integration efforts. This might include incentives for the integration of regional markets and the liberalisation of ESA internal barriers, incentives for the effective application of a Common External Tariff, harmonisation of regional trade-related rules and the consolidation of stronger regional markets through improvement of the regional productive capacity. Not only do EPAs have a mandated obligation to support such efforts, but they also present, given the asymmetries opposing ESA and EU economies, great scope for the development of a positive collaborative agenda between ESA and EU.

33. ESA sees reciprocity, in the context of a regional trade agreement with the EU, as occurring only when integration has been successfully achieved and local markets are able to withstand increased import competition from the EU. The EPA review process seem to indicate that, at this stage, individual ESA countries believe that coherence between the EPAs and the regional process of ESA has not been achieved[26]. This also raises the important issue of implementation periods and how much time the region will have before it opens its markets to the EU. Considerable disagreement persists between the EU and ESA regarding the length of implementation period. This is particularly critical as there are already noticeable trends of de-industrialisation in the region.

34. Furthermore, as more focus is centred on the EPA process, less time and resources are devoted to work on regional internal processes, confirming the lack of

[24] ECDPM (2007) *Preliminary Overview of On-going Article 37(4) Review of the EPA Negotiations*
[25] UNECA-African Trade Policy Centre (2006) *EPA Negotiations: African Countries Continental Review: Draft Review Report.*
[26] UNECA-African Trade Policy Centre (2006) *EPA Negotiations: African Countries Continental Review: Draft Review Report.*

human, financial and technical capacity in the region to lead processes concomitantly. Negotiating capacity continues to be a major hindrance for the region, as for other ACP regions, even in the final stages of the negotiating process.

C. Industrial tariffs

35. One of the main aspects related to market access, relates to the extent to which the modalities for tariff reductions, both in the WTO and in the EPA context, will require changes in the region's plans for a Common External Tariff. Countries of the region are exempt of making tariff reductions through the formula under the WTO Non-Agriculture Market Access (NAMA) modalities by virtue of being LDCs or having a low binding coverage. Nonetheless, new binding commitments by non-LDCs, if made at a rate below the planned or actual CET rate, would force LDCs of the region to reduce their tariffs to the WTO bound levels and hence to liberalise merchandise trade. The level and extent of new tariff bindings to which the region would have to commit are still pending agreement in the Doha negotiations.

36. Moreover, lowering of the CET, or setting CET rates at an inadequately low level, could increase imports entering the region on a Most Favoured Nation (MFN) basis and add to the adjustment costs faced as a result of liberalisation in favour of the EU under the EPAs. There is a real risk of undermining regional trade in favour of the EU and other countries outside the region that could detrimentally impact local manufacturers, who benefit most of intra-regional trade. For this reason, the criteria for the selection of sensitive products (i.e. for which the pace of liberalisation might be slower) should comprise not only present (static) considerations (e.g. tariff revenue generated through particular lines) but also a dynamic assessment of the promising areas for consolidating a strong regional market, as well as manufactured or processed products the production of which the region may wish to promote in the future as part of a strategic plan for regional development.

Box 1: COMESA CET

The special Ministerial task force on the COMESA Customs Union agreed on 11 April 2007 on the structure of the Common External Tariff. It shall consist of four bands as follows:

1. raw materials: 0%
2. capital goods: 0%
3. intermediate products: 10%
4. finished products: 25%

Implementation of a CET will allow COMESA countries to move towards the establishment of an effective Customs Union. In addition, the CET will e used as the base rate for the negotiation of tariff reductions with the EC.

Source: E-Comesa Newsletter N°95, April 2007.

37. Adding another dimension of complexity, COMESA is striving towards a CU for 2008, although not all members may be able to implement the CU, and it is still not clear if it would be adopted by ESA.[27] ESA itself lacks a regional integration programme and legal identity. Some members raised the option of converting ESA into COMESA which could also ensure compatibility of the EPA with the COMESA

[27] ECDPM (2007) *Preliminary Overview of On-going Article 37(4) Review of the EPA Negotiations*

customs union (CU).[28] LDCs of the region especially, are critical of the CU's lack of establishing a redistributive or compensatory mechanism, which they see as crucial considering the huge variance in socio-economic and development levels amongst its members.[29] The CET that COMESA will implement will be used as the baseline for the negotiations with the EC. Consequently, the lower the rates defined for the CET, the lower the starting point for tariff reductions, and the greater the implications for market access.[30]

