



*The ACP-European Union Trade.Com Programme
for the East African Business Council*

**"IMPROVING EAC PRIVATE SECTOR AWARENESS ON THE
EPA AND INVOLVEMENT IN TRADE POLICY"**

EAC-EABC PRIVATE SECTOR EPA NEGOTIATIONS HANDBOOK

Draft Common Position

Arusha, Tanzania, 12-13 March 2010



**AGORA'
2000**

This publication has been financed by the Trade.Com Facility, an ACP Group Programme financed by the European Union under the European Development Fund. This project is implemented by AGORA' 2000 S.r.l.

The contents of this publication can in no way be taken to reflect the views of the Trade.Com Facility or the European Union.



Abbreviations and Acronyms

ACP	African, Caribbean and Pacific
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
CU	Customs Union
DFID	UK Department For International Development
EA	East Africa
EABC	East African Business Council
EAC	Eastern Africa Community
EAFF	East African Farmers Federation
EATUC	East African Trade Union Congress
EBA	Everything But Arms
ECCAS	Economic Community of Central African States
EDF	European Development Fund
EPA	European Partnership Agreements
ESA	Eastern and Southern Africa
ESABO	East and Southern Africa Business Organisation
EU	European Union
FEPA	Framework Economic Partnership Agreement
GTZ	German Technical Cooperation
ILEAP	International Lawyers and Economists Against Poverty
IPR	Intellectual Property Right
IO	Intermediary Organisation
ITC	International Trade Centre
LDC	Least Developed Countries
MFN	Most Favoured Nation
PMU	Project Management Unit
PPD	Public Private Dialogue
PPP	Public Private Partnership
PS	Private Sector
SADC	Southern African Development Community
SC	Steering Committee
SME	Small Medium Enterprises
TA	Technical Assistance
TBT	Technical Barriers to Trade
TL	Team Leader
TOR	Terms of Reference
UNDP	United Nations Development Programme
WB	World Bank
WTO	World Trade Organisation



Table of Contents

Abbreviations and Acronyms.....	2
Table of Contents	3
Background and Introduction.....	4
The state of Economic Partnership Agreements (EPAs) negotiations.....	7
Technical Barriers to Trade (TBTs) and Sanitary and Phytosanitary (SPS) Measures ...	15
Customs and Trade Facilitation under Economic Partnership Agreements (EPAs).....	21
Market Access issues and Rules of Origin under the EPA	28
Agriculture under the Economic Partnership Agreements (EPAs)	35
Trade in Services under the Economic Partnership Agreements (EPAs) Negotiations...	42
Economic and development cooperation under the EPA	50
Trade Related Issues under the Economic Partnership Agreements (EPAs)	56
Annex 1 - EABC-EAC Reference Materials.....	61
Annex 2 - ACP Secretariat Bibliographic List	65
Annex 3 - ITC bibliographic list	68
Annex 4 - UNCTAD bibliographic list.....	80
Annex 5 - WTO bibliographic list	83



Background and Introduction

EPA negotiations were formally launched in September 2002. It was agreed between ACP countries and the EU that the negotiations were to be carried out at two levels, i.e. the first phase at the pan-ACP-EU level dealing with substantial issues of common concern and the second phase dealing with tariff negotiations and specific issues at national and regional levels. However, by the end of 2007 negotiations were concluded only with CARIFORUM, the Caribbean regional configuration.

It is to be recalled that on 27th November 2007, the EAC Partner States initialled a Framework Economic Partnership Agreement (FEPA) in Kampala, Uganda. The FEPA contains Market Access offer made by both the EAC and the EC to each other. The EC Market Access offer consists of duty free and quota free access to imports from the EAC Partner States except for rice and sugar, for which a transitional arrangement has been put in place.

In accordance with Article 37 of the FEPA, the EAC and the EC have embarked on negotiations for a comprehensive EPA. In March 2008, the EAC-EC met at the Permanent Secretary/Senior Officials level. It was agreed that negotiations would take place at the technical level, Permanent Secretaries/Senior Officials' level, and Ministerial levels. The EAC and the EC further adopted a broad Road Map to enable them to conclude negotiations of the comprehensive EPA.

In line with the Roadmap, the EAC and the EC met at the technical level in April 2008, and considered, inter-alia, Rules of Origin, Trade Facilitation, Agriculture, Economic and Development Cooperation, Sanitary and Phyto-sanitary (SPS) Measures and Technical Barriers to Trade (TBT).

The EAC and the EC also agreed to meet again at the technical level in mid-2008 to consider, inter-alia:

1. Trade in Services
2. Market Access (outstanding issues therein)
3. Rules of Origin
4. Economic and Development Cooperation
5. Agriculture
6. Customs and Trade Facilitation
7. SPS and TBT
8. Trade and Sustainable Development. Trade in Services



9. Market Access (outstanding issues therein)
10. Rules of Origin
11. Economic and Development Cooperation
12. Agriculture
13. Customs and Trade Facilitation
14. SPS and TBT
15. Trade and Sustainable Development.

It was expected that the negotiations of the comprehensive EPA would resume and end in July 2009. In the meantime, the EAC has identified a number of controversial issues with the FEPA which are yet to be resolved.

General Objectives of the EABC-Trade.Com Project

The general objectives of the project are:

- 1) the strengthening of the role of the Private Sector in the EPA negotiations between the East African Community and the EU;
- 2) since the EAC is coming to closer integration (the EAC Common Market should take off by 2010), the strengthening/fostering of Private-Public Partnerships in formulating and implementing a regional trade policies and regulations.

Such ambitious general aims translate into four operational and specific objectives for the whole project:

- 1) Awareness and information raising campaign on EPA negotiations toward the Private Sector of the EAC;
- 2) Strengthening of the system of consultation, connecting the Private Sector and negotiators working at the national (within the EAC) and regional (EAC-EU) level;
- 3) Capacity building to the Private Sector, aimed at enabling it to better understand and participate in EPA negotiations;
- 4) Provide assistance to the EABC in advising its members as far as technical negotiations are concerned.

Private Sector's Insufficient Involvement in EPA negotiations

In recognition of the inadequate involvement of the private sector of the East African Community (EAC) in the EPA negotiations process, the initiative was taken to launch this project



to develop healthy and successful Private Sector awareness and build their capacity in EAC Partner States which should enable them to be capable of maximising the potential benefits from EPA negotiations and regional trade negotiations. This means that the Private Sector must be informed on the commercial opportunities offered by the EPA and on the state of the negotiations.

It is in response to the above challenges that the Terms of Reference and the Technical Offer of this project envisaged that the experts would provide capacity building to private sector stakeholders in order to create and improve upon the awareness for the latter about the issues under the EPA negotiations.

Purpose of the Manual

The purpose of the EABC EPA Negotiations Manual is to provide a compendium of draft position papers to be used by Private Sector Stakeholders as a Negotiation Tool as they get involved in the EPA negotiations. Its aim is to serve as a source of reference material for the private sector negotiators.

The Manual is intended to be an evolving one and will be updated at the end of the 2nd Regional Workshop which will be held in March and will become an annex to the Final Report. Indeed, during the 1st Regional Workshop of the Private and Public Sectors Stakeholders, participants agreed that the position papers should be developed into a EAC-EC- Trade Negotiations Manual which would be a compendium of Position Papers. This Draft Negotiations Manual is to be circulated to all private sector apex bodies constituting the EABC for review and improvement. The improved version is to be tabled for review and adoption by the 2nd Regional Workshop of EABC-TradeCom project as a Common EAC-EABC Private Sector Negotiations Position for the EPA Negotiations. The adopted Negotiations Manual is expected to be formally forwarded by the EABC, on behalf of the private sector of the EAC, to the Secretary General (Chief Negotiator of EAC-side) of the EAC through the Director General of Trade and Customs of the EAC Secretariat.

This manual is in two parts. Part I contains a set of position papers that were produced under the project and used as awareness and capacity building material for the benefit of the private sector apex bodies and the public sector officials who attended the 1st Workshop under the project in December 2009. PART II– List of Basic Reference Materials, Websites and their Links (to be developed)-sources of relevant trade information.



The state of Economic Partnership Agreements (EPAs) negotiations

Brief Paper



Background

The European Union and ACP countries started negotiating Economic Partnership Agreement (EPAs) in 2002. This is a new WTO-compatible trade regime which tends to govern trade relationships between the EU and the Africa, Caribbean, and Pacific (ACP) group of countries. Since 1975, the cooperation between ACP countries and the EU has been governed by four successive Lomé Conventions with their hallmark of unilateral trade preferences to ACP countries. Up to 2007, the ACP group of countries enjoyed preferential access to the EU market which was almost duty free and quota free access. On the other hand, ACP countries could apply barriers on imports from the EC. This trade arrangement between the EU and ACP countries was not compatible with WTO rules as it was discriminatory among WTO members. As result, the EU applied for WTO waivers in order to allow trade regimes from Lomé Conventions to Cotonou Agreement in order to give ACP countries a temporary preferential access to EU markets. The WTO waiver provides preferences to ACP countries during the transition period from 2000 to 2007.

What are EPAs?

Economic Partnership Agreements (EPAs) are new World Trade Organisation (WTO) compatible trading arrangements between ACP countries and the EU. EPAs are WTO-compatible, as they provide reciprocal trade relations in conformity with GATT Article 24 which requires the liberalisation of substantially all trade on goods between the countries involved and in a reasonable length of time. In the Cotonou Agreement, ACP countries and the EU agreed to conclude new WTO-compatible trading arrangements – EPAs – with the aims of progressively removing barriers to trade between them and of enhancing cooperation in all areas relevant to trade. The main objectives of EPAs as set out in the Cotonou Agreement are four, namely reciprocity, development-oriented, differentiated and regionally based.

The EAC-EC EPA Configuration

The EAC Partner States and the EU initialled the Framework Economic Partnership Agreement (FEPA) in Kampala, Uganda, in 2007 under the EAC-EC EPA Configuration. The EAC-EC EPA configuration was formed in October 2007 when EAC Partner States pulled out of the ESA and SADC configuration, forming the EAC configuration. Previously, Tanzania was under SADC while other 4 EAC Partner States (Kenya, Uganda, Burundi and Rwanda) were negotiating the EPA under ESA configuration. The FEPA was initialled after realising that the two parties would not been able to conclude the negotiations by end of 2007 which was the deadline for the negotiations of EPA and expiry of the WTO waiver. The initialling of the FEPA was aimed at avoiding trade disruption between EAC Partner States and the EU when the WTO waiver on preferential trade arrangement for ACP countries would expire on 31st December 2007. In



principle, the FEPA contains the Market Access offer made by both the EAC and the EC to each other, in addition to a chapter on fisheries which includes both marine and inland fisheries as well as aquaculture development. The Market Access offer contains liberalisation commitments on trade in goods that satisfy the WTO compatibility requirements. The EC Market offer consists of duty-and quota free market access to all EAC products except for arms and ammunitions, sugar and rice. The transitional arrangement has been put in place for sugar and rice. Sugar exports from the EAC to the EU would continue to attract a tariff until 1st October 2009. Between 2008 and 2009, the EAC Partner States were granted a quota of 15,000 tonnes of white sugar, which was additional to the existing quotas under the sugar protocol before the initialling of the FEPA. The EAC Market offer provides for a progressive liberalisation of import trade with the EU by 82% over a transition period of 25 years.

Apart from the Market Access offer, the FEPA also provides a mechanism for the continuation of EPA negotiations towards Comprehensive EPA. In accordance with Article 37 (Rendez-vous Clause) of the FEPA, the parties agreed to continue negotiations in the following areas:

- a) Customs and trade facilitation;
- b) Outstanding trade and market access issues including Rules of Origin;
- c) Technical barriers to trade and sanitary and phyto-sanitary measures;
- d) Trade in services;
- e) Trade related issues namely:
 - i) Competition policy;
 - ii) Investment and private sector development;
 - iii) Trade, environment and sustainable development
 - iv) Intellectual property right;
 - v) Transparency in public procurement;
- f) Agriculture;
- g) An elaborated dispute settlement mechanism and institutional arrangements;
- h) Economic and Development Co-operation and
- i) Any other areas that the Parties find necessary.

What are the business implications of the EPA?

The implications of either the FEPA or the comprehensive EPA to the businesses in the EAC region are numerous. However the main business implications are as follow:



a) Enhancement of predictability and transparency

Unlike other preferential arrangements such as AGOA and EBA which are unilateral, the EPA is negotiated by both parties – the EU and the EAC Partner States – hence it cannot be withdrawn or modified by one party only. The predictability and transparency is important in ensuring an enabling environment to the private sector especially for long-term and medium term businesses or investment. Therefore, EPAs provide full duty-free and quota-free market access conditions for goods originating from EAC Partner States to the EU market a secure, long term and predictable basis.

b) Trade liberalisation

Being a Free Trade Agreement (FTA), the FEPA or the full EPA entails the further liberalisation of the EAC's trade with EU. The FEPA, initialled by EAC Partner States, is intended to replace the expired Cotonou Agreement, in a form that complies with the WTO's rules on trade liberalisation and customs (GATT Article 24 & GATS Article 5). This implies that the EPA requires a progressive and asymmetrical reciprocal trade liberalisation, both by the EU and by the EAC Partner States.

An assessment of EAC's export trade figures to the EU indicates that by and large EAC exports to the EU preferred the Cotonou arrangements over the EBA scheme, mainly because of the stringent rules of origin under the EBA. Also, EAC products continue enjoying duty- and quota-free market access to the EU market also in the course of EPA negotiations, and the EU has committed to negotiate a relaxation of existing RoO. This will boost EAC Partner States exports to the EU.

While the EAC Partner States managed to retain the previous favourable (duty-free, quota free) access to the EU from January 2008, the liberalisation to be undertaken by EAC Partner States begins later and is spread over generation i.e. 25 years. Moreover, EAC Partner States have negotiated a list of 1323 items on which no liberalisation would be undertaken and duties on imports from EU would be retained. These goods include agricultural products, wines and spirits, chemicals and plastics, wood-based paper, textiles and clothing, footwear, glassware. The main criteria for defining a "sensitive products list" which is excluded from liberalisation include: fostering infant industries, contribution to rural development, employment, livelihood sustainability, promotion of food security and contribution to government revenues.

Effectively, the EAC businesses were given a longer time to promote their internal integration process and adjust to the realities of global economies, by addressing the challenges required by the needed adjustment process.



c) Enhancement of the EAC integration process

Unlike other organisations, the EAC is the only regional economic community in Africa which succeeded in initialising FEPA as a single community. Many other FEPAs initialised or signed between the EU and African countries were in fact bilateral arrangements between individual countries and the EU. The FEPA or the conclusion of a full EPA in the EAC-EC-EPA configuration is expected to contribute to the process of deepening and widening the EAC integration process. The initialising of the FEPA by EAC Partner States as a single bloc has positive implications to the private sector and the business community who are main drivers of economic activity in the regional market.

What are the issues of concern to the agricultural sector?

