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REGIONAL TRADE NEGOTIATIONS**



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## **Note**

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Part I of this publication contains the paper by Professor Oyejide on the interface between negotiations under the WTO Doha agenda, the ACP-EU economic partnership agreements and African regional integration processes. The paper was commissioned by UNCTAD under the UNDP-financed project on Trade Capacity Development for Africa. Part II of the publication contains the results of trade negotiations workshops convened for African countries by UNCTAD under the Trade Capacity Development for Africa to assist African countries in strengthening their engagement in the Doha negotiations.

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## **Abstract**

Part I of this publication contains the paper on the interface between negotiations under the WTO Doha agenda, the ACP-EU economic partnership agreements, and African regional integration processes. It aims at facilitating informed decision-making by African countries in drawing positive benefits from their participation in multiple international trade negotiations and agreements and by making these processes development-oriented in reflecting the needs and interests of African countries.

Part II of the publication contains the results of trade negotiations workshops convened for African countries by UNCTAD to assist them in strengthening their engagement in the Doha negotiations. The impact of these activities has been a stronger engagement by African countries in the WTO negotiation under the Doha agenda. The support provided was important in enabling African countries to prepare for the intense negotiations in the first six months of 2005.



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## Overview

UNCTAD is one of the implementing agencies of the project Trade Capacity Development for sub-Saharan Africa which is financed by UNDP. The objective of the programme is to contribute to the beneficial integration of sub-Saharan African countries into the international trading system in order to ensure that trade serves effectively as an engine of growth, poverty reduction and human development in Africa. The immediate objective of the Programme is to contribute to building and strengthening human, institutional and policy capacity in African countries for effective participation in multilateral and other international trade negotiations, and for formulating and implementing trade and related policies to achieve poverty reduction and higher levels of human development.

In respect of trade negotiations, emphasis is given to African countries' participation in the negotiations under the WTO's Doha Work Programme, and the interface with ACP-EU negotiations on economic partnership agreements and intra-African economic integration processes under the aegis of the African Union. In respect of policy formulation, emphasis is placed on integrating human development and poverty reduction objectives in processes aimed at trade expansion, growth and development.

The Programme benefits from an integrated and coordinated support in its implementation from several international and African organizations namely, the African Union (AU), ECA, AERC (African Economic Research Consortium), UNCTAD, SATRN (Southern African Trade Research Network), TWN (Third World Network)-Africa and SEATINI, as well as complementary and direct support from other development partners.

This compendium documents the support provided under the programme by UNCTAD to African countries in 2005 and the results attained. Part I of this publication contains the paper by Professor Oyejide on the interface between negotiations under the WTO Doha agenda, the ACP-EU economic partnership agreements and African regional integration processes. It is aimed at facilitating informed decision-making by African countries in drawing positive benefits from their participation in multiple international trade negotiations and agreements and by making these processes development-oriented in reflecting the needs and interests of African countries. Part II of the publication on issues of interest to African countries in the Doha negotiations contains the following results.

- (1) High-level Workshop on Key Issues of Interest for African Countries in the Services Negotiations in the Run-up to the Sixth WTO Ministerial Conference, Geneva, 25-26 April 2005;
- (2) High-Level Workshop on Key Issues of Interest for African Countries in the Negotiations on Market Access for Agricultural and Non-Agricultural Products in the Run-up to the Sixth WTO Ministerial Conference, Nairobi, 29 June to 1 July 2005;
- (3) Advisory missions and participation in workshops for African countries; and
- (4) Preparation of *ad hoc* technical materials and briefing notes on the ongoing negotiations under the Doha Work Programme at the WTO and the EPA negotiations.

UNCTAD also assisted African Ministerial meetings and their preparatory events at experts' level, paying attention to the development dimension of specific issues of concern to

African countries. UNCTAD attended and contributed substantively to the following high-level preparatory events of African countries for the Sixth WTO Ministerial Conference:

- (1) Meetings of African Union Ministers of Trade in Cairo, Egypt (5-9 June 2005) and Arusha, United Republic of Tanzania (21-24 November 2005). The Trade Ministers reviewed and adopted the Cairo Declaration and road map on the Doha Work Programme, and the African Union's Ministerial Declaration on EPA (Economic Partnership Agreements) negotiations;
- (2) ACP Group of States and G90 meetings in Brussels (28 November to 1 December 2005);
- (3) Two AU workshops in Lausanne (Switzerland) to assist Geneva-based African trade negotiators in their individual and joint preparations for their countries' effective participation in the preparatory processes leading to and during the Sixth WTO Ministerial Conference. One meeting dealt with "Ensuring coherence between Africa's trade agenda and long-term development objectives" (Lausanne, Switzerland, 13-14 May 2005); and the second meeting elaborated "Development benchmarks for the Hong Kong WTO Ministerial Conference" (5-6 November 2005). The output of the latter meeting was presented to and was revised and adopted by the African Trade Ministers' meeting in Arusha;
- (4) UNCTAD also participated in, and contributed to, the programme's Steering Committee meeting in Brussels (2-3 June 2005).

The impact of activities organized by UNCTAD under the programme with the cooperation of various partners has been a stronger engagement by African countries in the WTO negotiation under the Doha agenda. The support provided was important in enabling African countries to prepare for the intense negotiations in the first six months of 2005 in preparation for the July meeting of the WTO General Council. That meeting was expected to achieve some targets on market access negotiations and development issues, as identified in the July 2004 Package of the WTO. When that did not take place, negotiations continued after July and were intensified in the light of the preparations for the Sixth WTO Ministerial Conference. The activities implemented contributed towards assisting African trade negotiators in Geneva and in capitals to identify their negotiation issues and interests in the Doha negotiations in specific areas such as services, agricultural and non-agricultural market access. A particular focus was placed on services negotiations, an area in which African countries' participation remains weak, apart from the focus on the promoting trade in services through the temporary movement of natural persons supplying services (Mode 4).

UNCTAD's assistance was also timely as it was provided at crucial moments of the negotiations to enhance awareness among African countries of the issues involved and help them identify their strategic interests. Partnership was maintained with all partners in the programme and has helped to enhance the impact of assistance provided.

## **PART I**

### **DEVELOPMENT INTERFACE BETWEEN THE WTO, EPA AND REGIONAL NEGOTIATIONS FOR AFRICAN COUNTRIES**

#### **Introduction**

This is an analytical report which examines the development interface among a series of trade negotiations in which many African countries are currently involved. The report also explores how, and the extent to which, these trade negotiations may complement and contribute to the achievement of the objectives of the trade and development strategy of these countries. The series of trade negotiations discussed in this report include a set of intra-African regional integration arrangements (RIAs) that have been used over the last four decades or so as the fulcrum around which their trade and development strategy, based on integrated regional markets, is structured. In addition, the series includes a set of four economic partnership agreements (EPAs), currently under negotiation, which will define the new, reciprocal economic and trade relations between each African regional EPA group of countries and the European Union (EU). The third element of the series is the Doha Round of multilateral trade negotiations in the World Trade Organization (WTO). It is generally recognized that these negotiations are likely to have significant implications for the economies of African countries. Hence, in view of the overlapping and simultaneous nature of the three interrelated trade negotiations, there is significant research and policy interest in exploring their coherence, as well as their contribution towards the implementation of Africa's chosen trade and development strategy.

Trade and trade policy issues are particularly important in the analysis of the growth performance and prospects of African economies. This derives from the fact that the trade/GDP ratio is higher in Africa than in most other regions. In any case, the shift of African development strategy away from an inward-orientation and in favour of export-led growth suggests that African countries should be more proactive in using trade negotiations to enhance the access of their export products and services into various external markets; strengthen the stability and credibility of their own domestic policies; as well as ensure that the agreed trade and trade-related rules are sufficiently flexible and development-oriented. These concerns constitute the key rationale for the involvement of many African countries in international trade negotiations.

The rest of this report consists of four substantive chapters and a section which presents the conclusions. Chapter 1 focuses on an analysis of regional integration in Africa. In this analysis, attention is focused on a review of the trade and development objectives of a range of intra-African RIAs, the integration instruments adopted, and an evaluation of their success in achieving their objectives. In addition, this chapter examines the extent and implications of overlaps in membership, and the relationship between the African Union (AU) and RIAs. The EPA negotiations are examined in chapter 2. This analysis defines the EPA, discusses its main features, and reviews its trade, integration and development objectives set by African countries. Subsequently, the four African regional EPA groups are identified, and the differences among the constituent countries discussed, particularly in relation to the nature and effectiveness of their negotiating strategies. In chapter 3, the focus of the report shifts to an analysis of Africa's participation in the WTO negotiations. The specific issues raised in this analysis include an evaluation of the extent and effectiveness of

African participation in the negotiations, a review of the key provisions of the July 2004 Framework Package in relation to African interests, and a review of the results of the Hong Kong Ministerial Conference. Finally, this chapter identifies and discusses the main areas in which the results of the negotiations may impose negative effects on Africa countries and suggests how Africa's participation may deal with the associated problems.

The development interface between the WTO, EPA and regional negotiations is analysed in chapter 4. It reviews the objectives of these trade negotiations against the key trade and development goals of African countries and evaluates their liberalization programmes in relation to the African integration agenda. This facilitates the subsequent analysis of issues relating to coherence, compatibility, complementarity and synergy not only among the trade negotiations but also between them and the various phases of the African integration agenda. Finally, this chapter offers suggestions for achieving coherence and building synergies. The conclusion offers a summary of the main issues raised in the study, associated problems and suggested solution options and recommendations.

# **1. AFRICAN REGIONAL INTEGRATION AGREEMENTS AND THE AFRICAN UNION**

## **Introduction**

Economic integration has had an enduring appeal as the appropriate strategy for overcoming the problems caused in a highly fragmented continent such as Africa. Since the early 1970s African countries have opted for regional integration as a key strategy for achieving their development goals. As a result, these countries have constituted themselves into a large number of regional integration institutions. In the process, the continent's current portfolio of regional integration schemes contains a bewildering array of different types and sizes which, as Yang and Gupta (2005) argues, represents "a dense web....and classical example of variable geometry in integration".

It is important to note, of course, that Africa is not alone in the choice of regional integration as a development strategy. This, in fact, appears to be a global phenomenon. The 1990s was, in this respect, a prolific decade for regional integration initiatives worldwide. During this period, regional integration schemes increased sharply in number, broadened in scope and expanded in geographical reach. Thus, as of March 2002, there were 243 regional integration schemes in force, made up of 175 free trade agreements (FTAs), 46 partial scope regional arrangements and 22 Customs unions (WTO, 2002). In addition, these arrangements have become more diverse and complex while, at the same time, spanning within and across continents at the regional and subregional levels. But there are significant regional differences in these arrangements. In particular, it appears that the typical regional initiative in Africa is more ambitious when compared with the limited objectives assigned to similar regional arrangements in countries in East and South-East Asia.

It is convenient to classify African regional integration into several groups. One consists of the five large subregional FTAs which were expected to be the primary building blocks for the continental economic integration institution. These are the Arab Maghreb Union (AMU) with its five North African members, the Economic Community of West African States (ECOWAS) whose membership includes all 15 countries in West Africa; the Economic Community of Central African States (ECCAS) with its 11 members drawn from Central Africa; the Southern African Development Community (SADC) whose 14 members cover all of southern Africa; and the Common Market for Eastern and Southern Africa with 20 members are spread over eastern and southern Africa. A second group of intra-African regional integration schemes consists of smaller regional arrangements encompassed in four of the larger institutions specified above. In particular, UEMOA and MRU contain eight and three members of ECOWAS respectively; CEMAC and CEPGL are subsets of ECCAS in terms of membership; while SACU is contained in SADC. In addition, IGAD and IOC are subsets of COMESA, while the membership of EAC is split between COMESA and SADC. The only continent-wide regional integration institution is the African Economic Community (AEC) which constitutes a third group in its own right.

The fourth group of regional integration arrangements is made up of regional initiatives which link African countries into North-South trade agreements. Some of these already exist; in the forms of South Africa's FTA with the European Union (EU), and the Euro-Mediterranean Partnership through which Algeria, Egypt, Morocco and Tunisia are being linked with the EU. Some others which are currently being negotiated include the

economic partnership agreements (EPAs) between the EU and four subregional groups in Africa; and the FTA between SACU and the United States.

The various regional integration arrangements in which African countries are involved in appear to be primarily motivated by the need to overcome the constraints arising from their small domestic markets. In a continent fragmented into 53 countries, both small populations and low incomes combine to limit the size of domestic markets. As ECA (2004) shows in graphic detail, most (74 percent) of these countries have populations of less than 15 million each and about 40 percent have fewer than 5 million people. In addition, over 60 percent of these countries have per capita incomes below \$500 per annum (or 10 per cent of the world average per capita income). The important research and policy question which arises relates to whether and the extent to which the regional integration strategy so universally embraced by African countries can yield, or is yielding the expected results and impact.

This chapter addresses this and other related questions through a sequential analysis of a number of issues. It begins with an assessment of the trade objectives, policies and strategies embedded in African regional integration arrangements (section 1.2) and then focuses, in section 1.3, on the development rationale underpinning these arrangements and an evaluation of their success in achieving their objectives. The next section (1.4) explores the extent and implications of overlapping membership of intra-African regional integration arrangements with a view to examining different scenarios for dealing with the problem. Section 1.5 examines the relationship between the African Union and the regional economic communities in the context of two policy concerns, i.e. how the relationship can be structured to promote trade and economic integration in Africa, and the design of the institutional framework necessary for enhancing trade in the regional groupings. This chapter concludes (in section 1.6) with a summary of the main issues examined and the broad conclusions reached.

#### **A: Trade in intra-African regional integration arrangements**

The trade objectives which have motivated the establishment of intra-African regional integration schemes consist of both positive and negative elements. On the positive side, the expectation has been that intra-African regional integration arrangements would increase the bargaining power of African countries in international trade negotiations. In addition, by promoting intraregional trade they could help to reduce regional conflicts. These arrangements could be particularly beneficial to Africa's many small and landlocked countries with inadequate infrastructure. Finally, they have been viewed as training grounds for preparing domestic producers for facing the competitive pressures that would be unleashed by more general liberalization. On the negative side, the fear that multilateral trade liberalization could entail substantial short-run adjustment costs appears to have propelled African countries towards the more limited exposure inherent in the trade liberalization programmes of the regional integration arrangements. This fear continues to have some significance in at least two areas. First is that substantial multilateral trade liberalization could permanently damage Africa's infant manufacturing industry base. Second is that, given the heavy reliance of many African countries on trade taxes as sources of government revenue, across-the-board trade liberalization may cause large revenue losses which may not be easily replaced (Baunsgaard and Keen, 2005).

In virtually all cases, intra-African regional integration arrangements embraced the strategy of facilitating trade liberalization as a means of integrating their members into the

global economy, starting by liberalizing intraregional trade. This two-phase strategy is quite consistent with the trade objectives described above, although it offers no clue regarding the length of time over which either of the two phases of trade liberalization could be implemented.

Within this strategy, preferential tariff reduction has been the primary focus of regional integration arrangements in Africa, and virtually all of them have regional trade liberalization programmes with explicit tariff reduction schedules and targets. In more recent times the emphasis is increasingly on expanding the size of the integrated regional market by abolishing not only tariff and non-tariff barriers, but also by reducing other non-border internal constraints on intraregional trade flows. Regional integration which has this focus can, of course, be both trade creating and trade diverting. The latter occurs when regional integration implemented through preferential reduction of trade barriers causes the displacement of lower cost production from non-members by higher cost production from partner countries. In addition, regional integration implemented through preferential reduction of tariffs can reduce government revenue from tariffs both directly through tariff cuts among members and through the displacement of imports from non-members subject to tariffs. This revenue loss can be quite significant for countries which rely heavily on tariff revenue. These potential adjustment costs tend to be limited in the context of intra-African regional integration arrangements. In particular, since the share of intraregional trade in Africa's total trade has on average remained small, the direct contribution of trade diversion is likely to be limited; and, for the same reason, the potential tariff revenue losses are likely to be generally small.

Implementation of the preferential trade liberalization programmes of Africa's regional integration schemes has generally remained behind schedule (Oyejide and Njinkeu, 2002). This is particularly the case in the FTAs such as ECOWAS and COMESA where the trade liberalization schedules and implementation target dates have repeatedly been missed and rescheduled. But even among the Customs unions, only SACU has reached the point of making all intraregional trade tariff-free. In the case of UEMOA, some progress has been made in this direction, while CEMAC continues to lag behind. With respect to the reduction of non-tariff barriers against intraregional trade, much less progress appears to have been made. In addition, all intra-African regional integration arrangements have fairly restrictive rules of origin, which also differ across the region. Given this uneven and poor record of implementing their trade liberalization programmes, it is unrealistic to expect that the various intra-African regional integration arrangements would have succeeded in establishing appropriate trade regimes for effectively stimulating the growth of intraregional trade.

Beyond reaching this conclusion on the basis of the extent of preferential reduction in trade barriers which has been achieved, the issue can be addressed more directly by examining what African countries trade among themselves and what this implies in attempting to further promote intraregional trade. Yeats (1998) performs this task and concludes that first, Africa's intraregional trade is dominated by only a few countries and a limited number of primary commodities. Second, in sharp contrast to the pattern of intraregional trade in other integrated regions, very little intra-industry trade occurs in Africa. Third, very little or no intraregional trade takes place between African countries that are geographically distant (e.g. West versus East Coast countries). Finally, very little intraregional trade occurs in non-oil products which are of primary importance in Africa's total imports. Thus, while machinery and transport equipment constitute about 75 per cent of Africa's total imports, they represent less than 4 per cent of Africa's intraregional trade.

These findings may constitute part of the explanation for the lack of growth in intraregional trade in Africa. Table 1 presents data which show this lack of robust growth of intraregional trade. Over the period between 1970 and 2003, intra-African exports as a share of total exports increased from 8.8 to 9.3 per cent or by less than 1 percentage point; while on the imports side, the gain was less than 3 percentage points as the share of intra-African imports on total imports rose from 7.4 per cent to 10.2 per cent. It is worth noting that some of the regional integration schemes performed even more poorly than the aggregate.

**Table 1**  
Intraregional and intra-African trade (as a percentage of total trade)

<u>Exports</u>	<u>1970</u>	<u>2003</u>
CEMAC	4.9	1.4
COMESA	9.7	8.6
ECOWAS	3.1	10.1
SADC	9.4	6.0
UEMOA	7.9	16.2
Africa	8.8	9.3
<u>Imports</u>		
CEMAC	5.0	2.9
COMESA	6.7	5.8
ECOWAS	3.3	11.5
SADC	4.9	6.3
UEMOA	6.4	13.3
Africa	7.4	10.2

*Source:* Yan and Gupta (2005), Table 3, p. 17.

For instance, CEMAC's intraregional exports as a share of the sub-region's total exports fell from 4.9 per cent in 1970 to 1.4 per cent in 2003, while in the case of import the same trend was replicated as the share of intraregional imports in total imports declined from 5.0 per cent to 2.9 per cent over the same period. This same trend of falling intraregional trade shares was experienced also by COMESA. On the positive side, both ECOWAS and UEMOA experienced significant increases in their shares of intraregional trade in total trade (i.e. both exports and imports). The results for SADC are mixed; a small increase in the share of intraregional imports occurred while the share of intraregional exports in total exports fell more sharply over the 1970-2003 period. Taken together, these trends suggest that intra-African regional integration arrangements have not been successful in eliminating intraregional trade barriers and that they appear not to have contributed significantly to the boosting of intraregional trade in Africa. So they have not succeeded in achieving the primary trade objectives which constitute important elements of the motivation for their establishment.

## **B: Development objectives and regional integration in Africa**

An important and often cited motivation for establishing regional integration schemes in Africa is that they can help achieve higher levels of economic development in the integrated regions. It is therefore not surprising that these arrangements have also been assessed in relation to whether or not the continent's apparent desire to promote growth through regional integration is being fulfilled. The development objectives of intra-African



regional integration arrangements obviously constitute long-term goals which include several elements. For instance, these arrangements are expected to lead to the creation of larger integrated regional markets which would enable participating countries to exploit economies of scale, enhance domestic competition, raise return on investment and, hence, attract more foreign direct investment. In addition, they could assist in accelerating economic diversification.

These conjectures draw from the literature which relates regional integration to growth (see ECA 2004 for a review). Noting that the growth performance of an economy is influenced by its economic policies, its rate of technological progress and knowledge accumulation, its factor endowments, as well as the quality of its institutions and governance, it is argued that regional integration can raise the rate of economic growth by magnifying the impact of these factors. In particular, there is a positive correlation between trade and growth. Hence, if regional integration promotes trade, it will tend to be associated with higher growth. Trade is also associated with technology spillovers; and by stimulating trade, regional integration may increase the rate of technological progress which should in turn promote growth. Membership of regional integration arrangements is associated with higher foreign direct investment (FDI) flows. These flows not only promote growth but can also do so by channeling technology and knowledge across borders; thereby promoting technological spillovers which promote growth. Furthermore, regional integration can increase the credibility of a country's commitment to sound economic policy and management through the harmonization of policies and by acting as agency of restraint against potentially damaging discretionary policy reversals. Finally, institutional strengthening can occur when a weaker country integrates with those that have more efficient institutions, the resulting improved quality of institutions can promote growth.

Consensus on the issue, however, points to the desirable and growth-promoting effects of regional integration that are much stronger in North-South arrangements. Hence, intra-African regional integration arrangements may "have only a limited potential to fulfill their major growth and industrialization objectives" (Yeats, 1998, p. 67). This assessment reflects a number of considerations. Clearly, many of these arrangements have not succeeded in creating larger integrated regional markets. Hence, very little intraregional trade occurs; FDI flows to Africa remain limited and have not been influenced in any discernible way by the configuration of the existing intra-African regional integration arrangements. In addition, regional integration in Africa is, currently, incapable of serving as an agency of restraint for enhancing policy credibility or of providing efficient and high quality institutions. Finally, an examination of the structure of intraregional and total trade of Africa suggest that since African exports can meet only a very small portion of regional import needs, non-regional sources will continue to provide the key imported products (e.g. machinery and transport equipment) which are required to facilitate the continent's industrialization and growth (Yeats, 1998).

The question relating to the contribution of regional integration to growth in Africa can also be addressed more directly by examining growth trends in the different regional groupings. Table 2 offers relevant data covering the period from 1970 to 2003. The trends of real GDP growth in Africa and across most of the regional groups shown in this table confirm that growth collapsed between 1980-1989, compared to the 1970-1979 period and began to recover in 1990-2003. Thus, for Africa, average real GDP growth rate fell from 4.4 per cent in 1970-1979 to 2.5 per cent in 1980-1989 before rising marginally to 2.8 per cent in 1990-2003. With the exception of SACU, intra-African regional integration arrangements did not make much progress in eliminating intraregional trade barriers until the late 1990s. Hence,

their impact on growth can, at best, be expected to manifest itself during this period. A comparison of the growth between rates of the various regional groupings between 1990-2003 shows no discernible relationship with the extent of intraregional trade liberalization. SACU has the longest history of essentially free intraregional trade. Yet its real GDP growth rate declined successively over the three periods, from 8.3 per cent in 1970-1979 to 4.7 per cent in 1980-1989 and 3.6 per cent in 1990-2003. These rates surpass the African average growth rates, however. But they are explained by the superior performance of Botswana rather than by regionalization. Similarly, the better-than-average growth performance of CEMAC and EAC between 1990-2003 is explained not by regionalization but by country-specific circumstances. In the case of CEMAC, Equatorial Guinea's oil-induced growth rate of 19.5 per cent in 1990-2003 propelled the regional growth rate to 5.0 per cent; without it, group rate falls to 2.0 per cent. Similarly, Uganda's historically high growth rate of 6.8 per cent in 1990-2003 boosted the EAC growth rate to 4.0 per cent; without it, the group rate falls to 2.5 per cent. Thus, regional integration appears not to have made any significant difference to real GDP growth in Africa between 1970-2003.

**Table 2**

Real GDP growth: Africa and regional groups: (average annual percentage change)

	<u>1970-1979</u>	<u>1980-1989</u>	<u>1990-2003</u>
Africa	4.4	2.5	2.8
CEMAC	5.2	3.6	5.0
COMESA	4.1	2.9	2.2
EAC	5.9	2.9	4.0
ECOWAS	3.5	2.4	2.9
SACU	8.3	4.7	3.6
SADC	5.8	3.3	2.8
UEMOA	3.5	1.8	2.7
UMA	6.5	4.2	3.4

*Source:* Based on data in Global Coalition for Africa (2004), p. 54.

**C: Extent and implications of overlapping membership of regional integration arrangements**

A significant and widely recognized problem of regional integration in Africa is the continued existence of a considerable number of overlapping and, in some cases, conflicting regional initiatives. ECA (2004) shows that of the 53 countries in Africa, 26 are members of two regional integration arrangements each, 20 are members of three such arrangements each, while one country belongs to as many as four regional integration schemes. This suggests that the incidence of overlapping membership exists across all five subregions of Africa, each of which contains two or more regional integration arrangements. More specifically, ECOWAS embraces all 15 countries of the region, some of which are also members of MRU and UEMOA. In Central Africa, all 11 countries are members of ECCAS; but six of these are also members of CEMAC. While another three belong to CEPGL. North Africa is the subregion with the least incidence of overlapping membership of regional integration schemes. All five countries of the subregion are members of UMA, but Egypt is, in addition, a member of COMESA. The incidence of overlapping membership is most serious in eastern and southern Africa. There are six intra-African regional integration groups here, including the large ones such as COMESA and SADC which have a number of members in common. In addition,

both IGAD and IOC have members which also belong to COMESA; SACU lies within SADC and EAC overlaps in membership with both COMESA and SADC. Finally, within southern Africa several bilateral agreements between individual countries also exist, cutting across both SACU and SADC.

This bewildering jigsaw puzzle of intra-African regional integration arrangements raises the obvious question: why have countries chosen to belong to two or more of these arrangements? The existence of diverse national interests has been cited as a reason for the establishment of a large number of regional integration schemes (Yang and Gupta, 2005). But this does not directly explain why any country would choose to belong to more than one at a time. A more direct explanation may be that such countries wish to pursue integration on multiple tracks and, hence, choose to take advantage of a smaller group that is able to proceed at a faster pace. This could fit the decision of some members of ECOWAS who chose to establish UEMOA, as well as that of members of COMESA who chose to form the EAC. Perhaps, these countries found it easier and more effective to coordinate and harmonize their national policies and strategies within the smaller regional groups. Another possible explanation is the legacy of history which has particular resonance in southern Africa. For instance, SACU existed long before SADC; the latter was built around an explicit political objective, i.e. to make the region less dependent on apartheid South Africa. The decision to transform SADC into an instrument for regional integration, following majority rule in South Africa in 1994, created an inevitable overlap between SACU and SADC.

Membership overlap across various intra-African regional integration arrangements causes a number of problems. For example, rules of origin differ among these arrangements and this creates difficulties and conflicts in establishing criteria for granting origin which raises the cost of administering the agreements. Similar problems exist in the form of duplication and maintenance of different phase-out periods for each regional partner. Taken together, these problems are manifested in the multiplication of Customs procedures and complications in paper work which run counter to the goal of simplifying and facilitating intraregional trade. To the extent that various intra-African regional integration arrangements have different objectives which are reflected in terms of differences in the scope of and schedules for liberalization, overlaps in membership diffuse regional integration efforts and may thus jeopardize the chances of success for these efforts.

In addition, overlaps in membership give rise to a number of more specific and technical implementation problems. When countries are members of two separate arrangements which establish two different common external tariffs (CETs), a technical problem arises. For instance, Kenya and Uganda are members of EAC and COMESA which have different CETs. It is technically impossible for these two countries to implement the two different CETs. This same problem confronts Namibia and Swaziland that belong to SACU, COMESA and SADC, each of which has its own CET. A solution to this problem has been found in West Africa, where the non-UEMOA members of ECOWAS have decided to adopt the CET established by the UEMOA. But the existence of various subregional groups with different CETs in other parts of Africa clearly complicates the expected eventual fusion of all such groups into a continent-wide regional integration arrangement.

