



tralac Annual Conference 2017 Report

tralac hosted its 2017 Annual Conference on 6th and 7th April in Cape Town, South Africa. The theme of the Conference was 'International Trade Governance: *quo vadis*'. The Conference brought together more than a hundred delegates; they came from the African Union Commission (AUC), regional economic communities (RECs), government departments, academia as well as public and private sector representatives to share their experience and insights, learn from one another and debate international trade governance issues, particularly around Brexit, the Trump presidency, and the Trade Facilitation Agreement (TFA) and their implications for Africa. The participants also explored Africa's own trade and integration agenda including the Tripartite Free Trade Area (TFTA) and the Continental Free Trade Area (CFTA). The Conference was structured around panel sessions and presentations to facilitate the broader discussion.

Day 1

Trudi Hartzenberg, tralac's Executive Director, welcomed the participants on behalf of the tralac team. She noted that the conference was taking place against the backdrop of global debate challenging accepted trade policy and governance norms of recent decades. Questions are being asked about an international trade governance system which, till recently, was viewed as the logical model for trade and investment governance in an interdependent and inter-connected world. References to a "crisis in globalisation," marked by key disruptors of the *status quo* in international trade policy and governance, in particular the election of Mr Donald Trump as American President and the outcome of the Brexit referendum. Featuring prominently in the debates are concerns about distributional issues; who wins and who loses from international trade and globalisation. These are legitimate concerns and they feature in Africa's own trade and integration discourse; with

the challenge of integrating unequal partners being a key feature of all our integration endeavours.

H.E. Albert Mudenha Muchanga, African Union Commissioner for Trade and Industry, in his opening address thanked tralac for inviting the African Union Commission (AUC) to the Conference. He lauded the role of tralac in the advancement of Africa's economic integration agenda via sensitising the public on integration and development through research and publications. The Commissioner expressed his confidence that the CFTA would be launched in December this year. He encouraged tralac to support the AUC in this historic mission and encouraged the active involvement of the private sector in the African Union programmes. The Commissioner further commended tralac for selecting a very important theme for the Conference in a time where everyone is questioning where we are going in international trade governance. The Commissioner pointed out that international trade governance is at cross-roads citing the rise of anti-globalisation, anti-free trade and economic nationalism across the globe. He stressed that what is needed at the moment is a way forward supporting trade governance that serves Africa's interests and such way lie in the multilateral trading system. The Commissioner stated that Africa will continue supporting and adhering to the multilateral trading system. He underscored the importance of the World Trade Organisation's Trade Facilitation Agreement (TFA) in enhancing Africa's competitiveness by reducing the costs of transportation and doing business. He emphasised the significance of a collective voice of Africa in the multilateral trading system. He also called for the need to have skilled negotiators of trade and investment agreements diplomatic mission of African Union member states in world capitals like Washington DC, Brussels, Geneva, Beijing, Tokyo, Paris, and London; among others, to secure Africa's best interests in their commercial engagements with interlocutors in world capitals.

Lastly, the Commissioner acknowledged that the discussions of this conference will be useful in the following events: the G20 Summit in July this year, the AGOA Forum in September, 2017, the Africa-EU Summit in November 2017, the WTO Ministerial Conference in December, 2017; and, the conclusion of negotiations for the establishment of the Continental Free Trade Area in December, 2017 which should culminate in its launch in January, 2018.

Session 1: Global trade policy and geopolitical developments – from Brexit to Trumponomics, and the new African partnerships with the North

Gerhard Erasmus, tralac Associate, discussed the implications of Brexit for the United Kingdom (UK), Southern African Customs Union (SACU) and Africa. He alluded that once the Brexit is successful, the UK will cease to be a member of the European Union (EU) and will no longer be covered or bound by the agreements concluded by the EU but is expected to honour its international commitments accepted while an EU member. This means that the UK will conclude trade agreements with other individual countries. Gerhard also indicated that the UK is a major investor, source of remittances, donor and trade partner of Africa hence negotiating preferential trade arrangements with the UK is a priority to Africa.

