

COMESA and EPAs – Awkward Bedfellows?

The complex and varied political, institutional and economic environment across the African Countries, combined with the pressures of international policy processes, pose significant challenges to the success of the African regional integration. The challenges facing Africa in this respect are clearly illustrated by the ongoing dynamics between the Common Market for Eastern and Southern Africa (COMESA) regional integration process and the Economic Partnership Agreement (EPA) negotiations.

This paper explores the dynamics between the two and attempts to highlight the ways in which the debates and tensions surrounding the COMESA integration are interacting with those related to the EPA process. It also presents a range of outcomes for both – COMESA integration and EPAs – that are still possible. The paper also presents some recommendations for how the negotiating parties can approach these issues in order to balance competing agendas and ensure the outcome of long term integration in the region.

Introduction

The EPA negotiations currently taking place between the European Union (EU) and the African, Caribbean and Pacific (ACP) countries are due to be completed by December 2007, when the various regional groups,¹ are due to sign Regional Trade Agreements (RTAs) with the EU.

Since their launch in September 2006, the EPA negotiations have made stuttering progress and tensions between the EU and ACP regions have grown, as the negotiations progressed. These tensions are not surprising, given that EPAs will require the ACP countries to liberalise their trade with the EU to a greater extent than ever before. But they have also been exacerbated by the European Commission's (EC's) failure to respond effectively to the ACP concerns.

One of the most contentious issues has been the potential impact of the EPAs on regional integration, with the ACP claiming that the fragile state of regional co-operation is threatened by the move to freer trade with the EU. The limited progress towards integration within ACP regions has, in turn, posed some significant challenges to the EPA negotiations, which are taking place between ACP regions and the EU.

Background to COMESA

The COMESA is the largest regional institution in Africa and currently comprises of 19 member states with a total population of over 400 million, who have agreed to "co-operate in developing their natural and human resources for the good of all their people". The Treaty establishing the COMESA was ratified in Lilongwe, Malawi, on December 08, 1994, by 16 countries that had previously been a part of the Preferential Trade Agreement (PTA) in the region.

The Treaty establishing the COMESA details the activities and policy areas which include:

- formation of Free Trade Area (FTA) with free movement of goods and services in the region;

- formation of a Customs Union (CU) with a Common External Tariff (CET) which applies to all member states; and
- formation of an Economic and Monetary Union with a common currency and economic and social policies.

Following its establishment, the original deadline for the member states to form an FTA was 2000. However, by 2000 only nine COMESA countries² had eliminated tariffs to other member states.

The formation and the expansion of the COMESA and its FTA have coincided with a significant increase in intra-regional trade. Between 1996 and 2000, intra-regional trade grew at an average of 5.9 percent per annum, which increased to 18.8 percent per annum between 2001 and 2003, following the formation of the FTA.³

Table 1: Intraregional Trade

	1991-1995	1996-2000	2001-2003
Regional Imports as % of Total Imports			
COMESA (excluding Eritrea and Swaziland)	3.6	3.6	4.1
Average Annual % Change in Intraregional Trade			
COMESA (excluding Eritrea and Swaziland)	19.8	5.9	18.8

Source: IMF (working paper 04/227)

Besides, COMESA countries are currently working towards the development of a CU amongst the existing members of the FTA. In doing so, COMESA members are working to develop a CET and a deadline of December 2008 has been set for its establishment. Significant progress has already been made in establishing the framework for the CET, as member states have agreed on a four-band CET: zero percent for raw materials; zero percent for capital goods; 10 percent for intermediate goods; and 25 percent for final goods, including safeguard and trade remedy procedures.

However, agreement has still not been reached on a number of issues which need to be resolved before a CET can be launched. These include definitions of intermediate and finished goods, sensitive products and exemption lists for member states and how to deal with them, use of a common tariff nomenclature and procedures for allowing policy space and temporary derogations.⁴

EPAs and COMESA Integration

Progress in the EU-ESA EPA Negotiations

The regional phase of the EPA negotiations got underway in 2004 and since then the Eastern and Southern Africa (ESA) countries have organised nine Regional Negotiating Forum (RNF) meetings at which they have negotiated regional positions. These regional positions have provided the basis for the development of a draft ESA EPA text.

