



**ANNUAL
REPORT** 2016/17



FROM OUR EXECUTIVE DIRECTOR

Trade-related developments in 2016/2017

The trade agenda was shaken by two significant disruptors in 2016. The referendum of 23 June recorded a landmark decision by the United Kingdom (UK) to leave the European Union (EU). And in November Donald Trump became President of the United States. Arguably these developments reflect growing concern about the distributional impact of trade liberalisation and globalisation.



Trudi Hartzenberg
Executive Director

“For tralac it is important to situate trade and trade governance matters in a broader development context, to contribute to the discourse about the role of trade in addressing the challenges of unemployment, poverty, inequality and exclusion.”

Both disruptors have important implications for Africa. In the case of Africa’s relationship with the EU, the focus falls to a large extent on the Economic Partnership Agreement (EPA) negotiations. After more than a decade of negotiations, several African sub-regions have not concluded the EPA negotiations. Some African states have indicated that they will not currently sign an agreement. The so-called Southern African Development Community (SADC) EPA between the member states of the Southern African Customs Union (SACU) and Mozambique, with the EU was signed in June 2016 and is being implemented provisionally since 10 October 2016. Several countries in east and southern Africa are implementing the Interim East and Southern Africa (ESA) EPA.

The implications of Brexit for Africa, and especially for those African countries which have traditionally had strong trade, investment and development assistance relationships with the UK, are important. Much will of course depend on the new trade arrangement that the UK and EU conclude; these

negotiations made a tentative start in June 2017. Post Brexit, the UK will be negotiating with partners in the World Trade Organisation (WTO) and other preferential trade partners. To avoid a ‘cliff edge,’ transitional arrangements are being suggested to ensure that trade continues uninterrupted before new agreements are concluded.

Post-Brexit negotiations, for the SADC EPA member states, for example, will have to take into account that all but South Africa enjoy duty free quota free access to the EU market. South Africa’s market access to the EU includes several important tariff rate quota’s. How will these feature in a future relationship between SADC EPA countries and the EU on the one hand and the UK on the other?

The new US President, Donald Trump, came to office on the strong ticket of ‘America first’ with statements against trade, globalisation and the Paris climate change agenda. No trade policy strategy for Africa has yet been articulated. However, an Executive Order was signed on 29 April 2017, indicating that all the US trade agreements will be reviewed to assess whether they are in the US interest. One of the first decisions of the President was to withdraw the US from the Trans Pacific Partnership (TPP) deal. This mega-regional among developed and developing countries provided some indication that a very broad range of countries, ranging

from developed to developing and least developed could buy into a trade governance paradigm that provided flexibilities for the smaller players to accommodate their development concerns, alongside developed country partners. The TPP is nevertheless an interesting reflection of an innovative take on a range of substantive trade governance issues, including for example preferential safeguards, which could be useful to review for Africa's Continental Free Trade Area (CFTA).

The Africa Growth and Opportunity Act (AGOA) is US national legislation providing preferential, but non-reciprocal access to the US market, for qualifying exporters from eligible African countries. The September 2015 AGOA renewal provides a further 10 years of preferential market access. It is not too soon to start thinking about post-AGOA developments; specifically about reciprocal, WTO compatible agreements. The US is well aware that the Economic Partnership Agreements that are being implemented now place it at a trade disadvantage vis à vis the EU. Meanwhile current AGOA beneficiaries can expect that compliance will be monitored closely; with the prospect of 'out of cycle' reviews in cases of alleged non-compliance or other factors which the US includes in its eligibility assessment. An important case is the ban on the import of second-hand clothing by the countries in East Africa (East African Community – EAC), and US concerns about job losses in its domestic industry that support these exports.