Countries which choose to belong to more than one regional group have several additional resource burdens to shoulder. Duplication wastes effort and associated resources of attending meetings, implementing agreements and so on. This particular cost can be significant for poor countries which lack the appropriate human and institutional capacity. Similarly, membership is also associated with financial obligations which the poorer

countries may find difficult to meet as and when due. The ineffective support of the regional integration agencies, through regular payment by members of their financial obligations, may not be unconnected with the incidence of pervasive overlapping memberships and inability to discharge the associated obligations.

The problems caused by the pervasive incidence of overlapping memberships of intra-African regional integration arrangements are widely recognized (GCA, 2004; ECA, 2004). There is broad consensus that these overlaps lead to a loss of efficiency and should be removed to enable subregional groups to serve as building blocks for continent-wide economic integration. The suggested solution options include harmonization, merging and rationalization. These options imply that some countries will have to make difficult choices as to which configuration will be in their best interest. To facilitate the making of the appropriate choices, ECA (2004) suggests that studies on costs and benefits of multiple membership should be carried out with respect to the key countries concerned. It may also be useful for appropriate studies to establish the “natural” members of particular subregional integration groups.

Meanwhile, the negotiation of economic partnership agreements (EPAs) between the European Union (EU) and four regional groups of African countries has raised the profile of this discussion and may thus provide a catalyst for change. But it remains to be seen whether, in the process of solving the problem of overlapping membership, it will not create a new one, i.e. by undermining the African regional integration process. Clearly, by insisting that each participating country can be a member of only one regional group negotiating an EPA, African countries belonging to more than one regional integration arrangement are being forced to choose one and opt out of the others. But such choices appear to be neither voluntary nor based on any cost-benefit analysis. Hence, there remains lingering unhappiness regarding the configuration of the EPA negotiating groups in eastern and southern Africa. In West Africa, Mauritania which left ECOWAS in 1999 to join UMA is now required to negotiate in the context of an EPA group built on ECOWAS. Similarly, an EPA negotiating group constructed around CEMAC casts adrift other countries in Central Africa which are members of ECCAS.

A return to the original idea of using five sub-regional groups as the building blocks of Africa’s continental integration framework may provide a logical way of rationalizing the existing intra-African regional integration arrangements. Based on this, the primary sub-regional group in West Africa could be ECOWAS as currently constituted. It is not entirely clear that MRU can or should be revived. A virile MRU could, presumably, have served as a conflict prevention agency for Guinea, Liberia, and Sierra Leone. But this function can be (and is being) performed more effectively and efficiently by ECOWAS. UEMOA represents a deeper level of integration than the larger and more inclusive ECOWAS. It is being imitated by the latter in terms of trade integration (e.g. establishment of CET) and monetary integration (i.e. common currency). The continued co-existence of ECOWAS and UEMOA is a good example of variable geometry; but its sustenance requires further harmonization with respect to issues such as rules of origin and mode of financing.

In Central Africa, the primary subregional integration group should be ECCAS, which is the largest and most inclusive arrangement in the subregion. Its eleven members include the six members of CEMAC and three members of CEPGL. CEPGL could make sense for conflict prevention in the Great Lakes, but has been consumed by that conflict and is largely moribund. It is possible to see CEMAC in ECCAS as UEMOA in ECOWAS. Hence, the some or similar co-existence paradigm may be applicable.

In North Africa, UMA clearly remains the central regional integration agency. After Mauritania left ECOWAS to join UMD, the only further rationalization that is required could be that Egypt should give up its membership of COMESA. In East Africa, a slimmed down COMESA could be the primary subregional integration agency. In particular, the new COMESA may need to change its name (to COMEA for instance) to reflect its subregional coverage and give up Egypt, SADC members and ECCAS members. It would not be unreasonable to see IGAD and IOC as specialized bodies within the subregion. The real problem may be what to do about EAC, given that one of its three members has chosen to leave COMESA and remain in SADC. Southern Africa should have SADC as its primary subregional integration agency. This new SADC should exclude Angola and the Democratic Republic of Congo (DRC), both of which should remain in ECCAS. Finally, SACU can be treated in SADC as UEMOA is in ECOWAS and CEMAC in ECCAS.

The ultimate solution suggested by a “building-block” approach is that the subregional integration agencies would dissolve into the African Economic Community (AEC). In preparation for this, it would be immensely useful to take three important steps quickly. The first is to have each African country to unilaterally eliminate all tariffs and non-tariff barriers against exports from other African countries. The current strategy of achieving this within specific subregions leaves in place unnecessary barriers against intra-African trade. For example, accomplishing this step within both ECOWAS and CEMAC leaves the tariff and non-tariff barriers between Cameroon and Nigeria untouched, two neighbours with substantial intra-trade but which belong to two different sub-regional integration arrangements. The second step is to abolish all rules of origin against African exports in all intra-African regional integration arrangements. If this is regarded as too ambitious, an alternative option would be to adopt the same rules of origin across the various subregional integration groups. Finally, all these subregional integration groups should adopt the same CET. The implementation of these three steps would not only advance the level of trade integration across the continent but also ease the process of fusion as the continent-wide integration arrangement evolves.

#### **D: The African Union and the subregional integration groups**

The vision of an integrated African continent has long been cherished; it is also persistent and enduring in its appeal in terms of both contemporary thinking and future projections. The vision appears to reflect global trends relating to continent-wide regional integration arrangements, such as the proposed Free Trade Area of the Americas (FTAA) and the planned expansions of the European Union. In the African case, the vision is based on the idea that a continent-wide regional integration arrangement should serve as a vehicle for promoting integration aimed at overcoming Africa’s fragmentation (into 53 states), enhancing economic diversification and building mutually beneficial cross-border links among production entities whose dynamic growth and expansion are currently restrained by related to national borders obstacles.

This vision has both socio-political, as well as economic components. With regard to the first, the Organization of African Unity (OAU) has evolved into the African Union (AU); while, in respect of the latter, the Africa-wide integration vision is structured around the African Economic Community (AEC) and a series of regional economic communities (RECs). The goal established for the AEC is to create an African economic and monetary union by 2028, using the RECs as “building blocks” on which the integration programmes of the AEC would be implemented and its ultimate goal achieved. The integration agenda

specified for the AEC were scheduled to be implemented in well-defined phases between 1994 and 2028. A critical part of these phases covers the 1994-1999 period during which the RECs were to be strengthened and thus transformed into effective instruments for implementing the other successive phases of the AEC. In particular, it was expected that the RECs would evolve first into FTAs and then customs unions. These would subsequently be harmonized and consolidated in the context of a process that would culminate in the establishment of a continent-wide common market.

This design obviously placed a heavy burden on the RECs without, apparently, taking full cognizance of their inherent limitations in relation to the required capacity to serve as the nerve centres of Africa's continental integration process. Several of the subregional integration arrangements (which are referred to as RECs under the continent-wide integration vision) predated the AEC, and had goals and objectives that were not necessarily the same as those specified for the AEC. Some also had integration schedules that were not entirely consistent with those of the AEC. In addition, the reality of the situation on the ground in the various subregions did not reflect the neat continent-wide integration design of one REC per subregion with no overlaps in membership and no conflicts with regard to integration goals, objectives, instruments and implementation schedules. In effect, the apparent top-down approach to integration which is implicit in the AEC design has not dovetailed into or been harmonized with the bottom-up integration approach of the subregional integration arrangements. Furthermore, the relationships between the RECs and the AEC on the one hand and between the AEC and the AU on the other hand remain largely shrouded in ambiguity. True, there exists an AEC protocol which has the goal of strengthening the existing RECs, presumably to ensure that they can serve as effective building blocks for continent-wide integration. However, the RECs are not members of the AEC directly and, hence, do not legally constitute organs of the latter and are not directly accountable to it. In the same way, the relationship between the AEC and the AU remain ambiguous (ECA, 2004).

This analysis suggests that there are several outstanding issues of policy and strategy, as well as issues relating to institutional framework which need to be addressed if the relationships among the RECs, AEC and AU are to be clarified and strengthened as a means of enhancing African integration. At the level of policy and strategy, several challenges must be faced. For instance, African integration at the continental level cannot proceed smoothly and at a rapid and sustainable pace without the effective harmonization and coordination of the integration activities of the RECs. This harmonization and coordination process should be directed at a specific goal, i.e. to ensure that the integration initiatives and programmes of the RECs are aligned with the requirements and phases of Africa-wide integration. The process should also extend backwards so that integration policies and programmes can be coordinated across the various national and subregional levels. This two-way process is an essential element for narrowing and, ultimately, eliminating the discrepancies across integration activities, policies and programmes among the RECs. It would also assist in ensuring compatibility among the RECs, all of which will focus on the goals of the AEC.

There are corresponding challenges at the level of institutional framework and capacity-building. ECA (2004) argues that there are no "rules or agreements" currently which link the varying integration programmes of the RECs and their time-phasing with the Africa-wide integration agenda of the AEC. In addition, the AEC and AU have no supranational authority over the RECs, while at the subregional level, such authority is also often lacking and/or ineffective. These deficiencies suggest the need not only to establish the appropriate institutional framework but also to build and/or strengthen relevant mechanisms for

harmonizing, coordinating and monitoring Africa's integration process across national, regional and continental levels.

### **Summary and conclusions**

The political fragmentation of Africa into many small countries constitutes one of the reasons for the enduring appeal of regional integration as a strategy for achieving sustainable growth and poverty reduction in the continent. It is clear, however, that neither the trade objectives nor the development goals of regionalism have been successfully achieved in Africa after about four decades of experimentation. The achievement of the trade objectives has been elusive, partly because of the structure of production and trade which remains unfavourable to intraregional trade and partly because the intra-African regional integration arrangements have not been successful in eliminating intraregional trade barriers. The development goals of regional integration are largely by-products of the trade expansion objectives. Hence, the lack of success in achieving the trade objectives spill over into failure with respect to the development goals. More specifically, country-specific characteristics, rather than regional integration, appear to explain economic growth in Africa; regional integration arrangements therefore appear not to have made any significant difference to real GDP growth across the continent during the 1970-2003 period.

In any case, the continued existence of a large number of overlapping and sometimes conflicting regional integration schemes in Africa has rendered implementation difficult and ineffective in many areas and technically impossible in others. While there is a widely spread recognition of the problems associated with overlapping memberships of regional integration schemes, there has been little or no effective action taken to eliminate the source of the problems. The solution options canvassed include harmonization and rationalization through mergers. The negotiation of EPAs could eliminate some of the problems, but it may also create others by threatening the integrity of the intra-African integration process in various African subregions. A restructuring of intra-African regional integration arrangements along the lines of having one dominant and inclusive REC in each of the five African subregions (North, West, Central, East and South) and elimination of cross-regional memberships could eliminate most (but not all) of the overlaps. More importantly, however, the goal of Africa-wide integration could be achieved more quickly if all African countries unilaterally eliminate all intra-African trade barriers, if all the regional integration arrangements abolish rules-of-origin requirements against intra-African trade, and if they adopt the same common external tariff (CET) against imports from non-African countries.

Currently, various elements of mismatch exist between the goals of Africa-wide integration on the one hand and the policies, programmes and institutional arrangements being deployed at the national and sub-regional levels for the achievement of these goals, on the other hand. Africa-wide integration cannot proceed smoothly without the effective harmonization and coordination of integration activities across national and subregional levels. Correspondingly, an appropriate institutional framework and relevant mechanisms must be established and/or strengthened to link integration activities across national, subregional and continental levels and to harmonize, coordinate and monitor the integration process.

## **2. ISSUES OF INTEREST FOR AFRICAN COUNTRIES IN THE EPA NEGOTIATIONS**

### **Introduction**

The negotiation of a series of economic partnership agreements (EPAs) between each of the four regional groups of African countries and the European Union (EU) poses significant challenges for both individual African countries and regional groups. Beyond these, however, would be the wide-ranging implications of the implementation of the EPAs, given the wide gap between the EU and each of these regions in terms of development stages and indicators, the production and trade structures of the participating countries and the differences among the countries within each regional group. This chapter focuses on the identification and analysis of these and other key issues of interest for the participating African countries in EPA negotiations.

It begins, in section 2.2, with a definition of the EPA and a description of its main features. Both of these are contextualized in relation to the institutional antecedents within which Africa-EU trade and relations were organized in the previous 25 years or so. This section also compares the main features and provisions of these antecedents with those articulated for the EPAs. It concludes with an analysis of the objectives of EPAs with specific reference to the trade, integration and development objectives which African countries have articulated for themselves at the national, regional and continental levels. Section 2.3 identifies the African regional groups that have been constructed to negotiate the EPAs and discusses the differences among the constituent countries, paying particular attention to the implications of these for the process of EPA negotiations.

From the perspectives of the African countries, trade negotiations (including EPA negotiations) should be used as vehicles for promoting certain specified interests. Section 2.4 examines the extent to which EPA negotiations can assist in promoting the interests of African countries. It also discusses the likely impact of the proposed EPAs on regional integration in Africa. Two important and related issues arising from the proposed EPAs are likely to constitute significant challenges for African regional groups in the negotiations. One relates to the transition of Africa-EU trade relations from a non-reciprocal and preferential arrangement to one reflecting full reciprocity. The other arises from the commitment in the Cotonou Partnership Agreement that the EPAs will reflect more favourable treatment for least developed countries (LDC) compared to the non-LDCs. The challenges which these may pose for African regional groups in the EPA negotiations and for particular countries in these groups constitute the focus of the analysis in section 2.5.

The next section reviews the negotiating strategies which the African regional groups are using in the EPA negotiations and assesses their effectiveness in promoting African interests. In addition, section 2.6 suggests how the African regional EPA groups might enhance the effectiveness of their negotiating strategies by exploiting emerging differences in EPA positions between the European Commission and certain EU member countries. It also argues that African EPA negotiations strategy could be made more effective by using an Africa-wide approach in dealing with a number of cross-cutting issues. Finally, this chapter concludes in section 2.7 with a summary of the main points.



## **A: Economic partnership agreements: definition and objectives**

Economic partnership agreements (EPAs) are defined in the Cotonou Agreement (CA) signed in June 2000 between 77 African, Caribbean and Pacific (ACP) countries and the European Union (EU), as the major instrument of economic and trade cooperation between the two parties. Although the CA defines in some detail the objectives and principles of the EPAs, their actual negotiations are specified only in terms of the applicable time schedule and implementation date. In particular, EPAs are the new WTO-compatible trading arrangements linking each of several ACP regions to the EU by removing barriers to trade between them progressively and enhancing cooperation in all trade-related areas. The CA and the EPAs constitute independent legal entities, but have common goals, namely to promote sustainable economic development and contribute to poverty eradication by fostering the smooth and gradual integration of the ACP countries into the world economy. It is in the context of these goals that EPAs are referred to as an instrument of economic and trade cooperation between the ACP countries and the EU, but also as an instrument for development in the ACP countries.

The definition of the EPAs reflects a number of fundamental principles around which they are conceptualized. For instance, EPAs constitute partnerships among the participating parties and thus imply reciprocal rights and obligations for both sides. They are to be built on existing regional integration initiatives in the ACP; the enhanced regional integration process resulting from this will serve as the primary means for fostering the integration of ACP countries into the world economy. Furthermore, while EPAs will serve as stepping stones to facilitate this global integration, they will not only be consistent with the rules of the WTO, but will in some ways go beyond these rules.

The heart of negotiated EPAs is the establishment of free trade areas (FTAs) between a series of ACP regional groups and the EU. These FTAs are expected to progressively eliminate substantially all tariffs and non-tariff barriers against imports and exports of goods, as well as simplify all requirements and procedures relating to imports and exports. In addition, they will remove constraints against import and export of services and address other trade-related areas with a view to the elimination of other factors which may cause segmentation of markets. In effect, reciprocal liberalization – the cornerstone of the EPAs – is expected to contribute both directly and indirectly to the EPA objectives of promoting sustainable development and contributing to poverty eradication in the ACP countries. For instance, to the extent that they build on existing regional integration programmes in the ACP regional groups, the EPAs can be expected to assist in consolidating and deepening intra-ACP regional integration and creating larger regional markets that are governed by a stable, transparent and predictable trade regime which should in turn allow for the exploitation of economies of scale and increasing specialization, as well as help to increase competitiveness in the integrated ACP regions. Similarly, by eliminating obstacles to trade in goods and services between various ACP regional groups and the EU and by extending ACP-EU cooperation to all trade-related areas, the EPAs are expected to assist the ACP regions in locking-in their policy reforms and making them more predictable and less reversible, and enhancing trade and investment flows between the ACP regions and the EU.

The antecedents of both Cotonou Agreement and the EPAs were a series of Lomé Conventions which governed ACP-EU trade relations between 1975 and 2000. Under Lomé, non-reciprocal trade preferences granted duty-free access to the EU market for many products originating in ACP countries. The full range of instruments of ACP-EU cooperation under Lomé consist of three broad groups, i.e. trade preferences, commodity protocols, and

financial and technical assistance. Cotonou has extended this trade arrangement until the end of 2007; EPAs would be negotiated during this period with a view to replacing them on 1 January 2008 by the reciprocal arrangement under the EPAs. There are three instruments of ACP-EU cooperation under Lomé, namely: trade preferences, commodity protocols, and financial and technical assistance.

The trade preferences component of these cooperation instruments grant an advantage to ACP products imported into the EU when compared to competing products from non-ACP countries. Trade preferences under Lomé mostly took the form of tariff margins (i.e. difference between tariffs applicable to non-ACP countries and those paid by ACP exporters). In addition, however, there were some trade preferences which took the form of non-tariff advantages, in terms of exemptions from such non-tariff restrictions such as import quotas. In general, manufactured and processed products are exempted from import duties on entry into the EU provided, of course, that the applicable rules of origin are satisfied. In comparison, preferences for agricultural products are less generous, except for tropical products which do not compete with EU products. Thus, products such as coffee, cocoa and others generally enter the EU duty free. The applicability of trade preferences to other agricultural products is sometimes limited by quotas, ceilings and simple exclusion of certain products, as well as seasonal restrictions for fruits and vegetables. In relation to temperate products, ACP exporters are exempted from certain restrictions which are applied to imports as part of EU's common agricultural policy (CAP). These exemptions give ACP exporters an advantage over non-ACP exporters to the EU, but they nevertheless remain at a disadvantage in relation to EU domestic producers. Certain developments have, over time, led to the erosion of the Lomé trade preferences. The EU has been lowering its trade barriers multilaterally in favour of all WTO members over time, and this has meant a reduction in the preference margin enjoyed by ACP exporters. In addition, the EU has also granted trade preferences to a number of non-ACP countries in such regions as Eastern Europe, the Maghreb and Middle East, while also providing duty-free access to the EU market for all least developed countries (LDCs), including those from outside the ACP group of states. Finally, the EU maintain a range of other non-tariff barriers and domestic support measures that are not covered by Lomé preferences. In effect, measures such as sanitary and phytosanitary (SPS) measures, anti-dumping, domestic support and agricultural export subsidies substantially restrict gains to ACP exporters that could be derived from Lomé preferences.

Commodity protocols, which constitute the second group of instruments of ACP-EU cooperation under Lomé, cover four agricultural products. In particular, the commodity protocols granted free access to the EU market for the import of specific quantities of bananas and rum from certain selected and traditional ACP suppliers; limited the distorting effect of the CAP on ACP exports of sugar and beef and veal; and extended the benefits of CAP-induced high price to ACP exporters. As in the case of preferential tariff margins, the benefits to ACP exporters obtained from the commodity protocols have been progressively reduced over time by certain developments both within the EU and in the context of the WTO. For instance, the negotiations on agriculture in the WTO will reduce the advantage of the protocols in terms of tariff reductions; they will also reduce the level of support to sugar export prices. In addition, the EU banana trade regime has been challenged at the WTO as being discriminatory. The response by the EU in revising this trade regime amounts to a reduction in the benefits enjoyed by ACP exporters. Similarly, the EU-US agreement on spirits signed in 1996 virtually guarantees the disappearance of the rum protocol. Finally, an important effect of the reform of CAP in the EU is the reduction of intervention prices paid to

beneficiaries of certain products, including beef and veal, which will reduce the benefits derived by the relevant ACP exporters.

The third group of ACP-EU cooperation instruments consists of technical and financial assistance which, like the other two groups, is targeted not only at promoting ACP-EU trade but also strengthening the production and export capacities of ACP countries. Two instruments stand out in this group. One is the STABEX, a fund used for stabilizing the export earnings of certain raw materials. The other is SYSMIN which assists in the financing of the mining sector. While the Cotonou Agreement provides for a temporary extension of the trade preferences component of Lomé, these special technical and financial assistance instruments have either disappeared or been merged into the more general European Development Fund (EDF).

Taken together, the various instruments of ACP-EU cooperation under Lomé were expected to expand and diversify exports of ACP countries as a means of enhancing the growth and development of their economies. However, these objectives have not been achieved. ACP exporters remain largely undiversified away from their predominant reliance on primary commodities; while the share of ACP exports in the EU market has declined significantly through the Lomé period and only a few ACP countries have been able to take advantage of the various opportunities provided by Lomé. In replacing Lomé with Cotonou and the associated EPAs, it is suggested (European Commission, 2003) that ACP-EU trade cooperation would be fundamentally altered in at least three directions. First, its focus would be expanded. In particular, the broadening of the focus of economic and trade cooperation would be reflected in a change in its objectives, as this shifts from the promotion of ACP-EU trade to the fostering of “the smooth and gradual integration of the ACP States into the world economy”. Second, the scope of ACP-EU trade cooperation would be expanded. In particular, the scope would no longer be directed primarily at improving access to the EU market but rather at “enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment”. Third, the nature of the ACP-EU trade cooperation would shift from non-reciprocal to reciprocal in the context of a series of EPAs (i.e. FTAs) which progressively eliminate substantially all trade barriers between the two parties.

Neither the broadening of the focus nor the expansion of the scope of ACP-EU trade cooperation from Lomé to Cotonou represents a radical shift in the relationship. The really radical shift is clearly in the third direction, i.e. the movement from non-reciprocity under Lomé to reciprocity in Cotonou and the EPAs. This is the one which will, for the first time, force ACP countries to negotiate a trade agreement with the EU which contains binding obligations on both sides. Consistent with its right to discontinue a unilaterally granted non-reciprocal preferential trade arrangement, the EU took the decision solely to move the ACP-EU trade cooperation from the non-reciprocal Lomé to the reciprocity-based framework of Cotonou and EPAs. This decision is justified, however, in terms of Lomé’s incompatibility with WTO rules. In particular, it is argued that Lomé infringes against the non-discrimination principle established by GATT Article 1. It is argued also that this infringement is not protected by an appeal to the “Enabling Clause” (which permits special and differential treatment of developing countries in the WTO) because Lomé preferences are more generous towards the ACP countries than towards other developing countries and, hence, they discriminate between these two groups of countries.

It is argued, furthermore, that continuation of ACP-EU trade cooperation along the lines of Lomé is neither feasible nor sustainable because it needs appropriate periodic waivers

from the WTO; these waivers have become increasingly difficult to obtain while various elements of the framework are and will remain vulnerable to challenge at the WTO. In these circumstances, therefore, a sustainable ACP-EU trade relationship has to be based on a WTO-compatible framework which the EPAs represent, provided they are designed as FTAs which satisfy the requirements of GATT 1994 Article XXIV by eliminating barriers against substantially all trade between the parties.

It is of critical importance, from the perspectives of the participating African countries, to examine the objectives of the EPAs in relation to these African countries. In doing this, it is useful to distinguish among objectives, intermediate targets, policy instruments and strategy. The objectives refer to the ultimate goals of a policy or programme, intermediate targets refer to specified benchmarks for key variables which serve as the direct targets against which policy instruments are calibrated; these are, in turn, defined as levers for actions to be taken to achieve the stated objectives. Finally, strategy involves the choice of policy instruments and implementation of policy where the latter element includes both the sequencing of policy instruments and their implementation time schedule. Based on this framework, the EPA objectives, intermediate targets, policy instruments and strategy can be identified and compared with those articulated by African countries for their economies. Broadly, some of these key issues for clarity and consensus include the principles and objectives of EPAs, WTO compatibility, market access, agriculture, fisheries, services, trade-related issues, and development support (UNCTAD, 2005e).

This exercise shows that the ultimate goals of trade negotiations and trade policy specified by most African countries are the same as those indicated for the EPAs in the Cotonou Agreement. These are the promotion of sustainable economic growth and development and the eradication of poverty. In both cases also the intermediate targets (to which the policy instruments are more directly related) are the expansion and diversification of trade, and increased domestic and foreign investment. In other words, trade and investment are regarded not as ends in themselves, but as means for promoting sustainable growth and development and the eradication of poverty. Given the specified intermediate targets, the appropriate policy instruments are largely predetermined and include elements such as import liberalization, export promotion, and supply response capacity building. The provisions of Cotonou, in Article 34, capture these policy instruments in terms of “fostering the smooth and gradual integration of ACP States into the world economy” and “enhancing the production, supply and trading capacity of ACP countries, as well as their capacity to attract investment”. In addition, Article 35 indicates that the EPAs “shall build on regional integration initiatives of ACP States”, while Article 37 suggests the establishment of a timetable for the progressive removal of barriers to trade between the parties. In other words, African countries participating in the EPAs will have to implement import liberalization within their regions and in relation to the EU. In the process, their exports will be promoted through reciprocal enhancement of access to intraregional and EU markets. Finally, to enable African countries to benefit from the enhanced market access opportunities, the EPAs will include appropriate export supply response capacity building and strengthening measures.

African interests and EPA offers diverge most dramatically, perhaps, in the area of strategy. With respect to the former, it has been suggested (Oyejide, 2000, 2002) that African participation in trade negotiations is driven by the following concerns:

- Promotion of African export expansion and diversification (in terms of both products and markets) through the elimination or reduction of external market access barriers;

- Enhancement of domestic supply response capacity to take fuller advantage of both internal and external market access opportunities through the elimination of various supply-side constraints; and
- Reduction, amelioration and spreading of the adjustment costs, associated with fulfilling African trade liberalization obligations arising from various trade agreements.

In effect, the interest of African countries would be more effectively reflected in the context of a strategy which prioritizes enhanced market access and supply response capacity building ahead of import liberalization. Another strategy would be one which prioritizes unilateral, intra-African regional, and multilateral import liberalization above opening of domestic markets to the EU on a bilateral and preferential basis. The EPA strategy runs counter to this to the extent that it may impose substantial import liberalization on African countries before adequate supply response capacity has been built or sufficiently strengthened and to the extent that it seeks to push African countries to open their markets to EU goods and services faster and more substantially than to goods and services from other African EPA regions and the rest of the world. In both directions, the implications are likely to be larger adjustment costs that must be borne over a much shorter time period than established African trade negotiations and import liberalization interests would suggest.

These represent some of the problems which have induced the general perception that EPAs constitute an attempt by the EU to force liberalization on African countries without giving much in return (Commission for Africa, 2005). Along the same lines it is suggested that there is an inherent tension between the EU's free trade agenda of and the development objectives articulated for the EPAs (Christian Aid, 2004) since blanket liberalization may not necessarily be good for development to the extent that the benefits of liberalization are not automatic and there are likely to be significant effects from opening up a poor country's market to import from more developed economies without first building its export supply response and trade capacity. The EU has sought to counter the negative perception of EPAs by repeatedly emphasizing its desire to use EPAs as "instrument of development" (Hinkle and Farmer, 2005) by reaffirming their central development objective. It has also stated its willingness to be flexible in allowing the ACP States to define both the trade provisions and support element of the EPAs, promising to ensure that no unfair demands for reciprocity will be made on African countries in negotiating EPAs, and that no enforced import liberalization would be imposed until targeted aid programmes have built up the export supply response and trade capacity of participating African countries.

EU Member States are also increasing pressure on the European Commission to ensure that development objectives can be realized in the context of both the policy instrument and negotiation strategy being deployed. For instance, the statement of the United Kingdom government (DTI/DFID, 2005) argues that "without the capacity or the right conditions, trade liberalization can be harmful", and that African and other countries forming EPA regional groups should, therefore, be allowed to make their "own decision on the timing, pace, sequencing and product coverage of market opening in line with individual country's national development plans and poverty reduction strategies". In particular, it is recommended that EPAs should, therefore, be accompanied by the resources required by participating African and other countries for building the infrastructure and related economic capacity needed for benefiting from enhanced market access in the EU and the rest of the world.