The current draft ESA EPA text states that the ESA group will be utilising the proposed COMESA CET and its phase-in schedule as the basis for negotiating market opening with the EU.⁵ It also presents a schedule for liberalising trade with the EU, including:

- a 10-year moratorium on any liberalisation from the date an EPA is signed;
- liberalisation of raw materials and capital goods from year 10 onwards;
- liberalisation of intermediate goods from year 11 to be completed over a period of four years;
- liberalisation of finished goods from year 16 to be completed over a period of 10 years; and
- full implementation of the phase-in schedule within 25 years of the date an EPA is signed.

The ESA EPA draft text has been submitted to the EC for negotiation. 13 of the 16 ESA countries have submitted first drafts of their sensitive lists and the EC has made an offer of 100 percent access to its markets (with some products excluded for limited periods). However, much work still needs to be done to develop national and regional positions. Informally, the EC has stated that it will consider a phase-in period of around 20-25 years.

What the ESA EPA text does not state is a position on the extent of the liberalisation an EPA will require from the ESA group.

Limited Commitment to Regional Integration

One of the main challenges facing the EU-ESA EPA negotiations is that there has only been limited commitment by COMESA member countries to achieve deeper integration within the region and lock this process in through an EPA. The extent of this problem is clearly illustrated by the political machinations of member states in recent years, continuing low level of trade and economic integration in the region and the large number of least developed countries (LDCs) in the ESA group (12 out of 16 countries).

The conduct of a number of COMESA countries since the EPA negotiations got underway also suggests that there is limited political commitment in the higher echelons of their governments to achieving deeper integration. These countries are more interested in pursuing shallow integration in multiple (often overlapping) regional groups, in order to access more markets and spread the risks.⁶

Table 2: Membership or Regional Integration Groups in E + S Africa

Selected COMESA countries	COMESA	COMESA FTA	ESA EPA	SADC	EAC
Burundi	*	*	*		
DR Congo	*				
Ethiopia	*		*		
Kenya	*	*	*		*
Malawi	*	*	*	*	
Mauritius	*	*	*	*	
Rwanda	*	*	*		
Swaziland	*			*	
Uganda	*		*		*

Obviously, this group of countries includes Democratic Republic of Congo and Swaziland, which are negotiating an EPA with the SADC group, and also include EAC countries like Burundi, Kenya, Rwanda and Uganda, which have already developed their own CET. This seems to be inconsistent with the one being developed by the COMESA.⁷ However, Malawi, Mauritius, Zambia and Zimbabwe have significant interests within the SADC region but joined the ESA EPA negotiations because they were concerned about being locked into the terms of South Africa's existing FTA with the EU.

Intra-COMESA trade, as a proportion to the total imports into the region, has stayed stubbornly low (at around four percent)⁸ and intra-regional trade is still hampered by a large (and possibly increasing) volume of non-tariff barriers (NTBs) besides existing tariff barriers and poor infrastructure. This suggests that the COMESA countries (with some exceptions) still have limited economic interests in the region, which puts a question mark on their long term commitment to deepening their trade links within the region.

The strategy of utilising an EPA to push forward integration in the region also seems questionable, as the ESA countries have quite diverse interests in relation to an EPA. 12 out of 16 ESA countries are LDCs, which, regardless of whether they sign an EPA or not, will be able to access the EU market duty-free and quota-free (DFQF) through the Everything But Arms (EBA) agreement. As a result, the LDCs have displayed less political commitment to EPAs. This creates a threatening situation whereby non-LDC ESA countries sign an RTA with the EU, but the LDCs do not, widening a further rift within the COMESA that could hold back future integrative efforts.

Limited Progress in Regional Trade Negotiations

One of the main reasons for the lack of progress is the disparate nature of the trade regimes of the COMESA countries. The COMESA comprised of some of the most open trade regimes (Djibouti, Malawi, Rwanda, Uganda and Zambia) and also some of the most closed (Burundi, Comoros and Seychelles). The current CET will require at least nine COMESA member states to reduce tariffs on over 2,000 tariff lines and six to reduce tariffs on over 3,000 tariff lines.⁹

Given the current ESA EPA draft text that the EU-ESA EPA negotiations will be based on the COMESA framework (including the CET and exempt and sensitive lists), the limited progress in finalising this framework and the existing 2008 deadline for its launch pose some major challenges to the EPA talks.

Protecting Regional Markets

Being reciprocal FTAs, the EPAs will require the ACP countries to open their economies to EU exports to a greater extent than ever before. Understandably, this has aroused concerns amongst the ACP stakeholders that imports from the EU may displace local producers and disrupt the development of intra-regional trade. These fears have been heightened by a number of EPA impact studies, which have pointed to such consequences.¹⁰

In response, the EC has emphasised that the EPAs will only be implemented during a lengthy transition period, allowing the ACP countries to prepare for the liberalisation, and that asymmetrical market opening will also allow them to protect sensitive sectors from liberalisation.