Ron Sandrey, tralac Associate, discussed the African Growth and Opportunity Act (AGOA) citing fuels, automotive products and clothing as the main exports to the United States under AGOA from Africa. He noted that South Africa exports the most diversified range of products under AGOA. He indicated that the US may well be interested to negotiate reciprocal agreements with African countries or groups of countries, post-AGOA, taking into account the agenda of the Economic Partnership Agreements that the European Union has been negotiating with African countries.

Sanusha Naidoo, Department of Political Studies, University of Cape Town talked about the need to understand Africa's position in the context of China's global economic vision and industrialisation strategy to Africa. She emphasised that African countries need to develop a strategy to engage China; China has a well-developed strategy, but this may not necessarily be what Africa wants and needs.

Session 2: Tripartite Free Trade Area (TFTA) and Continental Free Trade Area (CFTA): Lessons from the Tripartite for CFTA

Prudence Sebahizi, Chief Technical Advisor on the CFTA and Head of CFTA Unit, AUC Department of Trade and Industry, provided a detailed update on the establishment of the CFTA revealing that much progress has been made to date in the CFTA negotiations. He underscored that the CFTA will boost intra-African trade, address overlapping membership and foster economic growth and development for African countries. Prudence also offered insights into how the TFTA can be utilised as a building block for the CFTA. Among others, he outlined some contentious issues in the TFTA including low level of ambition in tariff

liberalisation, negotiation of product specific rules instead of rules for processed or manufactured goods, and lack of legislations and institutions of trade remedies in many countries. Prudence noted that the level of ambition in tariff liberalisation within the CFTA negotiated by member states is between 85% and 95%, higher than in the TFTA. He added that the CFTA is confronting some challenges such as different priorities of RECs, overlapping membership, many and varied commitments by African countries, lack of institutional, organisational and productive capacities. Despite this, Prudence assured the audience that the CFTA will be launched by the end of this year.

Gerhard Erasmus spoke about the implementation, *status quo* as well as technical and main features of the TFTA with a view to give an in-depth understanding of some legal implications and contentious issues within the TFTA framework that might pose challenges for the CFTA. Particularly, he argued that the TFTA was launched and signed incomplete - covers trade in goods; negotiations tariffs, rules of origin and trade remedies are on-going. Gerhard emphasised that for the TFTA to be complete the built-in agenda must be finalised, and to be operational it needs to be ratified and domesticated by the member states. He noted the issue of integrating unequal partners, and said that if some of the said challenges are not addressed chaos, duplication and overlap will result automatically in the establishment of the CFTA. He concluded by calling for continental leaders to avoid such issues in order to establish a successful CFTA.

Session 3: Southern African regional developments

Honourable Lombe Chibesakunda, Judge President of the COMESA Court of Justice presented an update on dispute settlement and arbitration developments in COMESA. She stressed that the COMESA Court of Justice has general jurisdiction to hear all matters referred to it under the COMESA Treaty and, most importantly, has jurisdiction to hear matters by individuals and legal persons but subject to the exhaustion of local remedies. She also referred to arbitration as a form of dispute resolution in the common market's legal system. The Judge President informed the audience that COMESA is revising its Arbitration Rules to incorporate the changes brought by the UNCITRAL Model Law on International Commercial Arbitration 2006. In conclusion, she emphasised that the COMESA Court will play a significant role in the broader process of the African economic integration through its resolution of disputes arising from the interpretation and application of the COMESA Treaty.

Malcolm McKinnon of the SADC Secretariat provided an update on SADC trade in services negotiations particularly the Protocol on Trade in Services. He revealed that all member states have signed the Protocol and only seven (Botswana, Lesotho, Mauritius, Mozambique, Seychelles, South Africa and Swaziland) have ratified. He emphasised that the Protocol does not contain liberalisation obligations but a mandate to progressively negotiate removal of barriers to services trade in six priority sectors namely telecommunications, construction, energy, finance, tourism and transport. He further indicated that member states excluding Angola and Namibia have submitted offers covering the first four priority sectors. Malcolm indicated that negotiations on telecommunications and financial – except payment systems – services have been agreed, for movement of natural persons and transport are on-going, and for transport and logistics are scheduled for this year. He noted that the Committee of Ministers of Trade in May 2017 aimed at finalising the package for approval.