## **B: African regional EPA groups**

The configuration of the four African regional groups for negotiating EPAs with the EU has generated an intensive debate on several issues. For instance, ensuring that the EPA regional grouping would be consistent with and supportive of the existing intra-African regional integration arrangements featured prominently as an important consideration, given the requirement that the EPA process would build upon existing regional integration initiatives. The configuration exercise was also confronted with the problems associated with multiple memberships of regional integration arrangements and incomplete integration processes in the existing regional schemes. In addition, there were concerns expressed regarding how to ensure cohesiveness in each regional EPA negotiating group while, at the same time, avoiding duplication of effort but resisting the temptation to force countries into making choices on membership of particular regional organizations. In the end, the configuration of each of the four African regional EPA negotiating groups involved varying degrees of compromise with respect to the issues raised above (Oyejide, 2004). The analysis below hints at the degree of compromise that may be achieved on the relevant issues in each of the four groups.

In West Africa, the regional group which is commonly referred to as the West Africa-European Union (WA-EU) EPA group is made up of all 16 countries in the region. It is configured around the dominant intra-African regional integration arrangement in the region, i.e. ECOWAS (the Economic Community of West African States). However, ECOWAS currently consists of 15 countries: Cape Verde, Gambia, Ghana, Guinea, Liberia, Nigeria, Sierra Leone, as well as Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo; with the last eight countries also being members of UEMOA. The remaining member of the WA-EU EPA group is Mauritania. This country was, originally a member of ECOWAS, but it withdrew its membership in 1999 and subsequently joined the Arab Maghreb Union (UMA). Its return to the WA-EU EPA group while remaining in the UMA worsens the problem of overlap. Beyond this, the co-existence of UEMOA within ECOWAS is associated with problems which were being gradually dealt with before the EPA but whose solution may be hastened by the EPA process. In particular, the non-UEMOA members of ECOWAS decided, in December 1999, to adopt the same common external tariff (CET) as that of UEMOA. The full implementation of this decision would have required resolving other areas of differences, such as rules of origin and the means for financing regional integration activities.

The degree of integration already achieved in each African regional group matters for the purpose of negotiating an EPA with the EU. There is clearly a strong preference for each of these groups to have achieved the status of a customs union or, at least, a fully functioning FTA, prior to the establishment and coming into force of the EPAs in January 2008. The WA-EU EPA group, as currently composed, has three layers of membership made up of an inner core of UEMOA, the non-UEMOA ECOWAS, and Mauritania. The UEMOA is already a Customs union which has also implemented its CET of four rates in the range of 0 – 20 per cent. But its internal integration process remains incomplete to the extent that not all tariff and non-tariff intra-UEMOA trade barriers have been eliminated. ECOWAS is currently an FTA and its trade liberalization scheme has not been fully implemented. As indicated earlier, however, the decision to adopt the CET which operates in UEMOA is currently being implemented at varying speeds in the rest of ECOWAS. Most of the non-UEMOA countries are unlikely to experience major problems in this respect, it is therefore likely that the same CET will be in place across ECOWAS before January 2008. Based on their unilateral import liberalization programmes, Gambia and Guinea, have tariff structures

that are well within the CET, while Ghana and Sierra Leone can achieve the same goal through a reduction of their maximum tariff rates. With effect from October 2005, Nigeria has adopted an amended version of the CET, this version's five rates (0.5, 10, 20 and 50 per cent) represent a dramatic compression of the range of tariffs which stood at 0-150 per cent before this policy shift. Yet Nigeria remains outside the agreed CET, not only in terms of the maximum rate of 50 per cent (instead of 20 per cent), but also in terms of the pervasive use of import prohibitions. Finally, although not a member of ECOWAS, Mauritania's current tariff structure places the country well within the CET of the UEMOA.

The regional EPA negotiation group for Central Africa is configured around an existing intra-African regional integration arrangement, CEMAC. This organization has the following six members: Cameroon, Central African Republic, Chad, Republic of Congo, Gabon and Equatorial Guinea. The Central African-EU (CA-EU) EPA negotiation group is completed with the addition of São Tomé and Príncipe. CEMAC is not as inclusive of all countries in Central Africa as ECCAS. Hence, the CA-EU EPA negotiation group excludes several countries in the region and to that extent, is unable to fully meet the requirement of building on the existing intra-African regional integration initiatives in Central Africa. But CEMAC is a Customs union with an established CET (with tariff rates in the range of 0-30 per cent), although it has not succeeded in eliminating intra-CEMAC trade barriers. To meet the minimum internal integration requirement for the CA-EU EPA group, it is planned that São Tomé and Príncipe would be linked to CEMAC through an FTA.

The incidence of overlapping and multiple membership of intra-African regional integration arrangement is particularly pervasive in Eastern and Southern Africa. The configuration of the two EPA negotiation groups in both regions has not solved this problem. Hence, the requirement that the EPA process should build on the existing regional integration initiatives has been difficult to satisfy. The difficult debate eventually produced two regional EPA negotiation groups; i.e. an Eastern and Southern Africa (ESA) regional EPA negotiation group alongside a SADC regional EPA negotiation group – a solution which has not fully satisfied all concerned.

The ESA-EU EPA negotiation group comprises the following 16 African countries: Burundi, Comoros, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. The core of this group is, of course, COMESA; although not all of its member-countries are in the group, while several of those in the group also belong to other intra-African regional integration organizations such as EAC (Kenya and Uganda); ECCAS (Burundi, Democratic Republic of Congo, and Rwanda); IGAD (Djibouti, Eritrea, Ethiopia and Kenya); IOC (Comoros, Madagascar, Mauritius, Seychelles); and SADC (Mauritius, Seychelles, Zambia, and Zimbabwe). The inclusion of IGAD and IOC member countries in the ESA-EU EPA negotiation group built around COMESA should not create significant technical problems since both of these regional integration schemes have broadly adopted the trade liberalization programme of COMESA. The same cannot be said regarding the inclusion of some members of EAC and SADC, each of which has a different trade liberalization programme from that of COMESA.

COMESA had planned to be a fully functioning FTA by 2000 and a Customs union by 2004. Neither of these goals has been fully achieved, but a CET (of 0, 5, 15, and 30 per cent tariff rates) has been adopted for implementation. Currently, only six countries in this group (Democratic Republic of Congo, Eritrea, Madagascar, Malawi, Zambia, and Uganda) have maximum *ad valorem* tariff rates that place them within the range of the CET.

The SADC-EU EPA negotiation group is made up of seven African countries, i.e. Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland and the United Republic of Tanzania. Although the group carries the SADC name, most of its members are also in SACU (Botswana, Lesotho, Namibia and Swaziland), although it excludes SACU's largest economy, South Africa which has signed a separate FTA with the EU. There are also four SADC member countries which are outside this group. In addition, the group overlaps with ECCAS (Angola), EAC (United Republic of Tanzania) and COMESA (Angola, Namibia, and Swaziland).

SACU has the distinction of being Africa's oldest and most effective Customs union. It has successfully achieved the target of eliminating all barriers against intra-SACU trade flows and has a common external tariff as well as a common Customs organization. Since SACU is built around the dominant South African economy, South Africa's unilateral trade policy has significant implications for the Customs union. South Africa has signed bilateral FTAs with Zimbabwe (renewed in 1997), Zambia (1999), and perhaps more importantly with the EU (1999). These unilateral actions raise significant technical problems for the SACU trade regime. Clearly, a bilateral trade agreement between a Customs union member and a third country (outside the union) could be incompatible with its Customs union obligations because of the CET.

SADC's trade liberalization programme is associated with an implementation schedule which envisages that its FTA will be fully established by 2008. Discussions have also suggested that SADC would be transformed into a Customs union with a CET soon after the full FTA status is achieved. EPA negotiations within the SADC group would clearly require convergence of the trade regimes of its SACU and non-SACU component parts. In addition, given that South Africa is a member of SACU, convergence would be required with the trade regime associated with the South Africa-EU FTA. Beyond this, the United Republic of Tanzania will face the additional problem of harmonizing its obligations in the EAC (which is also to become a Customs union with a CET) with those in the SADC – EU regional EPA negotiation group. Meanwhile, using SACU's CET (0-55 per cent) as a benchmark, it is clear that the three non-SACU members of the SADC-EU regional EPA negotiation group have tariff rates that lie within the CET range; i.e., Mozambique (0-30 per cent), United Republic of Tanzania (0-25 per cent), and Angola (0-40 per cent). This suggests that if SADC's proposed CET follows the pattern in the other African regions and therefore contains tariffs in the range of 0-30 per cent, much of the adjustment required prior to the implementation of the EPA would have to be made by the SACU component of the group's membership.

The analysis of the configuration of the four African regional EPA negotiation groups shows that while it has involved some reshuffling of the membership of the existing intra-African regional integration arrangements, the problem of overlaps has not been fully addressed. In West Africa, for instance, it is not yet clear that Mauritania will now reclaim its membership of ECOWAS and give up its membership of UMA. Similarly, overlaps continue to exist as many of the countries configured into the ESA-EU regional EPA negotiation group and the SADC- EU regional EPA negotiation group continue to maintain their membership of other intra-African regional integration arrangements outside these groups. In other words, the EPA process does not appear to require that countries which are members of a particular regional EPA group should renounce their membership of any other intra-African regional integration arrangement which is not part of their EPA group. Hence, the process has not resolved the problems associated with the overlaps; and it may have worsened the situation in certain cases.



### **C: Promoting African interests in the EPA negotiations**

The EU's negotiating mandate for the EPAs may not necessarily and automatically promote the interests of participating African countries. In preparing their own negotiating positions and strategies, African countries could therefore be assisted by an analysis which identifies and discusses the key areas of divergence with a view to suggesting what the appropriate African responses may be. In broad terms, the EU mandate for the EPA negotiation is structured around the progressive abolition of all tariff and non-tariff barriers against the import and export of goods as well as trade in services between the EU and each participating African regional EPA group, combined with the liberalization of all areas relevant to trade. This liberalization programme is constrained by two special characteristics: first, it is preferential and hence discriminatory; and second, it must be WTO-compatible and therefore cover substantially all trade between the parties and be fully implemented within a period not exceeding 10 years. An analysis of the areas of divergence between the EU's EPA negotiating mandate and African interests may usefully focus on issues relating to the content of the implied liberalization programme, its preferential and discriminatory nature, the time period within which it must be completed, as well as the likely consequences.

EPAs are to be made WTO-compatible primarily by treating them as FTAs and making market access concessions between the EU and participating African regional groups of countries reciprocal. In particular, GATT 1994 Article XXIV requires that "substantially all trade" between the parties to an FTA be liberalized. There are several arguments offered to modify a literary interpretation of the requirements imposed by this article. One is that these requirements should apply to FTAs among developed countries only. Since the EPAs will link a developed-country group (the EU) with groups of developing and least developed countries (the African regional EPA groups), these requirements should be modified so that, for consistency among WTO rules, elements of special and different treatment (SDT) for developing countries can be accommodated (Onguglo and Ito, 2003). In addition, the ongoing negotiations on the Doha Work Programme (DWP) in the WTO include discussions on regional trade agreement rules whose outcome may produce this modification. In any case, it is further argued, even if these requirements are not modified and therefore remain applicable to the EPAs, they do not mean that all trade must be liberalized; hence, African countries have some room for manoeuvre by negotiating the maintenance of their current trade barriers on a range of imports from the EU (Stevens and Kennan, 2005).

In general, therefore, it must be assumed that the EPA negotiations will require that participating African countries should make appropriate market access concessions aimed at further opening their markets to imports of goods and services from the EU, in reciprocal version and beyond the level of trade liberalization achieved through recent unilateral efforts. In particular, the basic EU demand on African EPA countries in terms of further opening to imports of EU products will be the reduction of African applied tariffs on approximately 80 – 90 per cent of their imports from the EU to zero over a transitional period which is permitted under GATT 1994 Article XXIV starting from January 2008 when the EPAs become effective. A corresponding demand with respect to trade in services, building on the GATS, can be expected in the context of the EPA negotiations. In this light, African regional economic communities, such as COMESA and SADC, are engaging in regional services liberalization negotiations with a focus also on the implications for EPAs (see for example UNCTAD, 2006).

With respect to trade-related areas, the EU negotiating mandate appears to be more ambitious, in terms of its demand on African countries, than the Doha negotiations and the

provisions of the Cotonou Agreement. Thus, while it has been agreed to exclude negotiations on such issues as trade and investment, competition policy and government procurement from the DWP, the EU mandate for the EPA negotiations contains explicit liberalization on these trade-related areas, along with trade facilitation. In addition, Cotonou makes no reference to public procurement, but the EU negotiating mandate demands “progressive liberalization of ..... procurement markets. Cotonou also calls for “cooperation” in creating a favourable, predictable and secure climate for investment, but the EU negotiating mandate asks for the establishment of a “regulatory framework”. The fact that ACP and AU (African Union) countries were strongly opposed to the inclusion of these issues in the Doha negotiations suggests that similar EU demands in the EPA negotiations may not be well received in Africa. Furthermore, the fact that a new multilateral agreement on trade facilitation is currently under negotiation in the DWP, this may well render EPA-related regional initiatives on the same issue largely redundant.

EPAs are, by nature, preferential and discriminatory. As is well known, preferential and reciprocal free trade may be associated with trade diversion costs. In addition, this type of trade liberalization creates the risk of a “hub and spoke” phenomenon, where the “hub” is the EU and the “spokes” are the African regional EPA groups. In this context, while administrative costs remain on trade between the “spokes”, they are eliminated on trade between the “hub” and each of the “spokes”. Hence, there is a tendency for both investment and production that service the market in the “spokes” to be concentrated in the “hub” (i.e. the EU) rather than in the “spokes” themselves; with the result that the arrangement tends to be disproportionately more beneficial to the EU than the African regional EPA groups.

The liberalization agenda of the EPAs is normally expected to be fully implemented over a period of 10 years, although this can be exceeded in “exceptional cases”. There is, of course, the additional flexibility provided by the fact that not necessarily all trade needs to be liberalized to complete a WTO-compatible FTA under current WTO rules. Thus, specific product groups which either partly considers “sensitive” may retain their protective barriers, provided such exclusions do not threaten meeting the threshold established for “substantially all trade”.

In spite of this narrow flexibility, the limited transition period built into the EPAs is clearly exogenous to the determination of optimal sustainable development and poverty reduction strategies of many African countries. It may be argued that the aggressive trade liberalization programme over a limited period associated with the EPAs could have a significant and negative impact on poverty to the extent that it allows rapid exposure to competition from EU imports and thus undermines the industrial development strategy of encouraging small enterprises to progress through the value chain and into new processing and manufacturing activities. Hitherto, many African countries have carefully reflected their specific circumstances and country characteristics in their unilateral trade liberalization programmes. In cases where this has, apparently, not been adequately done in the context of intra-African regional integration arrangement, subsequent implementation problems have been experienced. By imposing a “one-size-fits-all” regional trade liberalization agenda over such a limited implementation time period, the EPAs may be ignoring significant differences across countries in terms of initial conditions, implementation capacities and adjustment costs. These considerations suggest that African regional EPA groups may wish to negotiate both the sequencing and phasing of EPA-induced liberalization programmes and ensure that they are made conditional upon and accommodate these differences, although this will have significant implications for the WTO-compatibility of the EPAs (Stevens and Kennan, 2005).

EPA-induced preferential trade liberalization in favour of the EU is likely to have significant consequences for participating African countries. These will take various forms, including loss of fiscal revenue, trade diversion, loss of output as well as negative impact on intra-African regional trade and substantial adjustment costs associated with the liberalization of trade-related areas. Several studies have quantified some of the components of the impact of EPAs on African countries, the most important of these include Busse *et al.* (2004) on the West African regional EPA group, COMESA (2002) for the ESA regional EPA group, Kech and Piermartin (2005), and Tekere and Ndelela (2003) with respect to the SADC regional EPA group. In what follows, the quantification of various components of the impacts contained in Karingi *et al.* (2005) will be used for illustrative purposes because they have been derived on the basis of the same analytical framework and methodology and are therefore comparable across participating African countries.

Because about a third of all government revenue in African countries is derived from trade taxes and because the EU provides a large proportion of African imports, a discussion of EPA-induced preferential liberalization of African trade regimes in favour of the EU must recognize its consequences for fiscal revenue losses. It is, therefore, not surprising that these losses constitute the major impact of the EPAs which has received much attention. Table 2.1 provides estimates of the projected EPA-induced revenue losses that would be borne by most of the African countries which form the four regional EPA groups. It is clear from this table that all four African regional EPA groups will suffer significant revenue losses as a result of EPA-induced elimination of duties on their imports from the EU. Of course, the magnitude of these losses varies across the regions and countries, reflecting differences in existing tariff structure and levels, structure of imports from the EU, as well as the share of the EU in each country's imports basket. This variation also reflects the relative adjustment costs which various countries may have to bear.

For instance, a comparison across the African regional EPA groups shows that while the aggregate tariff revenue losses amount to over \$2 billion, close to 50 per cent of these losses are estimated to accrue to the ECOWAS EPA group at the high end, while about 13 per cent would be accounted for by the SADC EPA group at the low end. This regional distribution of tariff revenue losses is not just a reflection of the number of countries in each regional EPA group. In fact, Nigeria alone accounts for a tariff revenue loss of over \$426 million, or almost half of the losses incurred by the entire ECOWAS EPA groups. In addition, Nigeria's tariff revenue loss is larger than each of those of the SADC EPA group (\$253.5 m.) and the CEMAC EPA group (\$366.1 m.); and is almost as large as that of the ESA EPA group (\$473.0). It is estimated that five other countries will incur tariff revenue losses in excess of EPA \$100 million as a result of EPA-induced import liberalization. These include Ghana (\$194 m.), Cameroon (\$149 m.), Côte d'Ivoire (\$112 m.), Kenya (\$107 m.) and Angola (\$103 m.). At the low end of these losses are the smaller countries which account for less than \$5 million in tariff revenue losses. They include Lesotho (\$0.3 m.), Swaziland (\$0.8 m.), Guinea-Bissau (\$2 m.) and Namibia (\$3.8 m.).

**Table 2.1**

Estimated EPA-induced revenue losses by African regional EPA groups

<u>Regional EPA groups/country</u>	<u>Revenue loss (\$ million)</u>
<b>CEMAC-EU EPA</b>	
Cameroon	- 149.256
Congo	- 75.104
Gabon	- 74.302
Equatorial Guinea	- 33.914
Central African Republic	- 5.845
Chad	- 26.677
<b>ECOWAS-EU EPA</b>	
Ghana	- 193.683
Burkina Faso	- 22.004
Benin	- 39.523
Côte d'Ivoire	- 112.237
Guinea-Bissau	- 1.990
Niger	- 20.487
Nigeria	- 426.903
Mali	- 33.142
Mauritania	- 14.573
Senegal	- 80.203
Togo	- 35.472
<b>ESA-EU EPA</b>	
Burundi	- 7.665
Democratic Republic of Congo	- 24.692
Ethiopia	- 55.126
Eritrea	- 7.385
Djibouti	- 37.523
Kenya	- 107.281
Madagascar	- 7.712
Malawi	- 7.090
Mauritius	- 71.118
Rwanda	- 5.623
Seychelles	- 24.897
Zimbabwe	- 18.431
Sudan	- 73.197
Uganda	- 9.458
Zambia	- 15.844
<b>SADC-EU EPA</b>	
Angola	- 103.255
Botswana	- 5.233
Lesotho	- 0.256
Mozambique	- 7.640
Namibia	- 3.832
Swaziland	- 0.811
U.R Tanzania	- 32.491

*Source: Karingi et al., 2005*

The EPA-induced elimination of tariffs against African imports from the EU will not only be associated with the loss of tariff revenue by African countries, but also by significant “competition” effects. These are likely to impact upon domestic producers of importable goods on the one hand, and non-EU suppliers of imports, on the other. Normally, the elimination of import duties on imports from the EU should induce EU exporters to reduce their prices on the African domestic markets. This should induce an increase in imports from the EU and, hence, a reduction in the (African) domestic production of the relevant import-competing goods, as well as a reduction of imports from non-EU sources. These are, respectively, reflected as “de-industrialization” and trade diversion. But even if domestic prices are not reduced because EU suppliers appropriate the additional gains by increasing their margins, both the domestic producers and non-EU suppliers will still experience increased competition in the typical African market.

Table 2.2 offers some estimates of the magnitude of these competition effects. Three broad conclusions can be drawn from this table. First, across all four African regional EPA groups, the elimination of tariffs on imports from the EU will generate substantial trade creation in favour of the EU. Second, this liberalization will also be associated with some net trade diversion which is welfare reducing since it replaces more efficient non-EU import sources. Third, intra-African regional trade also suffers some losses due to trade diversion. A comparison across the four African regional EPA groups shows that much of the trade creation in the ECOWAS EPA region is generated in four countries, namely, Nigeria (\$617 m.), Ghana (\$268 m.), Côte d’Ivoire (\$189 m.), and Senegal (\$145 m.) with a clear dominance by Nigeria. In the CEMAC EPA region, three countries play a similar role: Cameroon (\$255 m.) Gabon (\$127 m.) and Congo (\$124 m.). In the ESA EPA region, most of the trade creation is derived from Kenya (\$211 m.), Mauritius (\$16 m.), Ethiopia (\$121 m.) and Sudan (\$120 m.); while in the SADC EPA region, trade is largely generated in Angola (\$175 m.) and United Republic of Tanzania (\$64 m.).

Thus, overall the ECOWAS region leads the other three African regional EPA groups, while Nigeria generates more trade creation for the EU than either SADC or CEMAC region. Net trade diversion is substantial, particularly in the cases of Nigeria (\$173 million) and Ghana (\$102 m.) in ECOWAS; in the cases of Kenya (\$61 m.), Mauritius (\$45 m.) and Sudan (\$34 m.) in the ESA region; in the cases of Angola (\$39 m.) and United Republic of Tanzania (\$25 m.) in the SADC region; as well as Gabon (\$28 m.) and Cameroon (\$27 m.) in the CEMAC region. Net trade diversion in ECOWAS dominates that in other African EPA regions; while Nigeria’s contribution to overall net trade diversion dominates those of other African EPA countries. Finally, diverted intraregional trade is not particularly large in the CEMAC and SADC EPA regions. It is concentrated in only a few countries in the ECOWAS region, although Ghana (\$24 m.) accounts for most of it.

**Table 2.2**

## Competition effects of EPA-induced liberalization

<u>Regional EPA</u> group/country	<u>Trade creation</u> (\$ million)	<u>Net trade</u> <u>diversion</u> (\$ million)	<u>Diverted intraregional</u> <u>trade</u> (\$ million)
<b>CEMAC-EU EPA</b>			
Cameroon	255.4	-26.6	0.0
Congo	123.7	-20.5	0.0
Gabon	126.5	-27.7	1.2
Equatorial Guinea	53.3	-5.4	0.0
Central African Republic	8.2	-1.3	0.3
Chad	40.7	-5.9	0.0
<b>ECOWAS-EU EPA</b>			
Ghana	267.8	-101.9	-23.5
Burkina Faso	40.5	-9.2	-2.9
Benin	61.1	-14.1	-2.7
Côte d'Ivoire	188.8	-26.4	-1.8
Guinea-Bissau	2.8	-0.3	0.0
Niger	39.5	-4.3	0.0
Nigeria	617.7	-172.9	-0.1
Mali	54.7	-4.5	0.0
Mauritania	28.5	-5.3	-2.0
Senegal	144.6	-16.3	0.0
Togo	58.3	-6.5	0.0
<b>ESA-EU EPA</b>			
Burundi	12.4	-1.6	-0.3
Democratic Rep Congo	45.4	-6.8	-0.1
Ethiopia	120.7	-31.2	-3.3
Eritrea	13.1	-1.4	0.0
Djibouti	56.5	-9.6	-0.2
Kenya	211.3	-60.5	-2.4
Madagascar	16.6	-4.1	-0.2
Malawi	15.1	-6.5	-0.3
Mauritius	166.9	-44.7	-2.9
Rwanda	10.6	-3.1	-0.7
Seychelles	25.3	-2.7	-0.4
Zimbabwe	45.6	-17.6	-0.3
Sudan	119.6	-33.5	-1.2
Uganda	19.2	-9.0	-1.2
Zambia	31.7	-10.4	-0.4
<b>SADC-EU EPA</b>			
Angola	174.5	-39.0	-0.1
Botswana	9.3	-4.1	0.0
Lesotho	0.5	0.0	0.0
Mozambique	16.5	-5.9	0.0
Namibia	7.0	-3.8	0.0
Swaziland	1.0	-0.5	0.0
U.R. Tanzania	63.5	-25.1	-0.6

Source: Karingi *et al.*, 2005

Apart from the net diversion of intraregional trade which is likely to arise from EPA-induced import liberalization in favour of the EU, the EPA process could have a significant impact on intra-African regional integration. A major “selling point” for the EPAs is that this impact would be both positive and substantial. More specifically, an important objective of the EPAs is to foster regional integration among participating countries through the establishment of EPAs with groups of countries which are already engaged in their own regional integration arrangements. Thus, EPAs would build on existing regional integration schemes and the negotiation of EPAs would be designed and sequenced to complement and support previously established regional integration processes. In addition, the extent and speed of EPA-related trade liberalization would reflect the degree of regional integration already achieved.

In principle, this suggests that effective FTAs at least (if not Customs unions) need to have been achieved within the various African regional EPA groups before they can enter into an EPA with the EU. Thus, the desire to proceed in this direction may provide an external push for consolidating existing intra-African regional integration schemes. But while these schemes can benefit from such external “push”, it is clear that effective regional integration in Africa cannot be driven entirely from outside. In addition, the EPA-related incentives for strengthening intra-African regional integration may also give rise to a negative effect, i.e. complication of the trade relations of African countries and the associated impediments against enhancing intra-African regional integration arrangements. For instance, the configuration of African regional EPA groups which does not correspond with existing regional integration schemes may complicate the already difficult tasks of collaboration, harmonization and coordination within these groupings. In other words, far from supporting and strengthening intra-African regional integration the EPA process may undermine existing arrangements and thus retard their progress.

Stevens and Kennan (2005) find evidence which suggests that the EPA process may cause serious problems for intra-African regional integration. These arise from differences in the commodity composition of the imports of different countries from the EU and differences in their tariff structures. Because of these differences, very limited overlaps exist in the baskets of products that different countries may wish to include in their lists of products to be excluded from import liberalization. In terms of relative magnitude, the proportion of no overlaps in product exclusions is highest for ECOWAS-based EPA region (92 per cent) and lowest for the ESA EPA region (43 per cent); while the proportion of no overlaps in product exclusions is 51 per cent in the CEMAC-based EPA region and 64 per cent in the SADC EPA region. Given these large proportions, each of these regions will face the difficult task of reaching consensus at the regional level as a basis for negotiating an EPA with the EU which explicitly takes the intraregional country differences fully into account. In effect, there may be inherent conflicts between the two processes of strengthening intra-African regional integration and establishing EPAs linking various African regions with the EU.

The EU’s offensive agenda in the EPAs negotiations includes the demand that African regional EPA groups should make new commitments (beyond those already made and to be made at the WTO negotiations) in various trade-related areas. At the level of basic principle, the four African regional EPA groups have several important reasons why they should not be particularly enthusiastic about taking on new obligations in these trade-related areas. First, to preserve consistency across trade negotiations and in the light of the opposition of the African Union to the inclusion of the “Singapore Issues” in the Doha agenda, it would be reasonable to resist their inclusion in the EPA negotiations. Second, although the EU mandate calls for negotiations on a range of these issues in the EPA, the inclusion of several of them was not

agreed in the Cotonou Agreement. Hence, the EU mandate represents in this respect, an unjustified extension of the Cotonou Agreement which should, therefore, be rejected. In any case, many of the countries comprising the four African regional EPA groups have limited capacity to analyse and effectively negotiate on many of the trade-related issues. Furthermore, experience suggests that the implementation of new obligations in these areas will impose substantial costs on participating African countries and that there are no guarantees of clear-out corresponding developmental gains to be earned by these countries in exchange for the costs.