In order to protect the economically and socially important sectors, the ESA countries have been working to identify country-specific lists of sectors vulnerable to competition from EU exports. However, the ability of individual ESA countries to sufficiently protect their markets may be compromised by the need for ESA countries to develop a common regional list of sensitive products that is in compliance with the World Trade Organisation (WTO) regulations.

The general EC position is that WTO compatibility i.e. meeting the “substantially all trade” clause of General Agreement on Tariffs and Trade (GATT) Article 24 requires an RTA to cover 90 percent of all the trade between the parties. Based on the expected 100 percent liberalisation by the EU, this would require the ESA group to liberalise 80 percent of its trade with the EU, a position that would allow a regional sensitive product list to include products that represent no more than 20 percent of the trade (either in value terms or the number of tariff lines). Given that the ESA countries have divergent patterns of trade with the EU, such an approach will only allow ESA countries to protect a limited number of their sensitive products.¹¹

The EC and ESA countries have disagreements over the degree of liberalisation required by an EPA and tense negotiations amongst ESA member states in reaching an agreement on a regional sensitive product list are expected.

The fact that these potentially contentious negotiations are still to start in earnest with just under a year to go before the end-2007 deadline, suggests that the EC and the ESA will struggle to conclude the negotiations by this date.

Table 3: Restrictiveness Ratings in Eastern and Southern Africa, 2003

Selected COMESA countries	Tariff rating (1-5) Higher more restrictive	Non-tariff barrier rating (1-3) Higher more restrictive	Overall trade restrictiveness rating (1-10) Higher more restrictive
Burundi	5	2	8
Eritrea	1	2	4
Ethiopia	3	2	6
Kenya	3	2	6
Malawi	2	1	2
Mauritius	3	2	6
Rwanda	2	1	2
Seychelles	5	3	10
Uganda	2	1	2

Source: IMF (working paper 04/227)

EU-ESA EPA: Implications for COMESA

Full EU-ESA EPA

The “Full EU-ESA EPA” option is defined as: “All ESA members negotiate a CET, a common sensitive list and a common phase-in schedule; the ESA countries agree to liberalise 60-80 percent of imports from the EU”.

Given the definition, a large number of the outstanding issues need to be resolved before such an option can become a reality. The COMESA framework, on which the EU-ESA EPA will be based, is yet to emerge and regional preparations in relation to market access are still at an early stage. This means that if a full EU-ESA EPA is to emerge, then the negotiations will most likely to be carried on past 2007.

On the other hand, if the EU is willing to accept a lower level of liberalisation from the ESA, then the regional negotiation process will be eased. Some have proposed an overall liberalisation target of 80 percent, which would require the ESA countries to liberalise only 60 percent of the trade, providing greater flexibility for satisfying country sensitivities.

Despite the obvious benefits of extending the EPA negotiations, such an option also involves risks. Allowing the EPA negotiations to continue indefinitely may reduce the political commitment to the process of the COMESA integration, as well as in relation to the EPAs. In addition, with the WTO waiver on EU-ACP preferences ending in 2008, it is not clear how the EU will treat ESA exports during any interim period (between 2008 and when an EPA is signed). There is a possibility that EU will withdraw the Cotonou preferences. If the ESA countries can display greater commitment to the EPA negotiations and a willingness to complete the negotiations within a reasonable time period after 2008, this circumstance will probably be avoided.

EU-EAC EPA (with possible future extension)

The “EU-East African Community (EAC) EPA (with possible future extension)” option is defined as: “The EAC countries negotiate an EPA with the EU; the non-EAC ESA countries consider joining at a later date”.

The option of an EU-EAC EPA should be seen as a possibility, as the original EAC countries (Kenya, Tanzania and Uganda) already have a CET in place. With the EAC’s newest members (Burundi and Rwanda) soon to fully join this, easing of the prospect of negotiating an FTA with the

EU is possible. In addition, given its dependence on preferences, Kenya probably has the most to lose amongst any ESA country from not negotiating an EPA and, given its membership of the EAC it can only do so if it takes the other EAC members with it.

On the other hand, such an outcome is complicated by the fact that Tanzania is currently negotiating an EPA with the SADC group and it will, therefore, have to withdraw from those negotiations in order to join an EAC EPA.

