Trade Negotiations Insights

Issue 09
Volume 8. November 2009

Available online
www.ictsd.net/news/tni
www.acp-eu-trade.org/tni

ICTSD
International Centre for Trade and Sustainable Development

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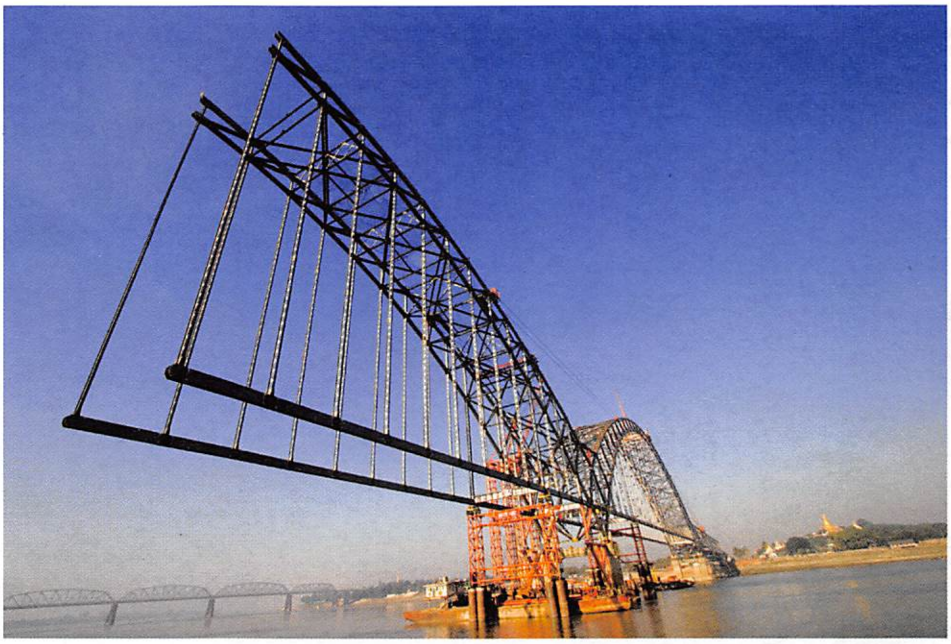
From Market Access to Accessing the Market: Aid for Trade and the Program of the World Bank

Elisa Gamberoni and Richard Newfarmer



In the early 1990s, traffic along Lao PDR's gravel-surfaced Road 13—the backbone of country's road system—crawled at about 35 km per hour. Other provincial roads were also in disrepair, with road maintenance only rarely undertaken across the network. The government, working with the World Bank Group in successive International Development Association (IDA) projects, built or repaired some 200 kilometers of roads, introduced regular maintenance using competitive bidding, and sought to improve the government's capacity to better manage its national road assets. Other donors joined the effort.

Today, the upgraded section of Road 13 now provides all-weather access to important agricultural areas in southern Lao PDR. Travel time for transportation of key commodities to markets has decreased from an average of five hours to less than three, which has boosted local economic activity. Savings in vehicle operating costs have been estimated at US$39 million a year. Moreover, the project has helped create sustainable road-maintenance practices that now service about 23,000 km of road across the country.

Why Aid for Trade?

This is just an example of what aid for trade can do to propel trade and economic growth. The recent financial crisis and global recession has, if anything, made aid for trade more urgent. Trade worldwide contracted in 2009, and it was a main channel through which recessionary impulses from the United States and Europe were transmitted to developing countries. Now, with the beginnings of global recovery, those processes are set to reverse and trade is likely to be a leading sector.

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Editorial

A well-maintained road network in Laos that connects farms to markets. An empowerment program for unemployed workers, SMEs, and women entrepreneurs designed to boost economic activity in Mauritius. These are two tangible examples of aid-for-trade initiatives described by the World Bank's Richard Newfarmer and Elisa Gamberoni in TNI's lead article this month. Newfarmer and Gamberoni argue in favour of a broad view of aid-for-trade programs, taking into account not only relevant concessional development aid to low-income countries, but also non-concessional trade-related assistance to middle-income countries. Among the benefits of taking a comprehensive approach to aid for trade are the direct links between growth in middle-income countries and their lower-income neighbours.

Next, TNI provides the second in a series of articles that examine the impact of the Lisbon Treaty on Europe's external commercial policies, and the implications for ACP countries' economic partnerships with Europe. Last month, the ECDPM's Eleonora Koeb highlighted some key areas in which the Lisbon Treaty is expected to affect ACP-EU relations. This month, we examine one specific way in which the Lisbon Treaty changes the legal framework governing Europe's external commercial policy: competency over Foreign Direct Investment. Under the Lisbon Treaty, FDI becomes part of Europe's common commercial policy, making it the exclusive competency of the European Community. But as this month's article by Damon Vis-Dunbar, TNI's co-editor, explains, what the Lisbon Treaty means in practice for Europe's International Investment Agreements remains an open question.

Also this month, Willemien Denner analyzes the various categories of safeguard measures in regional trade agreements. Denner, a Researcher with the Trade Law Centre for Southern Africa (TRALAC), also provides recommendations to trade negotiators who are designing safeguard measures, particularly officials in developing countries. She notes that safeguards, by temporarily excluding key domestic industries from trade liberalization, can be an important mechanism for helping to ensure that free trade agreements promote, rather than hinder, development.

In January 2010, Guyana and Suriname, the two largest exporters of rice in the ACP, will gain duty-free and quota-free access to the EU market under the comprehensive Caribbean-EU EPA. For both countries, which are facing strong competition from rice producers in Asia, the improved access to Europe is a welcome development. However, as the article based on analysis by Agritrade argues, it does not ensure success, particularly given the reduced prices which have resulted in the wake of reforms to the EU's common agricultural policy. As such, Agritrade recommends that the Caribbean countries identify strategies for tapping into the market for higher-value rice varieties, as well as prepare for navigating Europe's evolving food-safety standards.

In our final guest article this month, Jean-Michel Salmon describes a project managed by the ACP Secretariat to monitor ACP efforts towards regional integration. Salmon explains that a key strength of the ACP regional integration project is the fact that it will establish a common process by which to monitor regional integration, allowing for comparative analysis between regions. At the same time, individual ACP regional integration organisations can tailor the framework to their own particular circumstances.

We hope you enjoy the November issue of TNI. As always, TNI welcomes feedback, story tips, and proposals for articles. These can be addressed to Damon Vis-Dunbar, co-editor of TNI, at *dvisdunbar@ictsd.org*.

News and publications
In brief

Europe says €100 billion needed in climate change financing for developing countries

The heads of European Member States agreed in late October that developing countries will need €100 billion a year by 2020 to adapt to climate change, although they failed to reach consensus on how much money would flow from Europe's coffers. At least half of the €100 billion is expected to come from private financing, but the rest would need to be covered by public sources. Climate-change financing for developing countries has proved contentious in Europe. A number of Central and Eastern European countries want to know how the costs will be split among EU Member States before committing to a particular figure. The failure of the EU to commit to concrete amounts of long-term climate-change financing for the developing world comes amidst growing pessimism among governments on the odds of reaching a binding climate-change treaty this year. Following talks in Barcelona in early November, the United Kingdom predicted that negotiations would take at least another year. The Barcelona meeting was the last major round of climate change talks before the U.N. Climate Change Summit in Copenhagen, Denmark, in December.