Beyond these general considerations, there are concerns associated with negotiating each of the major trade-related issues in the context of the EPAs. For instance, since a new trade facilitation agreement is being negotiated at the WTO, the negotiation of regional agreements under the EPAs would be largely redundant. Similarly, EPA-based agreements on government procurement would neither be worth the cost to the African regional groups nor would they involve genuine reciprocity. In particular, it is clearly unlikely that many private African companies will have the capacity to utilize available opportunities in the market for EU government procurement services. In the same way, EPA-based agreements on competition policy would be very expensive for many African countries to implement; while there must be serious concerns regarding the extent to which they would be able to enforce the provisions of such agreements. Given the extent of investment policy reform that has taken place in Africa and the fact that the continent continues to lag behind in attracting foreign direct investment, there appears to be no compelling evidence to suggest that EPA-based investment agreements will generate increased investment flows to Africa. Taken together, these considerations suggest that African regional EPA groups should exercise great caution in responding to EU demands for further liberalization of various trade-related areas in the context of EPA negotiations.

#### **D: Challenges of full reciprocity in the EPAs**

As full reciprocity agreements, the EPAs will treat participating African countries as equal commercial partners with the EU countries, rather than as preference beneficiaries under the provisions of the Lomé Conventions. In effect, the African countries are required to remove their tariffs and other trade barriers of equivalent effect on “substantially all” import from the EU. Although no operational meaning of “substantially all trade” is offered in GATT 1994 Article XXIV, the EU practice suggests an average of 90 per cent of all trade. Based on this, Stevens and Kennan (2005) argues that since the EU currently provides duty-free access on about 98 per cent of ACP exports, the average of 90 per cent could be achieved if the ACP liberalizes 82 per cent of the value of their imports from the EU without any additional liberalization on the part of the EU. The potential revenue, competition and production effects of this magnitude of liberalization on the member countries of the four African regional EPA groups have been identified and analysed above. Hence, this section focuses on a number of other related issues, such as the effect of potential discriminatory treatment as between the least developed countries (LDCs) and the non-LDCs which exist side-by-side in the four African regional EPA groups, and the implications for regional versus country approaches to EPA negotiations.

Current EU policy towards LDCs (both within and outside the ACP groups) offers permanent duty-free access to virtually all their goods (with the exception of arms and munitions) into the EU, subject to relevant rules of origin. In effect, the LDC members of each of the four African regional EPA groups have no real incentive to participate in the negotiation of EPAs which require full reciprocity. For this group, it is clear that reciprocity



does not offer any real prospect of further access to the EU market beyond what they already have, and therefore stand to lose by joining an EPA which will, through the reciprocity requirement, force them to open their markets to EU imports (Oyejide and Njinkeu, 2002).

While LDCs have, in principle, the option of retaining much of their existing non-reciprocal trade preferences in the EU market through the Everything But Arms (EBA) programme, non-LDCs must more directly confront the question of whether or not to negotiate the EPA with the EU as a means of protecting their access to the EU markets, once this will require reciprocal concessions to the EU from their side. More specifically, the original EPA proposal offered three options to the non-LDCs. First, some could decide to negotiate and enter into the EPA with the EU, in which case the requirements of reciprocity would apply. Second, some might choose not to negotiate and, in this case, accept to be placed under the generalized system of preferences (GSP) of the EU. Under this option, non-reciprocal preference market access benefits are retained, although the scope of these benefits would be narrower than those they had enjoyed under Lomé. Third, other non-LDCs could neither choose to negotiate EPAs nor accept the GSP, but had to consult with the EU with a view to designing another type of trade arrangement. Finally, for the non-LDCs which choose to enter into EPAs with the EU, it was also indicated that they could do so either individually or through regional groups.

Developments relating to the EPA negotiations during 2005 suggest that many of these options may no longer be on the negotiating table. The apparently strong and explicit EU preference for negotiating EPAs with regional groupings of African countries combined with the apparent desire of African countries to retain their regional integration groupings has resulted in the establishment of four African EPA groups, each of which contains many LDCs and a few non-LDCs. This *fait accompli* has created a new reality on the ground, but has also created several negotiating problems. For instance, the co-existence of both LDCs and non-LDCs in each of the African EPA groups is associated with difficulties of reaching regional consensus on negotiating mandate and strategy. In addition, the fact that these regional groups have typically not achieved the status of a Customs union and hence generally lack the mechanism for delegating negotiating authority to a supranational body endowed with adequate legitimacy and capacity worsens these difficulties. In this context, prior negotiations among members of these regional groups to decide on common regional negotiating mandates and strategies appear to be largely ineffective.

#### **E: Negotiating strategies of African regional EPA groups**

There appears to be a widespread recognition of the need to ensure that the initiative for determining the structure, format and schedule of EPA negotiations is not left entirely to the EU. However, the realities on the ground suggest that this need has not, in fact, been met. The negotiation structures which have been adopted for all four African EPA regional groups are sufficiently similar to give the impression that they were derived from a common EU source (Oyejide, 2004). For instance, EPA negotiations in each African region are being conducted along two identical streams: one consists of senior officials and ambassadors and the other is made up of Ministers. Below these two levels of negotiators there is a multi-sectoral body made up of representatives of the public and private sectors, as well as civil society, in each country participating in the regional EPA negotiations. This national-level body is a development and trade policy forum which is charged with the responsibility of articulating various national development and trade negotiating interests and options of the country and for developing briefs on the country's negotiating positions as inputs into the work of regional negotiation machineries. Parallel to this basic negotiating structure is a

Regional Preparatory Task Force which consist of officials from the region concerned and the EU. In effect, the direction and content of EPA negotiations largely lie in the hands of regional officials, especially in the African EPA groups where the national-level development and trade policy forum is ineffective.

It is widely recognized that an EPA between an African regional group and the EU will have a much larger impact on the member countries of the former regional group, particularly in terms of various components of adjustment costs. Hence, African EPA negotiators must take the initiative and not just passively accept the negotiating mandate, strategy and formula designed by the EU. In this context, all participating African countries need to clearly articulate their individual goals and negotiating positions, perhaps in the context of national debates which enable all stakeholders to contribute towards building a national consensus.

Clearly, the first step that should have been taken by each of the African regional groups in preparing for EPA negotiations is domestic, i.e. the identification of trade interests, at the national and regional levels, which are embedded within the framework of sustainable development strategies, as a basis for articulating the corresponding negotiating positions. This would reflect the potential impact of the EPA on the development goals and identify the specific costs associated with the implementation of the EPA. In addition, the resulting negotiating positions would have included specific proposals on how the EU would be expected to support participating African countries through appropriate trade policy and rules, technical and financial assistance to enhance production, and supply and trading capacity aimed at offsetting adjustment costs. It is this careful and systematic preparatory process which would have enabled participating African countries to effectively “negotiate the best trade and development deal they can get rather than simply be given what the EU thinks is a fair trade deal..... and what the EU considers a European Development Fund (EDF) allocation which is adequate for development purposes” (Pearson, 2005).

This process would not have ended at the national level, of course, given that EPA are ultimately negotiated at the regional level. Hence, following the establishment of national negotiating positions, intra regional consultations would have been necessary to harmonize these into corresponding regional negotiating positions. The movement from national to regional consensus involves a process which varies with the integration status of particular African regional groups (Stevens and Kennan, 2005). For instance, the member countries of a region which is already a customs union with a common external tariff (CET) would have one common schedule of tariff liberalization towards the EU. But, in the case of a region which is only an FTA, the different schedules of tariff liberalization of member countries would have to be harmonized prior to the establishment of an EPA with the EU so as to avoid post EPA integration difficulties, such as cross-border movement of goods to circumvent trade restrictions.

In preparing for and negotiating EPAs with the EU, participating African countries and their regional groups face daunting challenges relating to capacity-building. These include the consolidation of their national and regional negotiating machineries, the strengthening of dialogue with stakeholders at national and regional levels and the integration of trade and regional integration objectives into national development strategies. Yet, it is widely recognized that both human and institutional capacities for meeting these challenges in most African countries and regional integration organizations are quite weak. It is obvious therefore that the EPAs are unlikely to effectively deliver on their development promises without the capacity-building assistance African countries need to identify their trade needs,

articulate their negotiating strategies, enhance intra-African regional integration and prepare for and effectively negotiate EPAs with the EU. In addition, African countries need capacity-building support to enhance their production, supply and trading capacity as they prepare to face EPA-induced competition and for enhancing their capacity to cope with the adjustment costs associated with EPA implementation.

It is particularly important, in this context, for participating African countries and their regional groups to invest generously in building strong consultation, coordination and harmonization mechanisms at intragovernment, intra-State and intraregional levels. Such capacity-building should build on, strengthen and align with existing inter-institutional mechanisms for trade policy and negotiations consultation and formulation, such as those for WTO and regional integration agreements, rather than create new ones. These in particular include the inter-institutional committees for WTO and other trade negotiations created or supported by the Joint Integrated Technical Assistance Programme (JITAP). This institutional mechanism should be complemented by substantial investment in building strong analytical capacities and technical expertise at both national and regional levels. The EPA process specifies some commitment by the EU to provide capacity-building and other support for the participating African countries and regions. But since the EPA negotiations require each party to prosecute its own aggressive agenda, African countries must be wary of excessive reliance on the use of analytical and technical assistance provided directly by the EU. Such assistance could be more useful if it is channelled through competent, but more neutral national and regional African agencies, as well as multilateral development institutions.

EPA negotiations between African regions and the EU cover several substantive areas that may be classified into three broad groups, i.e. pre-EPA intra-African regional integration; market access (goods, services and trade-related issues); and development issues. The observed pattern in the treatment of these broad groups of issues gives priority to initiatives for enhancing intra-African regional integration. This appears to be the case for at least two reasons. First, to make the negotiations of EPAs between African regions and the EU technically feasible, there must be a minimum level of integration within participating African regions. Hence, an important component of the preparations for EPA negotiations is the upgrading of the intra-African regional integration groups to the status of at least an effective FTA, if not a full customs union with a CET. Second, it is argued that enhanced intra-African regional integration would assist in ensuring that the EPA process promotes the development of participating African countries. Hence, much of the preparatory EPA activities during 2005 have focused on this priority group of issues. As a result, EPA negotiations on market access group of issues have been postponed to 2006.

The development component of EPA negotiations broadly consist of two parts, i.e. sectoral issues and cross-cutting-issues (Pearson, 2005). The former consists of areas, particularly trade-related issues, where African countries would require technical and financial assistance for capacity-building in implementing new commitments that they may undertake as part of the EPA process. The latter refers essentially to assistance required for enhancing intra-African regional integration, providing infrastructural support for more competitive production structures and for the elimination of supply-side constraints linked to increases in productive capacity, as well as for meeting the adjustment costs associated both with enhanced intra-African regional integration and EPA-induced liberalization. It is not yet quite clear how the development component of the EPAs will be negotiated. A Regional Preparatory Task Force (RPTF) has been established for each of the four African EPA regional groups to facilitate the inter-linkage between the EPA negotiations and the design of

development strategies and the negotiation of the associated development finance cooperation. The EU claims that the existing EDF envelope is adequate to meet the needs for the pre-EPA enhancement of intra-African regional integration and its associated adjustment costs, as well as the financing of studies required for the actual EPA negotiations and for implementing the EPAs would be provided for in subsequent EDF commitments and as an integral part of negotiations.

In addition to EPA negotiations on the market access group of issues, the elimination of tariff barriers against all exports of participating African countries is taken as the centre piece. But a number of non-tariff issues need to be identified and integrated into the African aggressive negotiating agenda. For instance, the provision of duty-free and quota-free access for all African exports through EPA would not be without adjustment costs, especially to the African countries that have benefited from various commodity protocols. Hence, appropriate adjustment assistance would be required for such countries as Cameroon and Côte d'Ivoire (for bananas); Botswana, Namibia, Swaziland, and Zimbabwe (beef and veal), as well as Malawi, Mauritius, and Swaziland (sugar). In addition, there are several areas associated with non-tariff barriers in the EU which constitute significant obstacles to the expansion of African exports, particularly of agricultural and processed food products. Prominent among these are agricultural domestic support and export subsidies, product standards and SPS measures, contingency protection (including safeguards, anti-dumping and countervailing duties), as well as non-competitive commodity market structures. Many African countries are significantly and negatively affected by the EU's agricultural domestic support and export subsidies, as well as stringent SPS measures. Hence, African demands in the EPA negotiations should include the elimination of EU domestic support and export subsidies on products of export interest to Africa and the exemption of African exports from all EU contingent protection measures. With respect to SPS and related measures imposed by the EU, African countries should demand that they be more closely involved in the setting of standards and be given adequate technical and financial assistance in establishing the infrastructures for meeting the agreed requirements.

The launching of regional level EPA negotiations involving the four African regional groups started in October 2003 for the Central (CEMAC) and West African (ECOWAS) regions. Similar negotiations were launched in Eastern and Southern Africa (ESA) and SADC regions in February and May 2004. Negotiations in each region are phased over time and by issues in the context of a "road map". In each of these regions, work done through 2005 covered the first phase of the negotiations which focused on linking intra-African regional integration process to the EPAs, based on the generally accepted premise that the EPAs would be built upon and strengthen existing regional integration processes in the region. In the West Africa region, for instance work had been completed by the end of 2005 on the first phase of negotiations which examined the situation and perspectives of regional integration in the region. In particular, it was confirmed that agreement had been reached on a CET, applicable across the region, which would serve as the basis of the EPA. A similar conclusion appears to have been reached in the case of the Central Africa region. In the cases of the ESA and SADC regions, however, negotiations on steps which need to be taken to promote regional integration remain uncompleted and will constitute an important part of the work programme during 2006. But even in the Central Africa and West Africa regions, EU support needed for enhancing the regional integration processes and for covering the associated adjustment costs has not been agreed, even though much of the analysis, discussions and negotiations through the end of 2005 had concentrated on issues such as identification of the priorities for regional integration and specification of the types of

programmes necessary for improving competitiveness eliminating supply-side constraints and strengthening of the regional integration process.

In the particular case of the West Africa region, the proposal to include a financial mechanism to compensate for loss of customs revenues arising from tariff reductions generated by intraregional integration has not received a positive reaction from the EU. Since this issue has remained unresolved across all ACP regional EPA groups, the ACP has used the opportunity of the ACP-EU Council meeting of June 2005 to express “concern that EPA negotiations have failed to start addressing development dimensions and regional integration priorities” and to stress that “the EPA negotiating process should proceed in a manner that ensures the adoption of measures and the provision of resources and EU support to help the ACP implement measures to transform their economies”. In response, the EU has argued that EPA negotiations consist of two parallel but different processes. Thus, while the core of the negotiations would focus on trade matters, development issues would be dealt with in the framework of the regional preparatory task forces (RPTFs) established to link the trade negotiations with the development and financial cooperation aspects. In this context, it is suggested that trade negotiations first be conducted to establish the policy framework around which support can then be discussed. At its meeting of December 2005, the ACP-EU Technical Monitoring Committee weighed on this issue through the issuance of two important decisions. One of these stressed the need for a meeting between Regional Preparatory Task Forces and other donors in the first quarter of 2006; while the other stressed the need to promote rapid delivery of “early harvest” of trade-related technical assistance linked to the EPA process.

In spite of the continued concern with the apparent disconnect between the trade negotiations and development support dimensions of the EPA process, all four African regional EPA groups have agreed that their work programme during 2006 will focus on drafting a first complete version of each of the EPAs. This implies that the negotiations will go forward and continue to be led by regional bodies even through there has been little input from member countries due to lack of capacity, interest or effective consultation, insufficient mobilization of local expertise, and inadequate support mechanisms. When these deficiencies on the African side are placed side by side with the strong competence, technical capacity, experience and resources which characterize the EU, it should not be difficult to see why the latter continues to dominate and drive the EPA process.

### **Summary of issues**

The EPAs are reciprocal and WTO-compatible FTAs which define the new trade and economic relations between ACP regional groups and the EU. They are intended to foster the smooth and gradual integration of the ACP regions into the world economy by progressively eliminating all trade barriers between them and the EU, while at the same time strengthening the existing integration initiatives within the regions. Without necessarily changing the goals of the relationship, the most radical change the EPAs introduce is the movement from non-reciprocity to eventual reciprocity. While allowance is made for some special and differential treatment to ACP States, this treatment is likely to be limited in scope and transitory (i.e. limited in time). This radical change may impose substantial import liberalization in favour of the EU on the participating African countries before adequate supply response capacity has been built. This could in turn impose larger adjustment costs over a much shorter period than autonomous African trade liberalization programmes would suggest. Hence, the importance

placed by African countries on a concrete and realizable development envelope that must be elaborated and delivered concomitantly with the market access component.

The configuration of the four African regional groups for negotiating EPAs with the EU has generated considerable debate. In the end, a West African group has been constructed around ECOWAS, a group in Central Africa focuses on CEMAC, while in Southern and Eastern Africa, two regional groups have been created with ESA (formed largely around COMESA) and the SADC group as the second. Each of these regional EPA groups contains both LDCs and non-LDCs as members, none is a fully functioning customs union and most have not even completed the processes of becoming functioning FTAs. In addition, the configuration process did not fully succeed in resolving the problem of overlapping memberships of regional integration schemes in Africa – it may have worsened this problem in certain cases.

EPAs require participating African countries to make significant market access concessions to the EU in a wide range of trade and trade-related areas whose magnitude may be much larger than their own development strategies would suggest, as well as over too short a time-period given their varying supply response capacity and at a cost of tariff revenue loss that may be difficult for many of them to bear. In addition, these market access concessions are unlikely to assist the African regional EPA groups in building upon and enhancing their regional integration arrangements; given their preferential and discriminatory nature, they are likely to be associated with significant welfare-reducing trade diversion.

The four African regional EP groups launched their negotiations with the EU between October 2003 and May 2004 with virtually identical negotiating structures which concentrate on regional mechanisms, even though consultative arrangements at the national level are incorporated. Compared to their counterparts at the EU, the African regional negotiating mechanisms suffer from significant capacity deficiencies. In addition, the structures for identifying, harmonizing and coordinating national level interests do not appear to be functioning optimally. Hence, the critical national level inputs required for building regional consensus on specific EPA negotiating issues may not be coming through effectively in various regional groups. Conceptually, such inputs are less important for regional groups which are already Customs unions and in which constituent countries have given up the right for independent trade policymaking powers. But since none of the four African regional groups has achieved this level of regional integration, the building of regional consensus has – out of necessity – to be based on the explicit identification of national interests and their coordination and harmonization into the corresponding regional negotiating positions.

In terms of substance, African EPA negotiations through 2004 and 2005 have concentrated on the issue of enhancing intra-African regional integration with a view to establishing the base on which to erect the FTAs with the EU. By the end of 2005, both the Central African and West African regional groups suggest that the “negotiation phase on regional integration” has been concluded, while both the ESA and SADC groups indicate that their work programmes in 2006 will include negotiations on the steps which need to be taken to promote regional integration. In all four regions, however, there appears to be considerable concern that the EU side has not been particularly forthcoming with regard to the support required for meeting the supply-response capacity constraints and adjustment costs associated with enhancing regional integration as a base for the EPAs. The emerging disconnect between the trade and trade-related aspects of EPA negotiations and the EU support aspects appears to apply in other ACP regional groups as well. Hence, it has generated two agreements in the ACP-EU Technical Monitoring Committee at its meeting of December

2005. One of these is for meetings between regional preparatory task forces (RPTFs) (which are responsible for negotiating EU support for the EPAs) and other donors in the first quarter of 2006. The other relates to the need to promote rapid delivery or “early harvest” of trade-related technical assistance linked to the various elements of the EPA process. A critical “selling point” of the EPAs is to view them as instruments of development which consist of trade and aid integral components. African regional EPA groups must therefore be wary of making commitments on the trade component that are not associated with corresponding contractual and binding commitments by the EU on the development component.

### 3. AFRICA'S PARTICIPATION IN THE WTO NEGOTIATIONS

#### Introduction

The Doha Work Programme (DWP) of the multilateral trade negotiations launched in November 2001 in the WTO represents the first round of negotiations that explicitly claim to focus primarily on issues which developing countries are particularly concerned about. This is what gives the round its “development” tag. The World Bank (2004) suggests that these concerns relate largely to three major areas of trade. These include agricultural products that remain subject to the highest barriers, even after the implementation of the reforms associated with the Uruguay Round of multilateral trade negotiations; the peak tariffs and tariff escalation which characterize labour-intensive manufacturers; and the temporary movement of persons with low and middle-level skills who are subject to high levels of restriction, in spite of the achievement of the General Agreement on Trade and Services (GATS). In addition, other studies (Oyejide, 2000; Oyejide and Njinkeu, 2002a) suggests that the development dimensions of the DWP (in the context of African countries) should include a comprehensive review of the framework for “special and differential” treatment (SDT) of developing countries in the global trading system and exclude several areas of “new” issues. In spite of the fact that many of these concerns were duly reflected in the DWP, it was always recognized that only its final results would determine whether, and to what extent, the round would effectively live up to its development promise. UNCTAD has suggested a number of issues as important in the attainment of a realizable development package namely: (a) enhanced and predictable market access for developing countries in industrial and agricultural goods, and services, particularly Mode 4; (b) removal of trade-distorting non-tariff barriers (NTBs) and market entry barriers; (c) elimination of export subsidies and substantial reductions in trade-distorting domestic support in agriculture by a credible end date; (d) urgent elimination of trade-distorting subsidies for cotton and a development package for cotton producers; (e) provision of bound duty-free and quota-free (BDFQF) market access for all exports of LDCs; (f) enhancing utilization of trade preferences by improving preferential schemes; (g) providing adequate financial and technical support to developing countries, including through aid for trade, to help them meet adjustment and implementation costs, including the erosion of preferences, to ensure sustainability of trade reforms; (h) providing adequate support for building supply capacity and trade-related infrastructure, including trade facilitation; (i) ensuring that trade liberalization does not adversely affect the livelihoods of the poor and vulnerable, and universal access to essential services; and (j) an expeditious and permanent solution on TRIPS and public health to facilitate access to essential medicines (UNCTAD 2005b).

This chapter explores various dimensions of this general question. It begins, in section 3.A, with a review of Africa's position in the Doha negotiations, particularly on the extent and effectiveness of the region's participation in negotiations in the light of capacity constraints which have hindered and limited such participation in previous rounds. In the next section, attention is turned to a review of the key provisions of the framework package of July 2004, which was designed to revive the Round after the failure of Cancun, in the light of their implications for Africa's negotiating interests. Section 3.C brings this analysis up to date with a review of the results of the WTO Hong Kong Ministerial Conference which, again, draws out the important implications for the achievement of Africa's negotiating interest and goals. In addition, the key areas and issues with respect to which multilateral liberalization resulting from the Doha round of trade negotiations may impose varying degrees of negative impact on African countries are identified and analysed in section 3.D. Despite much



technical work on the negotiations, especially in respect of the modalities for agriculture and non-agricultural market access, WTO members could not reach a consensus by the end of July 2006 on these modalities and the negotiations were suspended across the entire Doha work programme. This hiatus in the negotiations may engender serious adverse implications for all countries, including African countries; it is therefore incumbent upon all members and the big players in particular, to create the conditions that would facilitate an early resumption of the negotiations. Finally, section 3.E identifies and discusses areas and issues that are critical for achieving the region's negotiating objectives, and hence, with respect to which Africa's participation may need to be enhanced and more innovatively focused. The chapter is concluded with a summary of the main points raised. A regular annual assessment of the progress in the Doha negotiations and implications on issues of interest to developing countries including African countries, is conducted by UNCTAD (see for example UNCTAD, 2005b).

#### **A: Africa's position and participation in the WTO negotiations**

It seems clear that Africa's position in the Doha negotiations has been shaped by the results of previous rounds of multilateral trade negotiations, in particular the Uruguay Round and the gradual and progressive build-up of negotiating capacity. This has assisted in sharpening the articulation of negotiating interests, building of coalitions and alliances, as well as the establishment of regional consensus on a range of negotiating issues. Prior to the launch of the DWP at the 4<sup>th</sup> WTO Ministerial Conference, many African countries were under increasing pressure to support the launching of a new comprehensive round of multilateral trade negotiations. African countries were, with good reasons, generally reluctant to do so (Oyejide, 2000; Oyejide and Njinkeu, 2002a, 2002b). The implementation of the Uruguay Round agreement confronted them with several adjustment problems related in particular to a range of administrative, legislative, institutional and financial constraints. Many African countries discovered that they had made commitments to certain concrete and binding obligations, based on the "single undertaking principle in exchange for a number of "best endeavour", but non-mandatory "concessions" from the developed countries. In addition, many African countries were experiencing difficulty in articulating the trade and development strategies that should underpin and guide the identification of their negotiating interests and positions in a new round. In the end, the argument that "a new round of negotiations may provide the opportunity for African countries not only to rebalance the Uruguay round results and undo the damage inflicted on them but also to place more development-oriented issues and proposals on the agenda" (Oyejide and Njinkeu, 2002a, p. 2) may have influenced their decision to support the launch of the DWP.

Subsequently, the participation of African countries in the negotiations has been active and the articulation of their interests has been more focused, purposeful and effective. Their capacity to participate has improved significantly as a reflection of the continuation of the gradual and evolutionary build-up noted during the Uruguay Round (Oyejide, 1990, 1999). In particular, African countries have been taking more direct and active interest in the WTO process and have moved away from the practice of passively subsuming their interests under those of broader groups of developing countries, except when this appears to be an appropriate strategic option (Blackhurst *et al.*, 2000). Underlying this more activist participation stance appears to be two factors. One is the more effective use of the African Group at the WTO for the purpose of building common positions in terms of what concessions they seek from their trading partners. This process of building regional consensus around issues of common interest has been facilitated by the presence in Geneva of an African Union (AU) office whose primary role is to assist African countries in

harmonizing and coordinating their negotiating positions. A second factor consists of the increasing the advantage obtained by many African countries as a result of available capacity-building opportunities which has strengthened their capacity to participate more effectively in the WTO process (Oyejide and Njinkeu, 2002b). Such support in particular by UNCTAD, including under the sub-Saharan Africa trade capacity development programme, has been instrumental in the gradual building up of Africa's trade negotiations capacity.

Africa's positions on various issues in the Doha negotiations, as well as the region's participation in the WTO process generally appear to be driven by several concerns. One relates to the objective of promoting the expansion and diversification of African exports by eliminating or reducing various external market access barriers. This particular concern falls squarely within the standard menu of WTO negotiations on market access, but the African position generally stresses the need to redress the current "imbalance" in the global trading system typified by the high tariffs, tariff escalation, domestic support and export subsidies in developed countries associated with products (both agricultural and labour-intensive manufactures) that are of export interest to Africa, as well as the more difficult to address non-tariff measure and market entry barriers. A second broad area of concern to African countries is the need to balance the traditional WTO focus on market access with more emphasis on the development dimensions of trade negotiations. In particular, African countries regard the enhancement of their domestic supply response capacity to take fuller advantage of market access opportunities through the elimination of various supply-side constraints as important, if not more important than, new market access opportunities. Finally, there is considerable concern with the high adjustment costs imposed on African countries as they try to implement the trade liberalization obligations arising from various multilateral trade agreements, especially those requiring radical reforms of their domestic regulatory systems which may be inappropriate for their level of development. In this regard, an important negotiating objective of African countries is to steer the WTO towards reducing the degree of intrusion of its rule-making agenda in their existing domestic policy space to the bare minimum necessary to provide a viable framework for open cross-border competition and trade flows.

It can be argued that these concerns are reflected in the positions taken by groups of African countries, as well as groups which include significant African representation on various issues in the Doha negotiations. These positions may be discussed in terms of the broad categories of DWP issues such as agriculture, non-agricultural market access, trade in services, rules, as well as the development dimensions relating *inter alia* to special and differential treatment, LDC issues, and technical assistance and capacity-building. In this regard, at the request of African countries, UNCTAD has provided technical and policy analyses on elements of a "fair deal" for African countries in the Doha negotiations. It noted in its report on "Development and issues in the Doha Work Programme of Priority Interest to African Countries, particularly LDCs" (Mashayekhi *et al.*, UNCTAD 2005d) that the basis of a fair deal for Africa includes: (a) eliminating market access and entry barriers affecting African exports of goods and services; (b) eliminating export subsidies and trade-distorting domestic support on agriculture; (c) eliminating trade-distorting support to cotton; (d) immediate and bound duty-free, quota-free market access for LDCs; (e) operationally effective special and differential treatment across all areas of negotiations; (f) addressing adequately the adverse impact of preference erosion and over dependence on commodities; (g) preserving legitimate policy space; and (h) aid for trade.