In the initialised FEPA, the EAC has undertaken to liberalise 82% of its trade with the EU. This would undermine its industrial base which in turn would impact negatively to the agriculture sector. Also, this extensive liberalisation rendered nugatory the flexibilities that Least Developed Countries have fought very hard for in the WTO. Out of the five EAC Partner States four are LDCs.

However, the agricultural sector in the region is unlikely to be seriously affected by exports from the EU since 18% of EAC's trade with the EU, which is excluded from liberalisation, is mainly concentrated in agricultural products. Some of the agricultural products which are under the sensitive list, excluded from liberalisation, include: live animals, meat and edible meat offal, dairy products, birds' eggs, natural honey, edible products of animal origin, live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage, edible vegetables and certain roots and tubers, edible fruits and nuts, peel of citrus fruits or melons, coffee, cotton, tea, mate and spice, cereals, products of the milling industry, malt, starches, vegetable plaiting materials, vegetable products nes, animal or vegetable fats and oils and their cleavage products, prepared edible fats, animal or vegetable waxes, preparations of meat, sugar and sugar confectionery, cocoa and cocoa preparations, preparation of cereals, flour, starch or milk, pastry cooks' products, preparations of vegetables, fruit, nuts, or other parts of plants, beverages, spirits and vinegar, tobacco and manufactured tobacco substitutes, waste from the food industries, footwear and wood and articles of wood.

Unlike the previous Cotonou Agreement, the FEPA has removed tariffs which used to be levied on various agricultural products from EAC region. The products which used to attract tariffs when entering the EU but now are tariff-free include meat of goats, meat of bovine animals, milk and cream. The removal of tariffs by the EU is an incentive for the EAC region to export more of these products to EU markets.

The fact that the EU is reforming its Common Agricultural Policy (CAP) could adversely affect EAC Partners States, particularly in the agricultural sub sectors such as sugar, beef and cereals



(maize, wheat and barley). The CAP reforms are in terms of shifting away from price support to direct payments to EU farmers. This would result into a decline of the agricultural prices in the EU market towards the levels of world prices: exports to the EU market from EAC Partner States which used to fetch high prices now will fetch lower prices. A case in point is sugar. However, the EAC exporters would lose only in short term and gain in the long term, for as the EU stops flooding world markets with subsidised exports, world prices will rise and exporters to world markets will gain overall. For this gain to happen, the EU should cut substantially its domestic support and do away with the exports subsidy programme.

What are Sanitary and Phyto-Sanitary Measures (SPS) in EPA negotiations?

SPS Measures are laws, regulations or administrative actions taken by a country to protect human, animal or plant life or health. These measures usually entail the ban or restriction of importation of certain goods on the basis that they pose a health problem if imported into the country.

The Cotonou Agreement (Article 48) requires ACP countries and the EU to recognise the right of each party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal, or plant life or health, subject to the requirement that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade, generally. As result, ACP countries and the EU reaffirm their commitments under the agreement on the application of Sanitary and Phytosanitary Measures, annexed to the WTO Agreement (SPS Agreement), taking account of their respective level of development.

What are Technical Barriers to Trade (TBT)?

Technical Barriers to Trade, like SPS, are among the outstanding issues for future EPA negotiations. According to the Cotonou Agreement (Article 47) the parties (ACP countries and the EU) agree to cooperate more closely in the field of standardisation, certification and quality assurance to remove unnecessary technical barriers and to reduce differences between them in those areas, so as to facilitate trade. The two parties reaffirm their commitment under the Agreement on Technical Barriers to Trade, annexed to the WTO Agreement (TBT Agreement).

How do TBT and SPS affect horticulture exporters?

Horticultural products such as cut flowers, fruits and vegetable, are among EAC's leading exports to the EU facing SPS and TBT. Other products include coffee, tea, vanilla, cocoa, cotton, honey, fish, raw hides and skins and animal products.



The SPS Measures and TBT are very important in the trade regime between the EU and EAC Partner States because they can either impede or facilitate entry of EAC products into EU markets.

One of the daunting tasks EAC horticulture exporters face as they struggle to enter EU markets is to comply with SPS and Technical Measures set by the EU. As they struggle hard to comply with the set SPS and Technical Measures, retailers in the EU impose their own sets of standards – which are more stringent – which are enforceable against imports from third markets such as EAC Partner States. One example of the retailers' set of standards that EAC exporters face is Good Agricultural Practices (GAP) set by the Euro-Retailer Produce Working Group (EUREP). The certification process for GAP takes the form of requiring conformity with the adopted standards and processes, as set out in protocols. These protocols are on: fruit and vegetable; flower and ornamentals; integrated farm assurance and integrated aquaculture assurance. The protocols also cover traceability of products to registered farms; record keeping; seeding details; pre-harvest information relating to farming methods, post-harvest information relating to treatments; waste and pollution management; environment enhancement; worker' health, safety and welfare and internal audits.

Horticulture exporters and other exporters in the EAC region find it very demanding to meet the conditions or requirements under EUREP GAP protocols. Even when they meet them, they still find it difficult to be maintained on the list of approved exporters to the EU.

What measures should be put in place to help exporters comply with TBT and SPS?

Various measures are required to help horticulture exporters and others in complying with SPS and technical measures set to enter the EU markets. These include:

- EPA negotiations should reflect the need for full participation of all stakeholders, including exporters and government officials from EAC Partner States, in the formulation of SPS and technical standards;
- Set a comprehensive inventory of SPS measures and other technical measures EAC exporters face on the EU and on other markets;
- Provide technical cooperation between the EU and EAC Partner States to assist the latter to develop the capacity to meet TBT and SPS measures;
- The EU should ensure that EAC Partner States always have the capacity to meet the standards put in place;



- EAC Partner States retailers to be established within the EU market, or the controlling power of EU retailers to be brought in line with the market access aspirations of EAC Partner States.

For EAC Partner States to effectively use the EU duty-free and quota-free access will depend, among other things, on the capacity to continuously comply with the requirements made by the EU as well as by its retailers, since a few but huge retail chains dominate the EU market.



Technical Barriers to Trade (TBTs) and Sanitary and Phytosanitary (SPS) Measures

Brief Paper



Background

EAC Partner States did not belong to a single EPA negotiation configuration from the beginning. Tanzania initially belonged to the SADC configuration, while the rest of the countries i.e. Burundi, Rwanda, Uganda and Kenya negotiated under ESA. However, in October 2007 the EAC Partner States eventually decided to negotiate an EPA as a single bloc as directed by the EAC Summit in Kampala in 2002. This led to the initializing of the Framework Economic Partnership Agreement (FEPA) on 27 November 2007.

In the FEPA the EAC Partner States and the EU made substantial progress on trade in goods (market access offers) and fisheries. However, key market access issues such as technical barriers to trade (TBT), sanitary and phyto-sanitary (SPS) measures and rules of origin were not concluded. Other outstanding areas of cooperation to be fully negotiated are contained in Article 37 (Rendez-Vous Clause) of the FEPA.

So far negotiations on SPS and TBT are almost concluded, with the exception of the provisions on development that will focus on capacity building and on technical infrastructure. The nearly concluded negotiations on SPS and TBT are based on WTO agreements on SPS and TBT.

What are Technical Barriers to Trade?

In the context of international trade, Technical Barriers to Trade (TBT) entail standardisation, certification and quality assurance or technical measures which can either facilitate or impede flows of trade from one country to another. The on-going EAC-EC negotiations on the TBT Agreement apply to the preparation, adoption and application of technical regulations, standards and conformity assessment as defined in the WTO Agreement on Technical Barrier to Trade.

The TBT Agreement in the EAC-EC EPA negotiations

According to the negotiated EPA, the EAC Partner States and the EU agree that the TBT Agreement shall apply to the preparation, adoption and application of technical regulations, standards and conformity assessment, as defined in the WTO Agreement on TBT.

The objectives of cooperation in the areas of standards, technical regulations and conformity assessment between the EAC and the EU include:

- To progressively eliminate TBT, in order to facilitate trade between the Parties and within the EAC region;



- To enhance regional integration among EAC countries by harmonising standards, technical regulations and conformity assessment procedures applied in the EAC region, in accordance with the WTO's TBT Agreement;
- To promote greater use of international technical regulations, standards and conformity assessment procedures, including sector specific measures;
- To develop functional links, joint ventures and joint research and development work between EAC and EU on standardisation, conformity assessment and regulatory institutions;
- To enhance market access for products from EAC countries through improvements in safety, quality and competitiveness;
- To promote greater use of international best practises for technical regulations, international standards and conformity assessment procedures;
- To ensure that the preparation, adoption and application of standards and technical requirements are transparent and do not create unnecessary obstacles to trade between Parties in accordance with the provision of WTO TBT Agreement.

TBT chapter on EAC-EC EPA is based on two main principles: (1) transparency and notification and (2) harmonisation of their standards, technical regulations and conformity assessment procedures.

Principally, the two parties agreed to cooperate in the various areas of standards, technical regulations and conformity assessment such as :

- Promoting greater use of international standards in technical regulations and conformity assessment, including sector-specific measures, in the Parties' territories;
- Supporting EAC's capacity building initiatives in the fields of standardisation, conformity assessment and metrology;
- Cooperation in the area of quality management and assurance in selected sectors of importance to the EAC region;
- Promoting and enabling full participation in international standards setting bodies of EAC standards and other technical regulatory bodies. Reinforcing the role of international standards as a basis for technical regulations;
- Promoting efforts by EAC conformity assessment bodies to obtain international accreditation;



What are Sanitary and Phyto-Sanitary (SPS) measures?

In the context of international trade, Sanitary and Phyto-Sanitary (SPS) measures are laws, regulations or administrative actions taken by a country to protect human, animal or plant life or health. These measures usually entail the ban or restriction of imports of certain goods on the basis that they pose a health problem if imported into the country. As per the EAC-EC EPA SPS Agreement, SPS measures are defined as provided by the WTO SPS Agreement and the Codex Alimentarius Commission, World Animal Health Organisation and International Plant Protection Convention.

SPS Measures Agreement in EAC-EC-EPA

According to the negotiated EPA, EAC Partner States and the EU agreed that the cooperation in SPS shall be centred on but not limited to, mutually agreed priority sectors and three types of products. These are EAC exports to the EU, EU exports to the EAC and products for the purpose of deepening regional integration. Also, the agreement provides for the flexibility, regular review and the adjustment of the list.

The objectives of cooperation in the area of the application of SPS measures include:

- To facilitate Parties' inter-regional and intra-regional trade, whilst safeguarding human, animal and plant health or life in accordance with the WTO SPS Agreement;
- To address problems arising from SPS measures in the agreed priority sectors and products, by giving due consideration to regional integration;
- Stipulating procedures and modalities for facilitating cooperation in SPS matters;
- To ensure transparency as regard SPS Measures applicable to trade between and with the parties;
- To promote intra-regional harmonisation of measures with international standards, in accordance with the WTO SPS Agreement and the development of appropriate policies, legislative, regulatory and institutional framework within EAC;
- To enhance the effective participation of EAC countries in the Codex Alimentarius Commission, World Animal Health Organisation and International Plant Protection Convention;
- Promoting consultation and exchanges between and with EU institutions and laboratories;



- Facilitating the development of capacity for setting and implementing regional and national standards in accordance with international requirements in order to facilitate regional integration;
- To establish and enhance the EAC's capacity to implement and monitor SPS measures;
- Promote technology transfer.

The agreement is based on five principles:

- Scientific justification of measures;
- Harmonisation of rules and procedures for the formulation of SPS measures;
- Equivalence in accordance with the WTO SPS Agreement;
- Zoning, whereby the principle of compartmentalization shall apply with regard to livestock and livestock products;
- Notification, enquiry and transparency in the application of SPS measures.

What are the major concerns for the private sector on TBT and SPS measures?

The main concern of the EAC Private Sector on TBT and SPS measures under the EPA is that these could be used to impede (instead of facilitating) entry into the EU market after the EU offered duty-free and quota free market access. Such concern is supported by the fact that in the past TBT and SPS measures and rules have been abused by the EU, denying entry of EAC exports into the EU market, with EAC exporters and relevant government authorities failing to take appropriate measures. A well known example of abuse of SPS rules by the EU was the ban of Lake Victoria's fish exports to the EU under the excuse that the outbreak of cholera in the region could be introduced to the EU by importing fish from Lake Victoria.

Another concern for the private sector is the lack of capacity of the EAC private sector to conform with the EU's TBT and SPS Measures. The understanding and interpretation of TBT and SPS measures is very limited among the private sector (producers) in the EAC region.

Also, although there is technical cooperation between EAC Partner States and the EU in the areas of TBT and SPS measures, new developments are always occurring, which leave the EAC relevant authorities lagging behind in terms of TBT and SPS measures.

Another challenge is that while EAC exporters struggle to comply with TBT and SPS measures, retailers in the EU impose their own sets of standards against EAC exports, thus making it difficult to penetrate the EU market. Some of these standards are under the Euro-Retailer



Produce Working Group (EUREP) Good Agricultural Practices (GAP) (EUREP-GAP) protocols such as fruits and vegetables, flowers and ornamentals, integrated farm assurance and integrated aquaculture assurance.

It has proved too demanding for EAC exporters to meet the conditions or requirements under the retailers' protocols or, having met them, to be maintained on the list of approved exporters to the EU. Since the EU market is mainly dominated by few but huge retail chains, EAC exporters will find it difficult to effectively use the duty-free and quota-free market offer under the EPA.

What measures should be put in place to help the EAC private sector comply with the EPA's TBT & SPS measures?

For EAC exporters to be able to comply with the EPA's TBT and SPS measures, the following measures should be taken:

- Set a comprehensive inventory of SPS measures and other technical measures that EAC exporters face on the EU and on other markets;
- Enhancement of the technical capacities and business contacts of East African producers, so as to keep up with the evolution of TBT and SPS measures;
- EAC Partner States should achieve for common regional standards for goods;
- The EU should provide technical assistance to EAC Partner States in areas relating to TBT and SPS measures (especially capacity building in the fields of standardisation, metrology, accreditation, conformity assessment, upgrading and setting of laboratories and of other relevant institutions);
- The EU and EAC Partner States should encourage the participation of the private sector in international standard setting bodies;
- The EU should ensure that EAC Partner States have always the capacity to meet the international standards put in place by the EU or by other major trading countries.

Although the EAC-EC EPA aims at enhancing trade between EAC Partner States and the EU by offering duty- and quota-free market access to the EU market, the failure to address the issues pertaining to TBT and SPS measures will make the EPA meaningless, as EAC exporters will fail to utilise the trade preferences.



Customs and Trade Facilitation under Economic Partnership Agreements (EPAs)

Brief Paper



Introduction

EPA negotiations were formally launched in September 2002. It was agreed between ACP countries and the EU that negotiations were to be carried out at two levels i.e. the first phase at the pan-ACP-EU level dealing with substantial issues of common concern and the second phase dealing with tariff negotiations and specific issues at national and regional levels.