Study finds little market opening for sugar under draft WTO trade deal

A study published by the International Centre for Trade and Sustainable Development (ICTSD) finds that the European Union and United States could avoid steep tariff cuts on sugar, by using opt-out clauses in a draft farm trade deal at the World Trade Organization (WTO). The study reveals that the EU, US and Japan could avoid cuts of 70 percent in their sugar tariffs by using clauses that allow countries to protect "sensitive" farm products. Shallower tariff cuts for sensitive products would have to be compensated by expanded import quotas. However, in the EU such a revised quota would total no more than 2 million metric tons (equal to 4 percent of domestic consumption), which represents an increase of 700,000 metric tons. The US sugar quota might expand by even less, with an increase of below 300,000 metric tons to 1.4 million tons. Overall, quota expansions "would represent only 3 percent of world trade" concludes Amani Elobeid, the author of the report. Countries that have traditionally exported to the EU under preferential trading arrangements are likely to be most affected by any liberalisation, the paper notes, with high-cost producers such as Barbados, Fiji, Guyana, Jamaica and Mauritius particularly likely to lose out.
To view this report in full, see "How Would a Trade Deal on Sugar Affect Exporting and Importing Countries?" at: *http://ictsd.net/i/publications/57666/*

Transaction costs add up for the EU's overseas development aid

The European Union could save €3 to €6 billion a year by streamlining the delivery of overseas development aid, according to a study commissioned by the European Commission. The study concludes that the proliferation of different donors and fragmented aid programs present the greatest obstacle to the cost-effective distribution of development assistance. Currently, aid activities are broken down into tens of thousands of different programs, each costing €90,000 to €140,000 on average in staff and consultancy fees for design, formulation, appraisal and approval. Not only would consolidating these activities save money, it could also lessen the burden placed on governments receiving aid. Referring to a 2005 survey, the report notes that governments receiving aid complain of the process "as donor-driven, procedurally complicated and leading to a lack of control and ownership of [their] own development ambitions and strategies". The report also warns that the volatile nature of EU aid makes it difficult for developing countries to effectively allocate aid funds, reducing the value of aid by between 8 and 20 percent.
To view this report in full, see "The Aid Effectiveness Agenda: Benefits of a European Approach", available at: *http://ec.europa.eu/development/icenter/repository/AE_Full_Final_Report_20091023.pdf*

Regional Economic Outlook for sub-Saharan Africa

The International Monetary Fund (IMF) expects growth in sub-Saharan Africa to slow to 1 percent in 2009, as the global economic crisis puts the brake on nearly a decade of strong economic performance in the region. Middle-income countries have been more affected by the crisis than low-income countries, according to the IMF. However, the IMF is optimistic that economies will return to higher levels of growth in the coming years; growth in the region is expected to rise to 4 percent in 2010 and 5 percent in later years, according to the IMF's latest economic survey for the region, published in October. The IMF notes that the impact of the crisis on debt in the region has varied between countries. Overall, however, if growth recovers, it does not expect that most sub-Saharan African countries will be more vulnerable to debt as a result of the recession.
To view this report in full, see "Sub-Saharan Africa: Weathering the Storm", available at: *http://www.imf.org/external/pubs/ft/reo/2009/AFR/eng/sreo1009.pdf*

Continued from front page

> Increasingly, governments are requesting aid for trade from the World Bank—today nearly 70 percent of country programs agreed with governments have trade-related activities

Helping countries to take full advantage of the global recovery by harnessing the potential of international trade is a key priority for rekindling growth—as well as for sustaining rising incomes into the future.

Overcoming obstacles to countries' ability to export and import involves improvements in three critical areas: infrastructure, institutions, and incentives. According to one study, improving transport and communication *infrastructure* from the median score on surveys to the highest 25th percentile would lower transport costs by 12 percentage points and increase trade volumes by 28 percent[1]. *Institutions* also matter. The time required for exporting is generally a good indicator of the quality of trade-related institutions. Delays in getting goods back and forth through customs constrain firms from participating in time-sensitive off-shoring of production and production chains. An additional day required for exporting is equivalent to being 70 km farther away from the trade partner. Finally, setting *incentives* embedded in the trade regime so as to guide private investment into exports or efficient import-substitution industries makes a major difference in a country's competitiveness. Import tariffs create an incentive for firms to invest in activities that serve the domestic market rather than to invest in exports; if tariffs are high, reducing them can lead to productivity gains. A 10 percent fall in an output tariff is associated with a productivity gain of 1 percent. Moreover, reductions of tariffs on imported inputs leads to even bigger productivity gains: a reduction in the input tariff of 10 percentage points leads to an 11 percent productivity gain for importing firms. These internal barriers can be as important as market access barriers in foreign markets in shackling exports from developing countries.

Aid for Trade: Toward A Comprehensive View

The aid-for-trade program of the World Bank Group, as with other donors, is multifaceted. One measure is the aid-for-trade definition used by the OECD-WTO monitoring effort, which includes only concessional development assistance, and by this measure in absolute terms, aid for trade is increasing (Figure 1 first panel). While this is good news, it should be pointed out that as a share of total development assistance, aid for trade has declined—which the World Trade Organization (WTO) has taken to indicate that aid for trade is not displacing other important development priorities.

> The multilateral development banks are bumping up against capital constraints and may soon see their lending effectively capped.

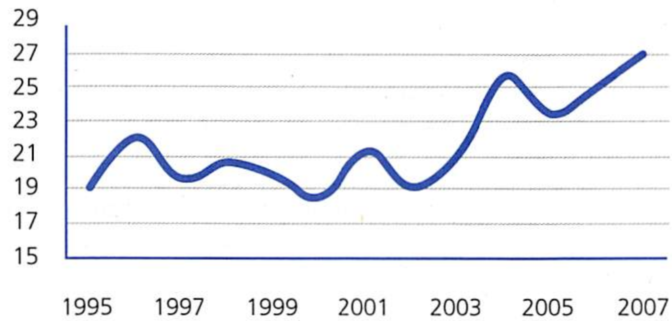
In fact, aid for trade goes beyond concessional lending commitments to low-income countries and should include lending to middle-income countries on nonconcessional terms for trade-related activities. Public discussions, whether in the WTO-sponsored regional conferences, in the WTO Global Reviews of Aid for Trade, or in the press, have explicitly incorporated these activities. For example, the Asian Development Bank (ADB) and the Inter-American Development Bank (IDB) have been leading actors in aid for trade, even though their concessional financing programs are quite limited because they operate in the middle-income parts of the developing world. The same is true of the European Bank for Reconstruction and Development (EBRD). The International Monetary Fund (IMF) provides virtually no aid for trade—in the narrow sense of concessional long-term finance measured by the OECD-WTO—yet it provides balance of payments support that can offset terms of trade or other trade-related shocks.

There is another reason to report non-concessional trade-related assistance. Middle-income countries have direct linkage effects on neighboring low-income countries. For example, Brazil's growth creates export opportunities for Bolivia; Kenya's economic performance affects neighbors throughout the East African Community; and Thailand is an important market for the Lao People's Democratic Republic and Cambodia. Resource-scarce landlocked countries piggybacked on the growth of their neighbors—for example, one study found that if middle-income countries grew by an additional 1 percent, fully 0.4 percent was added to the growth of neighboring low-income countries and even 0.7 percent in the case of one landlocked neighbor—and this occurs primarily through trade linkages[2].

Similarly, public discussions invariably highlight the role of private sector activities, most recently on improving access to trade finance. But here, too, measuring only concessional flows does not include multilateral and bilateral donors' investments in private activities or in expanding trade finance. Finally, and perhaps most importantly, focusing solely on concessional aid flows misses the important role of technical assistance. Certainly trust funds like the Enhanced Integrated Framework for Least Developed Countries (EIF) can play a key role in achieving the objectives of aid for trade. Similarly, the abundant technical assistance provided by bilateral and multilateral donors—including the International Trade Center (ITC), UNCTAD, UNDP, or the United Nations Industrial Development Organization (UNIDO)—is no less important. Such assistance, rendered through economic studies, technical assistance programs in trade facilitation or infrastructure management, or policy analysis of incentive regimes that affect private investment and trading decisions, demonstrates that aid for trade is multifaceted.