Because it was mandated by the Uruguay Round, negotiations on further trade liberalization in agriculture started in 2000. But little progress was made before the DWP was

launched in November 2001. From the beginning, African countries took the position that the Doha negotiations would result in the incorporation of enforceable SDT provisions in a new agreement on agriculture. Hence, they took the lead in articulating proposals for the creation of a “development box” that would permit greater latitude for their own domestic agricultural support measures. In addition, they have articulated proposals, in conjunction with other groups of developing countries, aimed at enhancing food security and rural employment. At the same time, many African countries have joined others in demanding that overall caps on Green Box spending by the developed countries be established at about 5 per cent of annual agricultural production and that trade-distorting support (the Amber Box) be eliminated. With respect to market access, African countries have generally allied themselves with the position calling for substantial reduction in the agricultural tariff of developed countries and the elimination of special agricultural safeguards (SSG) for developed countries. For themselves, they have asked to be allowed lower levels of tariff reduction commitments and longer implementation periods, as well as the establishment of a special safeguard mechanism (SSM) for developing countries. In the case of export competition, African countries have called for the phase-out of export subsidies.

African countries have initiated and/or joined strategic alliances in the Doha negotiations as a means of strengthening their specific positions with respect to certain issues. For example, the G-33 group has been used as a vehicle for promoting the designation of effective Special Products (SP) and the SSM for developing countries in order to protect their vulnerable small farmers and safeguard rural livelihoods. Similarly, the cotton initiative promoted by Benin, Burkina Faso, Chad and Mali and actively supported by the African Group, has been accepted as a priority sectoral issue within the agriculture negotiation. Because many African countries can be classified as agricultural commodity-dependent developing countries (ACDDC), an African position has been articulated on tropical commodities in the Doha negotiations. Led by Kenya, Uganda and the United Republic of Tanzania, several proposals have been made by the African Group, taking on such issues as market access, impact of structural adjustment and market concentration. In particular, part of these proposals has requested the WTO to examine steps to deal with anti-competitive behaviour of large foreign firms and to improve the bargaining position of small producers *vis-à-vis* these firms.

In addition, African countries have raised the issue of preference erosion in the market access part of the negotiations on agriculture. The general position of African countries on this issue is focused on preventing, or at least mitigating, the negative effects of multilateral tariff reductions on their preferential market access, including preserving some of the preferences, providing some flexibility to assist affected countries adjust and increased development assistance. More generally, Trade Ministers of the African Union at their meeting in Cairo in June 2005 summarized the African position on the Doha negotiations on agriculture by calling for agriculture tariff reduction modalities which “take into account the need for appropriate policy space that would allow African countries to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns, while ensuring improved market access for the agricultural products of African countries, both in primary and processed forms”; they also requested the establishment of a mechanism for addressing preference erosion within the WTO. In the specific case of cotton, Benin, Burkina Faso, Chad and Mali have called for the elimination of export subsidies for cotton by the end of 2005, the phasing out of trade distorting domestic support by 1 January 2009 (with 80 per cent by the end of 2006), the granting of duty and quota-free access to cotton exports of the LDCs and the creation of an emergency fund to help governments cope with deficits resulting from the decline in the price of cotton.

The African position in the Doha negotiations on non-agricultural market access (NAMA) has evolved to embrace a number of key elements. For instance, in April 2003, Nigeria on behalf of several African countries argued that the principle of “less than full reciprocity in reduction commitments” recognized by the Doha Ministerial Declaration should be reflected in the level of commitment expected from African countries as well as longer transition periods. It was argued, in addition, that tariffs would remain an instrument of industrial policy as well as a source of government revenue; hence an overly ambitious tariff liberalization programme would impose significant tariff revenue losses and an unacceptable degree of deindustrialization on African countries. Beyond these concerns, the G-90 group of countries has stressed the need to offset the erosion of preferential margins, which could result from deep multilateral liberalization of industrial tariffs, by “establishing compensatory and other appropriate mechanisms” in favour of countries which could be negatively affected. Taken together, these elements of the African position on NAMA suggest an inherent tension in seeking appropriate modalities for NAMA liberalization which will help achieve two goals: reducing tariff peaks, high tariff and tariff escalation in developed countries to create enhanced market access for African non-agricultural exports on the one hand, and ensuring sufficient flexibility to accommodate the diversity in levels of development and other relevant features of African economies, on the other hand. As part of this flexibility, a number of African countries have proposed that tariffs on some “sensitive products” should remain unbound and thus kept outside whatever tariff reduction formula was eventually agreed in the Doha negotiations on NAMA as this would enable them if necessary to impose high protective tariffs.

These concerns are reflected in the African position on the formula to be used for reducing industrial tariffs. Most African countries have expressed serious reservations on the fairness of a “simple” Swiss formula and its applicability to their individual situations. In particular, they have argued that the Swiss formula would require developing countries to make greater concessions and thus run contrary to the prior decision that the NAMA tariff reduction formula should “take fully into account the special needs and interests of developing and least-developed participants, including through less than full reciprocity in reduction commitments”. With regard to the treatment of unbound tariffs, a group of African countries (Congo, Côte d’Ivoire, Ghana, Kenya, Mauritius and Zimbabwe) have proposed that countries with a binding coverage of less than 35 per cent of their tariff lines should be exempt from making tariff reductions, but should be encouraged to substantially increase their binding coverage “at a level consistent with their individual development trade, fiscal and strategic needs”. These views received broad-based support in the Cairo Declaration issued after the meeting of AU Trade Ministers in June 2005 which called for “identification of appropriate NAMA tariff reduction formula that would allow African countries to undertake industrial policy and diversification objectives and take as a priority the principles of non-reciprocity, SDT and less than full reciprocity, and “flexibilities in NAMA modalities that fully take account of African countries’ developmental, financial and industrial needs”.

With the expiry of the WTO Agreement on Textiles and Clothing (ATC) on 1 January 2005, textiles and clothing became fully integrated into WTO disciplines on industrial goods. African countries that expected to be negatively affected by the liberalization of this sector, such as Madagascar, Mauritius and Uganda, joined others in asking the WTO Secretariat to consider adjustment mechanisms to minimize the adverse impacts of the transition. Subsequently, Tunisia made a submission to the Goods Council which requested an examination of ways to stabilize market prices for textiles and clothing and the establishment

of a funding mechanism to help countries that had benefited under trade quotas adjust to the new reality.

The Doha negotiation on services follows a request and offer process which makes it difficult to fully and precisely discern broad African positions. In spite of this, however, it seems clear enough that, like other developing countries, African countries, are primarily focused on increasing the physical presence of their service providers across a large variety of sectors in foreign countries. Thus, for Africa, movement of natural persons (or Mode 4 of services delivery) represents the key offensive concern in the services negotiation, while the defensive agenda focuses on retaining as much flexibility as possible. Hence, African countries have been quick to oppose the demand for a “common baseline” for minimum liberalization commitments and to characterize it as an unacceptable departure from both the “positive list” architecture of the GATS and the previously agreed rules for the services negotiations. Beyond this, African countries have made other inputs into the services negotiation process. For instance, Kenya, Nigeria and Senegal have joined several other developing countries and called on the WTO Council for Trade in Services to conduct and conclude a multilateral assessment of the Uruguay round liberalization of trade in services before the start of the market access negotiations, as required under GATS. In June 2005, LDCs informally submitted a proposal on Mode 4, which identified in considerable detail the specific categories of workers for whom they would like to have improved market access. This received broader African endorsement in the Cairo Declaration by AU Trade Ministers which called for “substantial improvement in services and sectors of export interest to African countries, especially tourism, professional services and construction services under Mode 4”.

Apart from the main negotiating areas in agriculture, non-agriculture market access and services, the Doha negotiations have mandates with respect to several other issues on which African countries have staked out clear positions. The African Group, with the support of many developing countries, took up the issue of access to medicine in the context of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement in June 2001, i.e. before the DWP was launched. This action ultimately resulted in the Doha Declaration on the TRIPS Agreement and Public Health in November 2001 which stressed that “the Agreement did not and should not prevent Members from taking measures to protect public health”. But this Declaration left unresolved the problems faced by countries in making use of the compulsory licensing provision of the TRIPS Agreement when they have insufficient or no pharmaceutical manufacturing capacity, especially since Article 31 (f) of TRIPS requires that production under compulsory licensing should be limited to the supply of the domestic market. Hence, further proposals by the African Group sought to widen the disease coverage covered by the “public health problems” referred to in the Declaration, and to cover “active ingredients used in the manufacture of medicines, as well as diagnostic kits needed for their use”. In addition, the African Group also proposed that the “domestic market” mentioned in Article 31 (f) of TRIPS should also refer to customs unions or free trade areas, and that Article 31 (f) should be interpreted to mean that up to 49.9 per cent of production could be exported. Finally, on 30 August 2003, this effort paid off with the adoption by WTO Members of the Decision which spelt out the conditions under which countries without pharmaceutical manufacturing capacity could import generic versions of drugs still under patent.

In early December 2004, the African Group submitted a new proposal aimed at amending the TRIPS Agreement in order to facilitate the access of poorer countries to generic medicines. In essence, the proposed amendment focuses on simplifying the process of

implementing the August 2003 Decision by eliminating references to trade diversion and a range of notification obligations. This led to a heated debate that only resolved on 6 December 2005 when WTO Members agreed to amend the TRIPS Agreement so as to reduce the problems that countries with “insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing”. This permanent solution fails, however, to incorporate the simplifications specified in the proposed amendment offered by the African Group.

An important vehicle through which African and other developing and least developed countries have been trying to place development at the core of the Doha negotiations is “special and differential” treatment (SDT); the principle of “differential and more favourable treatment” for developing countries which is firmly embedded in the WTO. At the behest of African and other developing countries, the Doha Ministerial Declaration reaffirmed that the “provisions for special and differential treatment are an integral part of the WTO agreements” and called for a review of SDT provisions with the aim of “strengthening them and making them more precise, effective and operational”. The African Group had expected that this review would permit the transformation of certain “best endeavour” provisions into more legally binding obligations on the part of developed countries. As the key *demandeurs* of SDT, African countries have firmly insisted on substantive and meaningful changes in SDT provisions guided by their proposal for a Framework Agreement on SDT. In addition, the African Group has played a key role in articulating many of the 88 agreement-specific proposals made on the SDT provisions prior to the Cancun Ministerial Conference. A joint submission by the African Group, the LDCs and the ACP on 5 April 2004 expressed deep frustration over the lack of progress in addressing their concerns with respect to SDT and called for “a clear road map with specific benchmarks to fulfill the mandate on the ....SDT issues in a time bound manner”.

Finally, at its meeting in May 2005, the Committee on Trade and Development started to address the substance of specific proposals aimed at strengthening SDT provisions in WTO agreements. The agreed sequence was to focus first on five proposals submitted by the LDCs (most of which are African countries) and then move on to those offered by the African Group and, finally, to others among the 88 pending agreement-specific proposals. The proposals of the LDCs seek quasi-automatic and open-ended exemptions from a number of WTO rules (e.g. TRIMS-trade related aspect of investment measures agreement); demand that WTO Member States should grant binding duty-free and quota-free market access to their exports; and require that where LDCs have difficulty in implementing WTO obligations it should be mandatory for the developed country members to provide technical assistance. Following requests by members for further clarification of the language and intent behind the proposals, both the LDCs and African countries have been struggling to convert their current texts, described in some quarters as vague, into proposals that may deliver concrete and development-oriented changes to the relevant WTO agreements in ways that would promote the development of these countries.

The Doha negotiations on WTO rules are concerned with improving and clarifying WTO provisions governing anti-dumping, subsidies and countervailing measures, as well as regional trade agreements. The primary interest of African countries in these negotiations is generally thought to lie in ensuring that the disciplines and procedures under the existing provisions applying to regional trade agreements (RTAs) are appropriately modified to “take into account the developmental aspects of regional trade agreements”. In order to achieve their goals, African and other ACP countries submitted a proposal in April 2004 calling for a reform of the existing rules so that RTAs between developed and developing countries which

would have appropriate built-in SDT provisions relating, in particular, to the “substantially all the trade” requirement and an extension of the 10-year rule for the transitional period in implementing RTAs. This proposal requests *inter alia* that liberalization should become operational only after the expiry of an 18-year transition period, and should be linked to countries’ development and financial status.

The strong opposition of many developing (including African) countries led to the dropping of three of the so-called “Singapore Issues”, i.e. investment, competition policy and transparency in government procurement, from the Doha negotiations. The July 2004 package signified the agreement of WTO members, on the basis of “explicit consensus” in the General Council, to formally launch negotiations on trade facilitation. In addition, the July Package clearly spells out the modalities for negotiations which broadly reflect the African position regarding the relationship between liberalization and capacity. In particular, the need for SDT, LDC-specific issues, technical assistance and capacity-building for developing countries is explicitly recognized in the July Package.

Furthermore, in a pioneering step, it is fully accepted that developing and least developed countries will not be required to implement the final agreement on trade facilitation in cases where promised assistance and support for the required infrastructure is not delivered or where these countries continue to lack the necessary capacity.

#### **B: The July 2004 Framework Package**

Following the failure of the WTO Ministerial Conference in Cancun in September 2003, Members undertook various concerted efforts to revive and revitalize the Doha negotiations. These efforts eventually culminated in the July 2004 Package which was adopted in the early hours of 1 August 2004 as a Framework Agreement. The July Package was aimed at establishing broad parameters for the Doha negotiations through the eventual completion of the Round. In other words the Framework provided a “roadmap” for the remaining Doha work programme and thus constituted a significant forward movement in several areas of the negotiations.

The July Package consists of two parts. First is a general text which covers decisions on all areas of the Doha Work Programme. This is followed by a second part made up of four specific annexes. These annexes lay out a framework for establishing negotiating modalities in agriculture, a less detailed but similar road-map on non-agricultural market access (NAMA) negotiations, recommendations on how to proceed with the services trade negotiations, and modalities for the negotiations on trade facilitation.

With respect to agriculture, the July Framework defines the broad contours of the Doha negotiations and suggests the architecture of the ultimate agreement. It covers the three pillars of the negotiations on agriculture, i.e. domestic support, export subsidies and market access. In relation to domestic support, the Framework affirms that the negotiations must achieve a “substantial reduction” in the combined support provided through the Amber Box, the Blue Box and the permitted *de minimis*. But the depth of the proposed reduction as well as its pace would depend on the modalities to be agreed for each category through subsequent negotiations. In general, however, the Framework indicates that the various elements of domestic support are to be reduced through a “tiered” formula approach under which countries with higher domestic support would make greater reductions. As a down payment, developed countries would offer a 20 per cent reduction in their subsidies during the first year of implementation of the final agreement. This may not amount to much in real terms, since

the reduction is to be made from bound levels which tend to be much higher than current actual levels of subsidies in many cases. Beyond this, the Framework provides some flexibility for developed countries to the extent that they are allowed to only slowly eliminate internal subsidies which provide significant support for sensitive crops in their Green and Blue Boxes. Developing countries are also provided with flexibilities through SDT. They will have longer implementation periods and lower reduction coefficients, as well as continued access to provisions allowing the unrestrained use of subsidies for low-income and resource-poor producers. In addition, developing countries will continue to be permitted the use of investment and input subsidies and support for diversification from growing illicit crops under Article 6.2 of the WTO Agreement on Agriculture.

The July Package affirms that all direct and indirect export subsidies are to be phased out at a yet-to-be negotiated end-date. When it is eventually accomplished, this will eliminate the form of government support which most distorts international trade. The Framework provides for SDT-based flexibilities in two directions. First, the proposed discipline on export subsidies is to reflect impact on LDCs and net food-importing developing countries. Second, the new export support disciplines on State trading enterprises will include exemptions with respect to their support in preserving domestic consumer price stability and ensuring food security in developing countries. The July Package also addresses the market access pillar of the negotiations on agriculture. In particular, it seeks to expand market access through significant reductions in tariffs and non-tariff barriers. These reductions are to be accomplished by using a tiered formula which takes into account the different tariff structures in developed and developing countries; we need, however, to bear in mind that LDCs are not required to reduce their tariffs. More specifically, tariff reductions are to be made from bound rates and progressivity is to be achieved through deeper cuts in higher tariffs, although there are to be flexibilities for “sensitive” products. In effect, all developed and developing countries (which are required to make tariff reductions) may designate “an appropriate number” (to be negotiated) of sensitive products to which the reduction formula will not apply. In addition, further SDT-based flexibilities are provided by the Framework for developing countries. These consist of three elements: developing countries will have longer implementation periods and smaller reductions in tariffs; they will have the right to designate Special Products (SPs) based on criteria of food security, livelihoods and rural development needs, which will enjoy more favourable treatment in terms of tariff reduction obligations; and they will also have recourse to a Special Safeguard Mechanism (SSM) as a means of protecting themselves against sudden import surges which may arise from the liberalization of agricultural trade.

Furthermore, the agriculture component of the July package addresses several other issues of critical importance for developing and least-developed countries. For instance, it mandates the negotiations to address the issue of erosion of trade preferences that may arise from most-favoured-nation (MFN) liberalization, as well as the liberalization of trade in tropical agricultural products. In addition, the Framework reaffirms the call on all developed and developing countries in a position to do so to provide duty-free and quota-free market access to the LDCs. Finally, in response to a specific African request, the Framework on agriculture explicitly commits WTO Members to addressing the issue of cotton ambitiously, expeditiously and specifically within the negotiations on agriculture. In doing this, the Framework affirms that the negotiations “shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition”. Finally it mandates that the negotiations must ensure “appropriate prioritization of the cotton issue independently from other sectoral initiatives”. In order to ensure this special focus on cotton, the Framework states that the establishment of a special committee



on cotton, even though the discussions on it will continue to be made an integral part of the negotiations on agriculture.

As a reflection of its being hostage to the uncertainties regarding the level of liberalization ambition that may be feasible in agriculture, the Framework Agreement on Non-Agricultural Market Access (NAMA) is quite vague and limited. The Framework thus limits itself to “initial element for future work on modalities and notes that additional negotiations are required to reach agreement on such elements as tariff reduction formula, the starting point for binding unbound tariff lines, flexibilities for developing countries, as well as their participation in the sectoral initiatives.

From the perspectives of many African and other developing countries, SDT and related implementation issues constitute the core “development” elements of the Doha negotiations. The July Package is rather weak on these development issues as it reflects the deadlock in the negotiations relating to improvement of SDT provisions and decisions on outstanding implementation issues. In spite of this deadlock, however, SDT provisions remain firmly integrated into the negotiations specified under each of the four frameworks contained in the July Package. Thus, the framework on development issues imposed a new deadline of July 2005 for the Committee on Trade and Development to complete its review of the Agreement-specific proposals on SDT, and for the General Council to “review progress” on implementation-related issues “and take any appropriate actions”. In this context, Members agreed to address, with respect to SDT provisions, cross-cutting issues, monitoring mechanism and the incorporation of SDT into the architecture of WTO rules.

Among the four original “Singapore Issues”, trade facilitation was the only issue which survived the preliminary search for an “explicit consensus”. Hence, the July Package contains a framework which indicates the agreement by members to launch negotiations “with a view to further expediting the movement, release and clearance of goods, including goods in transit”. In particular, the Framework contains negotiating modalities which spell out the need for SDT, technical assistance and capacity building for developing countries. Furthermore, the negotiating modalities include a caveat which affirms that developing countries will not be required to implement the final agreement in cases where support and assistance for the required infrastructure is unavailable or where these countries continue to lack the necessary capacity.

In principle, African negotiating interests and positions are broadly reflected under each of the four Frameworks of the July Package. In the case of agriculture, it is reaffirmed that LDCs (most of which are African) will not be expected to make liberalization commitments while the developing countries are permitted significant flexibilities, including the designation of SPs and recourse to SSM. In addition, cotton is taken up as a special issue of interest to Africa. Furthermore, the July Package reaffirmed the call for LDCs to be granted quota-free and duty-free market access in all developed countries as well as the developing countries that are able and willing to do so. In the case of trade facilitation, the flexibilities are couched in even stronger language which specify that any final agreement will not be expected to be implemented by an African country which lacks the relevant capacity and is not provided with appropriate technical assistance and support.

It should be noted, of course, that the July Package offers what amounts, essentially, to a series of road maps for further negotiation on several issues. Hence, whether such issues are finally resolved in ways which fully take into account African interests and positions would depend on the dynamics of subsequent negotiations. In agriculture for instance, the

Framework assigns the resolution of the issues of preference erosion and liberalization of tropical agricultural products to further negotiations. Similarly, in the case of NAMA, only further negotiations will determine the issues of the treatment of unbound tariff lines as well as the fiscal revenue losses and deindustrialization that African countries may suffer as a result of MFN liberalizations. Since virtually no progress had been made with respect to the development issues prior to its articulation, the July Package offers no real comfort to African countries on these issues. Whether or not, and the extent to which African countries achieve their objectives in these areas would obviously depend on their participation in the negotiations for which the July Package merely provides road maps.

### **C: Hong Kong Ministerial Conference decisions and follow-up**

Despite the invigorative effects of the July 2004 Package on the Doha negotiations, it became clear by November 2005 that the original goal of completing the Round at the Hong Kong 6<sup>th</sup> WTO Ministerial Conference in mid-December 2005 would not be met. In the light of this reality, the ambition for Hong Kong was lowered to that of ensuring that the existing momentum should be maintained beyond Hong Kong so that a successful completion with an ambitious outcome might be obtained by the end of 2006 or early 2007. In the end, the achievements of the Ministerial Conference were quite modest as it was unable to reach concrete final decisions on many of the controversial issues under negotiation and had to settle either for providing revised road maps for resolving some of these or endorsing the specifications of the July 2004 Framework on others.

In the case of negotiations on agriculture, for instance, each of the three pillars had elements that remained controversial and, in spite of concerted efforts by WTO members, could not be fully resolved before the Hong Kong Conference. With respect to domestic support, debate raged on the structure of the tiered formula for making reductions in trade-distorting support, as well as the level of the binding cap on the component boxes of the aggregate measure of support (AMS). Under export competition, the broad consensus on the changes needed to phase out regular export subsidies and export credits had not culminated in the setting of the final end-date. Agreement on new disciplines on state trading enterprises and on food aid also remained elusive. The basic position with which many African countries were associated called for an “immediate standstill commitment on all forms of export subsidies” and their elimination within five years. In the market access area, the ACP countries submitted a proposal which stressed the vulnerability of many developing countries to an unrestrained opening of markets. It offered a formula which would classify tariffs into four tiers for reduction and suggested that developing countries should make tariff cuts ranging from 15 to 30 per cent. In addition, the ACP proposal provided for special consideration for developing countries which had previously bound their tariffs at a very high uniform rate so that they would not be required to make steep percentage reductions in the Doha negotiations. Finally, to reduce the incidence of preference erosion, the ACP proposal suggested that developed countries should include preference-related products in their lists of sensitive products which would attract relatively low tariff reduction. Similarly, the G-33 countries demanded that countries should enjoy “maximum flexibility” in designating SPs, and that the SPs should not be subject to tariff reductions and should qualify for the SSM. In addition, the SSM should be applicable to all agricultural products and should be triggered by volume surges and price decreases. In the specific case of cotton, the African Group proposal called for the elimination of all export subsidies for cotton by 1 July 2005, followed by the elimination of trade-distorting domestic support by 21 September 2005, as well as the establishment of an emergency fund to address the social and economic consequences stemming from an international cotton market depressed by subsidized suppliers.

At the Hong Kong Ministerial Conference, it was agreed that, with respect to domestic support, “there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands”, and that all developing countries will be in the bottom band. In addition, developing country members with no AMS commitments will be exempt from reductions in *de minimis* and the overall reduction in trade-distorting domestic support. With regard to export subsidies, the Ministers agreed to their complete elimination by the end of 2013, in accordance with yet-to-be-agreed modalities. In the area of market access, the Conference agreed to adopt four bands for structuring tariff reductions, but agreements remain pending regarding the relevant thresholds and the treatment of sensitive products. Nevertheless, the Conference agreed that developing countries “will have the flexibility to self-designate an appropriate number of tariff lines as Special Products” and “will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers”. In both cases, however, precise operational arrangements await further negotiations. The Conference resolved “to establish modalities no later than 30 April 2006 and to submit comprehensive draft schedules on these modalities no later than 31 July 2006”. Finally, in the case of cotton, it was decided to eliminate “all forms of export subsidies for cotton” by developed countries in 2006, and that “developed countries will give duty and quota free access for cotton exports from LDCs from the commencement of the implementation period.

The July 2004 Package had called for “additional negotiations” on several elements of NAMA, including tariff reduction formula, flexibilities for developing countries, treatment of unbound tariff lines, participation in sectoral initiatives and preferences. Discussions leading to the Hong Kong Ministerial Conference did not succeed in resolving these issues. The July Package contains stipulations in several of these areas. In particular, it indicated that tariff reductions on industrial product should be based on a non-linear formula applied to bound tariffs on a line-by-line basis, that all specific duties should be converted to *ad valorem* equivalent, and that the base for reducing unbound tariffs should be set at two times the applied MFN tariff. In addition, it specified that the tariff reduction formula should account for the needs of developing and least developed countries, “including through less than full reciprocity (LTFR) in reduction commitments”, and that this set of countries should be allowed to retain some unbound tariffs and make tariff cuts on some products that are smaller than those required by the formula. Based on these stipulations, developing countries have argued that a single Swiss-type formula which is aimed at cutting high tariffs more steeply than lower ones would not be acceptable because it would affect developing and least-developed countries disproportionately and thus negate the LTFR principle; it would also lead to the harmonization of customs duties amongst countries with differing economic and industrial structures and thus would not deliver on the development objective of the DWP. Hence, developing countries have proposed a Swiss formula with two different coefficients for the developed countries on the one hand and the developing countries on the other. By linking the level of tariff cuts to a country’s average tariff rate, this form of the Swiss Formula would ensure that the higher the original average, the higher it will remain after the formula is applied.

The Ministers agreed to “adopt a Swiss Formula with coefficients at levels which shall” achieve the objectives specified for the NAMA negotiations while also taking “fully into account the special needs of developing countries including through less than full reciprocity in reduction commitments”. The NAMA Negotiating Group is instructed to finalize the structure and details of the tariff reduction formula as soon as possible. In addition, the Ministers adopted a non-linear mark-up approach to establish base rates for

commencing tariff reductions and left the details to be finalized by the Negotiating Group. Finally, the Ministers acknowledged a number of outstanding issues with respect to which no consensus had as yet emerged. These include the impact on preference erosion of MFN liberalization and the balance between agriculture and NAMA in terms of comparability of market access liberalization. In both cases, the Negotiating Group was instructed to resolve the issues as soon as possible. But the Ministers have also specified a timeframe within which “to establish modalities and conclude the negotiations”. In particular, the modalities are to be established “no later than 30 April 2006”, while comprehensive Schedules based on them are due for submission no later than 31 July 2006”.

From the perspectives of developing and least developed countries, little or no progress had been made in respect of their primary interest in the negotiations on trade in services i.e. services supplied through temporary movement of natural persons (Mode 4). They were further disturbed by the call by certain developed countries to establish mandatory minimum market access commitments (or benchmarks) in the negotiations. They were quick to challenge this proposal on the grounds that it negates the very nature of the GATS which explicitly recognizes the right of countries to liberalize their services sector in accordance with their individual development situation. At their Hong Kong Conference, WTO Ministers had little or nothing new to say about trade in services, other than to reaffirm that LDCs “are not expected to undertake new commitments”; and to endorse a revised negotiating timetable which require that a second round of revised offers shall be submitted by 31 July 2006 and final draft schedules of commitment submitted by 31 October 2006. Also, despite resistance from many African countries, the plurilateral approach to negotiations was endorsed as one of the means of negotiations.