However, by the end of 2007 negotiations were concluded only with Cariforum, the Caribbean regional configuration. Twenty other ACP countries only initialled individual or sub-regional goods-only agreements also known as interim EPAs or Framework on EPA (FEPA). On 27th November 2007, the EAC Partner States under the EAC-EC EPA configuration initialled a FEPA in Kampala, Uganda.

In principle, the FEPA contains a Market Access offer made both by the EAC and by the EC to each other, plus a chapter on fisheries including both marine and inland fisheries as well as on aquaculture development. The Market Access offer contains liberalisation commitments on trade in goods which comply with the WTO compatibility requirements. The EC Market offer consists of a duty- and quota-free market access to all EAC products except for arms and ammunitions, sugar and rice. The transitional arrangement has been put place for sugar and rice. Sugar exports from the EAC to the EU would continue to attract a tariff until 1st October 2009. The EAC market offer consists of a progressive liberalisation of imports trade with the EU by about 82% over a transition period of 25 years.

Apart from the Market Access offer, the FEPA also provides a mechanism for the continuation of the EPA negotiation towards a Comprehensive EPA. Article 37 (Rendez-vous Clause) of the FEPA provides that parties will continue to negotiate in various areas such as customs and trade facilitation, rules of origin, technical barriers to trade, sanitary and phytosanitary measures, trade in services, agriculture dispute settlement mechanism and economic and development co-operation.

Customs and trade facilitation negotiations under the EAC-EC EPA

By acknowledging the importance of customs and trade facilitation in the evolving global trading environment, EAC Partner States and the EC on behalf of the European Union started to negotiate a customs and trade facilitation text in early 2008. By September 2008 EAC Partner States and the EC had already made substantial progress on customs and trade facilitation with an agreement in all areas with the exception of a few areas.

Under customs and trade facilitation, EAC Partner States and the EU agreed to reinforce cooperation with the view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of relevant administrations, fulfil the objective of promoting trade



facilitation. However, the Parties agreed that EAC Partner States will need transitional periods of time and capacity building to smoothly implement the provisions of the agreement.

The objectives of the cooperation between EAC Partner States and the EU in customs and trade facilitation under the EPA are as follow:

- To facilitate trade between EAC Partner States and the EU;
- To promote harmonisation of customs legislation and procedures at the regional level;
- To provide support to EAC Partner States to strengthen trade facilitation;
- To provide support to EAC Partner States' customs administration in implementing the EPA agreement and other international customs best practices;
- To enhance cooperation between Parties' (EAC Partner States and the EU) customs authorities and other related border agencies.

Main areas of the Customs and Trade Facilitation Agreement under the EPA

The main features of the agreement between EAC Partner States and the EU on the issue of customs and trade facilitation can be summarised into following groups:

- Customs and administrative cooperation;
- Customs and legislative procedures;
- Facilitation of transit movements;
- Relations with the business community;

In the areas of customs and administrative cooperation the Parties agree to develop joint initiatives in mutually agreed areas and to exchange information on customs legislation and procedures. Also, they have found an agreement in areas such as: modernisation of customs systems and procedures and reduction of customs clearance time; simplification and harmonisation of customs procedures and trade formalities, including those related to import, export and transit; enhancement of regional transit system; enhancement of transparency and efficiency of customs operations; capacity building, including financial and technical assistance to EAC Partner States and to the EAC region in this area. Under this area, the parties also agreed to establish a common position in the field of customs and trade facilitation, in international organisations such as the WTO, WCO, UN and UNCTAD.

In the area of customs and legislative procedures, the parties agree that their respective trade and customs legislations shall draw upon international instruments and standards such as the



revised Kyoto Convention on Simplification and Harmonisation of Customs Procedures, the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO data set and HS Convection. Also, under this area the parties agree that their respective trade and customs legislations and procedures shall be based upon the need to protect and facilitate legitimate trade, the need to avoid unnecessary and discriminatory burdens on economic operators, the need to use a single administrative document, modern customs techniques and elimination of any requirements for the mandatory use of pre-shipment inspections as per the WTO Agreement on Pre-Shipment Inspection or their equivalent.

On facilitation of transit movements, the parties agreed to promote and implement transit arrangements, operate bonded transport regimes that allow the transit of goods without the payment of customs duties or other charges having an equivalent effect and accord to in-transit traffic a treatment not less favourable than that accorded to domestic goods, exports and imports, and their movement.

In the fourth area (relations with the business community) the parties agree on the following points:

- To ensure that all legislation, procedures, fees and charges are made publicly available as far as possible, through electronic or any other appropriate means and whenever possible provide necessary clarifications;
- To regularly consult with trade representatives on legislative proposals and procedures related to customs and trade issues in a timely manner;
- That new or amended legislation and procedures and their entry into force are introduced in a way that allows traders to become well prepared for compliance. The parties shall make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation for customs offices at ports and border crossing points, and points of contact for information enquiries;
- To foster co-operation between operators and relevant administrations via the use of non-arbitrary and public accessible procedures, such as Memoranda of Understanding, based upon those promulgated by the WCO;
- To ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.

In view of the need to enhance EAC's capacity in the area of Customs and Trade Facilitation and without prejudice to their WTO commitments, the Parties agree that EAC Partner States shall benefit from a transitional period of five years to meet the agreed obligations in the areas



of: customs and administrative cooperation; customs and legislative procedures; facilitation of transit movements and relations with business community. According to the agreement, the five-years' transitional period can be further extended for three years subject to authorisation from the EPA Council.

The chapter of customs and trade facilitation covers areas in which the EC shall provide support to EAC Partner States. The Article on Cooperation provides that the EC shall, according to the EPA's chapter on Economic and Development Cooperation, provide support to EAC Partner States, notably in the following areas:

- Introduction of procedures and practices which reflect international instruments and standards, applicable in the field of customs and trade facilitation, including WTO rules and WCO instruments and standards;
- Implementation of activities aimed at consolidating the harmonisation of customs standards and trade facilitation measures;
- The application of modern customs techniques, including risk assessment, binding rulings, simplified procedures, post release controls and audit methods;
- The automation of customs and other trade procedures, including electronic exchange of customs and trade facilitations;
- The training of customs officials and other relevant public and private sector officials on customs and trade facilitations;
- Any other areas that may be identified by the Parties.

Business implications of the Customs and Trade Facilitation Agreement

In the recent past, EAC Partner States have embarked on various projects and programmes all aiming at making customs and trade facilitations compliant with regional and international standards. The envisaged implementation of the chapter of customs and trade facilitation under the EPA would produce enormous benefits to the region through trade facilitation. Some of these benefits driven from the implementation of the agreement on customs and trade facilitation include the following:

- Strengthening the EAC Customs Union through harmonisation of customs procedures and standards at the regional level, thus increasing intra-EAC trade;
- The implementation of the agreement will offer enormous benefits to compliant and legitimate traders and businesses through the simplification and harmonisation of



customs standards and trade facilitations and application of modern customs techniques;

- Businesses would be more compliant with customs procedures, as parties enhance transparency, simplification and foster cooperation between relevant administrations and the business community;
- The implementation of the agreement as envisaged in this chapter will not only facilitate trade between EAC Partner States and the EU, but will also increase exports from the EAC to world markets, because poor trade facilitation is among the factors making EAC products uncompetitive on the world market;
- The need to apply fees and charges that are commensurate with the service provided in relation to any specific transaction and not calculated on an ad valorem basis. This is a big relief to exporters and importers in the region who are charged numerous fees and charges by many trade-related agencies;
- The elimination of any requirement for the mandatory use of customs broker is a challenge to business operators, especially for existing customs brokers to improve their services in order to be demand driven.
- Also, the agreement is a wakeup call to business operators in the region to improve their capacity to be more compliant with regulations pertaining to customs and trade facilitation.

What measures should be put in place to help private sector comply with the EPA?

Although a number of factors have been recently at play to help the implementation of customs and trade facilitation in the region, many donors and public resources have gone into the capacity building of the public sector, especially revenue authorities. Very little capacity building for the private sector has been envisaged and the private sector's capacity in relation to trade facilitation and customs has often been overlooked.

Therefore, for the private sector to be able to comply with customs and trade facilitations under the EPA, the following measures should be put in place:

- Capacity building should be directed also to the private sector and to the business community, in order to make it more compliant with customs regulations and trade facilitations under the EPA;
- Again, more information on any new regulations with guidelines to implementation and interpretation should happen well in advance of its coming into force.



The private sector should be sensitised to appreciate the efficiency gains that customs processes can generate to companies. It is necessary to do away with the current mindset that considers customs and trade facilitations as costs of doing business and inefficiencies to be passed on to the consumer/end user in terms of costs.



Market Access issues and Rules of Origin under the EPA

Position Paper



Background of EPA Negotiations

The European Union (EU) and the Africa, Caribbean and Pacific (ACP) group of countries started negotiating Economic Partnership Agreements (EPAs) in 2002. The EPA is a new WTO-compatible trade regime aimed at governing the trade relations between the EU and the ACP group of countries. Since 1975, cooperation between the ACP countries and the EU has been governed by four successive Lomé Conventions with their hallmark of unilateral trade preferences to ACP countries. Up to 2007, the ACP group of countries enjoyed preferential access to the EU market which was almost duty-free and quota-free access. On the other hand, ACP countries could apply barriers on imports from the EC. This trade arrangement between the EU and ACP countries was not compatible with WTO rules, as it was discriminatory among WTO members. As result, the EU applied for the WTO waivers to allow trade regimes from the Lomé Conventions to Cotonou Agreement to give the ACP countries a temporary preferential access to EU markets. The WTO waiver provided preferences to ACP countries during the transition period from 2000 to 2007.

EPAs are WTO-compatible, as they foresee reciprocal trade relations in conformity with GATT Article 24, which requires the liberalisation of substantially all trade on goods between the countries involved, in a reasonable length of time. As per Cotonou Agreement, ACP countries and the EU agreed to conclude the new WTO-compatible trading arrangements – EPAs – aiming at progressively removing the barriers to trade between them and enhancing cooperation in all areas relevant to trade. The main objectives of the EPAs as set out in the Cotonou Agreement are four, namely reciprocity, development-orientation, differentiation and regional base.

Market Access Negotiations under the EAC-EC EPA configuration

EAC Partner States and the EU initialled the Framework Economic Partnership Agreement (FEPA) in Kampala, Uganda, in 2007 under the EAC-EC EPA configuration. The EAC-EC EPA configuration was formed in October 2007 when EAC Partner States pulled out of the ESA and SADC configurations, forming the EAC configuration. Previously, Tanzania was under SADC while the other 4 EAC Partner States (Kenya, Uganda, Burundi and Rwanda) were negotiating the EPA under the ESA configuration. The FEPA was initialled after realising that the two parties would not have been able to conclude the negotiations by the end of 2007, which was the deadline for the negotiations of EPA and expiry of the WTO waiver. The initialling of the FEPA was aimed at avoiding trade disruption between EAC Partner States and the EU when the WTO waiver on preferential trade arrangement for ACP countries would expire on 31st December 2007. In principle, the FEPA contains the Market Access offer made by both the EAC and the EC to each other, in addition to a chapter on fisheries which includes both marine and inland fisheries as well as aquaculture development. The Market Access offer contains liberalisation commitments on trade in goods that satisfy the WTO compatibility requirements. The EC Market Offer consists of duty- and quota-free market access to all EAC products except for arms and ammunitions, sugar and rice. The transitional arrangement has been put in place for sugar and



rice. Sugar exports from the EAC to the EU would continue to attract a tariff until 1st October 2009. Between 2008 and 2009, the EAC Partner States were granted a quota of 15,000 tonnes of white sugar, which was additional to the existing quotas under the sugar protocol before the initialling of the FEPA. The EAC Market offer provides for a progressive liberalisation of import trade with the EU by 82% over a transition period of 25 years as follows:

- To liberalise 64% of imports from the EU in 2010 e.g. capital goods, machinery and raw materials constituting the 64% are already at 0% duty;
- To liberalize a further 16% of imports from the EU between 2015 and 2023 - this contains intermediate goods which is mainly at 10% duty;
- The last basket of liberalisation by the EAC constitutes 2% by 2033 - this are finished products that attract 25% duty;
- The remaining 18% of imports from the EU to the EAC is excluded from liberalisation: this is sensitive products list including 1.323 items such as agricultural products, wines and spirits, chemicals and plastics, wood-based paper, textiles and clothing, footwear, glassware. After translation of description of products in the Market Access (cleaning of figures/transposing of tariff line) the figures were reduced to about 17.8%. The main criteria used for defining this "sensitive product list" which is excluded from liberalisation include: fostering infant industries, contribution to rural development, employment, livelihood sustainability, promotion of food security and contribution to government revenues.

Under FEPA, substantial progress was only made in trade in goods and fisheries. But key market access such as Rules of Origin, Technical Barriers to Trade (TBT) and Sanitary & Phyto-Sanitary Measures (SPS) were not concluded. Article 37 (Rendez- Vous Clause) provides for future areas of negotiations of which Rules of Origin is one of them.

What are Rules of Origin (RoO)?

The world trading system is governed by the GATT/WTO Agreement on the RoO defined by Article 1(1) of the Agreement as "*those laws, regulations and administrative determinations of general application applied by any Member to determine the country of origin of goods*". The Agreement emphasizes that the application of the RoO is to guarantee certainty and not to distort or restrict international trade. In this context, the rules are expected to be objective, understandable and predictable, coherent, administered in a consistent, uniform, impartial and reasonable manner and lastly based on a positive standard.

The origin of products ("originating products") is usually classified into two categories which are **wholly obtained/produced** and **substantially transformed** (sufficiently worked). Substantial transformation (sufficiently worked) criteria is further classified into three types



which are Change of Tariff Heading (CTH); Value addition (VA), expressed as minimum local value added to the final product to qualify as originating and, Technical Requirements (TR), specified as processing operations that a product must have gone through before qualifying as originating. Article 2(a) of WTO RoO makes clarifications regarding application of three types of substantial transformation criteria:

- When CTH is used product heading or subheading must be used.
- When VA is used the formula for calculating VA must be shown.
- Where manufacturing or processing operation is prescribed, the precise operations that confer origin must be given.

RoO in practice are used as trade and fiscal policy instruments. They are used to confer preferences to some trading partners and to protect domestic industry; and also to raise revenue.

Rules of Origin under EAC-EC EPA (FEPA)

Article 12 (Rules of Origin) of FEPA between the EAC Partner States and the EU provides for a review of Protocol 1 (concerning the definition of the concept of 'originating products' and methods of administrative cooperation) which contains the rules of origin for which goods must qualify in order to be accorded a preferential tariff treatment under EPA. The provision stipulates that the Parties (the EAC Partner States and the EU) shall review the provisions of Protocol 1 with a view to their further simplification. In such review the Parties shall take into account the development needs of the EAC Party and development of technologies, production processes and all other factors, including on-going reforms of rules of origin, which may require modifications to the provisions of Protocol 1. Any such modification shall be effected by a decision of the EPA Council.