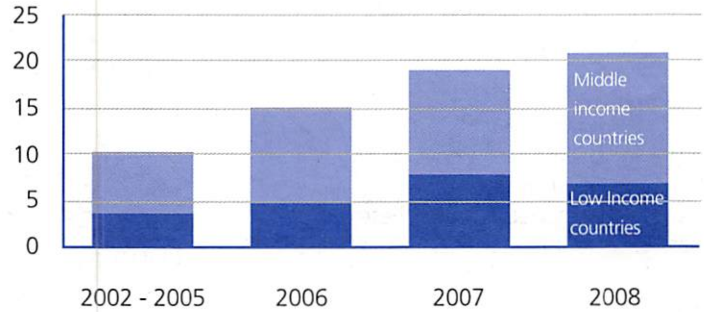
Figure 1: Aid for Trade – the Evolving Picture

Aid for Trade[a] from all donors is increasing...
OCA commitments, constant 2007 US$ billions



[a] OECD/WTO definition, concessional aid only
Source: OECD CRS database

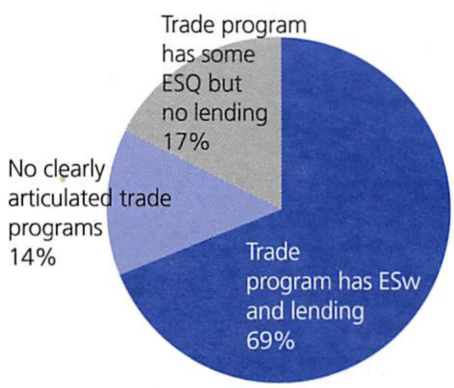
...and also from the World Bank Group (WBG)[b]
WBG trade-related activities, commitments, US$ billons



[b] includes concessional and non concessional lending to governaments and investment in the private sector.
Source: World Bank Staff calculation based on the World Bank Project database

Governments now put trade into their country strategies...

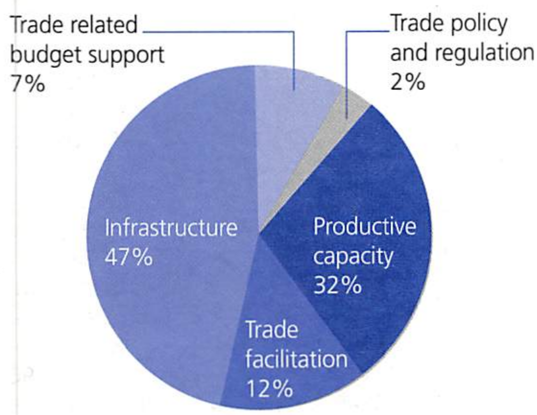
Trade coverage in Country Assistance Strategies



Source: World Bank Staff calculation

... and WBG support spans several sectors

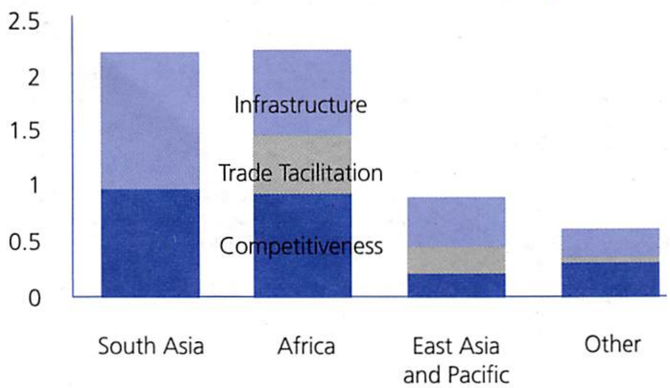
WBG Trade related activities, 2008 commitment



Source: World Bank Staff calculation

Africa is the major beneficiary of concessional aid for trade

Public sector lending, 2008 (US$ billions) -- Low Income Countries, Activities by region



Source: World Bank Staff calculation

Aid for trade is working and performs above average

Percentage of satisfactory projects[c], 2006- 08

[c] World Bank data from Implementation Completion Reports
Source: World Bank Staff calculation

The Aid for Trade Program of the World Bank Group

The World Bank Group has extensive programs in aid for trade across the spectrum of concessional lending to low-income countries through the IDA, non-concessional lending to middle-income countries through the IBRD, and private investments through the International Finance Corporation, the World Bank's private sector arm. In 2008, resources transferred through these three channels amounted to some US$22 billion, more than double the annual average in 2002-2005 (Figure, second panel). Increasingly, governments are requesting aid for trade from the World Bank—today nearly 70 percent of country programs agreed with the governments have trade-related activities (third panel). These programs focus predominantly on infrastructure and building productive capacity, but they also include trade facilitation and trade policy (fourth panel). Among low-income countries, Africa is the largest beneficiary (fifth panel).

Mauritius is one example of the ways the World Bank Group can support a government wishing to harness the global economy for faster growth. In February 2006, the government asked the World Bank Group to work with it on aid for trade. A mission in April delivered a report in the field and discussed it with the minister of finance. In June, the minister announced a new reform program, with key elements to improve competitiveness. The program has reduced trade barriers, made the investment board less discretionary and more efficient, aligned price incentives to export with the government's objectives for export and employment growth, and established an empowerment program to help low-income unemployed workers, SMEs, and women entrepreneurs. The government then requested Bank support with lending for this new program, which resulted in the first in a series of programmatic loans, disbursed in December 2006. This was co-financed by France's Agency for International Development. Each loan in the three-year program has changed in tandem with the government's institutional reforms priorities. The program was rewarded with more rapid export and economic growth—at least until the advent of the global recession.

> “The financial crisis and global recession will undoubtedly put pressure on aid for trade, from both the supply side, as donors turn their attention to paring back expanded deficits in coming years, and from the demand side, as countries cope with multiple demands on scarce development assistance.”

Aid for trade is generally effective, but the future is not certain

Efforts to promote aid for trade, though perhaps taking a different course than the one foreseen by negotiators at the 2005 WTO Ministerial Conference in Hong Kong, are paying dividends. Countries are requesting more aid for trade, donors are supplying it, and countries that need it are, in general, getting it. And some early evidence suggests that aid for trade is making a difference. Within the World Bank Group, a review of project completion reports finds that about 90 percent of aid for trade projects were rated by governments and staff as having been satisfactory or better (panel 6)—higher ratings overall than for non-trade related projects.

These favorable developments, however, are not cause for complacency. The financial crisis and global recession will undoubtedly put pressure on aid for trade, from both the supply side, as donors turn their attention to paring back expanded deficits in coming years, and from the demand side, as countries cope with multiple demands on scarce development assistance, including much-needed assistance for maintaining social expenditures.

If aid for trade is to continue to grow, two issues are critical. First, the multilateral development banks—collectively the largest source of aid for trade—are bumping up against capital constraints and may soon see their lending effectively capped. This is the result of the substantial expansion of their emergency lending to countries during the financial crisis. The World Bank Group, for example, tripled its non-concessional lending to US$35 billion in FY09. As with the Asian Development Bank, the World Bank Group has asked donors to increase its capital base so it can expand its overall lending. Without the capital increase, countries wishing to invest more in infrastructure will be forced to reduce their borrowings for health, education or other sectors.

Similarly, the Bank, along with other donors, has sought to make available increased resources through its concessional window, the International Development Agency. These funds originate with periodic replenishments from donor countries, and parliaments around the world will be asked to increase their donations at exactly the time when many will be moving to reduce their overall budget deficits. Nonetheless, because of the exhaustion of the last replenishment (IDA-15), the World Bank Group will begin requesting donors fulfill past pledges for IDA-16 early in 2010. If both the development and trade communities around the world make their voices heard in support for increased development assistance, the chances that aid for trade will increase would be markedly enhanced.

Authors

Elisa Gamberoni is an economist at the World Bank. Richard Newfarmer is the World Bank's Special Representative to the United Nations and World Trade Organization. This note is the sole responsibility of the authors and does not necessarily reflect the official view of the World Bank Group or its Executive Directors.

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1 Limao, N. and Venables, A. J. (1999), "Infrastructure, geographical disadvantage, and transport costs", Policy Research Working Paper Series 2257, The World Bank

2 Collier, P. (2007), "The Bottom Billion: Why the Poorest Countries are failing and what can be done about it", New York: Oxford University Press

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The Lisbon Treaty — Implications for Europe's International Investment Agreements

Damon Vis-Dunbar

With the Lisbon Treaty expected to take effect on 1 December 2009, TNI explores its potential impacts on the International Investment Agreements (IIAs) entered into by the European Community (EC) . This is part of a series of articles in TNI that analyze the implications of the Lisbon Treaty for Europe's external economic policies.

In contrast to external-trade policy, which falls exclusively under the authority of the European Community (EC), Foreign Direct Investment (FDI) policy is shared between the EC and EU Member States. As a result, both the EC and individual EU Member States have entered into International Investment Agreements (IIAs), although each has focused on different aspects of FDI rule-making. The European Commission, with the permission of the EU Member States, has negotiated in the areas of market access and pre-establishment liberalizations (i.e. provisions granting foreign investors the right to set up an investment on terms no less favourable than those applied to domestic investors or investors from third countries). Meanwhile, EU Member States have negotiated commitments on the treatment extended to foreign investors once established in a host state, for which the principal instrument is Bilateral Investment Treaties (BITs).

