



2nd Regional Sensitisation Workshop
Building Consensus on Common Private Sector Position

THE EAC-EC-EPA NEGOTIATIONS: STATE OF PLAY

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**“Improving EAC Private Sector Awareness on the
EAC and Involvement in Trade Policy”**



OUTLINE OF PRESENTATION

Overview:

- Background
- EAC-EC EPA framework
- The EAC-EC Market Access Offer
- Outcome of Initialling EPA by EAC
- Key issues in the Framework Agreement
- Conclusion

Background to the EPAs

- EPAs-are regional trade agreements to create a Free Trade Area (FTA) between the EU and the ACP countries.
- FTA- arrangement between countries aiming at eliminating or reduce trade barriers between themselves, though to the exclusion of the rest of world with each party maintain its own external tariffs to non-members of FTA.

Background (con'td)

- Trade relations between ACP and EU since 1975 governed by preferential trade agreements
- The latest of these was the COTONOU Partnership Agreement (CPA) 2000
- The CPA preferential treatment was incompatible with WTO rules
- EU was discriminating against other developing countries (non ACP countries)

Background (con'td)

- EU was then taken to the Dispute Settlement Body of WTO
- EU was asked by WTO to bring her trade regime with WTO rules
- The ACP and EC in 2000 agreed to negotiate a WTO compatible trade regime-in form of EPAs
- EU sought permission from WTO members, to continue discriminate in favour of ACP exports until a WTO compatible was negotiated.
- Waiver was granted in 2001 and was supposed to expire on 31st Dec. 2007. (Period of 6 years)

Background (con'td)

- After that discriminatory preferential trade arrangement would come to halt
- Pave away to EPAs which is WTO compatible (reciprocity and non-discrimination)

EAC-EC EPA Framework

- At ACP Level the Negotiations started in 2002
- ACP countries were to free to form configuration to negotiate with EU
- At beginning Uganda, Kenya, Burundi and Rwanda were negotiating EPA under ESA-EPA configuration
- Tanzania was negotiating under SADC-EPA configuration
- Negotiating of EPA in different configurations by EAC Partners States was a threat to EAC-CU (especially EAC-Common External Tariff)
- How can members of one Custom Union belong to the different FTA?

EPA Framework con't

- Private sector lobby for EAC to form its own configuration to save smooth operation of EAC-CU
- Hastily the EAC-EC-EPA Configuration was formed in October 2007 whereby it was agreed that EAC will borrow already negotiated and agreed text from both SADC and ESA-EPA as there were no time for EAC start fresh negotiations
- EAC-EC-EPA initialled Interim EPA of Framework on EPA (FEPA) in Nov 2007 after realised parties would not be able to conclude negotiation on Full or Comprehensive EPA by end of Nov. 2007.
- Dec 2007 was deadline of EPA negotiations and expiry date of WTO Waiver

Objectives of EAC-EC-EPA negotiations

- Contributing to economic growth and development
- Promoting regional integration, economic cooperation and good governance in the EAC;
- Fostering the structural transformation of EAC economies
- establish an agreement consistent with Article XXIV of General Agreement on Tariffs and Trade 1994 ("GATT 1994")

Main Principles of EAC-EC-EPA:

- Asymmetry, in favour of the EAC Party, in
 - the liberalization of trade
 - the application of trade related measures and trade defence instruments;
- Allowing the EAC Partner States to maintain regional preferences

EAC-EC-FEPA (initialled)

- Contains Market Access offers made by both the EAC and EC to each other plus chapter on fisheries(Marine+ inland fisheries and aquaculture development)
- The market access offer contains liberalisation commitments on trade in goods which comply with WTO-compatibility requirement
- EC market access offer consists of duty-free and quota-free access to all imports from the EAC Partner States except for rice and sugar
- The transitional arrangement has been put place for sugar and rice;