38. The industrial sector in ESA is likely to face heavy competition with EC products as a result of reduced tariffs. In Kenya for example, the following products will most likely be impacted - fertilizer, cement, salt, medicines, paper and paper products, footwear, and insecticides. In Uganda, a decrease in the local manufacturing sector is likely to happen. In Mauritius, the production of local manufactured and primary products will decline by 24% with a decrease in employment of 12%, with the bulk of the decrease mostly occurring in the manufactured sector.[31]

39. These are, of course, very detrimental consequences for the region, particularly for employment. In addition, it could further the process of de-industrialisation that the region has already experienced over recent years accentuating the region's reliance on primary agricultural commodities. Moreover, these consequences emphasize the need for accompanying measures to manage production and employment consequences of trade liberalisation. The adjustment would be easier if the region's proposal to subject each phase of liberalisation to developmental benchmarks (i.e. the attainment of measurable objectives) is accepted by the EC. Even if accepted by the EC, however, the region would have to ensure that they could build up their competitiveness before and during the implementation periods. This will require that technical and financial assistance be accessible to ESA countries for the implementation of flanking measures at the outset of the tariff reduction schedule.

D. Agriculture

40. In view of the main patterns that characterise the agricultural economies of the ESA region, and given that most ESA countries are net food importers,[32] the main

[28] Ibid.
[29] Trade and Development Studies (TRADES) Centre Draft Final Report Submitted to European Commission's Project Management Unit (PMU) and African Union Commission (AUC), 'Capacity building in Support of Preparation of Economic Partnership Agreement Study on: Strategic Options for the Future Role and for Strengthening the Capacity of the AUC in the Area of Regional Economic Integration and Trade and Enhance its Capacity to Follow Adequately the EPA Process', 19 May 2006.
[30] UNECA-African Trade Policy Centre (2006) *EPA Negotiations: African Countries Continental Review: Draft Review Report*.
[31] *Uganda Study of the Impact and Sustainability of Economic Partnership Agreement for the Economy of Uganda* Trade and Development Studies [TRADES] Centre (July 2004) and *Capacity Building in Support of Preparation of Economic Partnership Agreement*, CREDIT University of Nottingham for the Ministry of Industry, Commerce and International Trade of Mauritius (February 2004).
[32] Djibouti, Kenya, Mauritius, Comoros, Ethiopia, Malawi, Rwanda, Sudan, and Zambia are Net-Food Importing Developing Countries (NFIDCs). Reports by the WTO Secretariat for the latest Trade Policy

concern of the region, in connection with liberalization of agriculture through EPA and WTO negotiations, is that the premature and inappropriate removal of tariffs on EU imports would put one of the world's most economically advanced regions in direct competition with producers of some of the world's poorest countries. ACP fear that this situation will make them more vulnerable to import surges, reinforcing their dependence production linkages.

41. The following issues arise simultaneously in the WTO and EPA negotiating contexts and imply challenges to ESA countries from a strategic point of view:

42. ***Erosion of preferences***. ESA countries have relied for a long time on unilateral preferences to secure access for their agricultural commodity exports to the EU market. In the case of bananas, sugar, beef and veal (regulated under the Commodity Protocols), this market access took place at guaranteed prices, which were substantially above world market prices. ESA LDCs receive duty-free and quota free market access through the EBA, including in sensitive sectors such as sugar, banana, rice, etc.

43. Maintaining and if possible, improving preferential market access in the EU is the priority for the non-LDC ESA countries in the context of EPAs. The EC proposed, in April 2007, EBA market access to non-LDC ACP, which means opening the Community market to all goods from ACP countries with no customs duties or quota limits, from the moment the EPAs come into force. The only exceptions would be sugar and rice which would be allowed transition periods.

44. The benefits of the bargain being struck in EPAs is uncertain. Multilateral liberalization of agricultural markets will erode tariff and quota preferences that currently benefit ESA producers. In addition, ACP preferential market access will further be eroded as a result of (a) recent dispute settlement cases in the WTO[33], which will result in changes to the character and operation of the Commodity protocols and the Common Agricultural Policy (CAP) of the European Union and (b) aggressive policy of bilateral negotiations launched by the EC.