Enter the Lisbon Treaty. One of the more notable aspects of the Lisbon Treaty, as it relates to external commercial policy, is its provision on FDI. Article 207 brings FDI under the umbrella of Europe's common commercial policy, making it the exclusive competence of the European Community. While the European Commission has, so far, sought permission from the EU Member States to include provisions on investment in its free trade agreements, the tables could turn under the Lisbon Treaty. Once in force, EU Member States could potentially be stripped of much of their legal authority to implement their own IIAs, unless authorization is granted by the European Community.

The Lisbon Treaty, as a result, holds significant implications for Europe's economic partners, including the countries of the Africa, Caribbean and Pacific (ACP) regions. Not only could the Lisbon Treaty impact on future investment negotiations with the European Commission, it could also affect the more than two hundred BITs that currently exist between European and ACP Member States.

More questions than answers

Yet the practical implications of the Lisbon Treaty for Europe's external-investment policies remain uncertain, in part because of questions of how the Treaty will be interpreted. A key question relates to the definition of FDI—a term the Lisbon Treaty fails to clarify. Certain characteristics of FDI are commonly understood; it is doubtful, for instance, the term would include short-term portfolio investment. But how the term FDI relates to the commitments found in IIAs—and, in particular, the investment protection offered in BITs—is less clear.

A broad definition of FDI within the context of IIAs would include investment provisions on market access and post-establishment protections, thus extending the European Community's authority over much of the territory currently handled by European Commission in their BITs. Under this scenario, the ECh could spearhead the negotiation of more ambitious IIAs, perhaps drawing inspiration from the North American Free Trade Agreement's investment chapter (NAFTA's Chapter Eleven). The NAFTA broke ground in 1994 by combining provisions on investment market access with robust protections for NAFTA-party investors post-establishment, and today, such an approach is standard in the IIAs of the United States and Canada, as well as non-NAFTA countries like Japan.

In contrast, a narrow definition of FDI would adhere much closer to the status quo, limiting the European Commission to negotiating investment commitments on market access, while not affecting the authority of EU Member States to pursue post-establishment protections in their BITs.

Should EU Member States and the European Commission fail to reach a common understanding on the definition of FDI in the Lisbon Treaty, it would fall to the European Court of Justice to provide certainty. Given that the Lisbon Treaty could come into force as early as December 2009, a short-term solution—such as a regulation granting EU Member states a temporary right to retain their BITs—will likely be necessary, before the lines of authority over external investment policies are more clearly demarcated.

Implications for the ACP countries

In light of the uncertainty surrounding the interpretation of the Lisbon Treaty's provisions on FDI, its entry into force is unlikely to have an immediate impact on the Economic Partnership Agreement (EPA) negotiations. Down the road, however, the Lisbon Treaty could result in Europe exerting a more unified—and perhaps ambitious—approach to IIAs. For ACP countries, this would pose both a challenge and an opportunity.

While much attention has been lent to the issue of investment liberalization in the context of the EPAs, less focus has gone to the network of investment commitments that already exist between EU and ACP countries, in the form of BITs. Currently, there are more than 200 BITs between EU and ACP Member States. Whether these BITs achieve their objective of increasing FDI flows is contentious; at least in the absence of other important factors, such as political stability and a growing economy, it seems BITs do little to boost FDI. The benefits of BITs also need to be carefully weighed against the risks. As a number of ACP countries have experienced firsthand, BITs offer foreign investors a powerful tool for challenging government actions they deem to be unfair or discriminatory. These disputes require that governments have the skills and financial resources to adequately defend themselves.

If the Lisbon Treaty prompts Europe to reconsiders it own approach to external-investment policy, as well as the content of its IIAs, ACP countries should take the opportunity to evaluate the extent to which its investment agreements with EU Member States have fostered sustainable development. If the benefits of the existing BITs are deemed negligible, then there may be a unique opportunity to explore alternatives.

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Ensuring flexibility : A survey of safeguard measures in regional and bilateral trade agreements

Willemien Denner

Safeguards, anti-dumping measures and countervailing duties are classified as trade defence instruments or trade remedies, intended to protect domestic production against foreign imports. However, safeguards differ from anti-dumping measures and countervailing duties in an important respect: while the latter are actions against unfairly traded imports, safeguards can be implemented on products imported under fair trade conditions.

When domestic industries cannot compete with a surge in foreign imports, safeguards allow governments to temporarily rescind commitments made in trade agreements, providing the domestic industry with the time to adjust and improve its competitiveness.

Traditionally, safeguard measures were only available for application under World Trade Organization (WTO) rules; however, with the proliferation of trade agreements in recent years, safeguards have also been included at a regional and bilateral level. Global safeguards—governed by the General Agreement on Tariffs and Trade (GATT) Article XIX and the WTO Agreement on Safeguards—apply on a multilateral level. In contrast, regional and bilateral safeguards address distortions as a result of increased regional or bilateral liberalisation and are only applicable between the contracting parties.

The types of safeguards in regional trade agreements

Safeguard measures in regional trade agreements can be divided into four categories based on the individual characteristics of the provisions:

- 'WTO type' safeguard mechanism: These safeguards have the same characteristics as the WTO Agreement on Safeguards, containing rigid and detailed conditions for the invocation and application of the provided measures. Detailed domestic and international proceedings are also provided for in these agreements. At a minimum, these agreements refer member countries to the Agreement on Safeguards for the implementation of a safeguard measure. Examples of trade agreements which contain this type of safeguard are the Southern African Development Community (SADC) Trade Protocol and the US-Chile and Australia-Thailand free trade agreements.

- 'GATT type' safeguard mechanisms: The characteristics of these safeguard measures resemble the flexible approach in GATT Article XIX. These safeguard provisions have largely unspecific and sometimes vague conditions for invocation and application with domestic and international proceedings of a political nature. The safeguard provisions in the Association of South East Asia Nations (ASEAN) and Common Market for Eastern and Southern Africa (COMESA) agreements display these characteristics.

- 'NAFTA type' safeguard mechanisms: Agreements containing this type of safeguard have comprehensive provisions on domestic investigations and rigid, detailed requirements for implementation with well-developed and extensive procedures. With some notable exceptions, the 'NAFTA type' provisions are quite similar to the WTO Agreement on Safeguards. One such exception is the lack of a dispute-settlement mechanism concerning the application of safeguard measures. This safeguard type is found in the North American Free Trade Agreement (NAFTA) and the Canada-Chile and Canada-Costa Rica free trade agreements.

- 'European type' safeguard mechanisms: This type of safeguard provides broad conditions for implementation. Apart from the more common requirement to demonstrate "serious injury", a safeguard measure can also be implemented in the case of "serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region of the importing party". Although these types of agreements feature more comprehensive, and hence more flexible, conditions for invoking safeguards than the categories described above, they still contain detailed and strict provisions regarding the manner in which safeguards can be applied. Agreements displaying this type of safeguard include the Trade, Development and Cooperation Agreement between the European Community and South Africa (TDCA) and all the Economic Partnership Agreements.

Recommendations for designing of safeguard measures

In all cases, safeguard clauses should strive to maintain a balance between allowing countries to apply safeguards to prevent serious economic disruptions and the assurance that safeguard measures do not defeat the purpose of trade liberalisation. Tradeoffs between providing producers with a safety net and the risk of undermining the trade liberalisation process by retaining safeguards in an agreement will always exist; however, these tensions can be alleviated by demanding that countries make a valid case for implementation.

For developing countries, it is particularly important to set out clear developmental benchmarks and strategies prior to trade negotiations taking place. Developing countries should then negotiate special flexibilities, permitted under safeguard clauses, to protect sectors in relation with these goals. This will enable developing countries to temporarily exclude key domestic industries from trade liberalisation.

Trade agreements between developed, developing and least developed (LDCs) countries should also allow for asymmetry in the application of safeguard measures, which better enables developing countries and LDCs to clearly identify developmental objectives and ensure liberalisation in accordance with these goals. Moreover, LDCs should automatically be exempt from the implementation of safeguards by developed member countries.