Other issues of particular interest to African countries which were discussed by the Ministers had little success in attracting significant decisions. In the negotiations on WTO Rules, for instance, no consensus had emerged, prior to Hong Kong, on the inclusion and/or form of SDT in regional trade agreements (RTAs), particularly those between developed and developing countries. Hence, the Ministers could only instruct the Negotiating Group to intensify its efforts “so as to arrive at appropriate outcomes by end 2006”. In the case of SDT, the Ministers adopted five LDC agreement-specific proposals. These include giving positive consideration to and taking a decision on requests for waivers of certain obligations within 60 days; and the provision of duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs from 2008 by developed country Members, “and developing country Members declaring themselves in a position to do so”. In addition, LDCs are allowed not only to maintain, temporarily, existing measures that deviate from their obligations under the TRIMs Agreement but also to introduce such new measures, although all such measures “shall be phased out by year 2020” Beyond these SDT decisions, the Ministers instructed that the review of all the outstanding SDT proposals be completed and reported to the General Council, “with clear recommendations for a decision” by December 2006.

Following the 6<sup>th</sup> WTO Ministerial Conference in December 2005, in which WTO Members renewed their political commitment to the Doha negotiations and moved it forward incrementally, the Doha negotiations are under pressure to be concluded successfully via a single undertaking among the 149 Members by the end of 2006. At the end of July 2006, however, the Doha negotiations in all areas affected were "suspended" when it was not possible among WTO members to agree on the modalities for agriculture and non-agricultural market access. No date for the resumption of negotiation was proposed. It is now clear that efforts and leadership need to be exercised to ensure that the suspension of the

round not lead to the lowering of ambitions in development dimension of the round, and that core negotiating issues of developmental importance are addressed meaningfully.

#### **D: Key Areas of Negative Impact of Multilateral Liberalization**

A major objective of the Doha negotiations is to bring about multilateral liberalization in trade in agriculture, non-agricultural products and services. This is, in turn, expected to stimulate economic growth and development. But the relationship between trade liberalization and economic growth may not be unambiguous, given its dependence on several country-specific and external characteristics, which when conducive may ensure that trade liberalization promotes growth, and when they are not could imply that the link remains weak and ineffective (Oyejide, 2003). In effect, reducing trade barriers will not automatically lead to the achievement of higher economic growth rates in the absence of other supportive conditions, such as enhanced market access opportunities and domestic policies which enhance the supply response capacity of local firms required to take effective advantage of the opportunities created by the opening up of both local and foreign markets. In particular, Hoekman and Prowse (2005, p. 4) argue that “gains from trade liberalization are conditional on an environment that allows the associated movement of labour and capital across sectors to occur, and that encourages investment and assists vulnerable households subjected to serious adjustment costs”. When trade liberalization is not complemented with appropriate measures for enhancing supply response capacity prior to, and in conjunction with, trade reform, it is likely to be associated with significant negative effects. Thus, as UNCTAD (2005) suggests, while trade liberalization may improve competitiveness in the long-run, many low-income countries which lack adequate supply response capacity may face significant short-term structural adjustment costs in the form of tariff revenue, output and employment losses as well as reductions in real wages. In the particular case of the Doha negotiations, simulations suggest that some low-income countries in Africa and elsewhere appear to be slight losers, following multilateral liberalization, either because they suffer from the erosion of their trade preferences and/or because they are net food-importers and thus would face higher prices for their food imports (Anderson and Martin, 2005).

It is clearly necessary to examine these areas of possible negative impact of multilateral trade liberalization in the context of the DWP for particular African or group of African countries and juxtaposed these against the expected gains. Much of the debate relating to the negative impact of multilateral liberalization has focused on two areas. One of these is the erosion of trade preferences. Preference-receiving African countries are concerned that multilateral MFN-based liberalization of trade and the elimination of trade-distorting policies in agriculture and non-agricultural products by their preference-granting trading partners will reduce the value of existing preferential access arrangements. The other main area of concern for many African countries is that significant reductions in their industrial tariffs, resulting possibly from the NAMA negotiations, would subject their economies to large fiscal revenue losses which could, in turn, constitute significant adjustment costs in view of their heavy reliance, generally, on trade taxes as a source of fiscal revenue and also protection for allowing industrial policy space to pursue industrial transformation.

While these two areas may constitute sources of significant negative impact of multilateral trade liberalization, there is an important distinction between them which could be relevant in terms of searching for solutions. Erosion of preferences emanates generally from the decision of preference granting countries which could be unilateral and/or multilateral. By comparison, loss of tariff revenue may, in general, be associated with the

reduction of a particular country's own tariffs – and this may also be brought about through unilateral, preferential and multilateral trade liberalization. The discussion relating to both preference erosion and tariff revenue losses in the context of the Doha negotiations is clearly associated with the multilateral route to trade liberalization. Hence, it is suggested that ways must be found to “compensate” for both of these areas of negative impact as a means of encouraging African countries to accept fairly high levels of multilateral trade liberalization ambition in the Doha negotiations on both agriculture and NAMA.

There is an important difference between the Doha negotiating obligations of LDC and non-LDC African countries, which is also relevant to the discussion of these two areas. The Hong Kong Ministerial Declaration includes decisions which have a bearing on this difference in relation to preferences. In paragraph 11, for instance, it is affirmed that “developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period”. This concession is widened in Annex F of the Declaration on SDT regarding LDC agreement-specific proposals with respect to which it is agreed “that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability”. In addition, the Declaration states, in paragraph 9, that “we affirm that nothing we have agreed here compromises the agreement already reflected in the (July 2004) Framework on .....long-standing preferences and preference erosion”. The Hong Kong Ministerial Conference did not, of course, resolve the issue of preference erosion. But, in paragraph 20, the Hong Kong Ministerial Declaration recognizes “the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the mfn liberalization that will result from” the Doha negotiations, and instructs “the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions”.

The Hong Kong Ministerial Declaration indicates that the problem of fiscal revenue losses by African countries resulting from multilateral trade liberalization will, in all likelihood, be restricted to the non-LDCs only. The LDCs in Africa and elsewhere may have no tariff reduction obligations in the Doha negotiations, and hence, should not face any fiscal revenue loss from MFN liberalization. Paragraph 20 of Annex A of the Hong Kong Ministerial Declaration reaffirms “the terms of paragraph 45 of the July Framework agreement which exempts least developed countries from any reduction requirement”. Similarly, paragraph 7 of Annex B on market access for non-agricultural products suggests that “the LDCs would be exempt from formula cuts”. In addition, the Ministers approved the five LDC agreements-specific SDT proposals listed in Annex F of the Hong Kong Ministerial Declaration, two of which reaffirmed that LDCs “will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, and their administrative and institutional capacities”. As in the case of the problem of preference erosion, the Hong Kong Ministerial Conference did not resolve the issue of tariff revenue losses emanating from MFN trade liberalization in the context of the Doha negotiations. Instead, paragraph 32 of Annex B of the Ministerial Declaration states that “more clarity is required ..... on the nature and scope of the problem”.

The discussion above suggests that all preference-receiving African countries LDCs and non-LDCs, may have reason to be concerned with the negative impact of MFN liberalization to the extent that it leads to the erosion in the value of their preferences. By comparison, it appears that only non-LDC African countries need be worried about tariff

revenue losses that may be associated with their tariff reduction obligations in the Doha negotiations. In a summary of the available research on preference erosion, Hoekman and Prowse (2005) concludes that MFN liberalization under the DWP would have significant impact on countries with high concentration of exports in heavily protected commodities, particularly sugar, banana and to a lesser extent, garment exports. African countries which fall under this category include such LDCs as Cape Verde, Malawi, Mauritania, and Sao Tome and Principe, as well as such non-LDCs as Mauritius, Seychelles, Swaziland, Tunisia, Côte d'Ivoire and Morocco. The estimates of percentage losses in total exports from preference erosion provided in Alexandrake and Lankes (2004) indicate that, among African non-LDCs, Mauritius, with a loss of 19.6 per cent, emerges as the most vulnerable. Others significantly affected are associated with the following percentage export losses: Seychelles (7.7 per cent), Swaziland (5.8 per cent), Tunisia (4.3 per cent), Côte d'Ivoire (4.2 per cent), and Morocco (4.1 per cent). IMF (2003) estimates that the effect of a 40 per cent reduction in both agricultural and industrial product tariffs in the Quad countries (EU, US, Japan and Canada) would reduce export value as a percentage of total exports of the following African countries by 5-12 per cent: Malawi, Mauritania, Cape Verde, and Sao Tome and Principe; while lower losses (in percentage terms) of between 2 per cent and less than 5 per cent would be suffered by the United Republic of Tanzania, Madagascar, Senegal, Ethiopia, Sierra Leone, Burundi, Uganda and Mozambique. In value terms, export revenue losses of over \$1.0 million are estimated for the following countries: Malawi (\$48.6 million), Mauritania (\$40.4 m.), United Republic of Tanzania (\$28.9 m.), Senegal (\$23.6 m.), Angola (\$21.1 m.), Ethiopia (\$15.4 m.), Uganda (\$9.1 m.), Madagascar (\$8.6 m.), Sudan (\$6.9 m.), Mozambique (\$5.7 m.), Liberia (\$3.4 m.), Sierra Leone (\$2.5 m.), Guinea (\$1.6 m.), Equatorial Guinea (\$1.3 m.) and Burundi (\$1.0 m.). Aggregate estimated losses in income transfers to producers in preference-dependent countries range from \$1.7 billion annually (Grynberg and Silva, 2004) to \$1.6 billion (Van der Mensbrugge, 2005). In the case of Africa, Francois, Hoekman and Manchin (2005) estimates that complete preference erosion due to MFN liberalization in the EU would impose a real income loss of about \$ 460 million on African LDCs.

As discussed above, if African LDCs are not obliged to make tariff reduction commitments in the Doha negotiations they would not be faced with any problem of tariff revenue losses emanating from the final results of the negotiations. But, clearly, African non-LDCs will be required to make tariff reduction commitments and may suffer varying degrees of fiscal revenue losses. Such losses are, of course, not peculiar to multilateral tariff reduction; they can also be associated with unilateral and regional trade liberalization. Regardless of their sources, however, they tend to have significant effects in countries, such as those in Africa, where trade taxes continue to provide a high proportion of total government revenues.

There is a sense in which tariff revenue losses could constitute only a short-run and transitional problem. The literature suggests that trade taxes are not necessarily the most efficient way of raising government revenue, and that broad-based domestic consumption taxes could perform better in terms of leaving consumers better off, efficiency and increasing government revenue. But empirical evidence suggests not only that replacing trade taxes with broader consumption taxes takes considerable time, effort and institution building but also that revenue lost through trade liberalization may not, in fact, be fully recovered from other tax instruments. In particular, Baunsgaard and Keen (2005) conclude that "revenue recovery has been extremely weak in low-income countries (which are those most dependent on trade taxes revenues): they have recovered at best, no more than about 30 cents of each lost dollar".

The magnitude of tariff revenue losses which may be suffered by different African non-LDCs as a result of MFN tariff reductions in the context of the Doha negotiations will obviously vary in relation to the structure of their imports and their existing tariff structures, as well as in relation to the extent of tariff reduction, the length of transitional period over which the reductions are implemented, and the scheduling and sequencing of the tariffs cuts. The adjustment costs may be reduced, for instance, if the transitional period provides sufficient time to build the capacity for putting in place more efficient and effective replacement tax sources. These are clearly empirical issues that must be addressed at the level of individual African non-LDCs. Meanwhile, estimates of EPA-induced tariff revenue losses by African countries are large, although they also vary significantly across various countries and sub-regions. Much of the estimated tariff revenue losses will be suffered by Nigeria (\$427 million), Ghana (\$194 m.), Cameroon (\$149 m.), Côte d'Ivoire (\$112 m.), Kenya (\$107 m.), Congo (\$75 m.), Gabon (\$74 m.), and Mauritius (\$71 m.) which are the main African non-LDCs that may be affected by tariff revenue losses induced by MFN liberalization. Similar estimates for a few other African non-LDCs are much lower, i.e., Seychelles (\$25 million), Zimbabwe (\$18 m.), Botswana (\$5 m.) and Namibia (\$4 m.). While these estimates may provide a broad indication that tariff revenue losses may be expected in certain African non-LDCs, they are clearly larger than what may be associated with MFN liberalization in the Doha negotiations. Unlike EPA, Doha-induced tariff reductions to be made by African non-LDCs are expected to be much lower and, hence, be associated with lower tariff revenue losses. Nonetheless they could be significant, in relative terms, to many of these countries based on their dependence on tariff revenue and thus constitute an important “disincentive” for agreeing to deep tariff reduction commitments in the Doha negotiations on both agriculture and NAMA.

Hoekman and Prowse (2005) survey several possible solutions to the problem of preference erosion, and these may also be expanded to cover tariff revenue losses. These solution approaches are classified into two broad categories. The first approach seeks compensation for preference erosion and tariff revenue losses within the DWP framework. The second approach seeks to compensate for both types of losses through various forms of development assistance. Under the first approach, both discriminatory and non-discriminatory forms of “compensation” have been suggested. For instance, African countries have called for limited liberalization of certain products by the OECD countries as a means of preserving preferential margins. In addition, they have argued for limited tariff reduction commitments on their part with respect to certain products, partly on the basis of minimizing tariff revenue losses. Beyond these, there are also proposals to expand preferential access to major emerging markets and to provide discriminatory access-particularly for Mode 4 of GATS as a means of compensating for both preference erosion (in some OECD markets) and tariff revenue losses. The Hong Kong Ministerial Declaration, which requires “developing countries in a position to do so” to grant duty-free and quota-free access to all exports of the LDCs, constitutes one aspect of this set of proposals. A number of non-discriminatory solutions have also been proposed. For instance, the African Group at the WTO has repeatedly called for deeper MFN liberalization with respect to goods and services in which developing countries have a comparative advantage as a means of increasing their export revenue. In addition, they have, along with other developing countries, argued that a more gradual MFN liberalization would allow adjustment to occur over a period which is sufficient to enable them build supply response and reduce adjustment costs.

With respect to the second category of solution approaches, more clear-cut distinctions can be made between the proposals which focus on preference erosion and those that have a broader “external shocks” focus. Within the former are proposals which suggest



that preference-granting countries should directly compensate preference-receiving countries for the erosion of the value of their preferences which result from MFN tariff reductions (Page, 2004; Grynberg and Silva, 2004). In the case of solution approaches with a broader focus, the IMF's Trade Integration Mechanism (TIM) and the Integrated Framework for Trade-Related Assistance (IF) address the same problem from short-term and longer-term perspectives. The TIM is intended to assist countries experiencing short-term balance of payments problems associated with the impact of multilateral liberalization. Since the TIM will operate through existing IMF instruments, it is associated with the usual IMF policy conditionality, terms and costs of lending. Thus, it has external debt implications for the adjusting country. The IF provides assistance, in the form of grants, to deal with "structural" adjustment to the impact of external shocks. In particular, it situates assistance needed to support successful trade reform in the context of a country's overall development strategy. Given limited aid resources, the coverage of IF in terms of countries and focus on trade-related problems has, in practice, been constrained.

The Hong Kong Ministerial Declaration welcomes the new Aid for Trade (AFT) initiative which "should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade". AFT is viewed in this context as a valuable "complement" to the Doha negotiations rather than a "substitute" for its development benefits. AFT is expected to address a range of problems associated with a country's adjustment to trade reform, including preference erosion and tariff revenue losses. The Ministers at the Hong Kong Ministerial Meeting have agreed a process through which the WTO will seek to operationalize AFT and secure additional financial resources "where appropriate through grants and concessional loans". A task force on aid for trade was set up and released its report in July 2006 with recommendations on issues to operationalize aid for trade, noting that the effectiveness of these recommendations requires substantial additional targeted resources for trade-related programmes and projects as pledged at the WTO's Hong Kong Ministerial Conference, and against the background of the broader international commitment at the UN's Monterrey Conference and the G8 Summits in Gleneagles and St. Petersburg to significantly scale up development assistance by 2010. For African countries, critical areas of aid for trade support must encompass trade-related economic adjustments including for loss of preferences and fiscal revenue, implementation costs of trade agreements, trade-related infrastructure and competitive supply capacity building.

Underlying many of the solution approaches which seek to provide financial assistance as "compensation" for preference erosion and/or tariff revenue losses seems to be the expectation that such assistance will induce African and other developing countries to accept higher levels of ambition with regard to MFN liberalization in the Doha negotiations. From the perspectives of African countries, however, it is important that care be taken not to repeat the strategic negotiating mistake of the Uruguay Round when legally binding commitments were made, particularly in the area of "behind-the-border" issues, in exchange for unenforceable "best endeavour" promises of trade-related technical and financial assistance. The relevant question relates to the mechanism outside the WTO through which such "compensation" could be bound in the same way that corresponding DWP liberalization commitments are traditionally bound in the WTO. This question also addresses the issue of whether donors (bilateral or multilateral) will ever be prepared to place themselves under this type of binding arrangement. This may not be impossible, but it is difficult to find any relevant precedence in the history of the relationship between donors and recipients that would make the mandatory requirement implied by legal binding probable.

## **E: Achieving African interests through enhanced participation**

The Hong Kong Ministerial Declaration not only shows areas in which the more effective participation of African countries in the Doha negotiations has yielded favourable results but it also provides a framework for the rest of the negotiations. It is in the context of this latter aspect that one may explore how African interests in the Doha negotiations can be achieved through enhanced African participation. The underlying process, in this respect, is to examine the outstanding issues in the negotiations in relation to expressed African interests and negotiating strategies, including when the suspension of the Doha negotiations is lifted and negotiations are resumed.

An important precondition for the launch of the DWP as a comprehensive new round of multilateral negotiations was that it would provide an opportunity of addressing some of the perceived “imbalances” in the Uruguay Round results. Hence, the DWP provided for negotiation on outstanding implementation issues as an integral part of its work programme. These issues and concerns relate not only to compliance with WTO obligations and the associated difficulties being experienced by African and other developing countries but also to the implementation of soft law provisions in favour of this category of countries. The latter are designed for addressing the imbalances in WTO agreements which prevent them from benefiting fully from the multilateral trading system. In the course of the Doha negotiations, only a handful of these concerns have been resolved. This suggests that the African Group, in association with other concerned parties, must work to ensure that the remaining issues are satisfactorily resolved before the end of the Doha negotiations. Key among these issues are the harmonization of rules of origin, review of the provisions on countervailing duty investigations as they affect developing countries, changing *de minimis* levels so that the safeguard measures are not applied to developing countries individually accounting for less than 7 per cent of total imports and 15 per cent collectively, including provisions in TRIMs to provide developing countries the necessary flexibilities to implement development policies, ensuring that GATT Article XVIII allows developing countries to implement economic development programmes designed to raise their general standard of living and providing that only the WTO Committee on Balance of Payments shall have the authority to examine the justification of balance of payments measures. The concerns to be addressed by the changes noted above fall under the general category of the preservation of “policy space” for developing countries. Similar concerns are addressed under the negotiations on SDT provisions.

Taken together, the concerns in these two areas largely define, from the perspectives of developing countries, the key components of “development” in the DWP. The DWP negotiating mandate specifies that “all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational”. The basic African interests in this regard are to expand their policy space and convert many of the “best endeavour” commitments of the developed countries into legally binding and enforceable obligations. It is clear that African countries represent the main *demandeurs* of the proposed changes in SDT provisions. Hence, African negotiators are obliged to convert their current proposals, which have been labeled as too general and vague, into forms that can ensure concrete changes which should, in turn, address their broader development needs.

Developing countries have won the right to self-designate a number of Special Products (SPs) and have recourse to a Special Safeguard Mechanism (SSM) in the agriculture negotiations. The next challenge is to articulate their operationalization, in particular the

criteria for determining the SPs. In addition, African and other developing countries are obliged to more concretely articulate how to ensure, in practical terms, that “products relating to long-standing preferences shall be designated as sensitive products” by preference-granting countries as a means of protecting or preserving existing preference margins. A similar challenge faces African developing countries with respect to preference erosion in the NAMA negotiations, i.e. work on the assessment of the scope of the preference erosion problem and the search for possible solutions. Prior to this, of course, the African Group must work with others in defining the structure and other details of the Swiss Formula which has been adopted for NAMA negotiations to ensure that the coefficients chosen fully take into account their special needs and interests, and that the agreed level of ambition in tariff reductions, as well as the transitional period over which they are implemented take due cognizance of possible negative implications, particularly in terms of fiscal revenue losses and deindustrialization.

Similar challenges which call for more effective African participation exist in such other areas of Doha negotiations as services, WTO rule and trade facilitation. Because the “movement of natural persons” (Mode 4) represents an area of possible significant benefits for them in the liberalization of trade in services, African countries must pay priority attention to this area in terms of identifying specific categories of workers for whom improved market access is required. With respect to the negotiations on trade facilitation, the African Group’s main challenge relates to the operationalization of the technical assistance and capacity building that will, as already agreed, be associated with their liberalization commitments. Finally, in the Doha negotiations on WTO rules the primary African challenge is to ensure the inclusion of favourable SDT provisions in WTO rules on regional trade agreements between developing and developed countries. In particular, the African Group in conjunction with like-minded country-groups should be interested in securing much longer transitional periods for implementing such agreements, securing a much lower threshold for defining “substantially all trade” and only restricting the trade barriers to be eliminated to tariffs in the revised versions of GATT 1994 Article XXIV. This position would be consistent the Doha negotiating mandate which affirms that “provisions for special and differential treatment are an integral part of the WTO Agreements and that the negotiations on the WTO rules applying to regional trade agreements “shall take into account the developmental aspects of regional trade agreements”.

### **Summary and conclusion**

The interest that have propelled African participation and the effectiveness of this in the Doha negotiations largely reflect the results of the Uruguay Round, particularly as they relate to Africa, as well as the build-up of the region’s negotiating capacity over time. More specifically, African countries appear to have agreed to the launch of the DWP as a new comprehensive round of multilateral trade negotiations in the belief that the round would provide them with the opportunity not only to redress the “imbalances” introduced into the global trading system by the Uruguay Round, but also to place more development-oriented concerns on the negotiating table. Since the launch of the Doha negotiations and the articulation of the associated work programme, African participation has been both active and more sharply focused. This has been facilitated by two main factors; i.e. the emergence of consensus-building institutions such as the African Group and the presence in Geneva of an AU office as well as the strengthening of participation capacity through the acquisition of better skills. Capacity-building support to African countries by UNCTAD and other organizations has helped to strengthen Africa’s negotiating and implementing capacities.

Positions taken by African countries and the coalitions in which they participate have generally been shaped by a number of concerns. These include the objective of export expansion and diversification through enhanced market access, the need to shift WTO focus by paying more attention to the development dimensions of trade negotiations and the high adjustment costs imposed on African countries by increasingly complex and intrusive WTO rules. These concerns have motivated African calls for sharp reduction in the high tariffs, tariff peaks and tariff escalation imposed by the developed countries, on agricultural and industrial products of exports to African countries, as well as elimination of agricultural export subsidies and domestic support. At the same time, African countries have asked to be allowed to make lower levels of tariff reduction commitments spread over longer implementation periods. In addition, they have asked to be allowed to designate Special Products in agriculture and to have recourse to a Special Safeguard Mechanism (SSM) to protect their economies from agricultural import surges. Beyond these, they have sought to mitigate the negative effects of multilateral liberalization in both agriculture and NAMA in terms of preference erosion and fiscal revenue losses. In the negotiations on trade in services, enhanced access to external markets through Mode 4 has been the primary offensive position of African countries, while at the defensive end they have focused on retaining as much flexibility as possible. More generally, African countries have sought to enhance their policy space by calling for a review of SDT provisions in various WTO Agreements with a view to enhancing their development-orientation and incorporating SDT into the new architecture of WTO. A similar concern spills over into the negotiations on WTO rules where the African position is to modify the provisions applying to regional trade agreements between developed and developing countries by inserting appropriate SDT provisions aimed at enhancing their “developmental aspects”.

The July 2004 Framework Package was developed not only to revive the Doha negotiations following the failure of the Cancun Ministerial Conference, but also to provide a road map for completing the negotiations. More specifically, the Package offered decisions on all areas of negotiations, as well as negotiating modalities for agriculture, NAMA, services and trade facilitation. Because agriculture was perceived as the most contentious area of the Doha negotiations, the July Package offered a more detailed framework for this sector by covering the three pillars of domestic support, export subsidies and market access. For instance, it mandated that, subject to the modalities to be agreed, the negotiations must achieve a substantial reduction in domestic support, the phasing-out of all forms of export subsidies, and significant reductions in tariff and non-tariff barriers. Certain flexibilities are provided for developing and least developed countries in this context. While the LDCs are not required to make any reduction commitments, developing countries will have longer implementation periods, lower reduction coefficients, as well as other SDT provisions which permit the continued use of certain input subsidies. In response to a specific African demand, the Package mandates that the issue of cotton be addressed “ambitiously” and “expeditiously”, as well as “specifically” within the agricultural negotiations. In addition, the package mandates the issue of preference erosion that may arise from MFN liberalization.

The NAMA framework contained in the July Package is limited and vague, indicating essentially that further negotiations would be required to resolve divergences on issues such as tariff reduction formula, starting point for binding unbound tariff lines, and flexibilities for developing countries. Similarly, the framework on development issues associated with SDT and outstanding implementation questions remains weak, succeeding only in specifying new deadlines for discussion and making recommendations on these issues. But a clear decision was made with respect to the “Singapore Issues” only trade facilitation would be negotiated

while the other three issues were dropped from the Doha negotiations. In addition, this trade facilitation negotiation would be subject to an important caveat, i.e. developing countries will not be required to implement the final agreement on trade facilitation if they lack the necessary capacity and where support and assistance for the required infrastructure is unavailable.

In spite of the invigorative effects of the July Package, the negotiations progressed too slowly and unevenly towards the Hong Kong Ministerial Conference whose results were therefore modest. In particular, the Ministers were unable to reach concrete final decisions on many issues and had to settle for providing revised road maps and/or reaffirming the specifications of the July Package. However, with respect to domestic support in agriculture, it was agreed for the reductions “with higher linear cuts in higher bands”. In the case of export subsidies, complete elimination is to be achieved by 2013, in accordance with modalities to be established. On market access, four bands for structuring tariff reductions were agreed. In addition developing countries will be able to designate a number of Special Products and also have recourse to a Special Safeguard Mechanism based on import quantity and price triggers. It was decided to eliminate all forms of export subsidy for cotton by developed countries in 2006. Five agreement on specific SDT proposals of LDCs were harvested, including on duty-free, quota-free treatment of 97 per cent of exports of all LDCs, with the remaining 3 per cent to be gradually liberalized.

For the NAMA negotiations, the Ministers agreed to adopt a Swiss Formula with more than one coefficient, so that the special needs of developing countries can be reflected in the final tariff reduction commitments. But other elements of the specific modalities are to be negotiated “no later than 30 April 2006”. Similarly, a revised negotiating schedule was agreed for trade in services in the context of which revised offers are due by 31 July 2006 and final draft schedules of commitments should be submitted by 31 October 2006. In the case of the review of SDT provisions, the Ministers adopted five LDC agreement-specific proposals; the most significant of these provided for duty-free and quota-free market access, on a lasting basis, for most products originating from all LDCs from 2008 by developed countries “and developing country Member declaring themselves in a position to do so”, and allowed LDCs to retain their TRIMs-incompatible measures until 2020.

The July Package and the Hong Kong results imply that the Doha negotiations will result in significant reductions in various forms of trade barriers, particularly in the developed countries and to some extent also in developing countries. African countries are concerned that such MFN trade liberalization may impose a negative impact on their economies in terms of erosion of preferences and fiscal revenue losses. Because it appears that this concern may discourage African countries from supporting fairly high levels of MFN trade liberalization, there are various proposals to provide “compensation” for both areas of possible negative impact. The significance of preference erosion and fiscal revenue losses will obviously vary among African countries. It is clear, for instance, that if LDCs are exempted from making tariff reduction commitments in agriculture and NAMA, they should not be affected by fiscal revenue losses in relation to MFN trade liberalization. But all African preference-receiving countries will be negatively impacted upon by MFN trade liberalization.