Africa's own trade and integration agenda did not deliver any significant progress in 2016. The Tripartite Free Trade Area (TFTA) which was launched in June 2015, featured ongoing negotiations on tariff-related matters (tariff liberalisation, rules of origin, trade remedies)¹. At this point, there are tariff offers on the table between SACU and EAC, SACU and Egypt, and EAC and Egypt. In this connection, it is important to recall the adoption of a particular interpretation of the principle of the 'acquis'² in these negotiations. It was agreed that all existing regional economic communities will continue to trade according to their trade governance regimes, and that only those member states that were not party to a free trade area (together) will be negotiating tariff liberalisation. This marked a redirection of the TFTA from the ambition to solve the problem of overlapping membership, expressed by Heads of State in 2008. The bottom line is that limited further tariff liberalisation can be expected in TFTA. It is still possible to achieve meaningful results in other areas, if for example provisions on issues such as trade facilitation and elimination of non-tariff barriers are effectively implemented.

The CFTA, which was launched in 2015, is an ambitious initiative aimed to integrate the economies of the 55 (since Morocco was re-admitted to the African Union January 2017) member states of the African Union (AU). It gained traction in 2012 with decisions to Boost Intra-Africa Trade (BIAT) and to fast track the establishment of this free trade area by indicative date 2017. The aim remains to launch the CFTA in December 2017. It is most likely that the CFTA process will follow the same route as the TFTA, with framework agreement being signed in December, and a built-in agenda will be adopted for the outstanding issues.

Current trade, and broader governance developments, globally as well as in Africa, make transparency and accountability even more important to achieve development outcomes. This underscores the contribution of independent public benefit organisations, in Africa, where institutional capacity is nascent or weak. These organisations have a role to assure access to information, to capacitate and to empower, especially marginalised stakeholders (across the continent) to participate effectively in trade policy and governance processes, and to strengthen institutions. This is what tralac, as a public benefit, think tank, building trade policy and governance capacity, strives for.

¹ Recent news (July 2017) indicates that the trade remedies annex has been completed. The rules of origin annex is still under negotiation.

² 'Acquis'- this principle is borrowed from European Community Law, where it means 'to build on what exists.'

The past year provided important opportunities for tralac to support trade policy and governance for Africa. These included the opportunity to provide three training courses for the newly appointed Judges of the COMESA Court of Justice, to contribute to training of negotiators on trade in services matters for the CFTA agenda, and to expand the trade data and policy training programmes – tralac’s Geek Weeks – to East Africa, with two courses being offered in Kenya. tralac also participated in the Expert Group responsible for preparing a draft Continental Free Trade Agreement, and a series of publications on CFTA matters has been included by the African Union Commission in the resources database to support the CFTA negotiations process.

TRALAC

tralac (**Trade Law Centre**) is a public benefit organisation based in the Western Cape region of South Africa. We develop technical expertise and capacity in trade governance across Africa. We are committed to the principles of rules-based governance at the national, regional and international levels. We believe that better governance and strong institutions are essential elements for inclusive and sustainable growth.

tralac’s activities are anchored on three pillars i) inform stakeholders through quality, accessible analysis and information provision, ii) capacitate individuals and institutions through partnerships that focus on embedding capacity in institutions, and iii) empower, especially marginalised stakeholders to participate more effectively in trade policy and governance debates and processes.

Understanding that regional integration and trade are means to achieve sustainable development outcomes, tralac’s core goal is to support Inclusive growth and sustainable development, by contributing to Africa’s:

- rules-based governance – underpinned by access to information, transparency and accountability
- knowledge and capacity development through the provision of quality data and analysis, innovative training and open policy dialogue

tralac is entrusted with generous support from international donors, to undertake our work programmes. Currently, we receive general and program specific funding from the **Swedish International Development Agency (SIDA)** and **United States Agency for International Development (USAID)** respectively. We also receive support from the **Australian Government’s Department of Foreign Affairs and Trade** through their Australian Volunteers for International Development (AVID) program, and undertake smaller projects for specific clients.

WHAT WE DO

tralac works to inform, capacitate and empower key stakeholders

to enhance trade and integration governance for Africa



INFORM: tralac has identified significant gaps in access to trade-related information – data on trade and integration developments, as well as sound policy and legal analysis. Tralac therefore produces essential data and analysis on local, regional and international trade and integration developments, disseminating this to an ever-growing audience

CAPACITATE: tralac works to build capacity for good trade governance and integration, providing innovative training solutions to address specific skills gaps, including trade data and policy analysis, and legal analysis and advice, ensuring that training is institutionally embedded.