45. In any case, the strategy in the WTO is to keep EU tariffs as high as possible to preserve the value of what is negotiated in EPAs[34]. However, the European Union has not engaged actively in finding ways to address concerns related to preference erosion in the context of the WTO negotiations.

46. The issue of the commodity protocols arises for the non-LDCs and EPAs would be a means to have a contractual preferential access to the EU substituting the Cotonou preferences. The EC has been unwilling to tackle issues related to CAP reform and the commodity protocols to mitigate the effects of preference erosion under the EPAs.

Reviews of Djibouti, Kenya and Mauritius and FAO (2000) "Financing normal levels of commercial imports of basic foodstuffs".

[33] *European Communities – Export subsidies of Sugar* and *European Communities – Regime for the Importation, Sale and Distribution of Bananas*

[34] For more information, see Factsheet No. 2 ("The real value of the preferences") where the issue of market access is discussed.

47. One of the motivations evoked by the EC for the conclusion of a new generation of trade agreements with the ACP under the form of the EPAs is that preferences have been ineffective in promoting the development of the ACP. Public opinion remains divided on this matter. Some believe that the Lomé preferential regime has been useful to promote the productivity and competitiveness of specific sectors (sugar, Mauritius). Others believe that it has not been good because it has reinforced specialization in few export crops and reinforced import dependency with respect to the European market, instead of securing demand nationally or regionally markets[35]. Others believe that the failure of preferences resides in the complexity of the conditions for their utilisation (e.g. rules of origin, certification) and European regulatory and agriculture protectionism (e.g. subsidies).

48. From the perspective of ACP countries, the issue of preference erosion is a contentious one, in the sense that it poses a two-sided challenge: preserving the Cotonou trade *acquis* and adapting to a new trading environment, characterized by intensification of international and domestic competition.

49. ***Identification of sensitive products.*** According to FAO[36], agricultural export expansion alone has not necessarily provided a viable option for poverty reduction in many developing countries and there is enough empirical evidence to question whether further trade liberalization should be a key component of trade policy reform in countries with underdeveloped agricultural sectors. In the case of certain agricultural products, market failures make more difficult (a) appropriating development gains from their trade and (b) diversification into higher value activities.

50. The need to exclude certain agricultural products from tariff liberalization (or to moderate its effect on certain products) has been recognized in the WTO and in the EPA negotiations. In both fora, the criteria for designation and their treatment remain controversial.

51. In the WTO, a differentiation has been established between Special Products (SPs) and Sensitive Products (SePs). The SPs constitute a fundamental provision for developing countries only, in the context of further liberalisation of agricultural markets, in order to take into account their structural disadvantages, the conditions of vulnerable sectors and populations and avoid significant disruptions in the rural areas that could compromise the development prospects of agrarian populations for years to come. SPs are justified and supported by specific developmental criteria linked to food and livelihood security and rural development needs of developing countries.

---

[35] CISSOKO, Mamadou. Presentation made by the representative of Farmers' Association from West Africa at the High Level Conference on ACP-EU relations. Organized by the South Centre, in partnership with a consortium of ACP and European NGOs, held in Brussels on the 12 October 2006.

[36] FAO. *Towards appropriate agricultural trade policy for low income developing countries*. Trade Policy Technical Note N° 14. Rome, 2006.

52. On the other hand, provisions on sensitive products were established as a means to address considerations of sensitivities of a commercial nature raised primarily by developed members. Based on the provisions on special and differential treatment, developing countries are entitled to a larger number of sensitive products and more flexible treatment for such products.

53. Substantial improvement in market access will be provided for SePs while SPs will be eligible for more flexible treatment, in view of their fundamental importance for developing countries.

54. Furthermore, a Special Safeguard Mechanism (SSM) has been agreed in the WTO. So far, there is agreement on the fact that developing country Members will have the right to have recourse to an SSM based on import quantity and price triggers. This mechanism has been proposed as short-term measure to help developing countries cope with fluctuations in prices and import surges, irrespective of whether this is due to subsidies. Technical details related to the operationalization of the mechanism (regarding triggers and remedies) are yet to be agreed.