Available research concluded that much of the negative impact arising from preference erosion will be concentrated on countries with a high concentration of exports in heavily protected commodities such as sugar, bananas and clothing. African countries in this category include LDCs such as Cape Verde, Malawi, Mauritania, and Sao Tome and Principe; and non-LDCs such as Mauritius, Seychelles, Swaziland, Tunisia, Côte d’Ivoire and

Morocco. By comparison, a number of non-LDC African countries are likely to be negatively impacted upon by fiscal revenue losses arising from their contributions to MFN trade liberalization in the context of the Doha negotiations. These countries include Nigeria, Ghana, Cameroon, Côte d'Ivoire, Kenya, Congo, Gabon, Mauritius, Seychelles, Zimbabwe, Botswana and Namibia.

Several possible solutions have been suggested to the problems of preference erosion and fiscal revenue losses. These range from limiting MFN liberalization by country-category and/or product-group (and thus essentially reducing the overall level of liberalization ambition of the Doha negotiations) to providing “compensation” in the forms of grant and non-grant adjustment assistance. While compensation provided in the form of grant-based development assistance may be attractive to many resource-constrained African countries, they should clearly be a way of making legally binding commitment in the form of MFN liberalization in exchange for legally unenforceable “best-endeavour” promises of financial compensation.

In the rest of the Doha negotiations, enhanced African participation will be crucial in achieving the region’s goals with respect to several outstanding areas of the negotiations. These include SDT and implementations where current imbalances in certain WTO agreement constrain their policy space and thus prevent them from benefiting fully from the multilateral trading system. In addition, an appropriate revision of the provisions of regional trade agreement by including SDT elements targeted at enhancing their developmental aspects constitutes a critical challenge for African countries, particularly in view of its implications for the EPA negotiations.

#### **4. THE DEVELOPMENT INTERFACE BETWEEN THE WTO, EPAS AND REGIONAL NEGOTIATIONS**

##### **Introduction**

Many African countries are currently engaged in three different types of trade negotiations, all of which share common objectives in the form of fairly specific development goals. These include the DWP – a comprehensive round of multilateral trade negotiations in the WTO; the EPA – the negotiation of economic partnership agreements between a series of African regional groups (within the wider ACP group of states) and the EU; and a series of intra-African regional integration arrangements. The Doha negotiations were formally launched at Doha in November 2001, although several issues were carried over in the form of the built-in agenda with respect to which further negotiations were mandated by the results of the previous Uruguay Round. The EPA negotiations which began at the ACP-EU level in September 2002 were launched at the African regional levels in October 2003 for West and Central African regions, in February 2004 for the ESA group, and finally in May 2004 for the SADC group. The negotiations aimed at establishing various intra-African regional integration arrangements were initiated much earlier. In addition, the established integration schemes remain uncompleted in the sense that none has successfully attained its ultimate objectives in terms of the depth of integration desired or explicitly stated. The African regional groups that have been strung together from among the existing uncompleted integration schemes are themselves therefore undergoing further transformation while being used simultaneously as vehicles for negotiating EPAs with the EU and possibly with other regional groupings in other regions.

There are clearly both positive and negative elements of the interface between all three negotiations. The primary purpose of this chapter is to identify and analyse these elements with a view to articulating ways in which positive and developmental coherence can be achieved in the negotiations. In particular, section 4.A focuses on the identification and analysis of key trade and development issues that are of special interest to African countries in all the three negotiations. In addition, the section suggests that while these negotiations may be mutually reinforcing with respect to some of these issues, they may diverge in other areas. Section 4.B develops recommendations on ways of achieving positive and developmental coherence among the three negotiations as a means of guiding the choice of an appropriate strategic approach for the negotiations by African countries. These underpin and build into corresponding recommendations for creating and/or strengthening synergies between the different negotiations and addressing other key interface issues which constitute the focus of section 4.C. In particular, this section explores issues relating to whether, and if so how, intra-African regional integration arrangements (RIAs) and the EPAs can become effective building blocks for development-oriented multilateralism. A summary of the main points raised is presented in the final section, which concludes the chapter.

The issue of interface between various trade negotiations has received much attention of late. For example, UNCTAD has been analysing the various levels of interface and their development implications for developing countries involved in these negotiations. UNCTAD's report (2005c) on "Multilateralism and Regionalism; The New Interface" addresses the question of how developing countries can maximize development gains from the totality of multilateral, interregional and regional trade agreements and negotiations. It further deals with the key policy challenges involved in ensuring coherence and forging positive interface in support of development and poverty reduction.

## **A: Key African trade and development issues**

Trade constitutes a large proportion of the typical African country's gross domestic product. It is therefore not surprising that trade policy issues often loom large in the analysis of African economic performance. An important cornerstone of African trade policy derives from the determination of African leaders to build the continent's development on a foundation of regionally integrated markets in the context of which each country could pursue the twin development objectives of sustainable economic growth and poverty eradication. The logic of this development strategy suggests several interlocking steps. The first of these is to establish a set of unified regional markets as a means of overcoming the limitations imposed by the small economic and market sizes of individual African countries. The second step should then build on the first by fusing the unified regional markets into an integrated continental market. Finally, the third step involves the coordinated integration of Africa into the global trading system. In reality, all three steps are being implemented simultaneously. The promotion of sustainable growth and poverty eradication as the overriding objectives of this framework is associated with intermediate targets, such as the expansion and diversification of trade, and facilitated by a package of policy instruments, including trade liberalization (i.e. import liberalization and export promotion) and the building of export supply response capacity. This framework also implies a definite pattern of sequencing and phasing in the use of these policy instruments. In particular, it suggests that the interests of African countries would be more effectively served by a strategy which prioritizes intra-African import liberalization ahead of multilateral opening of African markets, and prioritizes export supply response capacity-building ahead of generalized and deep import liberalization.

This framework recognizes that African countries must strive to become more competitive, both regionally and internationally, and diversify their production and trade, if they are to achieve their overarching development goals. This is an important reason for their participation in trade negotiations. But since participation in such trade negotiations must be motivated by the extent to which their results are expected to contribute to the achievement of the specified development goals of African countries, they should be evaluated accordingly. In what follows, therefore, the focus of the analysis is on the main areas of positive and negative impact of each of the three trade negotiations with which many African countries are currently involved.

Consistent with the broad elements of the framework of the basic African trade and development strategy sketched above, the ultimate goals of trade negotiations assigned by African countries to intra-African regional integration arrangements (RIAs) are essentially the same as those specified for the EPAs, i.e. promotion of sustainable growth and poverty eradication. Similarly, the main purpose of the WTO negotiations on the Doha work programme is the development of the participating countries. Beyond this, Africa's DWP negotiating objectives include promoting the expansion and diversification of exports by eliminating or reducing external market access barriers. It also consists of balancing the traditional WTO focus on market access with increased emphasis on the various development dimensions, particularly enhancement of the domestic supply response capacities of low-income countries and preservation of needed policy space and flexibilities. In addition, the RIAs and EPAs share another common goal, which is absent in the DWP, i.e. to achieve the objective of establishing regionally unified markets in Africa.



The EPAs are not conceived as just trade agreements and are meant to constitute development partnerships between the EU and the participating ACP regional groups. Hence, EPA negotiations are closely bound up with financial cooperation arrangements which are to anchor and strengthen each of the EPAs. In this context, the EU provides grants through the European Development Fund (EDF) to fund a variety of regional programmes covering economic integration (institutional support and compensation for customs revenue lost through the establishment of regional FTAs), and for competitiveness and trade-related support (strengthening and diversifying the supply-side, improving private sector competitiveness and helping exporters comply with EU SPS measures), and building capacity to conduct trade negotiations. The WTO process is associated with the provision of similar but more limited trade-related support to low-income countries. In the current Doha negotiations, African countries are seeking the expansion of this support. In particular, African proposals not only seek the retention of the traditional mechanisms of limited liberalization commitments and long transitional periods of implementation for ameliorating the adjustment costs of policy reforms, but also call for explicit adjustment assistance as compensation for preference erosion and fiscal revenue losses associated with MFN liberalization. Similar support measures constitute integral components of intra-African RIAs, although due to financial constraints they have generally not been broadly applied in practice, so that delayed or limited implementation of liberalization commitments often becomes the default option.

There are several other areas in which each of the three negotiations tends to run counter to at least some of the specifics of the integration-based African development strategy described above. Key among these are the nature, depth and time-phasing of the liberalization agenda of the three negotiations, as well as the sequencing of the main policy instruments. For instance, the lack of Africa-wide coordination and harmonization mechanisms has created problems for the eventual convergence of the liberalization programmes of the individual intra-African RIAs. In particular, there are marked differences in the rules of origin and the proposed common external tariffs (CETs) to which they aspire are not the same across the RIAs. Hence, at some point in the future, further negotiations will be required to harmonize these if the Africa-wide economic community is to be realized.

The strategy of the EPAs is also likely to pull participating African countries away from the Africa-centered direction noted above in certain respects. In particular, it may impose substantial import liberalization on them before adequate supply response capacity has been built and, in the process, place on them the burden of larger adjustment costs over a shorter time period than their own expressed liberalization agenda would suggest. Furthermore, given the preferential and discriminatory nature of the EPA-induced liberalization in favour of imports from the EU, the EPAs will be associated with significant welfare-reducing trade diversion and, rather than encourage increased investment in the participating African countries, the “hub and spoke” phenomenon which they are likely to generate is likely to induce investment for supplying goods and services to Africa to be located in the EU. Finally, most studies of the EPA suggest that participating African countries are likely to suffer additional negative consequences, particularly in the short-term, through fiscal revenue loss, reduction in industrial output and loss of employment.

With respect to multilateral trade negotiations, many African countries are justifiably concerned about the possible negative impact on them of the final results in a number of areas. First, preference-receiving African countries realize that MFN liberalization will reduce the value of existing preferential market access arrangements. Second, significant reductions in African tariffs resulting from the Doha negotiations may subject many countries

to substantial fiscal revenue losses which may be damaging particularly for countries that are heavily dependent on trade taxes and for whom alternative tax handles cannot be easily and quickly mobilized. Third, there is concern among the net-food-importing African countries that multilateral trade liberalization involving the elimination of domestic support and export subsidies for agricultural products in developed countries may lead to higher food prices and, hence, significant increases in their food import bills. Finally, many African countries are concerned that, as in the case of the Uruguay Round, the increasingly complex and intrusive WTO rules, relating particularly to behind-the-border issues, will impose high implementation and adjustment costs on them and erode their remain policy instruments to promote development.

Both the EPA and Doha negotiations involve discussions of various mechanisms through which some elements of the implementation and adjustment costs of trade liberalization may be “compensated” for through financial and technical assistance. There are at least two concerns that African countries must bear in mind in this connection. One has to do with ensuring that legally-binding trade liberalization commitments are not made in exchange for “best endeavour”, but non-actionable promises of financial and technical assistance. The other is that any assistance, however generous, is by nature likely to be short-term and is, thus, unlikely to provide adequate or appropriate compensation for long-term losses that may be associated with outcomes of trade negotiations which are not sufficiently development-oriented.

## **B: Achieving coherence in trade negotiations**

Africa’s simultaneous participation in three separate but interrelated and overlapping trade negotiations raises significant issues of coherence in several areas (Oyejide, Ogunkola and Bankole, 2004). As defined in WTO (2004; p. 90), “coherence....refers to the idea that mutually supportive approaches in related areas of policy are likely to produce greater harmony between intent and outcome”. Hence, it can be argued that there is need to build coherence around the combination of domestic policy and the intraregional, bilateral and multilateral trade arrangements required for the effective management of the adjustment costs associated with global integration and the maximization of its benefits (UNCTAD, 2003). In particular, issues of coherence may arise, in the context of various trade negotiations, in such areas as negotiating objectives and mandate, specific issues under negotiation, the modalities, strategies and schedules of negotiation, as well as the arrangement for implementing the results of the negotiations.

Since the general objectives of the series of intra-African RIAs, the EPAs and the Doha trade negotiations overlap substantially with one another as well as with the broad objectives of the development strategy of African countries, it appears that no significant problem of coherence exists. This does not, however, carry over into the other areas identified above. With regard to negotiating mandate, for instance, virtually all intra-African RIAs have set for themselves a wide agenda of negotiating issues covering the liberalization of trade in goods and services, as well as policy reform and harmonization of trade rules and policies over a broad range of trade-related areas. Such a broad agenda implies an aspiration towards achieving deep economic and political integration, eventually, across the African continent. A comparison of the DWP and EPA negotiating mandates reveals considerable overlap between the two. But the latter is more ambitious and covers more trade-related issues than the former. In particular, the EPA mandate covers negotiations on the full range of “Singapore Issues”; however the strong opposition of African and other developing countries has led to the elimination of three of these (i.e. investment, competition policy, and

government procurement) from the DWP. There is, thus, a clear case of incoherence between the EPA and Doha negotiating mandates in this respect.

In order to restore coherence it is recommended that African countries participating in the EPA negotiations take concrete action to eliminate the “Singapore Issues” and other social standard issues (such as labour, environment and consumer protection) from the EPA negotiations. The establishment of bilateral (ACP-EU) rules and surveillance mechanisms in these areas is likely to impose very high costs on African countries, in terms of rules that are harmonized at high levels and the associated implementation infrastructure requirements, that most African countries cannot afford. In any case, social standards are generally related to the level of development. Hence, the imposition of social standards that are harmonized at high (EU) levels is likely to be unsustainably costly for many African countries and, in the end, counter-productive.

The strategies being deployed in the intra-African, EPA and Doha negotiations raise complex coherence issues which emanate from the perception of the three negotiations as independent, autonomous and largely unrelated activities. In the case of the RIAs, individual African countries participate at their respective regional levels, but the absence of effective harmonization and coordination across the regions suggests that the objective of continent-wide integration may not be achieved as expected. The EPAs are being negotiated primarily by the officials of regional EPA groups, with limited input from individual countries and no formal mechanism for ensuring harmonization and coordination across EPA regional groups at the Africa-wide level. Finally, the Doha negotiations are driven largely by individual country participation, the African Group at the WTO provides informal harmonization and coordination services with the support of the AU Office in Geneva.

In establishing coherence with respect to negotiating strategy across the three negotiations, it is recommended that several steps be first taken. First, the critical functions of harmonizing and coordinating the integration policies and programmes of the RIAs should be undertaken at the level of the AU through the creation of the appropriate institutional arrangement. Second, this institutional framework should also assume formal responsibility for coordinating and harmonizing EPA negotiations at the continental level. Third, the coordinating role of the African Group at the WTO, the AU Office in Geneva, and the Conference of the AU Trade Ministers should be strengthened as a means of enhancing African participation in the DWP and ensuring that the WTO process is appropriately linked with the negotiations of the RIAs and the EPAs.

The simultaneous and overlapping nature of the three trade negotiations confronts African countries with a variety of challenges in the area of human and institutional capacity-building. The existing negotiating capacity is weak, particularly at the regional and Africa-wide levels, and is increasingly overstretched by the new demands of EPAs. There are several areas of pronounced weakness. For instance, the effective integration of trade and trade policy objectives into national development plans remains incomplete in most African countries, as does the capacity to derive appropriate trade negotiating objectives from each country’s own development strategy and programmes. Both the EPA and Doha negotiating processes call for a strengthening of the dialogue with stakeholders in the articulation of trade at the national and regional levels; this, by implication, require the capacity to articulate, aggregate and transform these priorities into negotiating positions in various fora in ways which enable them to be mutually self-reinforcing. Existing mechanisms such as the inter-institutional committees supported under UNCTAD/WTO/ITC Joint Integrated Programme of Technical Assistance to Selected Least Developed and Other Developing Countries

(JITAP) can be utilized, strengthened and emulated. In addition, effective participation in the interlocking series of trade negotiations requires the consolidation of national and regional negotiating machineries.

In order to effectively meet these capacity-deficiency challenges, African countries must generously invest in building strong analytical capacities and technical expertise for deployment at national, regional and continental levels. This should be complemented with the building of strong consultation, coordination and harmonization mechanisms at the intra-government, intra-national, intra- and interregional levels. In doing this, African countries must be wary of excessive reliance on the use of analytical and technical assistance provided directly and in kind by their negotiating partners. It may be more effective if such assistance is channeled through competent and more neutral regional and multilateral institutions.

Africa's simultaneous participation in the three trade negotiations also raises coherence problems with respect to the established schedule of negotiations. African regional EPA groups have been constructed as combinations of several intra-African RIAs which have not fully established themselves as integrated regions. Since the EPAs are to be built on existing RIAs, it is presumed that the African regional EPA groups must simultaneously negotiate and implement their own full internal integration and their bilateral integration with the EU no later than the end of December 2007. In addition, the ongoing Doha negotiations in which many African countries are participating is likely to continue through much of 2007. Given the weak negotiating capacities of many African countries and their regional groups noted above, it is difficult to see how the challenges posed by this tight schedule can be met effectively and successfully on the African side.

It seems logical therefore to recommend that the negotiating schedule be modified in two specific ways. First, the EPA process should continue to support Africa's internal integration agenda to achieve the first two objectives; i.e. regional integration and continent-wide integration. Second, the real EPA negotiations of the trade relationships between each of the African regional EPA groups and the EU should begin only after the completion of the Doha negotiations. In addition to other advantages, these modifications of the EPA negotiating schedule should release some African negotiating capacity for use in the EPA process.

This modification should also permit another important EPA requirement to be met. The required WTO-compatibility of the EPAs rests on the WTO rule on RTAs. Expressed African interests lie in ensuring that the disciplines and procedures under the existing provisions applying to RTAs are modified to incorporate "developmental aspects". More specifically, African countries have proposed that RTAs between developed and developing countries should have built-in SDT provisions for securing a much lower threshold for defining "substantially all the trade" to be liberalized and for ensuring that the implementation period for the liberalization commitment is extended from 10 to at least 18 years. This proposal is under negotiation in the DWP and an agreement on the review of WTO rules relating to RTAs is unlikely to be reached before the end of the Doha negotiations. In these circumstances, it seems futile to make commitments in the EPA negotiations before a decision is reached at the WTO on a critical component of the EPA requirement.

The need for sequencing major trade reform components and providing appropriate transitional arrangements for their implementation is widely recognized. This is because such trade reforms are often difficult to manage; sequencing the phase-in of various components

may therefore facilitate easier and more effective implementation. This process permits taking into account the varying adjustment needs of different sectors of the economy, while long transitional implementation periods may be one way of reducing or spreading out the inevitable costs of adjustment, implementation and compliance. The lack or inadequate capacity of African countries for effectively managing the overlapping and interlinked implementation and compliance obligations of the RIA, EPA and Doha negotiations may constitute a significant problem of coherence. It is certainly an important concern for African countries participating in these negotiations to ensure an optimal combination and management of the varying sequencing of implementation and transitional periods involved in the three negotiations.

Given that the EPA negotiations constitute the most rigid in this context, it is recommended that appropriate studies be carried out to determine the optimal sequencing of various trade reform components and the associated transitional implementation periods, not in an *ad hoc* and haphazard manner as in the Uruguay Round, but in relation to an objectively determined set of criteria reflecting differences in levels of development and the human, institutional and fiscal capacities of the participating African countries. It is not self-evident that the sequencing and implementation schedules pre-established for the EPAs will be exactly the same as those that would emerge from such an objective analysis.

### **C: Building synergy across trade negotiations**

The simultaneous participation of many African countries in three parallel trade negotiations also raises significant issues of complementarity, compatibility and synergy. The overall African integration programme involves a certain sequencing of liberalization within and across regions in Africa, as well as between the continent and the rest of the world. The overriding concern with synergy and complementarity relates to whether and, if so, the extent to which each of the trade negotiations involves a sequence of liberalization which is the same as or, at least, complements that already established by the African countries. This is the context within which the building of synergy across the trade negotiation is addressed below.

The trade liberalization component of Africa's integration programme has three important phases. The first of these consists of the elimination of all trade barriers as a means of establishing complete internal integration within each intra-African RIA. The next stage is the elimination of trade barriers across the RIAs and the fusion of these regional bodies into the continental AEC. The final stage involves the gradual integration of Africa into the global trading system through the multilateral reduction of African trade barriers against non-African imports. Complementary roles can be defined for each of the three trade negotiations in achieving the specific liberalization goals of Africa's integration programme. The liberalization programmes of the RIAs are obviously crucial for the achievement of the objective of complete integration at the regional level, i.e. phase one of the African integration programme. But the significant incidence of overlapping membership among the RIAs poses a threat in this context. Hence, efficiency demands the elimination of membership overlaps through harmonization, rationalization and merging which may be facilitated by studies on comparative costs and benefits of membership in different RIAs and studies focused at determining the "natural" members of particular RIAs. The EPA negotiations may also make positive contributions in this regard. The requirement that each participating African country should belong to only one RIA has the effect of resolving part of the problem of overlapping. In addition, the requirement that each EPA will build on existing regional integration initiatives by helping to strengthen them may contribute towards solidifying the first phase of African integration programme. It is important, however, to set

these areas of likely positive contribution of the EPA process against a significant problem. Given the current realities on the ground and the state of play in the RIA and EPA negotiations, it appears unlikely that full internal integration of each of the African EPA groups (including their constituent RIAs) can be achieved by the end of 2007 as envisaged in the EPA negotiations schedule. Some flexibility will be required in this respect in order to enhance the synergy between the negotiations of the RIAs and the EPA.

The second phase of the African integration programme will benefit from more effective harmonization and coordination of the integration activities of the RIAs. This requires the establishment of an appropriate institutional framework to formally link the RIAs with the AEC-AU and serve as the mechanism for ensuring alignment between the integration processes at the regional and continental levels. The EPA process completely omits the second phase of the African integration programme to the extent that it expects each African regional EPA group to begin the gradual opening of its market to the EU without doing the same for other African regional EPA groups. The EPA process is, in this particular instance, incompatible with the African integration programme. To ensure that the EPA process is consistent with their own integration programme, African countries must ensure that full trade liberalization across all African countries is achieved before any gradual opening of their markets to the EU can begin. This will also require a review of the envisaged starting date (i.e. 2008) for implementing the opening of African markets to EU products.

The third phase of the African integration programme involves the gradual and multilateral opening of African markets; it is, in principle, compatible with, and broadly complemented by, the Doha negotiations. The African integration programme does not, however, stipulate reducing tariff rates to zero across the board because the continued need to generate tariff revenue and offer basic residual protection to domestic producers without unduly sacrificing the efficiency gains of liberalization would suggest a more uniform tariff structure with tariff rates in the 10-15 per cent range. Hence, African negotiators will have to ensure that the agreed tariff reduction commitments in the Doha negotiations are compatible with this. The EPA negotiations which call for the eventual elimination of African import barriers against EU products on a preferential and discriminatory basis run counter to this phase of the African integration programme, as well as the spirit of the Doha negotiations. Since this is also associated with significant welfare-reducing trade diversion, African countries participating in the EPA negotiations should take steps to eliminate it from the EPA process in order to sustain consistency in the various trade negotiations with which they are simultaneously engaged.

### **Summary**

The determination of African leaders to embrace trade and development strategy based on the foundation of integrated regional markets suggests an integration and liberalization process structured in three interlocking phases. Within this process, the sequencing of policy instruments prioritizes supply response capacity enhancement ahead of deep import liberalization, while the sequencing of liberalization demands that intra-African import liberalization and integration should be fully achieved before the generalized opening of African markets. Two important issues arise: one is how current trade negotiations can assist African countries in implementing this strategy; the other relates to the coherence between the trade negotiations and this strategy, as well as the compatibility and synergy between them.

There is a danger of divergence and incompatibility between them particularly in areas such as the nature, depth and time-phasing of the liberalization agenda; the sequencing of the key policy instruments, as well as the institutional framework for coordinating and harmonizing the integrations process. In particular, the integration processes of the RIAs need better harmonization and coordination as a means of facilitating their smooth convergence at the continental level; the nature, depth and time-phasing of the liberalization programme of the EPAs need to be modified to avoid the imposition on African countries of unsustainable adjustment costs and the frustration of intra-African integration. In the same way, ways must be found to mitigate the negative consequences (e.g. preference erosion, fiscal revenue losses) that may be imposed by the Doha negotiations on African countries.

Achieving coherence in the trade negotiations requires building appropriate institutional structures for harmonizing and coordinating trade negotiations across national, regional and continental levels. In addition, it is necessary to delay substantive negotiations in the EPAs until the Doha negotiations have been completed as a means of benefiting from the DWP decisions on certain issues (e.g. WTO rules on RTAs) which are critical inputs into the EPA negotiations and to help relax African negotiating capacity constraints. Building complementarity and synergy across the trade negotiations requires the elimination of overlapping membership of the RIAs, ensuring better harmonization and coordination of the integration processes of the RIAs and EPAs, and realignment of the liberalization schedules of the negotiations in relation to the three phases of the African integration agenda.

## CONCLUSIONS

### Introduction

The analysis presented in this report has identified and examined several issues whose comprehensive understanding and taking into account should enhance the capacity of African countries to derive maximum growth and poverty reduction benefits from their trade and development strategy. These issues can be broadly categorized into the following: intra-African integration, Africa's trade relations with the European Union, Africa in the Doha negotiations, and interface issues of coherence and synergy among the series of trade negotiations with which African countries are involved. This section offers a summary of these issues and the problems that arise. In addition, relevant solution options are suggested and recommendations are made.

#### **A: Intra-African integration**

A development strategy based on integrated regional markets and culminating in a continental economic community has had an enduring appeal in Africa over several decades. But the successful and full achievement of the vision associated with this strategy has - and continues to be - frustrated by problems which emanate from both design flaws and implementation deficiencies. In spite of over four decades of experimentation, neither the trade objectives nor the development goals of integrated regional markets have been realized. Since the intra-African RIAs have not been entirely successful in eliminating intra- and interregional trade barriers, regional markets have not been integrated. The continued coexistence of various overlapping and sometimes conflicting RIAs has made implementation of regional integration policies and programmes difficult or ineffective in many cases.

Africa-wide integration process should proceed in a more orderly, faster and smoother fashion if:

- Existing RIA are restructured to eliminate the incidence of overlapping and cross-regional membership;
- All RIAs abolish rules-of-origin requirements against all intra-African trade and adopt the same common external tariffs against imports from non-African countries;
- All African countries unilaterally eliminate all barriers against intra- African trade
- The integration activities at the regional, national and continental levels are more effectively harmonized and coordinated;
- Appropriate institutional frameworks and relevant mechanisms are established and/or strengthened for linking integration activities across national, regional and continental levels.

#### **B: Africa and the European Union**

Economic and trade relations between African countries and EU Member States remain important, particularly for the former. However, the new economic partnership agreements (EPAs) change these relationships in several ways and, in the process, pose a number of challenges for African countries. First, certain aspects of the EPA process are likely to detract from rather than strengthen intra-African integration. In particular, by



focusing on linkages between African regional groups and the EU, the EPA process will frustrate intra-African integration. Second, the preferential and discriminatory nature of the liberalization programme of the EPAs will impose significant costs of trade diversion on African countries and some of these will involve a reduction in intra-African trade. Third, both the depth and time-phasing of the liberalization programme of the EPAs are inconsistent with the African trade and development strategy. In addition, studies show that they are likely to impose significant adjustment costs on African countries, in terms of fiscal revenue, output, de-industrialization and employment losses, not all of which can be fully compensated for through development assistance from the EU.

The realignment of the EPA liberalization programme with the African integration process constitutes an important solution option in this respect. This involves:

- Modifying the EPA schedule as a means of achieving the required realignment;
- Delaying the opening of African markets to the EU until the achievement of complete intra-African integration;
- Ensuring that African regional EPA groups not only achieve internal integration within, but also across their groups prior to liberalizing imports from the EU;
- Ensuring that African regional EPA groups adopt the same common external tariffs against non-African imports;
- Using available EU trade and development assistance to strengthen African supply response capacity prior to the opening of African markets to the EU;
- Making the eventual and gradual opening of African markets to the EU an integral part of multilateral liberalization.

Cooperation by African countries with the wider ACP group of states will be important in bringing about these changes.