The attraction of the “EU-EAC EPA and FTA with non-EAC ESA countries” option is that it allows the most integrated group of countries in the region to move ahead and for the other ESA countries to join when they are ready to do so.

However, this option also raises significant questions about trade relations between the non-EAC ESA countries and the EU and those within the COMESA after 2007. Most of the non-EAC ESA countries are LDCs and will be able to access the EU market DFQF through the EBA scheme. Also, with the EAC countries signing an EPA and liberalising with the EU, there is a danger that this will lead to increased regional protectionism, as the non-EAC ESA countries move to protect their markets from cheap EU imports being re-exported from EAC countries.

EBA for LDCs / possible EPA for non-LDCs

The “EBA for LDCs/possible EPA for non-LDCs” option is defined as: “*The ESA LDCs choose to opt out of an EPA (for now at least) and, instead, access the EU utilising the GSP/EBA; the ESA non-LDCs negotiate individual EPAs with the EC*”.

The ESA LDCs will be able to access the EU market DFQF through EBA scheme regardless of the outcome of EPA negotiations, which means that the possibility of ESA LDCs choosing to opt out of an EPA must be considered.

However, for the ESA non-LDCs (Kenya, Mauritius, Seychelles and Zimbabwe) who, in failing to sign an EPA, will be left to access the EU market through the less preferential and more competitive Generalised System of Preference (GSP) scheme, albeit an EPA is a more likely option. This is especially so for Kenya and Mauritius, for whom a number of important economic sectors e.g. textiles, clothing, fisheries, horticulture and processed agricultural goods are highly dependent on preferences. These countries might choose to negotiate an EPA with the EU, although probably on an individual basis.

Endnotes

- 1 These six groups include Eastern and Southern Africa (ESA), Central Africa, Economic Community of West African States (ECOWAS), Southern African Development Community (SADC), the Caribbean and the Pacific
- 2 Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe
- 3 “COMESA and SADC: Prospects and Challenges for Regional Trade Integration”, IMF Working Paper 04/227
- 4 “Revised draft medium term strategic plan, 2007-2012”, COMESA, January 2007
- 5 ESA EPA draft text (August 2006), paragraph 10.3
- 6 “Assessing regional integration in Africa”, UNECA 2006
- 7 The EAC CET has three bands (zero percent, 10 percent and 25 percent) and COMESA member states have agreed on a four band CET, the tariff rates of which are still to be decided.
- 8 See Table 1
- 9 *Ibid*
- 10 “Economic and welfare impacts of EU-Africa Economic Partnership Agreements”, UNECA, 2005
- 11 “EU-ACP Economic Partnership Agreements: The effects of reciprocity”, Stevens and Kenan, IDS, 2005

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The probability of this outcome will increase if the EC displays an unwillingness to extend the EU-ESA EPA negotiations past 2007 deadline together, whilst maintaining non-reciprocal access to its markets for ESA countries for an interim period.

The “EBA for LDCs / EPA for non-LDCs” option would allow ESA LDCs to avoid opening their markets to EU exports. It would also provide the ESA non-LDCs with an opportunity to negotiate an EPA that is more suited to their individual trade regimes or choose not to sign an EPA free from the pressures of negotiating with a regional group.

However, such an outcome would also increase and lock in the divergence in ESA-country external trade regimes putting an obstacle in expanding the COMESA FTA and forming a CU in the coming years.

Conclusion and Recommendations

This paper presents the following recommendations *vis-à-vis* the ongoing process including:

- EU should explore the possibility of extending the EPA negotiations and commit to providing the ESA countries with DFQF access in the interim period. The ESA countries, in turn, need to display greater commitment to the EPA negotiations.
- For a “development-centred EPA”, the EU should show maximum flexibility to the ESA in negotiating market access parameters.
- ESA countries should avoid any unnecessary delays to the COMESA negotiations and invest more resources and political will in exploring the parameters of COMESA integration. The EU, in turn, should allow the ESA/COMESA countries to pursue their regional interests independently.
- ESA countries should commit additional resources for exploring these options and consulting a wider range of stakeholders on the key issues. The EU should provide the ESA countries with additional resources to support them in up-scaling these processes.
- EU should fully support any country that chooses not to sign an EPA and support them in identifying alternative trading arrangements.
- EU and others should avoid putting undue pressure on individual ESA countries to sign an EPA and, instead allow them to make a decision that reflects their national and regional interests.