55. In the case of the EPA process, the ESA group is currently formulating a list of sensitive products to be excluded from market access commitments. These sensitive products will be selected on the basis of criteria such as volume traded and importance to the economy and their number will be limited. Countries will therefore have to make hard choices regarding the sectors to be protected and those that will be vulnerable to European competition. The overall scope for exclusion of sensitive products remains to be determined as the EC standard position is that ACP countries in every region may need to liberalise around 80 per cent of their trade with the EU to achieve WTO compatibility. The ESA region has so far a more asymmetrical approach with the region proposing eliminating barriers on 60 per cent of their trade with the EU.

56. Safeguard clauses have been discussed in the ESA-EPA negotiations as a possible way to address sensitive products. This is particularly important considering that several EU agricultural products are heavily subsidised. It is equally of a critical importance since there have been documented cases of import surges in this region. For instance:

- Kenya experienced import surges of sugar (1992, 1994 and 2002)[37] of maize (1994, 1997, 2001 and 2004) and of dry milk powder (1995 and 1997)[38].
- Between 1980 and 2004, Malawi had 10 import surges of maize, 8 of sugar and 5 of milk[39].
- Kenya, Zimbabwe, Sudan, Uganda, Comoros, Ethiopia, Rwanda experienced import surges (defined as 30 per cent price deviation from 3-year moving average between 1982 and 2003).
- Kenya, Zimbabwe, Malawi, Rwanda, and Comoros experienced import surges defined as the WTO-volume based methodology for SSG[40] in the same period.

[37] Action Aid International. *Impact of Sugar Import Surges on Kenya*. Kenya, September 2005.
[38] FAO. *Kenya: dry milk powder, sugar, maize*. Brief on Import Surges N° 7. Rome, February 2007.
[39] FAO. *Malawi: maize, sugar and dairy products*. Brief on Import Surges No. 2. Rome, November 2006

- Zimbabwe and Kenya were among the countries of the African continent that experienced import surges more often.

E. Trade in Services

57. International trade and investment in services are an increasingly important part of global commerce, representing 16% of the total trade of developing countries (2000-2003) and employing about 30% of the work force in developing countries as a group. Yet, in contrast to merchandise trade, trade in services is less straight forward as they are often intangible, invisible and perishable, and usually require simultaneous production and consumption. It is also settled in scholarly discourse that the benefits from liberalization of trade in services accrue only when a country has sufficient regulatory institutions and capacities needed to remedy market failures, and appropriately sequencing service-reforms, with a good balance on the role of national monopolies. While there is no uniform services policy in the ESA region owing to the fact that many of the members of this negotiating group have original membership in various regional trade agreements such as the East African Community (EAC), the Inter-Governmental Authority for Development (IGAD), and the Common Market for Eastern and Southern Africa (COMESA), each of these groupings have got their own approach to liberalisation of trade in services. In the EAC for example, discourse is still at the level of the desirability to liberalise trade in services amongst member states. COMESA, which is the largest regional groping on the African continent, and to which many of the ESA countries also belong, negotiations are underway for a framework Agreement on services. The aim is to enhance market access liberalisation amongst member countries as well as to harmonize services regulation in the COMESA region. This is the starting point for the COMESA region in terms of negotiating an EPA with the EU. The fact the priority they have is to9 enhance intra-regional trade.

58. ESA countries have, for a long period relied on Agriculture, both for exports and GDP. It has also been observed that in a typical, economic growth paradigm, agriculture and subsequently manufacturing initially play an important role in economic development, and decline respectively to give way to services.[41] There may be some truth in matching the low level of economic development in ESA countries with weak services trade. It is, however, important to note that some countries such as Djibouti rely entirely on services (port-related), and not agriculture, so there is real scope for the establishment of a positive agenda for development of services in the region.

59. ***WTO compatibility and services negotiations in EPAs.*** Services negotiations between the ESA and the EU have been requested at the insistence of the EC, but are mandated neither under the Cotonou agreement nor under the WTO.

[40] FAO. *Import Surges: what is their frequency and which are the countries and commodities most affected?* Brief on Import Surges N°2. Rome, October 2006
[41] Marion Jansen (2006)

60. The Cotonou agreement recognises the principle of progressive liberalisation of GATS and stresses that the liberalisation of services may be covered under EPAs only to the extent that the ACP countries have acquired experience with the implementation of the most favoured nation treatment under GATS. On the other hand, the WTO waiver whose expiry at the end of 2007 constitutes a de facto deadline for the negotiations of EPAs, relates to trade in goods only. Therefore, the ACP countries, including those in the ESA region are not obliged to negotiate the liberalisation of services in the context of EPAs.