Finally, developing countries must pay special attention to their sensitive sectors, most notably agriculture, when negotiating and drafting safeguard clauses. Agricultural commodity markets are pivotal to the economies of most developing countries, yet also more sensitive to external shocks. As such, developing countries face the challenge of drafting special safeguards which help stabilise domestic prices in the face of short-term price swings.

Considering the options

Broadly speaking, countries have two options when drafting safeguard clauses. The first is simply to indicate that the implementation of safeguards must be in accordance with the Agreement on Safeguards and GATT Article XIX. However, these provisions have extensive procedural requirements and conditions. Currently most developing countries do not have the legal, institutional and financial capabilities to utilise these measures or the required national legislation to regulate safeguard implementation.

The second option is to specify the conditions and requirements for implementing safeguards in the agreement. However, these provisions need to be clear and transparent. The agreement must also clearly identify the necessary procedures for implementing safeguards, the type of measures that can be implemented, the requirements for investigating an allegation of a surge in imports, the notification of an investigation and preliminary and final findings to interested parties, the required consultation process among trade partners and the available dispute resolution process. At the same time, simplifying the required conditions, prerequisites and process involved in implementing a safeguard measure can reduce the cost of implementing safeguards, which is particularly important for ensuring that developing and least developed countries have access to this trade defence instrument.

The aim of trade agreements is to eliminate trade barriers between contracting parties. However, the recent trend in drafting agreements is to retain safeguard provisions in both regional and bilateral agreements, providing the necessary flexibility to

Author

Willemien Denner is a Researcher with the Trade Law Centre for Southern Africa (TRALAC). This article is based on a recent paper published by the International Centre for Trade and Sustainable Development, "Comparing Safeguard Measures in Regional and Bilateral Agreements", available here: *http://ictsd.net/i/publications/50564/*

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Duty-free and quota-free access to the EU market for Caribbean rice exports: a necessary but insufficient step forward

Solène Sureau

As of 1 January 2010, the two main ACP rice exporters, Guyana and Suriname, will benefit from duty-free and quota-free access to the EU market. This improved market access has been a long-standing request from the Caribbean region, and is much needed. After a prosperous era in which Caribbean rice exports benefited from preferential access to the lucrative EU market, they now face steep competition from Asian producers. Moreover, the prices for rice have declined in Europe in the wake of reforms to the Common Agricultural Policy (CAP). So despite Guyana and Suriname's improved access to the European market, a long-term strategy for the region's producers is required in order to differentiate themselves from their Asian competitors, as well as to tap into more lucrative segments of the rice market, such as organic, fair trade and specialist rice varieties.

Rice—a key export for Guyana and Suriname

According to the European Commission, the ACP produces 18 million tonnes of rice, of which only 1.1% is exported to the EU—all of which flows from Guyana and Suriname. Indeed, Guyana is the ACP country with the greatest dependence on rice exports: the country exports 70 percent of its production. The rice sector is the single largest user of agricultural land and the second largest sector, employing some 12,000 farmers and indirectly creating up to 150,000 jobs.

In contrast, most ACP African countries have, until recently, been substantial importers of rice. However, according to the FAO, higher global prices have spurred the growth of domestic production in Côte d'Ivoire, Ghana, Guinea, Mali and Nigeria, amongst others. This trend is likely to see imports fall by 3% in 2009, bringing import levels down to the lowest level since 2004. So far, the EU plays a minor role in sub-Saharan African rice imports; Asian rice remains the most serious competitor for African producers.

ACP rice in the EU market: weak exports despite preferential access

Traditionally, ACP rice exports accessed the EU market with low duties under the Lomé Convention and the Cotonou Agreement. Since 2008, however, this preferential regime has been replaced by new provisions in Economic Partnership Agreements with the EU, or by the WTO's Generalized System of Preferences for non-LDC ACP countries which have not initialled EPAs. Since 2001, LDCs have benefited under the Everything But Arms initiative (EBA) from quota-restricted, duty-free access, which was replaced by duty-free and quota-free access in October 2009.

Under the comprehensive Caribbean-EU EPA, duty-free and quota-free access for rice will be implemented at the beginning of 2010 after a transitional period in which rice-export quotas expanded from 145,000 tonnes to 187,000 tonnes in 2008 and to 250,000 tonnes in 2009. In addition, the scope of the rice quota will be broadened to include both broken rice and whole-grain rice, which means that exporters should be better able to target the higher-priced market for whole-grain rice[1].

> “The rice sector is the single largest user of agricultural land and the second largest sector in Guyana, employing some 12,000 farmers and indirectly creating up to 150,000 jobs.”

CAP reform: Impacts on EU domestic prices

Guyana and Suriname benefited for a long time from preferential access to the EU market, all the more so as EU market prices for rice were propped up under the EU common agricultural policy. However, successive CAP reforms have triggered a decline of EU domestic prices.

The EU's reform of its rice regime began in 1995 and involved a 15% reduction in the intervention price over three years, fully compensated by direct-aid payments.
In 2003, the European Commission initiated a new round of reforms which involved a reduction of the rice intervention price by 50%, an increase in direct-aid payments and the incorporation of the rice sector into the single-payment scheme. This reform initially triggered a drop in EU prices until 2005, then, due to the increase of global prices, a steep increase until prices peaked in 2008. The production for intervention stocks stopped with the reform since intervention prices were well below EU prices. Moreover, this tendency has been supported by the rise of global prices after 2005. This has created a situation in which EU market prices have tended to follow global trends, with the EU intervention price as a floor price.

Reduction of the EU market access value in the context of erosion of preferences

The EU price reductions following the 2003 CAP reforms created considerable space for multilateral tariff reductions without adversely impacting on EU producers, given the inclusion of the rice sector in the single-payment scheme. This saw the introduction in September 2004 of a tariff reduction for husked, semi- or whole-milled and broken rice. Moreover, the EU agreed to specific duties and quotas with major rice exporters, namely India, Pakistan, the US and Thailand, causing a further reduction of ACP producers' preferential margins.

The reduction of preferences granted to ACP rice producers needs to be analyzed in combination with the effects of EU rice-sector reforms on prices in the EU market. Overall between 2001 and 2007 recorded earnings per tonne on Guyana's and Suriname's rice exports to the EU fell by 17.4% and 17.5% respectively. Furthermore, the prices received on the EU market for ACP rice exports since 2000 are significantly below the prices received at the beginning of the 1990s. At its peak, Guyana received €431 per tonne for its direct husked and brown rice exports to the EU, with the lowest price received in 1996 (€340 per tonne), which is still substantially higher than the average price per tonne received since 2000.

> “Overall between 2001 and 2007 recorded earnings per tonne on Guyana's and Suriname's rice exports to the EU fell 17.4% and 17.5% respectively.”

> “A strong case exists for responding to the erosion of the value of traditional rice-sector trade preferences through expanding financial and technical assistance to the production and marketing of specialist rice products that obtain a higher price.”

Current world prices: favourable to ACP producers?

The reduction in the EU intervention price for rice introduced as part of the 2003 rice-sector reform package has only partially fed through into global-market price changes, with strong global prices feeding back into increased EU prices. This means that during periods of high global prices, there will be little difference between EU and world-market prices, and, as a result, the benefits for ACP countries of preferential access become marginal. Only in the case of exceptionally depressed global rice prices would the preferential access to the EU market take on any real significance. However, even this significance could be undermined by the proposed reduction in the EU MFN tariff for rice of €65 to €16 per tonne, currently under discussion in the WTO. This is causing concern in Suriname and Guyana, with Guyana's minister for foreign trade calling on the EU to be permitted to limit its tariff reductions in the rice sector under any final WTO agreement.

Target EU quality markets to face the decreasing value of preferences

A significant feature of the EU rice market is that it is becoming increasingly differentiated, with significant divergences in price trends between bulk rice and 'quality' rice. Thus a strong case exists for responding to the erosion of the value of traditional rice-sector trade preferences through expanding financial and technical assistance to the production and marketing of specialist rice products that obtain a higher price.

Meeting food-safety measures will also become an increasingly critical prerequisite for continued access to the EU market. In this context there may well be a need for targeted programmes of assistance both for ACP rice producers and ACP food-safety authorities to ensure that they have the financial and technical capacity to meet EU food-safety standards and hence the capacity to continue to access the EU market. Comprehensive programmes are already under implementation in other sectors. Similar regional programmes for rice may well be required in the Caribbean.