EMPOWER: tralac supports and facilitates active and transparent dialogue to underpin good trade and integration governance. Identifying that there were limited forums for dialogue among stakeholders from various sectors that included marginalised stakeholders (such as those from least developed countries in the region and non-state representatives often side-lined in policy discussions), tralac regularly hosts dialogue events and makes essential contributions to public debate.

INFORM

tralac develops trade law and policy intellectual capital: this involves monitoring trade negotiations, collecting and analysing data, policy and legal instruments, contribution to debates and discussions on trade developments. Our publications include: Books, working papers, trade briefs and trade data analysis.

PUBLICATIONS

Working papers present detailed analysis of trade issues which contribute to the body of intellectual capital on trade matters for the region.

Targeted at: policy makers, analysts and trade advisors.



WORKING PAPERS

31



TRADE BRIEFS

30



TRADE DATA ANALYSIS

9

These papers specifically focus on analysis of trade data.

Targeted at: policy and trade data analysts, trade advisors and non-state actors

70
papers
published



21%

tralac provides commentary and analysis on 'current hot topics' on trade and related matters by publishing a weekly discussion



67 discussion notes were published during the year



Where possible reference to the **sustainable development goals** is made in all our work.

To keep stakeholders informed of regional and global trade developments tralac disseminates a **daily** trade-related **news monitoring service** to a list of registered subscribers and a **weekly newsletter**.