61. Article 41 of the Cotonou Agreement, on the other hand, states that the EC will provide sympathetic consideration to the ACP countries' priorities for improvement in the EC schedule of commitments, in the context of the GATS negotiations and support the ACP countries in strengthening their capacity in the supply of services.

62. If the ESA countries do engage in negotiations for the liberalisation of services in the context of EPAs, the agreement will need to conform with GATS Article V regarding RTAs, and are to be notified to the WTO Council for Trade in Services for an evaluation of consistency.[42] There has been a call for a revision of Article V, because the provisions under it are ambiguous.[43] According to Article V, compatibility with GATS entails two basic conditions:

i) it must have "substantial sectoral coverage " in terms of sectors, volume of trade affected and modes of service delivery, with no a priori exclusion of any mode of supply,
ii) It has to provide for national treatment for services providers of Members eliminating "substantially" all discrimination.[44]

63. These conditions must be complied with either upon entry into force of the agreements or within a reasonable time frame. There is, however, flexibility under Article V (3) in the fulfilment of these two basic requirements in two cases:

a. when developing countries are the only members of a preferential agreement in services;
b. and when RTAs are signed between developing countries and developed countries

64. Furthermore, consideration should be born to the relationship between the RTA and a wider process of economic integration or trade liberalization among the countries concerned. This flexibility can be understood to mean flexibility in meeting the requirements under Article V (1). In other words, services agreements implicating developing countries may cover fewer sectors, a lower volume of trade

[42] Article V 7 (a) and (b) provides that Council; may establish a working party to examine the agreements and to report to the Council on their consistency with Article V. The Council for Trade in Services refers the notifications received to the Committee on RTA. Their recommendations, if appropriate, may be made available to the RTA contracting parties.
[43] Paragraph 29 of the Doha Ministerial declaration stipulates that WTO members need to address those issues affecting the evaluation of compatibility with Article V.
[44] This is to be achieved through the elimination of existing discriminatory measures and/or prohibition of new or more discriminatory measures.

and fewer modes of delivery, and enjoying a wider spectrum of limitations to national treatment.[45] These are the norms with which an outcome of EPA negotiations has to comply with should the ESA region negotiate the liberalisation of their service markets.

Liberalisation of trade in services- GATS principles and the EPAs. The ESA countries seem to be moving towards a consensus that commitments under the GATS, the ESA EPA mandate and Cotonou Partnership Agreement mandate contained in Articles 41-43 form the basis of ESA/EC cooperation in trade in services. In terms of sequencing, priority for the ESA countries is the development of a regional framework Agreement on trade in services to provide the basis for progressive liberalization with the EU.

65. The liberalization in trade in services will be undertaken on a progressive basis using a positive list approach adapted to the development of the ESA countries concerned both in overall terms and in terms of their services sectors and sub-sectors and to their specific constraints. However there seems to be an overlap in the draft COMESA Common Investment Area Agreement where plans are for full liberalization under Mode 3, which is the provision of a service through the establishment of commercial presence, except for a sensitive list. In other words all sectors are included unless specifically stipulated. This implies a *negative list* approach and contradicts the preferred positive list in the area of services. This is somewhat concerning as the liberalization commitments that COMESA takes in the investment area will have an impact on mode 3 negotiations in services.

66. ESA countries are agreed on the need for liberalization to take place progressively, based on principles of special and differential treatment, asymmetry and positive regional discrimination, which would allow for greater preferences for regional members, as well as the right to regulate in pursuit of national policy objectives. It is also expected that the EU will provide full market access in all four modes of supply by all EU member states by 1st January 2008.[46] In terms of *sectoral coverage*, ESA countries have identified financial Services: banking, Insurance and securities; Transport Services: maritime transport, Road and railway, air transport; Energy Services: electricity; Communications: Telecommunications; Construction and related engineering services; Professional Services: Legal-Francophone system, and Tourism services, as sector in which they would like the EU to make commitments.