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Notes

1 Office of Trade Negotiations Caribbean Community Secretariat, "Special RNM Update – Getting to know the EPA: Provisions on Agriculture, 21 January 2008. See: *http://www.crnm.org/index.php?option=com_content&view=article&id=174:special-rnm-update-getting-to-know-the-epa-provisions-on-agriculture&catid=59:rnm-updates&Itemid=128*.

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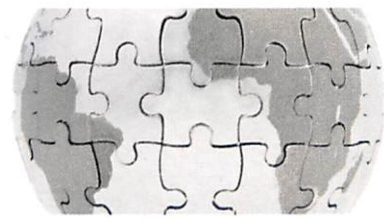
Monitoring regional integration in the ACP:
The case for a coordinated approach

Jean-Michel Salmon

In November 2008, the ACP Secretariat launched the "ACP Monitoring Regional Integration" (MRI) project[1]. The MRI project, which is supported financially by the European Community and managed by the ACP Secretariat[2], is intended to design and implement a system of regional integration indicators that can be applied to twelve ACP Regional Integration Organisations (RIOs)[3], with the African Union as an additional institutional project partner.



There is yet no *standard* RI indicators system commonly used worldwide, and the results derived from different systems can be difficult to compare. It is notable, therefore, that the ACP MRI project will permit the twelve RIOs to undertake regular monitoring of their own regional integration process, while also allowing stakeholders and observers to undertake comparative analyses.

A framework for a system of RI indicators has been developed based on the following methodological principles: (amultidimensionality; (b) capacity to measure both the degree of regional integration and the regional integration policy effort; (c) capacity to conduct both interregional (comparative) and intraregional (reflexive) analyses; (d) relevance to the ACP context; (e) comprehensiveness; and finally (f) user friendliness.

This framework is based on a Three-Level Tree Structure, which allows for classification of all possible future regional integration indicators along data clusters. The upper level of this structure is made up of the system "dimensions", which represent the multidimensional nature of the regional integration process. At this top level, four dimensions have been identified: regional governance, economic integration, functional cooperation, and social integration. The next two levels refer to "domains" and "areas", as illustrated below.

DIMENSION (e.g. Economic Integration)
→ DOMAIN (e.g. Trade Integration)
→ AREA (e.g. Goods Trade)

This framework also allows for a useful two-tiered approach, distinguishing between one Central System of RI Indicators (CSRI) and several potential Extended Systems of ACP RI Indicators (ESRIs), both based on the same tree architecture. The CSRI will consist of a limited set of core indicators commonly applied by all ACP RIOs, therefore allowing for comparative analyses of integration processes. The ESRIs, meanwhile, will be tailored to the needs of each ACP RIO, reflecting the unique policy agendas of each organisation through the selection of additional indicators to complement the CSRI core ones.

This ACP project, if successful, could prove timely in the field of monitoring ACP regional integration, since many ACP RIOs have already established Monitoring and Evaluation Units within their institutional framework but have yet to develop a comprehensive and integrated monitoring system based on a full set of RI indicators. However, while all ACP RIOs are welcoming of the ACP initiative in principle, some question why they should spend some of their limited resources to the development of the MRI project, considering that its CSRI is not directly designed for a full monitoring and evaluation (M&E) of their individual work programmes[4]. Indeed, there might be a natural temptation for RIOs to focus back on the development of a fully home grown M&E indicators system, while not dedicating sufficient time and effort to a system aimed *inter alia* at providing some more general information on the RI processes.

Nevertheless, the MRI project offers a clear win-win opportunity in which the ACP RIOs would support the implementation of the central system, while benefitting in return from the project expertise, as well as from the inter-regional dialogue it provides, with a view to developing their own fully fledged M&E system. In this regard, given the fact that the project requires focusing first on the development and implementation of the central system, the challenge ahead is to identify the ways and means to ensure that the RIOs' own practical needs can be satisfied, given the project resources and its limited lifespan. Ultimately, the ACP RIOs ownership of the system will be of utmost importance for the project's success, both in terms of effective operational results in the short run and in terms of its sustainability.

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Dr Jean-Michel Salmon is a Trade and Development Economist, Professor at the French West Indies University (Martinique); he is the author of many reports and publications on ACP-EU relations, development strategy and policy, trade negotiations and regional integration. His area of expertise also includes small economies-small island developing states issues. He is presently full-time Team Leader of the ACP Monitoring Regional Integration Project.

Notes

1 EuropeAid/126170/D/SER/Multi.
2 The ACP Secretariat is managing the project through a service contract with Landell Mills Ltd and ADE S.A. who provide two long-term project experts: Jean-Michel Salmon (Team Leader) and Adrien Akanni-Honvo (Senior Expert), who can be contacted respectively at *lml@landell-mills.com, stradevco@wanadoo.fr* and *adrien.akanni-honvo@orange.fr*. The project website address is *www.acp-regional-integration.org*.
3 These are listed within the project ToRs as CEN-SAD, ECCAS, ECOWAS, IGAD, COMESA, SADC, EAC, IOC, CEMAC, UEMOA, CARICOM, PIFS.
4 This comes from the fact that the CSRI, in its very design, must cover not less than 26 subject areas while remaining as light and user-friendly as possible. This implies that for each subject area, the number of core indicators has to remain quite limited. Therefore, only well designed RIOs' specific extended systems would provide for the more numerous indicators per activity the RIOs need so as to undertake the more in-depth investigations that a monitoring exercise requires at the individual project/programme level.

WTO Roundup

Europe promises aid as part of a WTO banana agreement

Trade officials were reportedly close to reaching a deal on the long-standing dispute over banana tariffs, as TNI was going to press.

EU banana import policies have been the subject of a decade-long row at the WTO, pitting Brussels against several Latin American banana producers and the United States. At issue is the EU's current import regime: a €176 per tonne tariff on bananas from most-favoured nation (MFN) suppliers, alongside a 775,000 tonne duty-free import quota reserved for African, Caribbean, and Pacific (ACP) states.

While specifics of the pending deal were not available at press time, the agreement is expected to resemble the package that was provisionally tabled when trade ministers met in Geneva in July 2008 in an attempt to bring the Doha Round to a close. At that point, the EU offered to reduce its MFN tariff to €114 per tonne from the current €176 per tonne over eight years if a Doha Round deal were struck.

The agreement is expected to be a boon for Latin American banana producers, but will likely trigger a drop in exports from ACP countries.

The European Commission has said it will provide substantial amount of aid, through 'Banana Accompanying Measures' (BAMs), to the ACP countries. The aid, which would be provided between 2010 and 2013, will be aimed at "improving competitiveness, economic diversification and mitigating the social consequences of adjustment." To ease the transition, the EU will provide €190 million for ACP countries beyond the support offered through the European Development Fund.

After a deal on bananas is presented to WTO members at a meeting of the General Council, delegates will have 90 days to raise objections before the new MFN tariff is certified. In case any objections arise, the EU will "no longer consider itself bound by the commitment to follow through on a new support programme," according to EU communication.

Trade officials gear up for WTO ministerial in Geneva

Finance ministers are set to descend on Geneva from November 30-December 2 for a meeting that will focus on the organisation's 'regular work', rather than a Doha Round negotiating session.

Several items are reported to be on the agenda for the ministerial, to be held at the WTO's headquarters in Geneva: TRIPS non-violation complaints, e-commerce, and a recently circulated proposal entitled 'Strengthening the WTO'.

The latter proposal has generated a wide base of support, having attracted 18 sponsors that range from the EU and the United States to Brazil, India, Mexico and Uruguay. The proposal—which would have the General Council "establish an appropriate deliberative process to review the organisation's functioning, efficiency and transparency and consider possible improvements"—has been generally well received by other members, said Ambassador Mario Matus of Chile, the current chair of the General Council.

While the focus of the ministerial will be on "big picture" themes, WTO Director-General Pascal Lamy also emphasized that the Doha Round negotiations will not be left off the agenda.