The **daily news** digest had

637
subscribers



105%

230 daily news digests were posted

The **tralac newsletter** had **2555** subscribers

INDICATORS



5897
publication
page views



1896
publication
downloads



Usage of tralac
publications



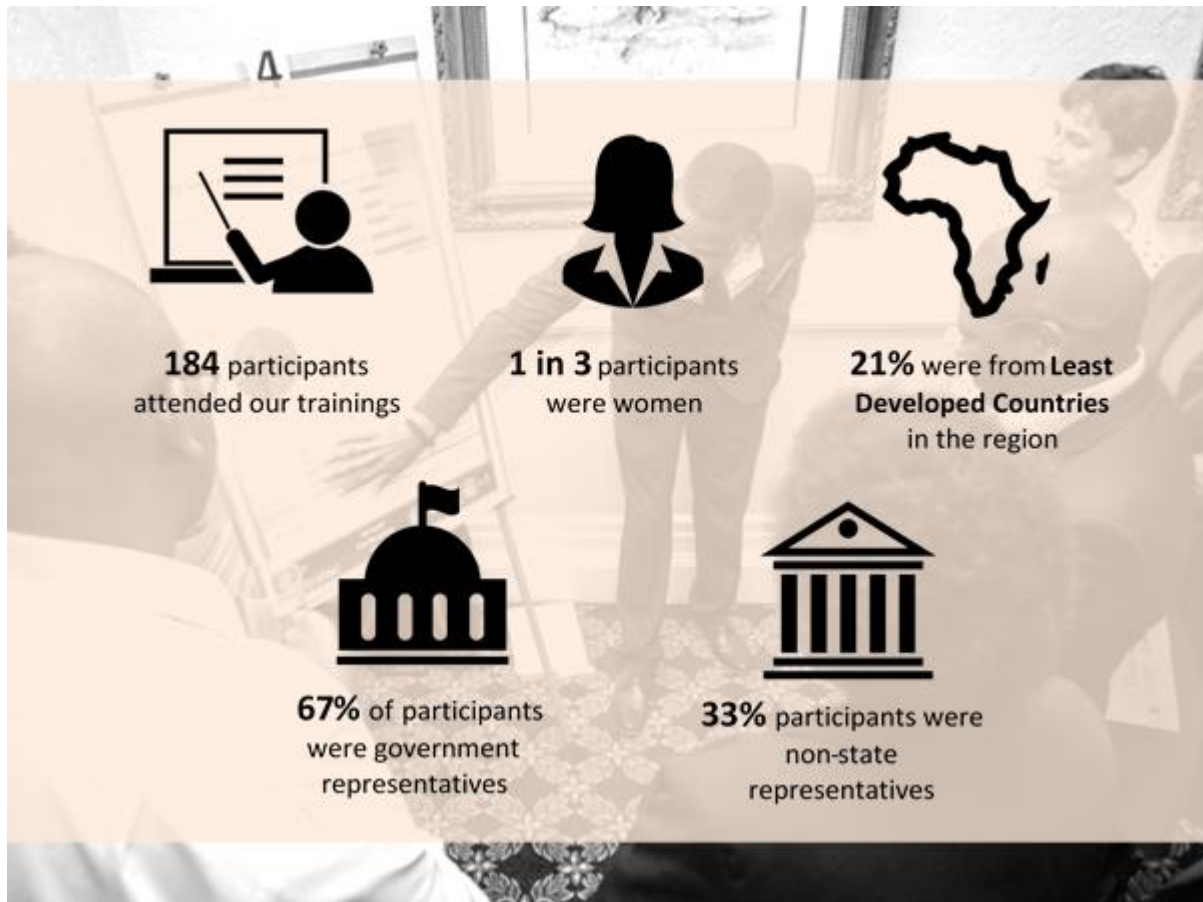
11%



More
than **55**
citations

CAPACITATE

This year tralac built capacity through **short courses, an internship program and launched its first e-learning programme**



Short Courses

We hosted a number of short courses this year to respond to identified skills gaps. Key institutions we partnered with in our training programs include:

- Training of the newly appointed COMESA Court judges from the Appellate and First Instance Divisions of the **COMESA Court of Justice**;
- **Botswana Trade Commission**;
- **The Regional Integration Directorate for Lesotho**.

As part of the tralac-East Africa work plan we:

- Hosted a **'Geek Week' in Kenya** for the first time;
- Hosted the post-WTO Ministerial breakfast meeting in partnership with the Kenyan private sector;
- AGOA awareness workshops in partnership with the Kenya Association of Manufacturers.

We also partnered with the **Central Bank of Lesotho** on financial sector policy development. The increase in cooperation with key Institutions in Southern and East Africa reflects tralac's expanding influence and reach in the region.

Internship Programme

Tralac runs an internship program for recent African graduates (Masters) to empower youth and support skills development. The internship program was designed specifically for African youth, recognising the challenges to youth participation in regional development issues.

E-course development

This year we developed an e-learning platform and an e-course titled *Trade in the 21st Century – Legal and Policy Considerations for Africa*. Fourteen students from **7 African countries** enrolled. The lessons learned from this pilot program are being used to determine the future direction of tralac e-learning.

FEEDBACK

Short Course: 'Training objectives were clearly explained and achieved. The objectives were clearly stated from the beginning and the expectations spelt out. The course was very relevant to my job and will help me in most aspects of my work. I gained a greater knowledge of trade remedies especially regarding SACU, SADC, bilateral and multilateral agreements and Free Trade Areas. Small group means you can learn so much more. The trainer was very enthusiastic and there was an element of fun about the course too.' - **Botswana Trade Commission Director**

Short Course: 'The trainings by tralac have been of great benefit to us as a new bench of COMESA Court of Justice as most of us had no experience in trade law. The coverage of the course was good. The course material so far has been good.' – **COMESA Court Judge President**

E-learning: 'The Trade in 21st Century Legal & Policy Considerations for Africa course has played a vital role in shaping my skills regarding various issues related to policies and legal aspects of trade specifically in Africa. It is indeed for this reason that I sought to acquire a deep understanding on topics offered on the course. I have really gained valuable skills and knowledge from this course and will surely apply what I have learned in my work especially during trade negotiations. I will also use these newly acquired skills in my further study and career in general. The course has covered quite very important topics in trade policies and legal aspects which are very relevant to this era especially now that the continent is pushing for the establishment of the CFTA. The topics covered were relevant and mind opening. The lectures and assessments played a very big role and of course the discussions among the students and mentors were very mind blowing and educative. The platform was very user friendly and I am just full of praises to the team in charge of the platform. Congratulations and job well done to the entire Tralac team involved in this e-learning courses facilitation. Well done tralac. This was indeed one of the best. Looking forward to the next one soon.' – **Trade Promotion Officer (Namibia Ministry of Trade and Industry)**