67. The EU has proposed to follow GATS-type liberalization principles, that is, comply with MFN treatment and National Treatment obligations. A critical issue to note in this case is that WTO compatibility connotes progressive liberalization (Article XIX of GATS). Put simply, the principle of progressive liberalization would allow for ESA countries to be in control of the extent, scope, and timing of the liberalization of their services sectors. Developing countries are further protected in Article XIX: 2, where they are given the legal space to open fewer sectors, liberalize

[45] Abugattas, ibid
[46] See Conclusions of the ESA-EC EPA, 3rd Ambassadorial/Senior officials' Negotiating Sessions, 26 July 2006.

fewer types of transaction, progressively extend market access in line with their development situation, and when making their markets available to foreign services suppliers, attaching such conditions aimed at achieving the objective of their increased participation in international trade.

68. EPA compatibility with WTO would require that such flexibility is given to developing countries to judge the extent and timing of their liberalization in services. By requesting national treatment commitments, the EU is clearly going against this flexibility. ESA countries may want to make joint ventures with local companies a condition precedent to accessing their markets. Requesting national treatment which would mandate ESA countries to provide EU services suppliers treatment not less favourable than is received by ESA services suppliers, implicitly blocks policy space for countries to regulate in the public interest, and to meet development objectives.

69. The EC requests ESA countries to grant EU services providers MFN treatment. While it is not absolutely certain what this would mean in the context of inter-regional arrangements and MFN application in WTO processes,[47] it is clear that EU services suppliers would have immediate and unconditional access, equal to that which is available under the integration processes of ESA countries. In short, the EU would have COMESA-like treatment.

70. Extending MFN treatment to countries of COMESA only would serve to build competitiveness in certain sectors, allowing for countries to develop niche competitiveness within the region. It would also allow for COMESA countries to build regulatory competitiveness from an intra-regional perspective, creating strength for inter-regional liberalization which would follow later. However, whether it is wise at this stage in the integration processes of ESA countries to open up, on MFN terms for the EU is debatable.

71. This all the more worrying given the stated ambition of the EC in services market access. The sectors that would be excluded from negotiations are only mining, manufacturing and processing of nuclear materials, production of, or trade in arms, ammunition and war material, audio-visual services, national maritime cabotage, and air transport,[48] sectors on which the region has no commercial interest. However, by implication, all other sectors are open for inclusion. The EU further proposes that countries cede their right to maintain quantitative restrictions through quotas, to have limitations on the total value of transactions, economic needs tests, limitations on number of operations and limitation on the participation of foreign capital, or even restrictions on the types of establishments. However, it is in the interest of ESA countries to have a firmer hand on the type of services suppliers that come into their countries, how much they contribute in terms of employment, creation of wealth, and the extent to which such firms contribute to the meeting of national development objectives.

[47] The harmonization of regulatory issues within COMESA, which is still at an infant stage, would be shaken by granting EU services suppliers unfettered rights to MFN treatment.
[48] Excluding aircraft repair and maintenance, selling and marketing of air transport services, computer-reservation systems.

72. A related observation is that most of the region is comprised by LDCs, who, according to the WTO Hong Kong Ministerial Declaration, will not be required to undertake any commitments in market access in the WTO. Hence, it would seem contradictory to require, under EPAs, LDCs to open their services markets. If anything, the onus would lie on developed countries, and the EC, to perform for the benefit of LDCs, since they are singled out as requiring special priority in the utilisation of trade in services as a development tool.49 By seeking reciprocity with LDC ESA countries, the EPA process is a clear derogation from what LDCs have secured as policy space and flexibility in the GATS.

LDCs are also very much interested in enhanced market access commitments in Mode 4 and are looking at the EPA process as a gateway to commitments in mode 4 especially for semi-skilled workers. However, it does not appear that the EU is willing to g beyond its GATS commitments. The EU is looking more at liberalising for contractual services suppliers, independent professionals, business visitors, intra-corporate transferees, all of whom must be at a very high level of skill. This very much reduces the value addition for ESA countries to negotiate an EPA with the EU.