"It is time that ministers are given the opportunity to engage in a more wide-ranging systemic debate and to provide the WTO with guidance for the next few years," Lamy told delegates in October. "However, and there seems to be some confusion on this point, this does not mean that ministers' statements or indeed their discussions cannot address the issue of the Doha Round or indeed specific negotiations," Lamy continued. "On the contrary, it would seem rather odd if the elephant in the room remained nameless."

To that end, Lamy said, the Doha Round work programme will officially be on the agenda for discussions in 'working sessions' at the ministerial conference.

US Suggests More Protection for 'Sensitive' Farm Products at WTO

The US has informally suggested that it be allowed to protect an additional two percent of agricultural tariff lines as 'sensitive', trade sources said, a move that sparked immediate resistance from exporting countries already concerned about the extent of market access exceptions in the WTO's troubled Doha Round of trade talks.

While lesser tariff cuts for sensitive products would have to be accompanied by expanded quotas, exporting countries have seen them as a tool that importers are likely to use to reduce the degree of market opening. Under the current draft text, developed countries would be allowed to designate up to four percent of tariff lines as 'sensitive'. However, towards the end of last year, Canada demanded an additional two percent of tariff lines, and Japan demanded as much as four percent more.

In consultations held in October, the US reportedly suggested that the greater flexibility requested by Canada and Japan could be made more widely available. However, exporting countries present at the meeting underscored that, if agreed, the additional sensitive product allowance for these two countries would not be "a general option for all," one negotiator said.

Negotiations on sensitive products have proven to be particularly tense, with lengthy discussions among around a dozen importing and exporting countries last year ultimately leading to a complex compromise proposal that has been incorporated into the draft text currently under negotiation.

This information has been summarised from ICTSD's Bridges Weekly Trade News Digest

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EPA Update

Melissa Julian

ACP Technical Follow-up Group discusses common challenges in EPA negotiations and implementation

High-level African, Caribbean and Pacific (ACP) Economic Partnership Agreement (EPA) negotiators and representatives from Regional Integration Organisations exchanged information on the state of play in regional EPA negotiations and their implementation at the ACP Technical Follow-up Group meeting held in Brussels on 12–13 October 2009. A common area of divergence with the European Commission (EC) in the negotiations relates to the EC's demand that African and Pacific (AP) (the Caribbean has signed a full EPA) market-access offers include liberalisation of 80 percent of regional trade within a 15-year transition period (although the EC has shown some flexibility in this regard). AP regions are calling for lower coverage and longer transition periods to accommodate LDC members, especially considering the continued, and in some cases increasing, use of EU subsidies for agricultural products. The possibility of adjusting the pace of trade liberalisation in the face of the current global economic crisis was also considered.

The ACP negotiators also called for improvements in the rules of origin to allow for full cumulation at the all-ACP level and with neighbouring developing countries. Other requests by the AP include binding EPA provisions to ensure EU development-cooperation support to increase competitiveness and meet EPA adjustment and implementation costs, effective Aid for Trade support and ex-ante-calculated compensation for loss of customs revenue.

> AP regions are calling for lower coverage and longer transition periods to accommodate LDC members, especially considering the continued, and in some cases increasing, use of EU subsidies for agricultural products.

For its part, the EU is calling for applying net fiscal impact as the basis for calculating compensation for revenue loss due to trade liberalisation. The EU also maintains that development-support commitments are sufficiently provided for in the overall ACP-EU Partnership Agreement, and that additional resources can be provided by EU Member States and other donors outside of this framework. Participants called for amendments to be tabled in the current review of the ACP-EU Partnership Agreement to ensure continued focus on regional cooperation, coherence in EPA monitoring institutions and to exempt trade cooperation from the threat of sanction in the case of non-execution of EPAs.

European Commission stresses its flexibility in EPA negotiations

The EC highlighted the need for tailor-made solutions for AP countries in EPA negotiations in order to secure their duty-free, quota-free access to the EU in a report to the ACP-EU Joint Parliamentary Assembly Committee on Economic Development, Finance and Trade meeting on 1 October in Brussels[1].

The EC stresses that it is up to the AP partners to decide which type of trade-related rules they want to negotiate at this stage, without undue pressure from the EU. The EC reiterated that it is open to re-discuss any provision in interim EPA agreements (IEPAs) in the framework of regional negotiations and with a view to improving these where possible. Finally, the EC said it agrees with the need for broad-based monitoring and review to ensure that the EPAs meet their objectives. It also believes that monitoring and identifying the exact effect of a trade agreement compared to wider political, social and economic factors requires a flexible and participatory approach. This process can then be linked to formal amendments to the EPAs, said the EC.

> The EC stresses that it is up to the AP partners to decide which type of trade related rules they want to negotiate at this stage, without undue pressure from the EU.

West Africa tables revised market access offer conditional on EPA development support

West Africa presented a revised market-access offer in goods to the EC at a meeting in Abidjan from 23-24 October. The offer emerged from the West Africa Market Access Offer Thematic Working Group held prior to the joint meeting and follows extensive consultation within the region. Based on a line-by-line economic analysis, a large number of products (including animal, vegetable, mineral, chemical and wood products) were reclassified from the exclusion to liberalisation lists. Some key sectors with substantial production in the region (such as base metals, leathers, textiles and footwear) were maintained in the regional exclusion list.

The communiqué issued after the West Africa-EC high-level regional seminar held in Abuja on 17-18 October states that, based on preliminary calculations undertaken by the EC, the level of necessary EPA support is more than three billion euros over current EU pledges[2]. Participants agreed that the proposed commitments on Aid for Trade from EU donors are encouraging and may reach 8.5 billion euros in the next five years.

West Africa's market access opening is conditional on the commitment of the EU to support the EPA development programme according to ECOWAS Commissioner for Trade and Industry, Alhaji Mohammed Daramy[3].

Central Africa EPA negotiations set to resume

Central African and EC officials met informally on 2 October in Brussels, in the margin of the signing of the 10th EDF's Regional Indicative Programme, and agreed to re-commence technical-level EPA negotiations. The negotiations have been suspended since February, largely due to a CEMAC secretariat re-organisation which is now complete. A Central African preparatory meeting to prepare for the negotiations will be held from 9-13 November, probably in Libreville.

The parties lack consensus in a number of areas, including market-access coverage and transition periods, legal commitments for EU EPA development support, the non-execution clause and rules of origin. In addition, further negotiation is required on Central Africa's request for specific EPA provisions allowing for the temporary movement of people exercising activities under the EPA, the EU's proposed Most Favoured Nation clause (MFN) provision requiring the region to accord any concessions made to major trading partners automatically also to the EU, the use of export subsidies, and EPA provisions on Trade Related Issues.

> “There have been no further meetings between the East and Southern Africa (ESA) region and the EU since the signing of four country-specific interim EPA agreements in August.”

> “It has been agreed that Mauritius will host the COMESA Infrastructure Fund whose main mission is to consolidate regional integration through infrastructure development, food security and energy.”

The Cameroon interim EPA was notified to the World Trade Organization (WTO) on 28 September. Tariff dismantlement is set to begin in January 2010, which could cause problems if a regional EPA agreement is not agreed by then, as the region has not yet established a Common External Tariff.

Comprehensive East and Southern Africa EPA unlikely this year

There have been no further meetings between the East and Southern Africa (ESA) region and the EU since the signing of four country-specific interim EPA agreements in August. The ESA representative attending the ACP Technical Follow-Up Group meeting informed colleagues that the outstanding disagreements on safeguard and infant industry clauses, and on export taxes, need to be resolved with the EU in order for the remaining seven of the regions' countries to sign on to IEPAs The *rendezvous* clause is also still under negotiation. There has been some modification to tariffs on sensitive items and quantitative restrictions have been allowed in four main areas. The sunset clause has also been removed.

The region remains dissatisfied with rules of origin provisions for cumulation with ACP countries and in particular with those relating to the SADC and EAC regions. While the draft rules of origin for ESA, and for the EAC, allow cumulation with all ACP countries, they also require that the country that is cumulated with must have the same rules of origin as ESA. However, it is unclear if this is per item or if the entire rules of origin must be identical. If the latter, this would prevent cumulation between many countries. The EC has yet to clarify this question. There is also the requirement for an administrative agreement between the country ESA wants to cumulate with and the EU, but so far not all countries have this agreement.