Intern: 'tralac gave me insight into pressing trade and trade related issues that not only affect Africa but the world at large. My perception of things no longer reflect a strong vein of university obstinacy but demands a shrewder assessment of every trade and trade related issue. I was able to improve my professional skills, specifically critical thinking; adaptability; time management, problem solving, teamwork and writing skills. In brief, Tralac equipped me with the necessary skills and knowledge essential for the Masters of Law degree I currently pursue.' – **Former tralac intern.**

We follow two pathways to foster and influence debate: facilitating dialogue events, such as our annual conference; and contributing to public debate via commentary.

Dialogue events

Throughout the year tralac hosts a number of policy dialogue events. The biggest of these is the **Annual Conference**, and this years' theme was **Towards rules-based governance in African trade and integration, held 7-8 April 2016, in Swakopmund, Namibia**. Continuing tralac's commitment to broadening the regional footprint of the annual event, this location was chosen for its proximity to the Walvis Bay harbour facility – an important trade infrastructure project for southern Africa.

The Annual Conference is a forum for a wide range of stakeholders to engage in robust and frank discussions on the future of trade and trade negotiations on the continent. Participants in the 2016 Conference included representatives from the African Union Commission, regional economic communities (RECs), private sector and non-profit organisations, development partner organisations, government departments and academia. tralac staff, associates, and invited experts delivered thought-provoking presentations that stimulated discussion on the nature and role of rules-based governance. The debate and discussion will inform tralac's work programme for the coming year. Full conference report: <https://www.tralac.org/events/article/9154-tralac-annual-conference-2016.html>



Other stakeholder workshops included:

- **Industrial development roundtable** hosted in November 2016
- **Regional Roundtable** hosted in February 2017

tralac dialogue
events

10% of
attendees were
from LDCs

30% of
attendees were
women

61% were
government
representatives

39% were non-
state
representatives

FEEDBACK

Annual Conference: 'The conference was not only well organised but also very informative. The conference helped me to develop a new perspective in as far as trade development in Africa is concerned. The presenters were well qualified and it was great to be part of the 2016 annual conference.'

Annual Conference: 'The conference addressed key/current issues in regional trade, whilst having some focus Namibia trade/trade development issues. The best experiences included the session on 'the need for rules based governance; the presentations and discussions on trade remedies, safeguards and standards. The annual conference was well organised (as usual) and well co-ordinated. Obviously, this conference has given us food for thought and therefore our responsibility to add another dimension and value to regional trade and regional integration.'

Stakeholder workshop (Industrial development): Excellent. Strong consensus on the imperative of industrial development in Africa and the logistical arrangements were excellent. – **UNECA Africa Trade Policy Co-ordinator**

Regional roundtable: 'Excellent. Covered relevant and current topics.' From the presentations and discussions, I had a 'better understanding of the dynamics of the current concerns for trade and regional integration, such as specific feelings and concerns over Brexit, and the Trump presidency; what is holding back integration and intra Africa trade; the workings of SACU and SADC; matters of competition, with specific reference to the poultry saga and the view of organised business.' The presenters 'made a very good impression on me, "radiating" with knowledge from high level topics to micro and practical issues.' **British High Commission.**

Dialogue contributions

To influence the debate, tralac makes essential contributions to public debate, our analysis features in a broad range of publications (including media, academic publications, reports of international organisations) and policy forums.