In principle, the FEPA uses almost similar RoO which were being used under the Cotonou Agreement Partnership (CAP) during the transition period of the WTO-Waiver. Article 6 of Protocol 1, which is annex of FEPA, adopts the World Customs Organisation (WCO) in classifying wholly obtained products from the EAC or the EU as:

- i. Mineral products extracted from their soil or from their seabed;
- ii. Fruit and vegetable products harvested there;
- iii. Live animals born and raised there;
- iv. Products from live animals;
- v. Products obtained by hunting or fishing and products of aquaculture;
- vi. Products of sea fishing and other products taken from the sea outside the territorial waters of the Community or of an EAC Partner State by their vessels;



- vii. Fish products made aboard their factory ships;
- viii. Used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;
- ix. Waste and scrap resulting from manufacturing operations conducted there;
- x. Products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
- xi. Goods produced there exclusively from the products specified in (i) to (xi).

In the case of fish products, the “wholly obtained” criteria apply only where the vessels and ships used:

- i. Are registered in an EC Member State or in an EAC Partner State;
- ii. Sail under the flag of an EC Member State or of an EAC Partner State;
- iii. Meet one of the following conditions:
 - they are at least 50 % owned by nationals of an EC country or of an EAC Partner State; or
 - they are owned by companies that have their head office and their main place of business in an EC Member State or in an EAC Partner State; and, are at least 50% owned by an EC Member State or by an EAC Partner State, public entities or nationals of that State.

According to Article 7 of Protocol 1 of the FEPA, goods are considered sufficiently worked (substantial transformation) when they meet the conditions often listed in a protocol annexed to the Agreements. Article 8 of FEPA specifies insufficient working or process.

In some degrees the FEPA, as it was during CAP, allows sourcing of some non-originating materials from specified regions or countries without losing originating status. This process under RoO is known as cumulation and its aim is to mitigate the restrictiveness of RoO. This is due to the fact that generally wholly obtained criteria as well as technical requirements are considered most restrictive rules while value addition has historically been used for protection. Under FEPA, cumulation applies to materials originating from the EAC and the EU; while for EAC diagonal cumulation is allowed with Algeria, Egypt, Libya, Morocco and Tunisia.

What are the most appropriate RoO for EAC Private Sector?

In principle the FEPA-RoO are essentially Cotonou+ rules, the same RoO that governed trade between the EU and ACP countries under the Cotonou Agreement. The Cotonou+ RoO, though different from the Cotonou RoO, are still considered among the most restrictive rules in application. Aiming to have most appropriate RoO for the developments of the EAC, the EAC



Partner States, while negotiating new RoO to be implemented under the Full or Comprehensive EPA, should take the following positions/recommendations.

- **Cumulation**

The current FEPA allows cumulation by EAC Partner States with each other, other ACP states, Overseas Countries & Territories (OCTs) and EC through provisions of Article 3 and 4. Article 5 through Annex VIII mentioned neighboring African countries which EAC can cumulate with as Algeria, Egypt, Libya, Morocco and Tunisia. Cumulation with the Republic of South Africa (RSA) is restricted under Article 4(8) with Annex X I listing products from RSA that are excluded from cumulation.

Position: In negotiating with the EC, the EAC Partner States should make sure that the Republic of South Africa should be considered as a neighbouring developing country with which the EAC should cumulate and therefore included in Annex VIII.

Reasons: RSA is a major EAC trading partner and Tanzania which is a member of the EAC is also a member of SADC to which the RSA belongs. Also, there is a plan for SADC, COMESA and EAC to form a single FTA. Exclusion of the RSA from the list of countries the EAC can cumulate with, will be a big blow to this envisaged FTA.

- **Rules of Origin under FEPA**

Annex I to Protocol 1 of FEPA provides introductory notes that qualify originating criteria for some products in Annex II. The notes look to be very complicated and not self explanatory.

Position: EAC Partner States should recommend that the schedule provided in Annex I to Protocol 1 should be given by listing products by subheading (four digits) and in exceptional cases in six digits.

Reasons: Since negotiations of RoO will be done on a product-by-product basis, this simplification will make it easy to deal with the problem of aggregation and to enable products to be distinguished from each other and avoiding using notes. This will also make negotiations of RoO more simplify and transparent.

- **Criteria for conferring Originating Status (RoO)**

In most cases, the RoO under FEPA allow the application of two rules in the same chapter, which is very cumbersome. For example, Chapter 6 of FEPA is governed by two RoO, one requiring all materials used to be wholly obtained and a second one requiring that the value of all the materials used does not exceed 50% of the ex-works price of the product.

Position: EAC Partner States should propose that the wholly obtained rule should be used, since it is simpler and transparent. Also, the value addition rule of 50% requirement is very high and hence protectionist.



In general, the wholly obtained criteria should be recommended for products which are mainly agricultural, minerals, waste, and scrap materials of all kinds, because they are either raw materials and in such they are in abundance in EAC.

Wholly obtained criteria is recommended in the following headings and subheadings: chapter 1-14 (except sub-heading 0910); chapter 17 (except 1704); chapter 24-25, heading 2716, heading 4012, 4017, 7101, 7503.7602, 7802, 8002.

For products which are mainly hydrocarbons, technical specification such as Chapter 27 (except 2716) and Chapter 28 should be applied. The best criteria is value addition for those products using materials which are obtained within and outside the territories of the EAC and EU and the manufacturing process mainly consists of assemblage of various parts obtained from elsewhere. These include headings 8406-8487 machinery and parts thereof and chapter 85-93.

In order to facilitate trade between Parties, it is recommended that a change of tariff heading should be used to cover the majority of the tariff lines in FEPA RoO. The criteria is transparent and easy to implement for the following headings or sub headings: chapter 15-23; chapter 26, chapter 28-40(except 4012 and 4017), chapter 41-83 (except 7101); headings 8401-8405, chapter 88-89 and 94-97.

In order to facilitate trade between the EAC Partner States and the EC, it is desirable to have simple rules of origin whereby agriculture and minerals products are mostly wholly obtained; while most of the other products fall under substantial transformation with change of tariff heading most preferred.



Agriculture under the Economic Partnership Agreements (EPAs)

Position Paper



Introduction

The Economic Partnership Agreement (EPA) negotiations between the African Caribbean and Pacific (ACP) group of States and the European Union (EU) were formally launched in **September 2002**. It was agreed that negotiations were carried out at two levels i.e. the first phase, dealing with substantive issues of common concern, at the pan ACP-EU level and the second phase, dealing with tariff negotiations and specific issues, at the national and regional levels.

However, by the end of 2007, negotiations were only concluded with CARIFORUM, the Caribbean regional configuration. Twenty other ACP countries only initialled individual or sub-regional goods-only agreements also known as interim EPAs or Framework on EPA (FEPA). On **27th November 2007**, the East African Community (EAC) Partner States under the EAC-EC EPA configuration initialled the FEPA in Kampala, Uganda.

In principle, the FEPA contains the Market Access offer made by both the EAC and the European Commission (EC) to each plus chapter on fisheries, which include both marine and inland fisheries as well as aquaculture development. The Market Access offer contains liberalisation commitments on trade in goods which comply with the WTO compatibility requirement. The EC Market offer consists of duty-and quota free market access to all EAC products except arms and ammunition, sugar and rice. The transitional arrangement has been put in place for sugar and rice. Exports for sugar from the EAC to the EU would continue to attract a tariff until 1st October 2009. The EAC Market offer consists of the progressive liberalisation of import trade with the EU of about 82% over a transition period of 25 years.

Apart from the Market Access offer, the FEPA also provides a mechanism for continuation of the EPA negotiation towards a Comprehensive EPA. Article 37 (Rendez-vous Clause) of the FEPA provides that parties will continue to negotiate in various areas such as customs and trade facilitation, rules of origin, technical barriers to trade, sanitary and phytosanitary measures, trade in services, agriculture dispute settlement mechanism and economic and development co-operation.

Status of the Agriculture Negotiation under the EAC-EC EPA

Negotiations on agriculture between the EAC Partner States and the EU under the EPA are provided for under Article 37 (Rendez-vous Clause) of the FEPA, which was initialled between the two parties in November 2007.

For the moment, no technical bilateral negotiation on agriculture has been held between the two Parties. However, the EAC Partner States have held various regional consultations making a big progress in the formulation of the EAC text on agriculture. The text has been formulated with a strategy to develop an agricultural sector that could compete with the European Union in



the absence of the EU's domestic and export subsidies. The text aims to address the following issues: agricultural production, increase income and improving the quality of life of those engaged in agricultural activities, achieving food and nutrition security, agro-processing for value addition of agricultural commodities, trade and marketing of agricultural commodities, rural development, agricultural land utilisation, infrastructure and exchange of information and cooperation.

In general, the text underscored the need for the two parties to recognise the importance of agriculture in the EAC Partner States economies, as the main source of livelihood for the majority of the region's population, the primary factor to ensure food and nutrition security, potential sector for high growth and value-addition and a source of export earnings.

The EAC Partner States would like the fundamental objective of the agreement in the agriculture under the EPA to be a sustainable agricultural development, which includes but is not limited to food and livelihoods security, rural development and poverty reduction in the EAC States. The EAC Partner states have agreed that one of the key objectives of the agriculture cluster under the EPA will be to address problems of food nutrition security, rural development, livelihood security and export earnings. The other specific objectives of the agreement in agriculture are as follows:

- Fostering cooperation between the Parties with a view to increasing income and improving the quality of life of those engaged in agricultural activities through increased production, productivity and market share;
- Achieving food and nutrition security in the EAC Partner States by promoting value addition, increasing output, quality, availability and accessibility;
- Contributing to the provision of gain employment through the secondary benefits of a modernised agricultural sector;
- Developing modern and competitive agro-based industries;
- Promoting sustainable use and management of natural resources by developing environmentally friendly and appropriate technologies that improve the agricultural productivity;
- Contributing to competitiveness by promoting value addition throughout the supply chains to access markets;
- Facilitating the adjustment to the agricultural sector and the rural economy, to cope with the progressive global changes while paying attention to mobilisation and capacity building of Small Scale farmers and farmers' organisations;



- Improving trade and market facilitation for agricultural commodities in order to increase foreign exchange earnings;
- Improving infrastructure within EAC Partner States for enhancing production, productivity, marketing and distribution of agricultural inputs and products.

Main Areas of the Agriculture agreement under the EPA

According to the EAC text on agriculture, the focus of the negotiations on Agriculture under the EPA is centred on the following main areas: Regional integration; Enabling policies; Sustainable agricultural development; Food and nutrition security; Rural development; Value chain management; Early warning systems; Agricultural infrastructure & Support services; Cooperation; Technology; Export subsidies and domestic support; Production and marketing of agricultural commodities.

Enabling Policies

Aiming at achieving the objectives of the agriculture text, the EAC Partner States and the EU should adopt and implement policies and institutional reforms. Also the text is calling for building capacities in the EAC Partner States so that the region can take full advantage of increased trading opportunities.

Sustainable Agricultural Development

The EAC Partner States are proposing the cooperation of the parties with the aim of achieving sustainable agricultural development with special focus on supporting vulnerable rural population in the EAC Partner States, in the light of the changing world production and trade patterns as well as consumer tastes and preference.

The proposed areas of cooperation in sustainable agricultural development include:

- Adopt appropriate natural resource utilisation practice;
- Strengthen access to financial resource support schemes to stabilize agricultural commodities price thus reducing farmers vulnerability to volatility of market prices;
- Facilitate participatory agricultural research, technology transfer, extension services and training;
- Promote investments in the agricultural sector;
- Develop agricultural support infrastructure inter alia appropriate irrigation systems, water harvesting, marketing, storage facilities, rural and feeder roads;



- Undertake joint activities on regional basis, inter alia, fertilizer production, seed multiplication, livestock improvement and plant and animal disease control;
- Promote and strengthen of processing, marketing, distribution, and transportation (PMDT) of agricultural products;
- Support compliance with and adoption of quality and standard relating to agricultural production, products and marketing.

Value Chain Management

The EAC Partner States are pushing for the parties to agree to have a regional strategy for enhancing supply capacities in agriculture, identifying high value agricultural sub-sectors for which the region has competitive advantage and capitalise on investments that can facilitate the shift from comparative to competitive advantages. The proposed areas of cooperation include:

- Promotion of the use of appropriate agricultural technologies and supply of necessary farm inputs;
- Enhancing production, productivity and competitiveness while promoting agro based industries and value addition throughout the supply chain of agricultural products to meet the requirements of national, regional and international markets.

Areas of Cooperation

The EAC Partner States would like the two Parties to agree to cooperate in promoting the transformation of the agricultural sector, with the aim of increasing its competitiveness, ensuring food security, rural development and facilitating the adjustment of agriculture and rural economy to accommodate the effects of the implementation of the agricultural chapter under the EPA, with special attention to small scale farmers.

Subject to the provision of the Economic and Development Cooperation text under the EPA EAC, Partner States are proposing various areas of cooperation. These include:

- Improvement in the competitiveness of production, including downstream processing and promotion of value addition;
- Development of regional and international markets for agricultural products including market systems and market development strategies between parties;
- Capacity building to comply with quality standards relating to agricultural production, processing and marketing, including standards relating to environmentally and socially sound agricultural practices;



- Promotion of private investment and public-private partnership in agricultural sector;
- Supporting and strengthening of innovation and transfer of technology, knowledge and research and development, product development and value addition in the agricultural sector;
- Supporting capacity building for public and private sector and farmers organisations to participate in sustainable agriculture production;
- Develop capacity for food safety compliance in the EAC Partner States.

Export subsidies and domestic support

In this area, the EAC Partner States are proposing to agree to reduce, with view to phasing out, all forms of export subsidies. The EAC Partner States would also like to see the EC agreeing in substantially reducing trade distorting domestic support provided to farmers, especially on products of export interest to EAC Partner States. Some of the products of export interest to EAC Partner States to the EU market include: live animal and animal products, milk and milk products (dairy), seed and planting material, cut flowers and flower buds, vegetables, legumes, edible nuts, fruits and fruits products, oil seeds and products thereof, medicinal plants, sugar and sugar products, cotton, cereals, tobacco and tobacco products, honey and honey products, spices and tea and coffee. Other products are potatoes, livestock products (meat, milk and eggs), fodder products, animal feed plants, peas and beans.

Business Implication of the Agricultural Agreement

The initial fear about the EPA for the agricultural sector was that the EAC market would be overwhelmed with cheap subsidised food and agricultural products such as grain products, poultry products and dairy products from EU exports. This was expected to affect a number of upstream activities such as grinding and bakery.

However, a quick analysis on the EAC Partner States' market offer to the EU, shows that the EAC Partner States have listed food and agricultural products under the exclusion list. Consequently, the EAC Partner States will not reduce import duties of agricultural products from the EU.

Also the issue of export subsidies and domestic support may be resolved under the agriculture chapter if the EAC Partner States will be able to convince the EC to agree on phasing out all the forms of export subsidies as well as the reduction of trade distorting domestic support provided to farmers in the EU. In addition, the EAC Partner States have a list of products of export interest to them of which the EU should substantially reduce trade distorting domestic support.