### **C: Africa in the WTO Negotiations**

The participation of African countries in the Doha negotiations at the WTO is driven by the desire to use the negotiations as an input for achieving the objectives of the African trade and development strategy. Hence, African participation in the negotiations is directed, broadly, at promoting export expansion and diversification through enhanced external market access/entry and enhanced internal competitive supply response capacity. With regard to the former, the African offensive agenda stress significant reductions in the trade barriers, especially non-tariff barriers, imposed on products of export interest to African countries, and the elimination of agricultural export subsidies and domestic support. In this regard, particularly useful work is being undertaken by UNCTAD's Eminent Persons Group on Non-Tariff Barriers in cooperation with other international organizations (including the World Bank and WTO) to identify, categorize and classify non-tariff barriers in order to facilitate assessment of their impact and negotiations on removing or addressing them. With respect to the latter, African countries seek to shift the focus of the WTO to the development dimensions of trade agreements, including the enhancement of domestic policy space and greater discretion in the use of a range of policy measures for building and/or strengthening supply response capacity.

Substantial and rapid multilateral liberalization is, however, likely to impose negative effects on many African countries in the immediate terms in terms of preference erosion; fiscal revenue, output and employment losses; as well as food import bills and import surges. It is therefore an important concern of many African countries that ways be found for

mitigating the adjustment costs of liberalization and economic reform. To take account of this concern, the final results of the Doha negotiations should include provisions that permit African countries to:

- Make lower rates of tariff reduction commitments and spread these over longer implementation periods;
- Designate special products and have recourse to special safeguard mechanism to protect vulnerable economies from import surges;
- Have access to more development friendly SDT provisions for enhancing supply response capacity;
- Have secure access to compensatory and adjustment assistance as a means of mitigating the inevitable adjustment costs, including through a viable and operational aid for trade initiative;
- Continued technical assistance and capacity-building support to deal with any post-Doha trade regime, including from organizations like UNCTAD and such programmes as JITAP, and the Sub-saharan Trade Capacity Development Programme.

On their part, African countries must learn an important lesson from the Uruguay Round experience. In their eagerness to embrace the concept of aid for trade within the Doha negotiations, they should be wary of making legally binding MFN liberalization commitments in exchange for “best-endeavour” promises of financial and technical assistance that may not be legally enforceable.

#### **D: Interface Issues**

Issues of interface among the trade negotiations and between them and Africa’s chosen trade and development strategy arise in several forms. One such issue relates to the presence or otherwise of coherence between the trade negotiations and this strategy. Similarly, one may explore the issue of compatibility and complementarity between the trade negotiations and in relation to the strategy.

Finally, it is useful to examine the synergy among the trade negotiations, as well as between them and Africa’s trade and development strategy. All of these interface issues address one central concern, i.e. whether and, if so, how the ongoing trade negotiations and the resulting trade agreements will assist African countries in effectively and successfully implementing their own trade and development strategy.

There may be danger of divergence and incompatibility with respect to such areas as the nature, depth, and time-phasing of the liberalization agenda associated with the trade negotiations; sequencing of policy instruments; and the institutional framework for coordinating and harmonizing the integration process. To address this danger, efforts must be directed at:

- Ensuring more effective harmonization and coordination of the integration processes of the intra-African RIAs to facilitate a smooth and rapid convergence at the continental level;
- Modifying the nature, depth and time-phasing of the liberalization programme of the EPAs to avoid the imposition of unsustainable adjustment costs on African countries and frustration of intra-African integration;
- Exploring effective mechanisms for mitigating the negative effects that the results of the Doha negotiations may impose on various African countries.

Achieving coherence across the trade negotiations requires:

- Building institutional structures for harmonizing and coordinating trade negotiations across national, regional and continental levels;
- Delaying substantive negotiations of the EPAs until after the completion of Doha negotiations so as to benefit from the DWP decisions on a number of issues, particularly WTO rules on regional trade agreements, and the freeing up of African negotiating capacity.

Similarly, building complementarity and synergy across the trade negotiations as well as between them and the African trade and development strategy requires:

- Elimination of overlapping and cross-regional memberships of RIAs;
- Ensuring better harmonization and coordination of the integration processes of the RIAs and the EPAs;
- Alignment of the liberalization schedules and policy instruments of the trade negotiations with the three phases of the African integration agenda such that enhancement of African supply response capacity occurs before the implementation of deep multilateral import liberalization, and that intra-African integration is fully achieved before the generalized opening of African markets is implemented.

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## PART II

### 1. KEY ISSUES OF INTEREST FOR AFRICAN COUNTRIES IN SERVICES NEGOTIATIONS

*A High-level Workshop on Key Issues of Interest for African Countries in the Services Negotiations in the Run-up to the Sixth WTO Ministerial Conference* was convened in Geneva on 25 and 26 April 2005. The technical workshop brought together a number of Africa trade policymakers, negotiators and other stakeholders to discuss areas of interest for African countries in the trade in services negotiations at the WTO, in the ACP-EU context, and at the regional level. The Workshop was opened with introductory remarks from Mrs. Lakshmi Puri, Director, Division of International Trade in Goods and Services, and Commodities, UNCTAD, H.E. Dr. Kwame Bawuah-Edusei, Ambassador of Ghana (Chairperson of the African Group in UNCTAD), and H.E. Mrs. Valentine Rugwabiza, Ambassador of Rwanda (Chairperson of the African Group at the WTO).

The Workshop adopted recommendations that identified the:

- i) Main issues to be considered by African countries in the request and offer phase of the services negotiations under GATS in the Doha negotiations of WTO;
- ii) Key elements to be taken into account in the liberalization of trade in services at the regional, inter-regional and multilateral levels; and
- iii) Means of increasing the participation of African countries in international trade in services and the effective implementation of GATS Article IV.

The recommendations contain concrete issues that African countries need to address at the different levels of negotiations, particularly in the Doha Round. A number of elements for assisting African negotiators in terms of the GATS negotiations, dealing with the request-offer process and the assessment of trade in services were outlined. Issues related to technical assistance, strategic considerations and the interface between the GATS negotiations and regional integration negotiations were also addressed.

The workshop recommendations were widely disseminated, particularly during meetings and workshops organized in preparations for the WTO meeting in July 2005 and for the preparation for the 6<sup>th</sup> WTO Ministerial Conference in Hong Kong, China. The deliberations at the workshop and the dissemination of its results helped to inform African countries of services negotiations in the WTO in particular and help strengthen their participation in these negotiations.

### Conclusions and Recommendations

The high-level workshop was organized by UNCTAD, with the support of UNDP under the Africa Trade Capacity Building Programme, at the request of the Coordinator of the African Group in the WTO (Ambassador of Rwanda), and in consultation with the Coordinator of the African Group in UNCTAD (Ambassador of Ghana). It was opened by H.E. Ambassador Valentine Rugwabiza (Rwanda), H.E. Ambassador Kwame Bawuah-Edusei (Ghana) and Mrs. Lakshmi Puri, Director, Division on International Trade in Goods and Services, and Commodities (UNCTAD). The workshop was chaired by Ambassador

Rugwabiza, Ambassador Bawuah-Edusei and Ms. Mina Mashayekhi, Head, Trade Negotiations and Commercial Diplomacy Branch, Division on International Trade in Goods and Services, and Commodities (UNCTAD).

The workshop was attended by Geneva-based representatives from African countries, several capital-based officials (Gabon, Kenya, Mauritius, Nigeria, Senegal, United Republic of Tanzania and Zambia) and representatives of cooperating partners (AU, BIDPA, ECA, SADC, Third World Network-Africa, UNDP and DFID). Participants welcomed the presentations made by resource persons and contributed to the discussions on the different topics relating to:

- (a) The main issues for African countries in the GATS negotiations;
- (b) The experiences of African countries in the GATS negotiation;
- (c) Lessons learnt from sectoral and country studies and assessments on services;
- (d) Increasing participation of African countries in international trade in services and the effective implementation of GATS Article IV;
- (e) The interface between multilateral and regional liberalization of trade in services; and
- (f) The way forward for African countries in the services negotiations and their development objectives.

## **A: Conclusions**

Participants expressed their appreciation to UNCTAD and UNDP for organizing the workshop. They requested UNCTAD to continue and accelerate the support provided to African countries in engaging in the services negotiations under the Doha round, including in a timely manner. The Chairman's summary pointed out the following points:

- Increased participation in the ongoing negotiations, including sectors for making requests in: tourism, education and health, Mode 4 – including commitment on independent services providers, and Mode 1;
- More submission of offers but being cautious in terms of market opening and choice of sectors where competitiveness is ensured, attaching limitations as and when necessary;
- Africa should protect their interest through careful scheduling of commitments, ensuring the preservation of policy space, this calls for proper sequencing of liberalization and a cautious response to requests taking into account of Article IV and XIX; and
- Correlation of all multilateral negotiations (WTO, Bretton Woods Institutions, etc.) to achieve meaningful development gains.

The current round of services negotiations should lead to meaningful market access in the areas of export and developmental interest to Africa. Thus, African countries could participate in the ongoing GATS negotiations, especially by reactivating their interest and clarifying their national interests in the services negotiations. So far the participation of African countries in the GATS negotiations has been low for various reasons, including because services were seen only from the perspective of meeting domestic needs, rather than from a trade and export perspective and also due to lack of knowledge over the impact of liberalization. This needs to change. Geneva-based African trade negotiators could act as catalyst in this process of change towards dynamic engagement in the negotiations. At the



same time, it is important to ensure that there are effective national multi-stakeholder consultations which gives credibility to national policy formulation and to the negotiation process and setting of national priorities. There is need, in particular, to make the business community and relevant economies ministries and industry aware of this.

Africa needs to diversify out of commodity dependency, services offers important opportunities. There are new opportunities for expanding African countries' participation in new services exports, particularly in outsourcing activities and capturing niches in tourism, construction, transport, health, professional services and other business and audiovisual services. Intra-African trade through bilateral or regional arrangements are additional avenues for expanding African participation in trade in services. These opportunities need to be identified and exploited, including through the current GATS negotiations. At the same time however, membership in multiple regional arrangements raises many difficulties. It is important for membership in regional arrangements to be driven by economic considerations, rather than political ones.

Likewise, the negotiations with other trading partners, such as with the EU on economic partnership agreements (EPAs), could offer opportunities as well as challenges. Hence, there is need for African countries to manage the interface between the bilateral and regional negotiations and the WTO negotiations in order to ensure coherency in approach to deriving development gains for Africa. To deal effectively with the interface between regionalism and multilateralism in services, there is need in the first place for African regional integration processes in services to be accomplished and consolidated. In this light, it is important that African regional economic communities are involved in the preparations for WTO services negotiations.

African countries can submit offers but they must be cautious about market opening, choosing sectors where competitiveness is ensured, and have access to FDI and inputs for efficient services and attaching limitations as and where necessary. Assessment exercises would greatly facilitate such contents. Africa could protect its interest through careful scheduling of commitments and preserving policy space. This calls for proper pacing and sequencing of liberalization and a cautious response to requests, taking into account the provisions of GATS Article IV and XIX. In fact, African countries have to be proactive in the negotiations using GATS Article XIX flexibility effectively in the making of offers and in ensuring the effective implementation of GATS Article IV. This also requires greater coherency and coordination of approaches in all trade negotiations by African countries, as well as with the Bretton Woods institutions.

Further, African countries need to continue to remind, and even push, their trading partners to operationalize the mandate to take account of the interests of developing countries, especially LDCs, as specified in the LDCs' special modalities, afford them appropriate flexibility, grant appropriate credit for autonomous liberalization, and increase their participation in services trade.

The May and July 2005 deadlines for services negotiations are important. But more important for African countries is the need to develop policy frameworks for services, followed by the identification of national interests and negotiating objectives on the basis of national and regional assessments before making requests or before even considering offers. Such assessments, including sectoral ones, would study the impact of services liberalization (positive and negative) on development and examine the contribution of services to trade and development. Such assessments can enable African countries to have a broader indication of

their strengths and weaknesses in services sectors and help them to take informed and strategic decisions on trade in services. In this regard also, African countries need to continuously remind WTO members of the mandate to conduct an assessment of trade in services, and the necessity for provision of technical assistance in carrying out national or regional assessments.

African countries also should not remain passive and indifferent to negotiations on domestic regulation and GATS rules (emergency safeguard mechanism, subsidies and government procurement). They need to be proactive in these negotiations, especially in seeking special and differential treatment provisions and in ensuring that new rules do not create additional implementation burdens.

The exchange of country experiences in the offer-request process was valuable and very enlightening. It should be continued so that the lessons learnt could be shared and best practices evolved for the benefit of African countries that have yet to submit requests and/or offers and to develop common strategies. Important lessons were learnt from the experiences of Gabon, Kenya, Mauritius, Rwanda, Senegal and the United Republic of Tanzania. It was expressed that requests placed by LDCs are not in line with the latter, nor the spirit of the LDC modalities, that is, not considerate of their level of development. It was noted that requests made so far by African countries, especially to developed countries, related to the removal of restrictions on Mode 4, implementation of GATS Article IV, granting credit for autonomous liberalization, and on special consideration for small-sized suppliers. Such general requests were later followed by specific sectoral requests, mostly in financial, telecommunications, accountancy, construction, engineering and architectural services. In turn, African countries that have received requests from trading partners found that such requests were on broad range of sectors, included new services sector classifications, and which called for liberalization of new sectors. These requests need to be treated carefully in the bilateral negotiations. Liberalization of services sectors should not focus only on those sectors in which a country is not competitive in, but also in sectors where it is competitive to improve supply and enhance further the competitiveness.

## **B: Recommendations**

In the **GATS negotiations**, African countries need to:

- (1) Seek binding commitments for enhanced market access from developed countries in Mode 4, Mode 1, tourism, transport, education, health and business services.
- (2) Consider, elaborate and submit common African requests in the key (export-interest) sectors and modes of supply mentioned above to developed countries, as well as to other developing countries. The common request on Mode 4 being developed by LDCs deserves the support of African countries in finalizing it urgently and submitting it to primarily developed countries. Such requests could be circulated to capitals for inputs and for national ownership.
- (3) Consider, develop and submit common African requests on special and differential treatment in trade in services, GATS Article IV and credit for autonomous liberalization.

- (4) Ensure that development flexibility and special and differential treatment is built into any disciplines and rules (during rules negotiations) developed, and that such regulations would not be overly burdensome to comply with.
- (5) Take advantage of the provision in the negotiation guidelines on considerations to be given to “small service suppliers” from African countries and also to define what is actually meant by “small service suppliers”. UNCTAD could assist in this regard.

In the **request-offer process**, African countries need to:

- (1) Analyse offers made to them, in terms of their real commercial benefits. UNCTAD was requested to provide assistance in this regard.
- (2) Submit requests as this is necessary in indicating areas where commitments are being requested. It would also create interest among their trading partners to invite them for bilateral consultations. Participation in bilateral consultations can allow for effective discussions and negotiations including highlighting difficulties that may arise in the liberalization of other sectors and in the submission of offers.
- (3) Consider carefully and respond cautiously to requests made to them. The bilateral negotiations constitute an avenue in which African countries that have received requests from trading partners, which are often the extensive, standardized ones submitted to all trading partners, to negotiate a narrowing down of these requests into a limited number of sectors which could be opened up gradually and strategically.
- (4) Take fully into account, in making offers, the flexibilities provided to developing countries under GATS Article XIX and national policy objectives.
- (5) Use LDCs modalities to the fullest extent, such as by requesting substantial liberalization commitments from developed countries *vis-à-vis* LDCs.
- (6) Continue participating in the Council for Trade in Services and its subsidiary bodies so that Africa’s interests can be mainstreamed into the services negotiations.
- (7) Stress and conduct national multi-stakeholder consultations in defining the requests and offers of the country. This can be facilitated by making use of and supporting national committees on WTO and their services sub-committees, such as the ones created/support under the JITAP programme. Such consultation would also examine and raise awareness about the impact and importance of services trade liberalization.
- (8) Continue sharing experiences between African countries that have submitted requests and offers, and other African countries. UNCTAD should continue to facilitate such exchanges of experience.

In regard to **assessment of trade in services**, African countries need to:

- (1) Carry out or deepen national assessments including sectoral assessments so as to take informed and strategic decisions on liberalization (including sectors that can be opened up, the pace and sequencing of liberalization) and development of capacities in trade in services. UNCTAD was requested to assist African countries in this

regard. At the same time, African countries could commit funds from national budgets to carry out such studies, and thus reflect needed political commitment.

- (2) Analyse the level of national regulatory preparedness and policy framework relating to services, and the implications of the requested commitments on the domestic laws and regulations.
- (3) Review their Uruguay Round commitments, as this is the starting point for the elaboration of requests and offers.
- (4) Carry out assessment at the regional level, such as in COMESA, SADC, UEMOA or ECOWAS, in identifying sectors and modes of supply in which the region has comparative advantage for exports and development of supply capacities.

In regard to **the interface between the GATS negotiations and regional integration processes**, African countries need to:

- (1) Consider accelerating the regional integration process of trade in services to serve as the basis (i.e. the regional *acquis*) for liberalization at the multilateral level or in the context of North-South-South negotiations, especially EPAs.
- (2) Assess the impact of possible EPAs on services on WTO negotiations on services.
- (3) Clarify and address the development coherence between regional and multilateral negotiations in the area of services.
- (4) Examine possibilities, if any, for further improvement in GATS Article V to provide added development flexibility to developing countries.

**Technical Assistance needs** of African countries in the services negotiations that could be addressed by UNCTAD and other trade institutions include:

- (1) Building domestic supply capacity is a key priority.
- (2) Developing institutional and human capacities and regulatory frameworks.
- (3) Establishing data on trade in services.
- (4) Undertaking national and regional assessments.
- (5) Facilitating awareness on GATS and the GATS negotiations among stakeholders.
- (6) Developing and implementing a sustainable African services capacity-building programme, mirroring the successful experience of the previous CAPAS (Coordinated African Programme of Assistance on Services).

Some broad **strategic considerations** for African countries include:

- (1) Limiting negotiations to manageable portions because of encroaching deadlines and multiplicity of negotiating areas and forums.

- (2) Ensuring coherence in technical positions and political decision taken regarding trade negotiations, including on services.
- (3) Taking group positions is preferable as it strengthens such positions. Thus, to the extent possible, African countries could submit group requests (and possibly offers but this is more difficult).
- (4) Developing alliances with other developing countries outside Africa to pursue common interests and proposals, such as on Mode 4.
- (5) Seeking parallelism in the negotiations, i.e. securing trade-offs for commitments made either in the services negotiations or in other areas of negotiations.
- (6) Continued coordination between Geneva negotiations and capita-based policymakers to align positions taken and defend national interests.
- (7) Seek an understanding or agreement that certain commitments by developing countries and LDCs, particularly in sectors of national importance, could be made for a specified time period, to allow for trial and assessment of impact. If such commitments have a negative impact or unsustainable then, they are not binding.

## **2. KEY ISSUES OF INTEREST FOR AFRICAN COUNTRIES IN NEGOTIATIONS ON MARKET ACCESS FOR AGRICULTURAL AND NON-AGRICULTURAL PRODUCTS**

A *High-level Workshop on Key Issues of Interest for African Countries in the Negotiations on Market Access for Agricultural and Non-Agricultural Products in the Run-up to the Sixth WTO Ministerial Conference*, was convened in Nairobi (Kenya) from 29 June to 1 July 2005. The workshop brought Geneva and capital-based African trade policymakers, negotiators and other stakeholders to discuss issues of interest for African countries in the agriculture and NAMA (non-agricultural market access) negotiations at the WTO. Opening remarks were made by a representative from Kenya (host country), UNDP, UNCTAD and the African Union.

The workshop elaborated recommendations that:

- i) Identified the main issues to be considered by African countries in the agriculture and NAMA negotiations, including non-tariff barriers affecting exports of African countries;
- ii) Examined the elements of interest to African countries to be included in the modalities for agriculture and NAMA negotiations, including the issue of cotton; and
- iii) Considered development implications of the negotiations and the way forward for African countries.

The recommendations pointed out issues to be taken into consideration in the agriculture negotiations under the three pillars of market access, domestic support and export competition. Recommendations on the trade and development aspects of the issue of cotton were also identified. On NAMA, it was considered that the tariff and non-tariff barriers needed to be addressed simultaneously in the negotiations. These recommendations were instrumental to African countries in helping them to preparing their position for and beyond the 6<sup>th</sup> WTO Ministerial Conference.

### **Conclusions and Recommendations**

The high-level technical workshop was organized by UNCTAD, with the support of UNDP under the Africa Trade Capacity Building Programme. It was officially opened by Mr. A. Lomongin, Senior Deputy Secretary on behalf of Honorable Mr. Mukhisa Kituyi, Minister of Trade and Industry in Kenya. Mr. Abdirazak Musa of the African Union office in Geneva, Mr. Luca Monge Raffarello on behalf of Mr. Lamin Manneh of UNDP Regional Bureau for Africa and Mr. Sam Laird, Inter-regional Advisor, Division on International Trade in Goods and Services, and Commodities (UNCTAD) made some opening remarks. Mr. E. Manyara, Mr. John Kinuthia of Consumer International Network (Kenya) and Mr. Sam Laird of UNCTAD chaired the workshop.

The workshop was attended by several Geneva-based representatives from African countries, capital-based officials and representatives of cooperating partners (AU, ECA, SEATINI, Third World Network-Africa and UNDP). The workshop was held within the context of the African Union Cairo Declaration and Road Map adopted in June 2005 by African Union Trade Ministers. The workshop also clarified issues related to the WTO

agriculture and non-agriculture market access negotiations from the perspective of African countries.

Participants to the Workshop expressed concern about the potential negative development impact of the WTO negotiations in the light of the experience of African countries with trade reforms. They drew attention to supply-side constraints especially in infrastructure and productive capacity that needed to be addressed by substantial new resources under the "Aid for Trade" initiative. They expressed concerns about past problems of adjustment in their productive sectors as well as potential new adjustments related to the erosion of preferences and possible reduction of tariff revenues. They called for improved trade-related technical assistance, with a focus on concrete problems faced by African exporters. They also stressed the need to ensure complementarity in the negotiations at the subregional, regional and multilateral levels. The conduct of these parallel negotiations poses severe human and institutional capacity constraints on African countries.

## **A: Agriculture**

In agriculture the focus was on market access, domestic support and export subsidies, including the cotton initiative. Account was taken of the Status Report by the Chair of the Special Session of the Committee on Agriculture that was circulated.

Concerns were expressed about the proposed sequencing of the negotiations whereby some issues of specific interest to African countries (e.g. SSM, preference issues and treatment of developing countries in the formula) would be taken up at a later stage.

Note was taken of UNCTAD's estimates that the value of preferences could be enhanced through improvements in the coverage and operation of the schemes.

The importance of a balance between the three pillars, especially between domestic support and market access disciplines was considered as very important. Concerns were also expressed about the effectiveness of reforms and development provisions that can be expected from this round of negotiations.

### Market Access

- **Tariff reduction formula:** The level of ambition of the tariff reductions and especially the level of proportionality should not be linked to any other special and differential treatment provision given to developing countries. These include SP, SSM and the special tariff structure of many African countries. The impact of any particular formula would depend on the specific trade profile of the African countries. These effects can only be determined if the parameters of a formula are identified.
- **Conversion of non-*ad valorem* tariffs to *ad valorem*:** It was felt that the method that came from the Paris Mini-Ministerial may not be relevant for some important African exports because either the major markets do not have non-*ad valorem* tariffs or the IDB data and the UN Comtrade data give similar tariffs, but for products that are key for specific countries the method may be important. Concerns have been raised whether all AVEs will be converted back to non-*ad valorem* tariffs after the reduction. The meeting agreed that AVEs should be bound in *ad valorem* tariffs and not reconverted after the reductions.

- Sensitive products: Concern was expressed that the designation and number of Sensitive Products could have implications for market access for African countries. Therefore the flexibilities regarding sensitive products should be linked to an expansion of market access for African countries. However, one country was of the view that products currently being exported by African countries under preferences should be included in the list.
- Special Products: It was considered that the concept of SPs should be flexible enough to address issues of food security, livelihood security and rural development in developing countries. Developing countries should consider the implication of this provision for South-South trade.
- Special Safeguard Mechanism: It was considered that the SSM would help to correct the current imbalance in the use of safeguard measures in agriculture. The price and the volume trigger were both considered to be relevant.
- Preference erosion: The issue of preferences erosion was highlighted as a very important component in the market access pillar from the African countries' perspective. The importance of specific and concrete mechanisms and solutions to the problem of preference erosion should be devised within the WTO context to fully address the concerns of African countries. In this context reference was made to the Harbinson text.
- Non-Tariff Barriers (NTBs) and market entry: Concern was expressed that NTBs were a major obstacle to African exports and needed to be addressed, in particular standards and anti-competitive practices.

#### Domestic Support

- Overall reduction of trade distorting support: The reduction of the overall level of support should be meaningful and effective. The tiered formula for reductions should guarantee the achievement of this goal. To prevent circumvention, disciplines on domestic support should not lead to box shifting of subsidies.
- *De minimis*: African countries should be exempted from the reduction of *de minimis* ceiling levels.
- Blue box: For the blue box to be a genuine tool for reform it should be subject to disciplines that guarantee that it is less trade distorting.
- Green box: The review and clarification process of the green box should ensure that the measures are not or at most minimally trade distorting and take account of the developing countries realities such as food security, rural development and livelihood security concerns.

#### Export Competition

- Elimination of export subsidies: A credible end date should be set for all forms of export subsidies.



- **NFIDC:** Effective mechanisms should be put in place in order to avoid negative effects of the elimination of export subsidies on net-food importing developing countries and LDCs.
- **Food aid:** New disciplines on food aid should take into consideration the special needs of African countries. (A clear definition genuine food aid of humanitarian and development food aid should be ensured).
- **STEs:** New disciplines on STEs should take fully into account their important role in areas of food security and livelihood concerns and poverty reduction.

**B: Cotton**

It was urged that a decision should be taken at the latest by the Sixth Ministerial Conference of the WTO in Hong Kong:

- **Trade aspect:** The importance of the improvement of the market access opportunities for cotton and by products of cotton, and for LDCs consolidated duty-free and quota-free market access was demanded. The elimination of all forms of domestic support that distort international trade, the introduction of specific disciplines that prevent box shifting and ambitious and specific criteria in the blue and green box was also stressed. All forms of export subsidies should be eliminated.
- **Development aspects:** The effectiveness and the necessary amount of an emergency fund to support cotton producers to meet the loss of revenues should be addressed. The importance of mobilization of resources and technical assistance to support the cotton sector in Africa was stressed.

**C: Non-agricultural market access (NAMA)**

It was considered that negotiations on tariffs and NTBs needed to be conducted in tandem.

Tariffs

- African countries could derive benefits from MFN tariff reduction provided that their supply-side constraints and market-entry barriers were properly addressed.
- Preferences are important development instruments for African countries and should be made more effective through simplified rules of origin and administrative processes.
- In considering tariff-cutting formula, African countries may derive greater advantage from deepening South-South trade relations, especially at the intraregional level.
- Some means needed to be found to derive negotiating credit or leverage from past unilateral reforms.
- In accordance with the Cairo road-map sectorial initiatives could be considered as detrimental to African interests.

- Any sectorial negotiations should not be linked to the determination of the appropriate formulae.
- The level of ambition in the negotiations should not be linked to flexibilities as mentioned in Annex B of the July package.
- To some extent the compartmentalization of discussions of technical issues within the NAMA group fails to bring together cross-cutting issues where trade-offs were needed.

#### Non-Tariff Barriers (NTBs)

- NTBs are very complex, changeable and have a discriminatory effect, often biased against developing countries and LDCs.
- NTBs were a serious matter of concern for African exporters. For some countries NTBs were more important than tariffs.
- Some NTB issues of particular interest to African countries were identified as: rules of origin, TBT/SPS measures and anti-dumping, as well as the dominant role of large TNCs in marketing chains that affect market entry beyond merely market access.
- African countries may wish to consider extending their requests on NTBs in specific sectors.
- African countries needed technical assistance in participating in standard-setting bodies, as well as in meeting existing standards.
- There was a lack of clarity in the treatment of NTBs in the NAMA and Rules negotiating groups.
- A question was raised as to whether NTBs should be handled at the sectoral or horizontal basis. It was noted that some proposals on NTBs seemed to relate to sectorial issues, which did not fall clearly under the existing WTO Rules.
- Where NTBs have been successfully resolved bilaterally, the solution might usefully be multi-lateralized.
- It needed to be clarified how S&D could be applied in an NTB context.