EAC-EC-FEPA cont'd

- The EAC market offer consists progressively liberalisation of imports from EU by 82% over a transitional period of 25 years :
 - Liberalise 64% of imports from the EU in 2010 e.g capital goods, machinery and raw materials constituting the 64% are already at 0% duty
 - To liberalize a further 16% of her imports from the EU between 2015 and 2023 this contain intermediate goods which is mainly at 10% duty

FEPA Cont'd

- The last basket of liberalization by the EAC constitutes 2% by 2033
 - The last basket of liberalisation by the EAC constitutes 2% by 2033. This is finished products which attract 25% duty.
 - The remained 18% of imports from EU to EC is excluded from liberalisation: this is sensitive products list which has 1323 items such as agricultural products, wines and spirits, chemicals and plastics, wood base paper textiles and clothing, footwear, glassware. **** (After cleaning figures and transposing of tariff line the figures reduced to about 17.8%) *****

FEPA Cont'd .

- Fisheries provisions that look at both marine and inland water fisheries and aquaculture
 - With regard to inland fisheries, the provisions commit the EC to
 - co-operation to improve access to the EU market,
 - attract capital inflows and investment into the sector,
 - enhance aquaculture production,
 - remove supply side constraints and
 - improve the quality of fish and fish products

Rendez Vous Clause (Article of 37 of FEPA)

- This clause provide areas of future negotiations in:
 - Customs and trade facilitation (finalized)
 - Focus on trade facilitation and capacity building
 - Rules of Origin (not finalised)
 - Focus on flexibility and cumulating
 - TBT (finalised except for the development provisions)
 - SPS (finalised except for development provisions)
 - Focus on capacity building and technical infrastructure
 - Trade in Services – EAC to make joint request but different offers for each EAC Partner States

Rendez Vous Clause cont'd

- Trade Related Issues :
 - Competition Policy
 - Investment and private sector development
 - Trade, environment and sustainable development
 - IPRs
 - Transparency in Public Procurement
- Agriculture
- An elaborated dispute settlement mechanism and institutional arrangement
- Economic and Development Co-operation
- Any Other areas the Parties find necessary (Art 45.3)

Outcome of Initialling the EPA to EAC

Business Implications

- EAC Parties maintained preferential trade regime even after expiry of WTO Waiver; More exports with willingness to relax Rules of Origin
- FEPA gave assurance to predictability and transparency with regard to relationship between EAC and the EU (Unlike EBA)
- Trade liberalisation (reciprocal but asymmetrically) EAC is commitment into liberalisation.
- Enhancement of the EAC integration as EAC Partners States are negotiating FTA with the EU

Outcome of FEPA (cont'd)

- **Agricultural**
- EAC Market offer safeguard agriculture sector by putting most of agricultural products in the exclusion list (18% no liberalisation)
- EU Market offer opening opportunities to EAC exports after removal of previous taxes
- Reforming of Common Agricultural Policy (CAP) will in long-run offer gains to EAC exporters (short term affect sugar sector)
- SPS + TBT impede EAC agricultural exports; Focus for EAC Partners States should be to building capacity and technical infrastructure
- Agriculture EPA text should be consistent with SPS Chapter.

Key Issues in the EAC-EC EPA (FEPA)

- After initialled the EPA in November 2007 EAC and EC were supposed to continue with negotiations towards Full EAC-EC-EPA.
- July 2009 was jointly agreed target for finalising the full EPA
- Negotiations were initiated in Bujumbura on 15-17 September 2008
- The target date pass without even signing FEPA (Why)
 - EAC Partner States were of the view that some articles in the FEPA required review :
 - Translation of description of products in the Market Access offer as well as table of corrections have taken time to resolve

Conclusion

- EPA is much better than EBA (flexibility and predictability) . EBA's ROO more stringent
- GSP+ for developing countries will face tariff (15%)
- Internal EAC-EPA negotiations will take time as countries need to harmonised position before meet EC
- EPA contains few contentious issues which required thorough consultation
- Private Sector in EAC need to be involved so their interests are taken on board and also they can be ready for opportunities and risks associated with EPA once signed.