The fear that EPA will make EAC more dependent on agricultural export market to the EU rather than development of domestic and regional market, is well addressed on articles of regional integration, enabling policies as well as sustainable agricultural development.

For the private and public sectors in the EAC region to take advantage of increased trading opportunities offered by the EPA in the agricultural sector, the EAC Partner States should concentrate on building capacities of the key players in the sector. This should be done through promotion of regional SPS capacity and address supply side constraints in the agricultural sector and related agro processing industries.



Trade in Services under the Economic Partnership Agreements (EPAs) Negotiations

Position Paper



Background of EPA Negotiations

The European Union (EU) and the African, Caribbean, and Pacific (ACP) group of states started negotiating the Economic Partnership Agreements (EPAs) in 2002. EPAs are a new WTO-compatible trade regime aimed at governing the trade relations between the EU and the ACP group of countries. Since 1975, the cooperation between the ACP countries and the EU has been governed by four successive Lomé Conventions with their hallmark of unilateral trade preferences to ACP states. Up to 2007, the ACP group enjoyed preferential access to the EU market which was almost duty free and quota free access. On the other hand, the ACP countries could apply barriers on imports from the EC. This trade arrangement between the EU and ACP countries was not compatible with WTO as it was discriminatory among WTO members. As result, the EU applied for the WTO waivers to allow trade regimes from the Lomé Conventions to Cotonou Agreement to give the ACP countries a temporary preferential access to EU markets. The WTO waiver provided preferences to ACP countries during the transition period from 2000 to 2007.

The EPAs are WTO-compatible as they are reciprocal trade relations in conformity with GATT Article 24, which requires the liberalisation of substantially all trade on goods between the countries involved and in a reasonable length of time. As per Cotonou Agreement, the ACP countries and the EU agreed to conclude the new WTO-compatible trading arrangements –EPA- which is aiming at removing progressively the barriers to trade between them and enhancing cooperation in all areas relevant to trade. The main objectives of the EPAs as set out in the Cotonou Agreement are four, reciprocity, development-oriented, differentiated and regionally based.

What is Trade in Services?

Trade in Services is a dynamic area of international trade, offering significant opportunities in terms of both increased exports and imports, aimed together at enhancing competitiveness, stimulating economic development and reducing poverty. Their importance is also felt in the manufacturing sector as they serve as crucial inputs into production of most, if not all, goods. At the same time, the services reforms and negotiations remain understandably contentious due to their potential to expose vulnerable stakeholders, including private sector operators, to a variety of risks.



Trade in Services under the WTO General Agreement on Trade in Services (GATS) is defined under four (4) different modes, as follows:

Trade in Services: Modes of Supply	
Mode 1: Cross Border	Supply of services from the territory of a Partner State into the territory of another Partner States.
	Here the service crosses the border, independent of the supplier or the consumer. Examples include services provided electronically or by post, such as consulting or market research reports, tele-medicine and distance training (e.g Tanzanian practice supplying legal advisory services to Swedish firm via the internet).
Mode 2: Consumption Abroad	Supply of services in the territory of a Partner State to service consumers from another partner State.
	Here the consumer crosses the border in order to receive the service, and so is a non-resident in the country where the service is consumed. Examples include hotel or restaurant services for non-residents, training programmes for foreign students and health services provided to non-residents (e.g. UK tourist comes to visit Tanzania). Covered also is the movement of the consumer's property (e.g. sending a ship or other equipment abroad for repair).
Mode 3: Commercial Presence	The supply of services by a supplier of a Partner State, through commercial presence of another Partner State.
	Here the supplier moves over a border permanently to give the service through a locally established affiliate, subsidiary or representative office. The supplier is non-resident but may employ local personnel, be incorporated under local laws, etc. While the actual service provision is by a "resident" the investor is of foreign origin. Examples include local offices of multinational services firms (e.g. Rwandan IT firm establishes a branch in France).
Mode 4: Movement of Natural Persons	The supply of the services by a supplier of a Partner State, through presence of a natural person of a Partner State in the territory of any other Partner States.
	Here the supplier moves only temporarily over a border to give the service, (s/he) is in the country on a temporary basis and so remains a non-resident. Examples include independent services suppliers (e.g. individual consultants, health workers or Ugandan lawyer goes to Poland to provide advisory services) or employees of a services supplier.



Trade in Services Negotiations under the EAC-EU EPA Configuration

The EPA negotiations between, among others, the EAC and the European Commission (EC) derive their legal basis from the Cotonou Agreement, Chapter 2, including Article 37. The inclusion of Trade in Services in the Uruguay Round of trade negotiations led to the **General Agreement on Trade in Services (GATS)**. Since January 2000, they have become the subject of multilateral trade negotiations. Article 37 (Rendez-Vous Clause) of the Interim EPA initialled by the EAC States and the EC in November 2007 outlines areas for future negotiations, including trade in services.

While Article 37 of the Interim EPA envisages the continuation of negotiations no later than 31 July 2009, EAC Partner States are in no way obliged to negotiate services as part of a full EPA. This contrasts with trade in goods, where the preferential regime within Cotonou had a specific expiry date (end 2007), in combination with the same expiry of the WTO waiver that permitted EU preferences under Lomé. This being said, the EAC Partner States have held several dedicated sessions on Trade in Services and the mood is that the negotiations on Trade in Services will materialize.

Barriers to Trade in Services

Part of the challenge with regarding the services reforms and negotiations is that barriers to trade in services are found 'behind the border' in the form of domestic laws and regulations, etc. These may, for example, impact on whether and how Foreign Service providers can enter a market and/or the treatment they receive relative to domestic firms once in the market. Similarly, the availability of market information on services in major export markets, including the existence of possible market access and regulatory barriers abroad, is poor.

In particular, barriers to trade in services tend to be three-folded, namely through market access, domestic regulations and national treatment.

National treatment deals with the extent to which the conditions of competition between domestic and Foreign Service suppliers are the same (irrespective of whether any differential treatment is explicit). This may include discriminatory subsidies and other financial measures, nationality of certain personnel and residency requirements, licensing, qualification and registration requirements, technology transfer/training requirements, local content requirements etc.

Market Access refers to the ability of foreign services suppliers to enter or operate in the EU Member States' domestic territories or to provide services to domestic consumers in the EU. These may take form as Quotas or prohibitions on the number of suppliers or quantity of output, measures that restrict or require specific types of legal entity or joint venture, limits on the participation of foreign capital, limits on value of transactions, assets etc.



Lastly, barriers to services exports/imports are often found in the form of **domestic regulations** and laws. These deal most commonly with licensing and qualification requirements, as well as technical standards.

The EU Proposals on Trade in Services

The EU has made proposals as to how an EPA should treat the modes of supply for services:

EU Proposals by Mode of Supply (Services Generally)		
Mode	Type of Supply	Proposals
1	Cross-border (e.g. consultancy reports, engineering drawings)	Residency requirements should be replaced by other, less trade restrictive measures, such as the appointment of a representative agent or liability insurance – also that residency requirements are acceptable only for consumer protection purposes and where other less trade restrictive measures are not applicable.
2	Consumption abroad (consumer moves cross-border to obtain the service)	No restriction is justified in these cases
3	Commercial presence (through a local subsidiary, etc.)	Seeks to minimise restrictions on forms of establishment, eliminate restrictions on partnerships with, or hiring or, local partners of the same profession within the same area of competence and eliminate “unjustified restrictions on membership in professional societies”
4	Movement of individuals (so called “natural persons”)	Temporary movement of people needs to be facilitated (“to be discussed further”)

What are the Priority areas for EAC Private Sector?

With commitments being contemplated simultaneously under the EPA, the WTO (bearing in mind existing GATS commitments), the EAC Common Market and other regional schemes, it is a challenge for the EAC private sector operators to contribute to the process of establishing priorities and developing a coherent strategy for creating a well-functioning regional services market. Effectively engaging the private sector, which ultimately constitutes the main actor that will exploit the opportunities stemming from the



negotiations, is essential. Furthermore, if the private sector is to be assisted in securing pro-poor outcomes from these negotiations, it is imperative that complementary support measures be identified as part of comprehensive trade in services promotion strategies.

The following should be considered as priority:

Modes 1-3 – Modes 1, 2 and 3 are relatively unrestrictive. It is possible that restrictions to free trade may exist under Mode 3: for example, if EU or national rules prevent an East African bank or insurance company from setting up a subsidiary in an EU Member State even when local rules on hiring of staff and qualifications are adhered to. However, unless rules or practices in EU markets are found to restrict activities of the private sector from EAC countries, it would be satisfactory to allow the current situation to continue under an EPA.

As against this, it is important to ascertain whether there are reciprocal situations within the EAC where competition from EU firms is currently disproportionate or unfair, and which would be mitigated by the negotiation of a new Mode 3 access package. Would the application of free access under Mode 3 adversely affect business in the region? For example:

- Do local construction or transport firms find it difficult to compete with the subsidiaries of EU firms? If so, is this explained by unfair practices or merely by the size and dominance of those firms in the market?
- Is the local telecommunications market dominated by foreign service providers? Should a minimum participation by East African interests be part of the negotiation of new licences?

Examples from elsewhere suggest that some restriction on Mode 3 market entry is negotiable: for example, by restricting foreign contracting companies to participation or bidding for public works contracts only above a certain value.

Mode 4 – Mode 4 is perhaps the most contentious subject in the services negotiating arena. Whereas importing countries are often concerned that mode 4 could enable a circumvention of immigration rules, exporting countries view mode 4 into developed countries as one of the primary areas where services liberalisation may deliver concrete development benefits. As such, it is a priority area for seeking improved market access into Europe and enhancing domestic supply capacity.

Economic Needs Tests (ENTs) – relating to mode 4, the existing use of ENTs under GATS and their prospective use in the EPA is a significant impediment to enhancing services exports from the region to Europe. In essence, an economic needs test (ENT) – or related labour market test, management needs test, manpower planning requirement, etc. refers to the conditioning of market access for a service supplier on the basis of an assessment of 'need' in the domestic market of an economic nature.



The disproportionately restrictive nature of ENTs results from the absence of any clear definition in GATS as to what constitutes an ENT or compulsory guidance in the extent to which a Member must precisely specify the terms and conditions for its use. In the absence of such clear definition, this provides EU Member States with a potentially discriminatory window in which they can refuse market access on the basis of some undefined 'market situation', which may (or may not) include 'the number of, and impact on, existing suppliers'.

Instances where current EU rules preclude the free movement of natural persons include:

- East African students at EU universities wishing to take on vacation work or seek work experience attachments to EU firms;
- East African health workers (e.g. nurses) seeking to work temporarily at EU hospitals to gain specialised experience before returning to East Africa;
- East African lawyers handling complex or lengthy cases on behalf of clients, which require their physical presence in the EU (e.g. to plead in court);
- East African subsidiaries of an EU firm wishing to transfer a middle/senior level local employee to the parent company in the EU to take up a position as part of their career development;
- East African entrepreneurs and other individuals (e.g. IT specialists, artists, musicians, journalists, academics) wishing to promote their skills or services in the EU by going there to seek work or offer their services.

To this effect, it becomes clear that any similar usage of ENTs with the EAC would render the region unable to verify the true extent of the commitment where the ENT reservation was maintained and as such would represent a major trade barrier to the export of EAC natural persons to the EU. Consequently, this would greatly undermine the region's opportunity to translate any important mode 4 'market access' gains into tangible exports and developmental benefits.

Qualification and Mutual Recognition – again, relating to mode 4. Although such rules exist to protect the consumer, the extent of discretion in setting such rules introduces the potential for them to operate as trade barriers. This tends to be problematic, since regional developing countries like the EAC Partner States are effectively 'standards-takers' (as opposed to standard creators) at the global level. In many cases, the "acceptability" of the individual when seeking a visa or work is linked to the recognition of qualifications. This in turn may be linked to the availability (or otherwise) of training to achieve those qualifications in the source country (in this case the East African region). EU funding for such measures is often available through technical assistance programmes, scholarships and



stagiaire schemes. In other cases the situation is complicated by differing visa and work permit regimes as between EU member states (for example, Schengen rules differ from UK procedures).

It is thus imperative that when EAC negotiates with the EU regarding the mutual recognition agreements, attention should be paid in putting in place procedures to minimise the lengthy processes related to completing professional certification, licensing and registration requirements, as well as minimising cases of multiple re-qualification and registration processes for EAC professionals working in various EU Member States.

Finally, EAC negotiators should examine both the opportunities for EAC individuals to enter the EU to work, the level of demand for such access, and the current restrictions that impede this. It is recommended that EAC negotiators should then seek to link the acceptance of a Mode 4 negotiated TIS package in a EPA with undertakings on the part of the EU to support such measures as training and to apply a transparent and uniform régime on visas and work permits. Negotiators should also seek to reach an agreement on the numbers and categories of “free agents” (such as the individual entrepreneurs mentioned above) that will be admitted to the EU) and in what numbers and subject to what conditions), perhaps linked to a reciprocal agreement to admit such persons from the EU into the East African region.



Economic and development cooperation under the EPA

Position Paper



Background of EPA negotiations

EPA negotiations were formally launched in September 2002. It was agreed between ACP countries and the EU that negotiations were to be carried out at two levels, i.e. the first phase at the pan-ACP-EU level dealing with substantive issues of common concern and the second phase dealing with tariff negotiations and specific issues at the national and regional levels.

However, by the end of 2007 negotiations were only concluded with Cariforum, the Caribbeans regional configuration. Twenty other ACP countries only initialled individual or sub-regional goods-only agreements, also known as interim EPAs or Framework on EPA (FEPA). On 27th November 2007, the EAC Partner States under EAC-EC-EPA configuration initialled FEPA in Kampala, Uganda.

In principle, the FEPA contains a Market Access offer made by both the EAC and the EC to each other, plus a chapter on fisheries which include both marine and inland fisheries as well as on aquaculture development. The Market Access offer contains liberalisation commitments on trade in goods which comply with the WTO compatibility requirement. The EC Market offer consists of duty- and quota-free market access to all EAC products except arms and ammunition, sugar and rice. The transitional arrangement has been put in place for sugar and rice. Sugar exports from the EAC to the EU would continue to attract a tariff until 1st October 2009. The EAC Market offer consists of a progressive liberalisation of import trade with the EU by about 82% over a transition period of 25 years.

Apart from the Market Access offer, the FEPA also provides a mechanism for the continuation of EPA negotiations towards a Comprehensive EPA. Article 37 (Rendez-vous Clause) of the FEPA provides that parties will continue to negotiate in various areas such as customs and trade facilitation, rules of origin, technical barriers to trade, sanitary and phytosanitary measures, trade in services, agriculture dispute settlement mechanism and economic and development co-operation.