We also contributed directly to policy development. This year we:

- a) participated in the TFTA Technical Working Group on Trade Remedies, preparing a draft Annex to the Agreement
- b) participated in the Expert Group responsible for preparing a draft Continental Free Trade Agreement (CFTA); and subsequently participates in the Technical Working Group on Trade Remedies for the CFTA negotiations
- c) are drafting International Trade Administration legislation for a southern African country



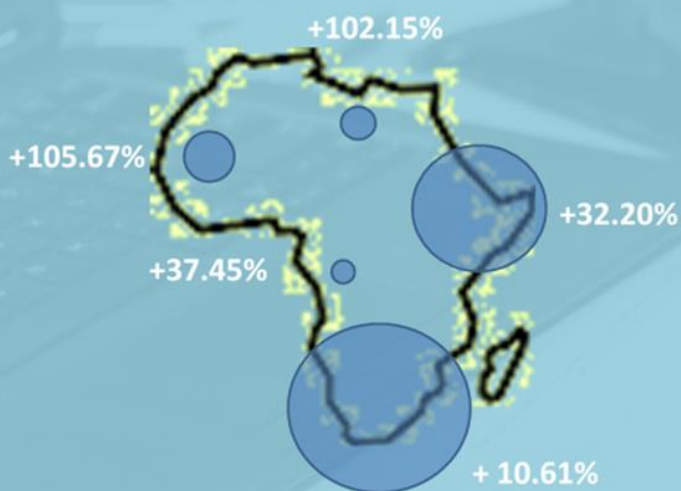
COMMUNICATIONS

The use of the tralac website and social media is vital for the dissemination of our work



62.9% of visitors to the tralac website were **new** visitors

Regional Analysis of website usage



Top 10 locations of tralac website users



1. South Africa
2. Kenya
3. United States of America
4. The United Kingdom
5. Zimbabwe
6. India
7. Tanzania
8. Switzerland
9. Namibia
10. Germany

The use of social media platforms has proven to be an effective method of engaging with our stakeholders and disseminating tralac publications. Of the three major platforms in use (**Twitter, Facebook and LinkedIn**) twitter was the most prominent platform for the year

Twitter



+ 27%

1938 followers

Facebook



+ 28%

640 followers

LinkedIn



187 followers

LOOKING AHEAD

2016 presented several important opportunities for tralac to expand its work both in terms of substantive focus, but also to work with new partners and especially to ensure that our capacity building initiatives address not only technical capacity challenges but also institutional aspects of the capacity deficit. The following summarises some of our insights gained from the past year.

i) Emerging trade developments are challenging traditional policy and governance paradigms

Developments in the international sphere, such as the UK's decision to withdraw from the EU and the election of President Trump on a platform of America first, significantly impact trade regionally and internationally. These developments are challenging global trade governance and traditional approaches to trade policy – prompting explicit inclusion of distributional outcomes in trade and related policy design.

ii) A comprehensive approach to capacity building is needed

tralac supports a value chain approach to capacity building. We recognise the importance of technical training as an important stepping stone to stronger institutions, but that there may be challenges with respect to transfer of learning within an organisation, and the adaptation of institutional processes and methods of work.

In 2016 we hosted a number of training events responding to specific skills needs. From this we learned that for the best impact training is not a once-off event – beyond individual capacity it is also essential to build capacity at the *institutional* level. Where possible we seek to develop partnerships to strengthen institutional capacity.

tralac contributed to a week-long workshop on trade in services liberalisation at UNECA in Addis Ababa, Ethiopia, in May. tralac experts presented a model, using a World Bank database on trade restrictiveness indices, to assess the impact of the trade in services liberalisation in the Continental Free Trade Area.

iii) Partnerships expand the impact of our work

Taking cue from SDG#17, we see strong partnerships as essential to the continued impact of tralac's work. We partnered, for example, with the Kenya Association of Manufacturers to provide training (Geek Weeks) and dialogue events (AGOA Workshops). Noting the growing demand for training programmes, tralac is investing in the development of innovative training modalities, and expanding the number of Geek Weeks, and other tailored training courses.

Based on a review of the 2016-2017 work programme, and feedback from our stakeholders, our priority focus areas are:

- Global trade governance developments: implications of Brexit and the new US Administration, the future of multilateral trade governance
- Africa's regional integration agenda: i) ongoing trade and regional integration negotiations (TFTA and CFTA); ii) trade in services – regulatory issues; iii) standards – especially SPS measures; iv) trade facilitation and NTBs; v) trade remedies and safeguards; and vi) dispute resolution
- A sustainable development agenda for Africa: trade and climate change, the environment, the blue economy, gender and youth development.