73. ***Regulatory concerns.*** Domestic regulation is one of the issues that are part of the GATS negotiations in the Doha Development Agenda. The negotiations are based on Article VI:4 of the GATS and are aimed at ensuring that qualification requirements and procedures, licensing requirements and procedures and technical standards are not used as an unnecessary barrier to trade Negotiations also aim at ensuring that these regulations are not more burdensome than is necessary to ensure the quality of the service. In general, developing countries are moving veryx cautiously on this negotiation emphasising the need for them to retain their regulatory autonomy.

74. A robust regulatory framework is a pre-requisite for the development of any sector, or sub-sector in services. In ESA countries, regulation is at best weak, many times being non-existent. The EU has detailed provisions on their preferred scope of regulation on mutual recognition, transparency and disclosure of confidential information. The proposal further details specifics of how the EU wishes to see computer services, financial, telecommunication, and other services regulated. It is important that countries preserve regulatory autonomy. For ESA countries, the guiding principles for regulation may not necessarily be commercial. Obligations to meet universal access requirements, and improvement in welfare may be more relevant for ESA countries. In order to do this, ESA countries would need to retain regulatory autonomy, as recognised in the WTO Domestic Regulation negotiations[50].

IV. CONCLUSION

[49] See Article IV : 3 GATS.

[50] By virtue of countries' right to regulate and given their regulatory constraints, LDCs are pushing for exclusion from any mandatory application of the disciplines on domestic regulation under negotiation in the WTO. Pushing a contrary position with such sectoral detail and specificity, as does the EU in the ESA proposed text, is WTO incoherent.

75. There are several interfaces between EPAs and the WTO Doha Round that would be missed out or even be antagonised by over compartmentalising negotiations. Greater exchange of information and more coordinated action in both negotiations may not only guarantee that the outcomes of both processes is mutually compatible, but may lead to the identification of positive synergies in both negotiations.

76. Because of their scope and ambition, trade negotiations both in the WTO and EPA context are crucially important for the ESA region. However, the technical, human and financial capacities of countries of the region to effectively negotiate and influence the outcomes of both processes are limited. The region's limited negotiating capacity is further accentuated y the need to move both negotiations in parallel. Moreover, few, if any at all, targeted impact studies have been conducted and, when available, it is uncertain how they influence these negotiations.

77. Finally, it would seem that a real pro-developmental outcome in the context of the WTO DDA and of the EPAs would require greater time, which is difficult given the enormous pressure that there is on the region to conclude both trade deals.

READERSHIP SURVEY QUESTIONNAIRE
South Centre Analytical Note

Trade Negotiations in the Eastern and Southern African Region: Background considerations

An important objective of the South Centre is to provide concise and timely analytical inputs on selected key issues under ongoing negotiation in the WTO and other related multilateral fora such as WIPO. Our publications are among the ways through which we try to achieve this objective.

In order to improve the quality and usefulness of South Centre publications, we would like to know your views, comments, and suggestions regarding this publication.

Your name and address (optional): ____

What is your main area of work?

[ ] Academic or research
[ ] Government
[ ] International organization
[ ] Media
[ ] Non-governmental organization
[ ] Other (please specify)

How useful was this publication for you? [Check one]

[ ] Very useful [ ] Of some use [ ] Little use [ ] Not useful

*Why?*____

What is your assessment of the contents of this publication? [Check one]

[ ] Excellent [ ] Very Good [ ] Adequate [ ] Poor

Other comments: ____

____

____

____

Would you like to be on our electronic and/or hardcopy mailing lists? [ ] Yes [ ] No

If yes, please indicate:

[ ] **Electronic** – please indicate your name and email address:
[ ] **Hardcopy** – please indicate your name and mailing address:

Personal Information Privacy Notice: Your personal contact details will be kept confidential and will not be disseminated to third parties. The South Centre will use the contact details you provide solely for the purpose of sending you copies of our electronic and/or hardcopy publications should you wish us to do so. You may unsubscribe from our electronic and/or hardcopy mailing lists at anytime.

Please return this form by e-mail, fax or post to:
South Centre Feedback
Chemin du Champ d'Anier 17
1211 Geneva 19
Switzerland
E-mail: south@southcentre.org
Fax: +41 22 798 8531

Chemin du Champ d'Anier 17
Case postale 228, 1211 Geneva 19
Switzerland

Telephone : (41 22) 791 8050
Fax : (41 22) 798 8531
Email : south@southcentre.org

Website:
http://www.southcentre.org