Status of Economic & Development Cooperation under EAC-EC EPA configuration

Economic and Development Cooperation is a cornerstone of EAC-EC EPA negotiations and one the critical areas of cooperation as enriched in the Framework Economic Partnership Agreement (FEPA) which the EAC Partner States and the EU initialled in November 2007. Economic and Development Cooperation is one of the areas of cooperation that both the EAC Partner states and the European Commission agreed to negotiate agreed to negotiate a full and comprehensive EPA. This is provided for under the Rendez-vous Clause (Article 37) of the FEPA.

Though there have been only two sets of bilateral negotiations held at the technical level between EAC Partner States and the EC on behalf of the EU, the development Economic & Development Cooperation (E& DC) is progressing fairly well. However, EAC Partner States have a long way to go to be able to complete the EAC-EC Economic and Development



Cooperation Chapter. This is due to the fact that apart from developing an E&DC EPA text, EAC Partner States are required to come up with at least four documents which facilitate negotiations with the EC in the cluster of Economic & Development Cooperation. The documents included:

- EAC-EC Development Strategy;
- Development matrix (with cost)
- Development matrix (without cost)
- Benchmarks for Monitoring & Evaluating EPA

The EAC strategy under this cluster (E&DC) is to negotiate a package that gives effect to supply side constraints and the EPA adjustment costs by requesting for more resources from the EC over and above the current allocation under the 10th EDF. To achieve this, negotiations on E&DC should be structured through a joint EAC-EC Development Strategy with a Development Matrix showing the relevant costs for the necessary projects and programmes. In addition, EAC Partner States will require negotiating on benchmark for monitoring and evaluation EPA. Negotiations of this chapter give a chance to EAC Partner States to seek actualisation of commitments made under Article 36 (Economic and Development Cooperation) of the FEPA.

Under Article 36 of the FEPA, the EC Party and the EAC party reaffirm their recognition of development needs of the EAC region, and their commitment to ensure that EPA is a tool for development which will promote and consolidate regional integration and aid the integration of the EAC into the global economy. The Parties agree to work together to define and address the development needs associated with the EPA in order to promote sustained growth, strengthen regional integration and foster structural transformation and competitiveness to increase production, supply capacity and value addition of the countries concerned.

The articles continue with the EAC Party confirming its contribution towards the resources required for development under the 10th EDF Regional Indicative Programme, Aid for Trade and the EU budget.

The objectives of the agreement under E&DC Cluster are envisaged to be:

- Contributing to the reduction of poverty through the establishment of trade partnership consistent with the objectives of promoting sustainable development, the Millennium Development Goals and Cotonou Agreement;
- Enhancing the competitiveness of EAC economies, building up supply capacity and enabling EAC countries in the smooth implementation of EPA;
- Promoting regional integration, economic cooperation by establishing and implementing an effective, predictable and transparent regional regulatory framework for trade and investment between Parties and among EAC States



- Fostering of smooth and gradual integration of EAC States into the world economy;
- Establishing a strong, competitive and diversified economic base in the EAC countries through enhancing production, distribution, transport, marketing, developing EAC countries trade capacity to attract investment; and strengthening EAC Group's trade and investment policies and regulations and deepening regional integration.

To achieve these objectives there are various areas set to be addressed by the cooperation under this cluster. Also cooperation in E&DC is expected to cover the numerous sectors such as Infrastructure Development; transport, energy and information and communications technology (ICT); Human Capital Development; Agriculture; Fisheries; Private Sector Development, particular Industrial Development, Micro-enterprises, Small & Medium Sized Enterprises, mining and minerals; Natural resources and environment including water resources, biodiversity; Trade in Services; Tourism, Trade related issues, such as investment, competition, Intellectual Property Rights, Standards, Trade Facilitation and Statistics; Financial Cooperation and Legal Sector.

Main Areas of Economic and Development Cooperation agreement under EPA

Private Sector Development

In this area, EAC Partner States are seeking acceptance from the EU that the EC development support and cooperation shall take account of the economic structure of EAC States and their priorities in strengthening productive capacities and value addition, and improving supply capacities and competitiveness.

The scope of cooperation of private sector development shall cover, inter-alia, investment, industrial development and competitiveness enhancement, micro-enterprises, small and medium size enterprises development, mining and minerals and tourism development as well as other productive sector.

Industrial Development and Competitiveness

The main focus of EAC Partner States in this particular area is to agree in the six main issues which include: facilitate the establishment, and development of new industries; restricting and modernisation of the EAC industries; fostering competitiveness, value addition, self sustainable and balanced growth; establish a favourable environment for the development of private enterprise; enhance industrial production capacities, provision of support to EAC industries to cushion them against employment and revenue losses and to forestall the eminent closure due to EPA implementation and enhance the capacities of the EAC Industries to adapt to economic dynamics that may result from the EPA implementation.

Areas of cooperation under industrial development and competitiveness include: development of activities in the areas of processing, marketing, distribution and transportation of products; transfer of technology, knowledge and research and



development; supporting EAC countries financial institutions and development capital market for the purpose of enhancing the private sectors' access to both short and long term capital; capacity building for public and private sector; development of SMEs databases, implementation of the eac Investment Code and ensure their application by local and foreign investors.

Micro-Enterprises, Small and Medium Size Enterprises

The envisaged areas of cooperation within this thematic areas include capacity building, institutional support and legal and regulatory framework; technology development and transfer, innovation, information exchange and networks, marketing and protection of innovations and artistic works; development of SMEs database; support EAC countries financial institutions for purpose of enhancing the SME access to both short term and long term capital; implementing the EAC industrial development strategy; encouraging partnership, linkages and joint ventures between economic operators, trade and investment; value chain management and value addition and product diversification and supporting initiatives towards promoting competitiveness of SME as a basis for employment creation and income generation.

The other main thematic sectors underscored in the E&DC text with more or less similar cooperation areas as mentioned above included mining and minerals, tourism development, agriculture, infrastructure, transport, energy, ICT, environment and financial undertakings.

EAC Aid for Trade Strategy

Parallel with developing E &DC text, the EAC Partner States have endeavoured to develop a framework on the Aid for Trade Strategy that will lock-in the EC in the negotiations to allow flexibility for inclusion of priority projects for financing where necessary.

The overall objective of the strategy is to contribute to the impact, efficiency and effectiveness of EAC Partner States' trade reforms and regional integration initiatives so that they can fully benefit from regional and international trade opportunities to reduce poverty and to achieve their development objectives.

The specific objectives of the EAC Regional Aid for Trade Strategy include: the private sector of the EAC Partner States reduces regional costs of doing business with and within the region through coherent package of inter-related;

- Investment in trade related infrastructures
- Trade facilitation instruments , and
- Trade regulatory measures

In order to achieve the specific objectives of the EAC, the Aid for Trade Strategy should make sure that the priority areas which will increase competitiveness for EAC exports through cost saving are included in the package. These include investment in the trade-related infrastructures as well trade facilitation instruments such as railways, roads, ports, borders,



SPS, standards. Also, focus should be directed to ICT and energy infrastructure to allow for increased and more reliable and affordable electricity connection as well as cost savings on fuel.

Business implication of the Economic & Development Cooperation (E&DC) under the EPA

The specific goal of the EPA development component is to increase the competitiveness of EAC Partner States in international markets.

The business implication of the Economic and Development Cooperation under the EPA is that the agreement, if negotiated well and implemented effectively, will introduce cost savings and increase competitiveness all along the value chain as well as improving transport corridors in the region.

As a result, EAC intra-trade will definitely increase while there will be substantial improvements in the trade performance of the EAC both in terms of volume traded and share of international trade.



Trade Related Issues under the Economic Partnership Agreements (EPAs)

Position Paper



Background on FEPA

The Economic Partnership Agreement (EPA) negotiations between the African Caribbean and Pacific (ACP) group of States and the European Union (EU) were formally launched in **September 2002**. It was agreed that negotiations were carried out at two levels i.e. the first phase, dealing with substantive issues of common concern, at the pan ACP-EU level and the second phase, dealing with tariff negotiations and specific issues, at the national and regional levels.

However, by the end of 2007, negotiations were only concluded with CARIFORUM, the Caribbean regional configuration. Twenty other ACP countries only initialled individual or sub-regional goods-only agreements also known as interim EPAs or Framework on EPA (FEPA). On **27th November 2007**, the East African Community (EAC) Partner States under the EAC-EC EPA configuration initialled the FEPA in Kampala, Uganda.

In principle, the FEPA contains the Market Access offer made by both the EAC and the European Commission (EC) to each plus chapter on fisheries, which include both marine and inland fisheries as well as aquaculture development. The Market Access offer contains liberalisation commitments on trade in goods which comply with the WTO compatibility requirement. The EC Market offer consists of duty-and quota free market access to all EAC products except arms and ammunition, sugar and rice. The transitional arrangement has been put in place for sugar and rice. Exports for sugar from the EAC to the EU would continue to attract a tariff until 1st October 2009. The EAC Market offer consists of the progressive liberalisation of import trade with the EU of about 82% over a transition period of 25 years.

Apart from the Market Access offer, the FEPA also provides a mechanism for continuation of the EPA negotiation towards a Comprehensive EPA. Article 37 (Rendez-vous Clause) of the FEPA provides that parties will continue to negotiate in various areas such as customs and trade facilitation, rules of origin, technical barriers to trade, sanitary and phytosanitary measures, trade in services, agriculture dispute settlement mechanism and economic and development co-operation.

Status of Trade Related Issues under the EAC-EC EPA Configuration

Under the FEPA, substantial progress was only made in trade in goods and fisheries. Trade related issues like competition policy, investment and private sector development, trade, environment and sustainable development, intellectual property rights and transparency in public procurement are among the main areas which were not negotiated under FEPA but which are supposed to be negotiated towards concluding a comprehensive EPA. Article 37 (Rendez- Vous Clause) provides for future areas of negotiations of which Trade Related Issues make part. Though provided under FEPA, still some quarters in EAC Partner States consider negotiations on Trade Related Issues under EPA to be a contentious issues since most of them are Singapore issues of which Least Developed Countries (LDCs) and Developing Countries have requested not to be negotiated under multilateral level.



So far the main interest of the EAC Partner States on Trade Related issues under EPA is about the negotiations which seek capacity and infrastructure building of the EAC region in relation to Trade Related Issues.

Competition Policy

The EAC Strategy in relation to competition policy under the EPA is to negotiate and develop a framework for cooperation and technical assistance on competition policy and in particular to support the Partner States in the following areas:

- Establishing or reinforcing existing competition authorities;
- Developing their regimes through enactment of national competition laws and developing institutional arrangements for competition authorities;
- Operationalising the regional competition authority through the development of the institutional framework which could subsequently facilitate exchange of information and staff training in the region.

Although the EC has presented to the EAC a text on trade Related Issue, the negotiations on competition policy between the EAC Partner States and the EC have not been launched yet.

The EAC Partner States are of the view that national and regional development of competition policy disciplines would be instrumental in providing sufficient legal, regulatory and institutional arrangement to govern the operational behaviour of Multinational Corporations while also providing the necessary policy space to support the growth of Small and Medium Enterprises (SMEs).

Transparency in Public Procurement

The EAC Partner States' strategy on Transparency in Public Procurement is to confine the EPA negotiations on Transparency in Public Procurement to information exchange and capacity building.

Like in the case of competition policy, though the EC has already offered the EAC some texts on this issue, the EPA negotiations on Transparency in Public Procurement between the EC and the EAC Partner States have not been launched yet.

The view of the EAC Partner States on the EC text on Public Procurement is that it has tended to ignore the importance of public procurement through affirmative action to the region's SMEs. This is very challenging to the region's SMEs because in the future the SMEs might not be able to provide all the services or give optimal service if an affirmative action is not included in the text of the EPA.

The issue of Transparency in Public Procurement is contentious due to the fact that even the Cotonou Partnership Agreement, which is at the basis of the EPA does not compel ACP countries to negotiate it. However, the EAC Partner States had jointly agreed with European Community that negotiations on the subject should be under Article 37 (e) (V) of FEPA.



While negotiating Transparency in Public Procurement, the EAC Partner States would need to consider value obtained through public procurement and also establish the latitude to be given to SMEs on procurement matters.

Intellectual Property Rights

Intellectual Property Rights (IPR) in simplified definition are the rights that protect the creations of an author's or inventor's mind. The state grants the creator a monopoly in and to these rights or works as a reward for the innovative activity. This monopoly incentivises the creator to continue creating, while the broader society benefits through the disclosure of creative or innovative material to the public. A well balanced IPR regime is important for development, as it encourages both foreign and domestic investment for the overall benefit of a country.

The EAC Partner States' strategy on IPR is to confine the EPA negotiations under the current commitments under the WTO Trade Related Aspects of the Intellectual Property Rights (TRIPS) Agreement. The overall objective is to build capacity and technical assistance to assist the EAC Partner States to become TRIPS compliant.

The view of the EAC Partner States on IPR is that even if the EAC region has acceded to the World Trade Organisation's Agreement on TRIPS, time is not yet opportune for the region to negotiate on a TRIPS+(Plus) Agreements with the EC. Currently the EAC Partner States are facing capacity constraints in implementing key elements of the TRIPS Agreement.

Though the EC has already offered the EAC a legal text on IPR, the EAC Partner States' view is that the legal text contains some compendium of International Agreements on IPR that the EAC Partner States have not signed and/or ratified. At the regional level, the EAC Partner States need to identify the reasons that made the Partner States fail to sign and/or ratify the various agreements on IPR before engaging in the bilateral negotiations on IPR with EC.

However, the view of the private sector on negotiations on IPR under the EPA should at list include the following positive elements of well balanced IPR agreements such as:

- Objective on promotion of innovation and creativity;
- EC's obligation on transfer of technology and EC's obligation to promote R&D in health;
- Flexibilities in IP instruments;
- Limitation and exceptions for copyright;
- Access to knowledge;
- Longer transition period for EAC Partner States (LDCs);
- Mandatory disclosure requirements for genetic resources and technical knowledge (TK) used in patent application;
- Avoidance of TRIPS-plus standards.



Trade, Environment & Sustainable Development

The EAC Strategy on Trade, Environment & Sustainable Development (TESD) is that negotiations should aim at building capacities and enabling infrastructures. In addition the negotiations on TESP, the following issues should be also taken into account:

- International environment issues most of which remain unresolved at multilateral level;
- The special interest of ACP group of countries as per CPA's provisions;
- Initiatives through the Rio de Janeiro principles have also served as test cases on the linkages between Trade, Environment and Sustainable Development.

Up to now, the EAC Partner States have held various regional meetings but no bilateral negotiations meetings have been held.

Investment & Private Sector Development

The strategy of the EAC Partner States on negotiations on Investment & Private Sector Development is to negotiate friendlier investment policies that would support Mode 4 under Trade in Services. Although the EC has offered legal text on this area the negotiations at both regional and bilateral have not been launched.