EU officials indicate that the timetable agreed to conclude more comprehensive and inclusive EPA agreements, possibly including some variable geometry, will continue with increased momentum, but are unlikely to be concluded by the end of 2009 due to diversity in the level of development of the countries in the region.

It has been agreed that Mauritius will host the COMESA Infrastructure Fund whose main mission is to consolidate regional integration through infrastructural development, food security and energy.

East African EPA Ministerial Negotiations postponed

The ministerial-level East African Community (EAC)-EC EPA meeting scheduled for mid-October was postponed. Sources indicate the region is seeking to add a declaration to the interim framework EPA before signing it, which would include commitments to further negotiate the MFN clause, export taxes and development finance provisions in the eventual full regional EPA.

The EAC secretariat informed the EC about the positive outcome of the recent EAC ministerial meeting, in which EAC ministers agreed that working toward signing the Framework EPA (FEPA) was a top priority[4]. Technical and senior-level officials from both parties are due to meet in the coming weeks to iron out the last remaining issues and to agree on a signing date. The ministerial-level signing ceremony is likely to also include a joint commitment on an agenda and timetable to conclude the full EPA negotiations between the EAC and the EU (the broad scope of the issues to be negotiated is included in the interim agreement) in the not too distant future. The EC is optimistic that the interim agreement can be signed before the end of the year and negotiations on the full EPA are expected to continue in early 2010.

EAC Common Market Protocol negotiations held at the end of September agreed that starting in July 2010, there will be free movement of people, labour and services across the region[5]. The heads of delegations of the five partner states signed the final draft protocol bringing to a close 18 months of intense haggling among the states. Legal and judicial teams together with attorney generals of the partner states will convene soon to make the negotiated document legally binding before it goes to the heads of states for formal adoption.

Southern African Development Community EPA negotiations postponed to next year

There have been no Southern African Development Community (SADC) EPA meetings or joint negotiations with the EC in October, partly because of elections in Mozambique, Botswana, and Namibia. The SADC EPA technical and senior officials meeting that was planned for 11-13 November to discuss market access, unresolved negotiation issues, the way forward and approach to be taken in negotiations has been postponed due to an ACP Ministerial meeting planned on that day in preparation for the WTO Ministerial later this year. This means that scheduled negotiations with the EC in November will also have to be postponed. It is anticipated that senior SADC officials will only be able to meet in early 2010 and only after that meeting has taken place will they meet with the EC. Expectations are, therefore, that formal negotiations will resume in the first quarter of 2010.

> “The Caribbean representative reporting to the ACP Technical Follow-up Group meeting indicated that there is some slippage on the EPA implementation obligations and that not all notifications have yet been made.”

> “PACPs maintained their refusal to negotiate EPA services liberalisation commitments before completing negotiations on services liberalisation at a regional level.”

Slippage in Caribbean implementation commitments

The Caribbean representative reporting to the ACP Technical Follow-up Group meeting indicated that there is some slippage on the EPA implementation obligations and that not all notifications have yet been made. Trade liberalisation was to have started in January 2009 as some applied tariffs are higher than those agreed in the EPA and need to be reduced to meet EPA obligations. These have not yet been reduced.

The region is in the process of setting up national and regional level implementation units. No regional coordinator has yet been appointed. Work is continuing towards setting up joint EPA institutions and procedures ahead of the first CARIFORUM-EU EPA Council meeting due to be convened in November. A regional level meeting will be held prior to this to prepare for the joint meeting.

Pacific hold first EPA negotiating round this year with the EC

Pacific ACP (PACP) and EC technical level EPA negotiators met in Brussels from 23 September - 2 October, the first negotiation round this year[6]. Prior to the meeting, Niue, Samoa, Cook Islands and Micronesia presented market access offers for trade in goods based on liberalising between 70-75% of their trade and with transition periods up to 25 years. At the meeting, the EC argued that the offers are not yet acceptable and would need further negotiation. Nauru and Salomon Islands indicated that they will present market-access offers in the near future.

Positions were narrowed on a number of issues including food security, cooperation in agriculture, infant industry protection, export taxes, sanitary and phytosanitary provisions and technical barriers to trade. Possible alternative wording regarding good governance in the taxation area was also considered.

PACPs maintained their refusal to negotiate EPA services liberalisation commitments before completing negotiations on services liberalisation at a regional level. The group also wants to prevent any negative precedents in relation to free movement provisions in view of the ongoing trade negotiations with Australia and New Zealand. There was some discussion on the PACPs proposal to instead include a *rendezvous* clause in the EPA on this issue.

With regard to fisheries, the EC apparently backtracked on its earlier commitment to include improved market access for fresh, chilled and frozen fish in the EPA, a red-line issue for several PACPs, and also proposed new fisheries access provisions.

Further negotiation is also required on EC financial and technical assistance.

PACPs maintained their opposition to the inclusion in the EPA of the MFN and non-execution clauses, arguing that the former would reduce their policy space to negotiate other trade agreements, while the latter was already provided for in the Cotonou Agreement.

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Notes

1 "Economic Partnership Agreements and their impact on ACP States". Follow-up by the European Commission to the ACP-EU Joint Parliamentary Assembly Resolution. 1 October 2009. *http://www.europarl.europa.eu/meetdocs/2009_2014/documents/acp/dv/jpa_resolution/jpa_resolutionen.pdf*

2 "West Africa-Europe reiterate commitment to integration process". ECOWAS. 19 October 2009 *http://news.ecowas.int/presseshowphp?nb=112&lang=en&annee=2009*

3 "ECOWAS Commissioner for Trade and Industry maintains region willing to open markets up to 70 percent in return for EU EPA related support". Business News (Ghana), 20 October 2009 www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=170537

4 "EAC-EU EPA negotiations update. EC Delegate interview". Business Daily (Kenya). 20 October 2009. *www.businessdailyafrica.com/-/539552/672808/-/item/0/-/l84qp4/-/index.html*

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TNI is published by

The International Centre for Trade and Sustainable Development

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Design:
The House London Ltd.
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This monthly publication is made possible through the financial contribution of the Government of the United Kingdom (DFID) and the Dutch Ministry of Foreign affairs (DGIS).

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ISSN 1682-6744

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Trade Negotiations Insights

Calendar and resources

ACP-EU Events

November

2-4 COMESA Trade and Customs Committee meeting, Mombasa, Kenya

2-6 Technical Workshop on Rules of Origin in the CARIFORUM-EC Economic Partnership Agreement, Jamaica

9-10 3rd ACP Civil Society Forum, Brussels, Belgium

10-13 EU-ECOWAS technical level negotiations and Senior Officials meeting, Abidjan, Cote d'Ivoire

11 ECOWAS-EU TROIKA Meeting, Abuja, Nigeria

11-13 ACP Senior Trade Officials and ACP Trade Ministers meetings, Brussels, Belgium

11-13 4th annual African Economic Conference (AEC), Addis Ababa, Ethiopia

16-19 90th Session of the ACP Council of Ministers, Brussels, Belgium

20-02 ECOWAS Council of Ministers, Abuja, Nigeria Commonwealth Business Forum, Port of Spain, Trinidad and Tobago

25-26 NEPAD Transport Summit & Africa Transport Trade and Investment Expo (ATTIEX), Johannesburg, South Africa Commonwealth Heads of Government meeting, Port of Spain, Trinidad and Tobago

28-30 4th Regional Meeting of the Joint Parliamentary Assembly (West Africa), Ouagadougou, Burkina Faso

30-3 18th Session of the ACP - EU Joint Parliamentary Assembly, Luanda, Angola

December

1-3 Meeting of the UEMOA / ECOWAS Joint Technical Secretariat, Abuja, Nigeria

1-3 UN conference on South-South Cooperation Nairobi, Kenya

6-8 Conference (AERC) on Rethinking African Economic Policy in Light of the Global Economic and Financial Crisis, Nairobi, Kenya

7-18 5th Meeting of the Conference of the Parties (COP 15) on Climate Change, Copenhagen, Denmark

21 ECOWAS Summit of Heads of State and Government, Abuja, Nigeria

WTO Events

November

17 WTO General Council

20-2 7th WTO Ministerial Conference

December

8-10 Trade Policy Review Body – Georgia

16-18 Trade Policy Review Body – Croatia

17-18 WTO General Council

Resources All references are available at: *www.acp-eu-trade.org/library*

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