Annex 1 - EABC-EAC Reference Materials



1. Report of the Meeting – EAC-EC-EPA Ministerial Preparatory Meeting (Experts Session) – 29th – 30th June, 2009, (Ref. No. EAC/SR 35/2009), EAC Secretariat, Arusha, Tanzania, June, 2009
2. Report of the Meeting - EAC Meeting of the Sectoral Council on Trade, Industry, Finance and Investment (Session of Ministers), 2nd July 2009, (Ref. EAC/SR/34/2009), EAC Secretariat, Arusha, Tanzania – June 2009.
3. Report of the Meeting – EAC-EC-EPA Ministerial Preparatory Meeting (Permanent Secretaries Session) – 1st -2nd July 2009, (Ref. No. EAC/SR 37/2009), EAC Secretariat, Arusha, Tanzania, July 2009 Impact of the East Africa Customs Union - Trade and Investment Consortium, March, 2009;
4. Market Access in an Economic Partnership Agreement – Negotiations Skills Manual – Institute of Development Studies (IDS), University of Sussex.
5. Preparing for Economic Partnership Agreements – Trade Analysis Handbook – Dr. Christopher Stevens and Jane Kennan, Institute of Development Studies (IDS), University of Sussex, Brighton, BN 1 9RE, UK, August 2005.
6. Training Manual – ESA-EC Economic Partnership Agreement Negotiations – A Guide to the Preparation of Schedules of Commitment on Services, White & Case LLP, January 2009.
7. An Evaluation of the Implementation and Impact of the East African Community Customs Union, Final Report, March 2009 – Dr. Evarist Mugisa, Mr. Chris Onyango and Dr. Patrick Mugoya.
8. Study on the Establishment of the East African Community Common Market – Final Report – submitted by M.A. Consulting Group, August 2007
9. EAC – Regional Economic Partnership Agreement (EPA) Negotiations - Dedicated Session on Trade in Services – 3rd-5th June 2009 – Laico Regency Hotel, Nairobi, Kenya.
10. EAC Mechanism for Elimination of Non-Tariff Barriers, EAC Secretariat, Arusha, Tanzania, June 2006.
11. Protocol on the Establishment of the East African Community Customs Union, published by the EAC Secretariat, Arusha, 2004.
12. The Treaty for the Establishment of the East African Community, EAC,
13. The East African Community Customs Union (Rules of Origin) Rules
14. Annexes IV to IX to the Protocol on the Establishment of the East African Community Customs Union
15. The East African Community Standardisation, Quality Assurance, Metrology and Test Act, 2005 – Arrangement of Clause, 15th July 2005
16. Procedures for the Development of East African Standards – East African Standards Committee, January 2005.
17. EAC Customs Union – Common External Tariff – 2007 Version, EAC Publication, annex 1 to the Protocol on the Establishment of the East African Community Customs Union, Harmonized Commodity Description and Coding System (Version 2007)
18. Impact of the East Africa Customs Union - Trade and Investment Consortium, March, 2009;
19. An Evaluation of the Implementation and Impact of the East African Community Customs Union, Final Report, March 2009 – Dr. Evarist Mugisa, Mr. Chris Onyango and Dr. Patrick Mugoya.



20. Study on the Establishment of the East African Community Common Market – Final Report – submitted by M.A. Consulting Group, August 2007.
21. EAC – Regional Economic Partnership Agreement (EPA) Negotiations - Dedicated Session on Trade in Services – 3rd-5th June 2009 – Laico Regency Hotel, Nairobi, Kenya.
22. EAC Mechanism for Elimination of Non-Tariff Barriers, EAC Secretariat, Arusha, Tanzania, June 2006.
23. Protocol on the Establishment of the East African Community Customs Union, published by the EAC Secretariat, Arusha, 2004.
24. The Treaty for the Establishment of the East African Community, EAC,
25. The East African Community Customs Union (Rules of Origin) Rules
26. Annexes IV to IX to the Protocol on the Establishment of the East African Community Customs Union
27. The East African Community Standardisation, Quality Assurance, Metrology and Test Act, 2005 – Arrangement of Clause, 15th July 2005
28. Procedures for the Development of East African Standards – East African Standards Committee, January 2005.
29. Taking Kenyan horticulture to the Peak – Fresh Produce Exporters Association of Kenya , New Rehema House, 4th Floor, Nairobi, Kenya. Email: info@fpeak.org, Website: www.fpeak.org
30. Directory 2009 – Kenya Association of Manufacturers , www.kam.co.ke
31. Report – Sensitization Meeting for the Floricultural Sector on the Business Branding Linkages Programme and the Trade Competitiveness in the EPAs, 31st July 2008, organized by Private Sector Foundation Uganda (PSFU) and Uganda Flower Exporters Association– Kampala Serena Hotel, Kampala, Uganda
32. Report – Consultative Workshop for Private Sector Stakeholders on Sanitary and Phyto-Sanitary Measures, Technical Barriers to Trade and Agriculture – Meeting organized jointly Private Sector Foundation Uganda and Ministry of Tourism & Industry, held at Grand Imperial Hotel, Kampala, 20th June, 2008
33. Report – Consultative Workshop to Discuss the Fisheries Text in the EPA Negotiations – organized with the Support from Uganda Programme for Trade Opportunities & Policy (UPTOP), organized by the Trade Directorate, Private Sector Foundation Uganda at Hotel Equatorial, Kampala, on Friday 20th July, 2007.
34. Private Sector Platform for Action – A Synopsis of Private Sector Concerns and Suggestions for Policy Reforms Private Sector Foundation Uganda, April 2008
35. Private Sector Platform for Action - A Synopsis of Private Sector Concerns and Suggestions for Policy Reforms Private Sector Foundation Uganda, May, 2008
36. Report of the Meeting - EAC Meeting of the Sectoral Council on Trade, Industry, Finance and Investment (Session of Ministers), 2nd July 2009, (Ref. EAC/SR/34/2009), EAC Secretariat, Arusha, Tanzania – June 2009.
37. Report of the Meeting – EAC-EC-EPA Ministerial Preparatory Meeting (Permanent Secretaries Session) – 1st -2nd July 2009, (Ref. No. EAC/SR 37/2009), EAC Secretariat, Arusha, Tanzania, July 2009
38. Report of the Meeting – EAC-EC-EPA Ministerial Preparatory Meeting (Experts Session) – 29th – 30th June, 2009, (Ref. No. EAC/SR 35/2009), EAC Secretariat, Arusha, Tanzania, June, 2009.



39. Annexure 1: Summary and Status of the Contentious Issues Under the FEPA as at 30th June 2009 Annex VII to EAC-EC-EPA Ministerial Preparatory Meeting (Experts' Session) Ref. EAC/SR/35/2009
40. Annexure 2: Table of Corrections for "Agreement Establishing a Framework for an Economic Partnership Agreement between EAC and EC" having been initialled in Kampala on 27 November 2007 - dated 24th June 2009 as Annex IV to the EAC-EC-EPA Ministerial Preparatory Meeting (Experts' Session) Ref. EAC/SR/35/2009.
41. Annexure 3: Letter of Peter Thompson to Ambassador Juma V. Mwapachu, Secretary General of EAC, dated Brussels, 24 June 2009 – on subject of Outstanding Issues regarding finalising the text of the FEPA for signature – Annex V to the EAC-EC-EPA Ministerial Preparatory Meeting (Experts' Session) Ref. EAC/SR/35/2009.
42. Annex 4: Status of the EAC-EC-EPA Negotiations as at 28th June 2009 – Annex VI to the EAC-EC-EPA Ministerial Preparatory Meeting (Experts' Session) Ref. EAC/SR/35/2009.
43. Budget Speech – Presentation of the Budget of the East African Community for the Financial Year 2009/2010 to the East African Legislative Assembly – by Hon. Monique Mukaruliza, Chairperson of the the Council of Ministers of the East African Community and Minister for East African Community, Republic of Rwanda at tht National Assembly , Bujumbura, Burundi, 21 May 2009.
44. 19th Meeting of the Council of Ministers of the EAC – AICC, Arusha, Tanzania – 31st August – 4th September 2009 – Revised Background Paper (Ref: EAC/CM 18/BP I/2009), EAC Secretariat, Arusha, Tanzania, August 2009. The East African Trade Negotiations Act, 2008.
45. Agreement Establishing a Framework For an Economic Partnership Agreement Between The East African Community Partner States on One Part and the European Community and its Member States on the Other Part.
46. Deliberations of the Way Forward for the EAC-EC EPA (Sectoral Council on Trade, Industry, Finance & Investment), 2nd September 2009 – Naura Springs Hotel, Arusha, Tanzania (Progress Report/Background Paper on the Framework Economic Partnership Agreement) – EAC Secretariat, Arusha, Tanzania, September 2009.
47. EAC Meeting of the High Level Task Force to Negotiate the East African Community Common Market Protocol (HLTF), 17th -19th August 2009, Hotel Source Du Nil, Bujumbura, Burundi – Report of the Meeting – Ref: EAC/HLTF/CMP/06/2009, EAC Secretariat, Arusha, Tanzania, August 2009.
48. Annex VI – Free Movement of Persons
49. Annex VII - Free Movement of Workers
50. Annex IX- The Right of Residence
51. Annex VIII- Rules on the Right of Establishment
52. Meeting of the High Level Task Force (HLTF) to negotiate the East African Community Common Market Protocol -Hotel Source Du Nil, Bujumbura, Burundi-17th – 26th August 2009
53. Uganda Trade Review – a Joint publication of the Ministry of Tourism, Trade and Industry, and the Technical Support for Economic Partnership Agreement Finalization (TSEPAF) Project.



Annex 2 - ACP Secretariat Bibliographic List



Publications

No.	Publication title	Format	Cost
01.	What is Europe's trade policy ?	Electronic – Downloadable PDF	Free
02.	Wise Choices? The Europa Diary - the Trade pages	Electronic – Downloadable PDF	Free
03.	EU performance in the global economy	Electronic – Downloadable PDF	Free
04.	Opening Markets for European Exporters: The Trade Barriers Regulation (TBR)	Electronic – Downloadable PDF	Free
05.	Making trade work for development	Electronic – Downloadable PDF	Free
06.	A stronger Partnership to deliver Market Access for European Exporters	Electronic – Downloadable PDF	Free
07.	Europe's Trade Defence Instruments in a Changing Global Economy	Electronic – Downloadable PDF	Free
08.	Competition and partnership	Electronic – Downloadable PDF	Free
09.	Global Europe: Competing in the World	Electronic – Downloadable PDF	Free
10.	Breaking through in world markets The EU Market Access Database	Electronic – Downloadable PDF and http://madb.europa.eu	Free
11.	How to export to the European Union? Helpdesk for Developing countries	Electronic – Downloadable PDF	Free
12.	Economic Partnership Agreements (EPA) A new approach in the relations between the European Union and the ACP countries	Electronic – Downloadable PDF	Free
13.	The European Union's Generalised System of Preferences – GSP	Electronic – Downloadable PDF	Free
14.	Making globalisation work for everyone The European Union and World Trade	Electronic – Downloadable PDF	Free



Bulletins / magazines / press releases

No.	Bulletin type	Subscribe to	Cost per year
01.	Agricultural newsletters	http://ec.europa.eu/agriculture/newsdigest_en.htm	Free
02.	Economic and Financial affairs	http://ec.europa.eu/economy_finance/een/index_en.htm	Free
03.	Enterprise and Industry	http://ec.europa.eu/enterprise/library/ee_online/index_en.htm	Free
04.	Health and Consumer Protection	http://ec.europa.eu/dgs/health_consumer/newsletters_en.htm	Free
05.	EU single market	http://ec.europa.eu/internal_market/publications/e-bulletin/index_en.htm	Free
06.	Trade newsletter	acpeutrade@ecdpm.org	Free



Annex 3 - ITC bibliographic list



Publications

No.	Publication title	Format	Costs (Developing country) (USD)
01.	Online Market Research 2008	CD	0
02.	World Directory of Trade Promotion Organizations and other Trade Support Institutions 2008	Hardcopy	20
03.	Guide to Sources of Information on Importers 2002	Hardcopy	20
04.	World Directory of Importers' Associations 2002	Hardcopy	20
05.	Clothing Demand from Emerging Markets : An opportunity for LDC suppliers 2008	Hardcopy	28
06.	Competitive Export Strategies and Cases for the Clothing Industry. - Part 1 : Guidebook 2008	Hardcopy	30
07.	Competitive export strategies and cases for the clothing industry. - Part 2 : Presentations and Cases 2008	Hardcopy	0
08.	International Wooden Furniture Markets : A Review 2005	Hardcopy	20
09.	Environmental Industries: Country Profile: Germany 2004	Hardcopy	18
10.	Marketing Crafts and Visual Arts: The Role of Intellectual Property: A Practical Guide 2003	Hardcopy	12
11.	Tropical timber products: Development of further processing in ITTO producer countries 2002	Hardcopy	20
12.	Cocoa: A Guide to Trade Practices 2001	Hardcopy	26
13.	International Craft Trade Fairs: A Practical Guide 2001	Hardcopy	4
14.	World Markets for Organic Fruit and Vegetables: Opportunities for Developing Countries in the Production and Export of Organic Horticultural Products 2001	Hardcopy	10



No.	Publication title	Format	Costs (Developing country) (USD)
15.	Trade in Information Technology Products and the WTO Agreements: Current Situation and Views of Exporters in Developing Countries 1999	Hardcopy	20
16.	Food Packaging: A Reference Book for Trainers 1998	Hardcopy	20
17.	Romania: A Partner for Developing Countries 1998	Hardcopy	12
18.	Survey of China's Foreign Trade: An Analysis of China's Export and Import Data at the Enterprise Level 1995	Hardcopy	16
19.	Turnkey Plants and Project Engineering Services: A Handbook for Exporters from Developing Countries 1994	Hardcopy	16
20.	Adopting E-applications in the Textiles and Clothing Sector. - Part 1: Guidebook 2008	Hardcopy	15
21.	Adopting E-applications in the Textiles and Clothing Sector. - Part 2 : Presentations and Cases 2008	Hardcopy	15
22.	Product Design and Development for the Fashion, Textiles and Clothing Industry . - Part 2 : Presentations and Cases 2008	Hardcopy	15
23.	Product Design and Development for the Fashion, Textiles and Clothing Industry. - Part 1 : Guidebook 2008	Hardcopy	15
24.	World Tariff Profiles 2008 2008	Hardcopy and Internet	40
25.	Foreign Exchange Derivatives and Risk Management in Developing Countries 2007	Hardcopy	12
26.	ISO 22000 Food Safety Management Systems : An easy-to-use Checklist for Small Business : Are you Ready ? 2007	Hardcopy and CD	12
27.	Modular Learning System (MLS) on	Hardcopy	34



No.	Publication title	Format	Costs (Developing country) (USD)
	International Purchasing and Supply Chain Management. - Managing International Logistics : Coursebook 2007		
28.	Modular Learning System (MLS) on International Purchasing and Supply Chain Management. - Managing Inventory : Coursebook 2007	Hardcopy	34
29.	Modular Learning System (MLS) on International Purchasing and Supply Chain Management. - Managing the Supply Contract and Supplier Relationships : Coursebook 2007	Hardcopy	34
30.	Modular Learning System (MLS) on International Purchasing and Supply Chain Management. - Measuring and Evaluating Performance : Coursebook 2007	Hardcopy	34
31.	PC-TAS : Trade Analysis System on Personal Computer. - Harmonized System Rev. 1 : 2002-2006 2007	CD	450
32.	Empowering SME Exporters Through ICT: Lessons from South America 2006	Hardcopy	12
33.	Finance for Trade 2006	Hardcopy	20
34.	Financing Service Exports 2006	Hardcopy and Internet	12
35.	PACKit Exporting Country Module : Ghana 2006	Hardcopy	500
36.	PACKit Importing Country Profile : European Union 2006	Hardcopy	100
37.	PACKit Importing Country Profile : USA. - [Revised ed.] 2006	Hardcopy	100
38.	PC-TAS : Trade Analysis System on Personal Computer. - Harmonized System Rev. 1 : 2001-2005 2006	CD	45



No.	Publication title	Format	Costs (Developing country) (USD)
39.	PC-TAS : Trade Analysis System on Personal Computer. - SITC Rev.3 : 2001-2005 2006	CD	45
40.	Modular Learning System (MLS) on International Purchasing and Supply Chain Management : A Brief Description for Institutions 2005	Hardcopy	0
41.	Modular Learning System (MLS) on International Purchasing and Supply Chain Management. - Operations Management :Coursebook 2005	Hardcopy	35
42.	PACKit Cross Cutting Module : Printing and Packaging 2005	Hardcopy	100
43.	PACKit Cross-Cutting Module : Packaging Design 2005	Hardcopy	0
44.	PACKit Export Product Module : Oilseeds 2005	Hardcopy	0
45.	PACKit Export Product Profile : Hides and Skins 2005	Hardcopy	0
46.	PACKit Export Product Profile : Spices and Herbs 2005	Hardcopy	0
47.	PACKit Exporting Country Profile : Nigeria 2005	Hardcopy	0
48.	PACKit Packaging Material Profile : Plastics 2005	Hardcopy	0
49.	SITA : Statistics for international Trade Analysis 2005	CD	45
50.	The Business Management System : A Framework for International Competitiveness 2005	Hardcopy	20
51.	Training and Consulting : Designing, Developing and Delivering Training and Consulting Interventions 2005	Hardcopy	20
52.	ITC Contractual Joint Venture Model Agreements 2004	Hardcopy	20



No.	Publication title	Format	Costs (Developing country) (USD)
53.	PACKit Cross-cutting Module : Transport Packaging 2004	Hardcopy	0
54.	PACKit Export Product Module : Chemicals 2004	Hardcopy	0
55.	PACKit Export Product Module : Handicrafts 2004	Hardcopy	0
56.	PACKit Exporting Country Profile : India 2004	Hardcopy	0
57.	PACKit Exporting Country Profile : Jordan 2004	Hardcopy	0
58.	PACKit Exporting Country Profile : South Africa 2004	Hardcopy	0
59.	PACKit Exporting Country Profile : Sri Lanka 2004	Hardcopy	0
60.	PACKit Exporting Country Profile : Thailand 2004	Hardcopy	0
61.	PACKit Exporting Country Profile : Uganda 2004	Hardcopy	0
62.	PACKit Importing Country Profile : Germany 2004	Hardcopy	0
63.	PACKit Importing Country Profile : The Netherlands 2004	Hardcopy	0
64.	PACKit Packaging Material Profile : Glass 2004	Hardcopy	0
65.	PACKit Packaging Material Profile : Wood 2004	Hardcopy	0
66.	PACKit Packaging Product Profile : Castings and Forgings 2004	Hardcopy	0
67.	Thesaurus of International Trade Terms. - rev. 4 2004	Hardcopy	20
68.	Consulting in International Purchasing and Supply Chain Management: A Practical Guide 2003	Hardcopy	40
69.	PACKit Packaging Material Module :	Hardcopy	0



No.	Publication title	Format	Costs (Developing country) (USD)
	Metal 2003		
70.	Selling Business Information and Related Services: Case Studies and Guidelines for Trade Support Institutions 2003	Hardcopy	12
71.	The Changing Marketplace : Putting "E" to Work 2003	Hardcopy	12
72.	Anti-Dumping Proceedings: Guidelines for Importers and Exporters. - Rev. ed 2002	Hardcopy	8
73.	ISO 9001 Fitness Checker = Contrôle de la Conformité à la norme ISO 9001 = Evaluación de Conformidad con las Normas ISO 9001 2002	CD	12
74.	PACKit Export Product Profile : Cut Flowers 2002	Hardcopy	0
75.	PACKit Export Product Profile : Dried Fruit and Vegetables 2002	Hardcopy	0
76.	PACKit Packaging Material Profile : Paper and Board 2002	Hardcopy	0
77.	PACKit Packaging Product Module : Fresh Fruit and Vegetables 2002	Hardcopy	0
78.	Performance Measurement for Trade Information Services 2002	Hardcopy	12
79.	Transport Packaging Fitness Checker : Assess your Packaging Readiness for Export 2002	Hardcopy and CD	50
80.	Foreign Trade Statistics: A Guide for their Use in Market Research 2001	Hardcopy	12
81.	Trade Information Dissemination. - Vol.1: Options for Consulting, Disseminating and Exchanging Trade Information. - Vol.2: Survey on Web Dissemination of Trade Information 2001	Hardcopy	20
82.	Packaging Design: A Practitioner's	Hardcopy	20



No.	Publication title	Format	Costs (Developing country) (USD)
	Manual 2000		
83.	Rules of Origin in Export Credit Insurance 2000	Hardcopy	12
84.	Trade in Euro: A Guide for Enterprises and Trade Support Agencies in Developing and Transition Countries 2000	Hardcopy	12
85.	Cybermarketing: A Guide for Managers in Developing Countries 1999	Hardcopy	12
86.	Implications of World Trade Organisation Agreements for International Trade in Environmental Industries 1999	Hardcopy	12
87.	Glossary of Packaging Terms for Developing Countries = Glossaire des termes d'emballage pour les pays en développement = Glosario de términos de envase y embalaje para países en desarrollo 1997	Hardcopy	12
88.	Establishment and Operation of Purchasing and Supply Management Associations 1996	Hardcopy	12
89.	All about Promoting Trade in Services : A complete Handbook 2007	Hardcopy	20
90.	Get Connected : E-applications in the Textile and Clothing Sector 2005	Hardcopy	20
91.	B2B e-Marketplaces : Current Trends, Challenges and Opportunities for SME Exporters in Developing Countries of Asia and the Pacific. - [Generic version] 2004	Hardcopy	12
92.	B2B e-Marketplaces : Current Trends, Challenges and Opportunities for SME Exporters in Developing Countries of Asia and the Pacific. - Country Profile : India 2004	Hardcopy	8
93.	Influencing and Meeting International Standards: Challenges for Developing	Hardcopy	20



No.	Publication title	Format	Costs (Developing country) (USD)
	Countries. - Vol. 2: Procedures Followed by Selected International Standard-Setting Organizations and Country Reports on TBT and SPS 2004		
94.	Secrets of Intellectual Property : A Guide for Small and Medium-Sized Exporters 2004	Hardcopy	26
95.	TPO Best Practices: Strengthening the Delivery of Trade Support Services 2004	Hardcopy	20
96.	Export Credit Insurance and Guarantee Schemes: A Practical Guide for Developing and Transition Economies 2003	Hardcopy	20
97.	Influencing and Meeting International Standards: Challenges for Developing Countries. - Vol. 1: Background Information, Findings from Case Studies and Technical Assistance Needs 2003	Hardcopy	20
98.	Organizing Buyers-Sellers Meetings: A tool for promoting trade among developing countries 2003	Hardcopy	20
99.	Trade Finance: A Legal Guide for Cross-Border Transactions 2003	Hardcopy	30
100.	Offshore Back Office Operations: Supplying Support Services to Global Markets 2002	Hardcopy	20
101.	Redefining Trade Promotion: The Need for a Strategic Response 2002	Hardcopy	20
102.	Arbitration and Alternative Dispute Resolution: How to Settle International Business Disputes 2001	Hardcopy	20
103.	Converting LDC Export Opportunities into Business: A Strategic Response 2001	Hardcopy	20
104.	Executive Forum 2000: Export Development in the Digital Economy	Hardcopy	20



No.	Publication title	Format	Costs (Developing country) (USD)
	2001		
105.	Export Quality Management : An Answer Book for Small and Medium-Sized Exporters. - [Generic Version] 2001	Hardcopy	20
106.	Innovating for Success in the Export of Services: A Handbook 2001	Hardcopy	20
107.	International Trade Rules: An Answer Book on the WTO Agreements for Small and Medium-Sized Exporters 2001	Hardcopy	20
108.	Secrets of Electronic Commerce: A Guide for Small and Medium-Sized Exporters. - [Generic Version] 2001	Hardcopy	20
109.	Successful Services Exporting: A Handbook for Firms, Associations and Governments. - Rev. ed 2001	Hardcopy	20
110.	Trade in Services: An Answer Book for Small and Medium-Sized Exporters 2001	Hardcopy	20
111.	Business Guide to the General Agreement on Trade in Services. - Rev. ed 2000	Hardcopy	20
112.	Improving SME Access to Public Procurement: The Experience of Selected Countries 2000	Hardcopy	20
113.	International Marketing and the Trading System 2000	Hardcopy	20
114.	SME and Information Technology: A Practical Study of SMEs at the IT Frontier 2000	Hardcopy	20
115.	Business Guide to the World Trading System. - 2nd ed 1999	Hardcopy	26
116.	Export Quality Management: Resource Material for Training Activities 1999	Hardcopy	20
117.	SME and the Export Development Company: A Practical Guide to Forging Long-Term Business Relationships in the	Hardcopy	20



No.	Publication title	Format	Costs (Developing country) (USD)
	Export Sector 1999		
118.	Financing Means and Sources: A Guide to Financing Export Projects 1995	Hardcopy	16
119.	Profiles of Trade Promotion Organizations 1994	Hardcopy	16
120.	Training Handbook on Export Documentation 1994	Hardcopy	16
121.	Handbook for Trainers in Trade Promotion 1993	Hardcopy	12
122.	Managing Export Training: Strategies, Policies and Principles for Developing Countries. - Rev. ed 1993	Hardcopy	16
123.	Strengthening International Business Training in Developing Countries: Strategic Issues and Elements of an Integrated Programme 1991	Hardcopy	8
124.	Market Analysis Tools : Trade Map, Market Access Map, Investment Map and Product Map		0
	TOTAL		3,052



Bulletins / magazines / press releases

No.	Bulletin type	Subscribe to	Costs per year (USD)
01.	Market News Service	mns@intracen.org	0
02.	Pack Data Fact Sheets	packaging@intracen.org	0
03.	Export Quality Bulletins	gujadhur@intracen.org	0
04.	Trade Finance Press Abstracts	cattani@intracen.org	Unknown (<i>assumed also free</i>)
05.	International Purchasing and Supply Link	ipsms@intracen.org	0
06.	International Trade Documentation	hebboul@intracen.org	0
07.	World Trade Net Newsletter	jouve@intracen.org	0
08.	ITC magazine	http://www.tradeforum.org	0
09.	ITC press releases		0

Software

No.	Software	Subscribe to	Costs per year (USD)
01.	Trade Analysis System	pc-tas@intracen.org	450



Annex 4 - UNCTAD bibliographic list



Publications

No.	Publication title	Format	Costs (USD)
01.	Trade and Environment Review (TER)	Hardcopy - PDF	TBA
02.	Trade and Development Report (TDR)-	Hardcopy – PDF	TBA
03.	World Investment Report (WIR)	Hardcopy – PDF	TBA
04.	Economic Development in Africa Report	Hardcopy – PDF	TBA
05.	Least Developed Countries Report (LDC)	Hardcopy – PDF	TBA
06.	Development and Globalization: Facts and Figures (DGFF)	Hardcopy – PDF	TBA
07.	UNCTAD Handbook of Statistics	Hardcopy – PDF	TBA
08.	Information Economy Report (IER) and E-commerce and Development Report (ECDR)	Hardcopy – PDF	TBA

* - TBA is as stated on their web site.



Bulletins / magazines / press releases

No	Bulletin type	Subscribe to	Costs per year
01	Blue Books on Best Practice in Investment Promotion	http://www.unctad.org/bluebooks	Free – download as PDF
02	Development and Globalization Facts and Figures, 2004 -	http://www.unctad.org/globstat	Free – download as PDF
03	Economic Development in Africa, 2000 -	http://www.unctad.org/Africa/series	Free – download as PDF
04	Electronic Commerce, 2001 -	http://www.unctad.org/ecdr	Free – download as PDF
05	Handbooks on the GSP schemes	http://www.unctad.org/gsp/handbooks	Free – download as PDF
06	International Investment Agreements (IIA)	http://www.unctad.org/iaa/series	Free – download as PDF
07	Investment Guides	http://www.unctad.org/investmentguides/series	Free – download as PDF
08	Least Developed Countries Report, 1996 -	http://www.unctad.org/lcdr	Free – download as PDF
09	Trade and Development Report, 1996 -	http://www.unctad.org/tdr	Free – download as PDF
10	Trade and Environment Review, 2003 -	http://www.unctad.org/ter	Free – download as PDF
11	Various newsletters	http://www.unctad.org/Template/Page.asp?intItemID=2646&lang=1	Free – download as PDF



Annex 5 - WTO bibliographic list



Publications

No.	Publication title	Format	Costs (CHF)
01.	Opening Markets for Trade in Services	Hardcopy	80
02.	Dictionary of Trade Policy Terms	Hardcopy	70
03.	A handbook on reading WTO goods and services schedules	Hardcopy	45
04.	Trade Profiles 2008	Hardcopy and Internet	30
05.	International Trade statistics 2008	Hardcopy	50
06	World Tariff Profiles 2008	Hardcopy	50
07.	Trade Policy Reviews 2008	Hardcopy	100
08.	Dispute Settlement reports 2007	Hardcopy	200
09.	Technical Barriers to Trade	Hardcopy	30
10.	Trade and Employment	Hardcopy	20
11.	The WTO in the twenty first century	Hardcopy	155
12.	A handbook on the GATS Agreement	Hardcopy	50
13.	A Handbook on the WTO Dispute Settlement System	Hardcopy	80
14.	A Handbook of Anti-Dumping Investigations	Hardcopy	150
15.	Tariff Negotiations and Renegotiations under the GATT and the WTO	Hardcopy	135
16.	Trade and Environment at the WTO	Hardcopy	0
17.	Future of the WTO	Hardcopy	0
18.	Understanding the WTO	Hardcopy	0
19.	Focus Newsletter	Hardcopy	0
20.	GATS – Fact and Fiction	Hardcopy	0
21.	WTO in brief	Hardcopy	0
	TOTAL		1,245

Bulletins / magazines / press releases

No.	Bulletin type	Subscribe to	Costs per year (CHF)
01.	WTO news	http://www.wto.org/index.htm	0