Viola Sawere of the SADC Secretariat focused on EAC mutual recognition agreements particularly academic and professional qualifications. She indicated that the mutual recognition of these qualifications is aimed at facilitating the movement of labour and services within the region. She said that EAC states have agreed on the mutual recognition of accountants and engineers, while negotiations for recognising advocates are on-going.

Anton Faul of the SACU Secretariat discussed the SACU post-2016 retreat agenda, pointing to some of the customs union's work programmes such as development of institutions, regional industrialisation, trade facilitation, unified engagement in trade negotiations, review of the revenue sharing arrangement, and trade in services. He pointed out that member states have agreed to revise specific provisions of the SACU Agreement; have adopted the Retreat Report, established ministerial task teams (trade & industry and finance); have developed terms of reference and work programme with timelines. The next SACU summit is scheduled for June 2017.

Nigel Gwynne-Evans, Department of Trade and Industry (DTI), South Africa closed the session presenting on SADC industrial strategy noting most importantly the political will to put industrialisation as the highest priority among member states. He noted the importance of developing regional value chains and what is needed to support such cross-border economic activities and linkages. The linkages between the market integration agenda and the industrial development agenda were emphasised.

Session 4: Keynote address

Keynote speaker, Rob Davies, Minister of Trade and Industry, South Africa gave an overview of international trade governance within the multilateral trading system (see the video¹).

Day 2

Session 5: WTO Matters

Inye Nathan Briggs of the African Development Bank discussed the WTO's Trade Facilitation Agreement and implications for Africa. He acknowledged that though tariff liberalisation has been progressive, non-tariff barriers hindering the movement of goods, services and people across borders remain a challenge to intra-African trade. Inye emphasised that TFA will enhance Africa's own competitiveness and integration into the global economy, and will reduce bottlenecks (e.g. border cross procedures, cumbersome documentation, regulations) and related costs for traders. He concluded by encouraging African governments to ratify, implement and take advantage of the vast opportunities offered by the Agreement.

Session 6: South Africa: Trade and Broader political economy matters – implications for Africa

Michael Lawrence, Executive Director of the National Clothing Retailers Foundation and National Economic, Development and Labour Council, South Africa provided a private sector view on international governance. He emphasised the need for a bottom-up or all-inclusive approach to international trade matters. Michael stressed that African leaders should move with the private sector and all relevant stakeholders at all levels in promulgating trade rules. He reiterated that trade must be inclusive and benefit all.

Elizabeth Van Renen, Chief Director of Trade Policy & Research from the DTI presented South Africa's strategy for Africa taking into account the increasing importance of African trade profile, the TFTA and CFTA. She underscored that Africa is the largest destination for African products and investments. Elizabeth also mentioned the importance of a rules-based multilateral trading system. She added that the overriding priority for Africa must be regional economic integration and to underpin a sustainable growth path starting with industrialisation. She noted that a priority for South Africa was to ensure it had policy space to pursue its development agenda.

¹ Available at <https://youtu.be/b2Vv-JT96lc>.

Session 6: International trade governance – where to in 2017?

David Luke of the African Trade Policy Centre, United Nations Economic Commission for Africa conceded that the shifts in international trade governance paradigm pose serious challenges to Africa's trade and integration agenda. David therefore proposed that Africa's trade and integration focus both inward, to boost intra-Africa trade, and outward to allow the region to participate fully in global value and supply chains. He also commended some achievements within the RECs including the services trade agenda in EAC and SADC. David pointed out that amidst many challenges Africa is facing in international trade governance, the CFTA is the most important and strategic opportunity for the continent to counter such challenges and to create a new pathway in trade governance. He maintained that the CFTA will promote new trade and regional integration governance frameworks capable of meeting Africa's new targets.

Tom Pengelly, External Secretariat, All-Party Parliamentary Group on Trade Out of Poverty, Westminster, UK, presented the 10-Point Plan discussed by the first ever Commonwealth Trade Ministers Meetings held in UK from 9th to 10th March 2017. At the meeting, African countries including South Africa, Ghana, Rwanda, Nigeria and Botswana participated at Ministerial levels. The plan promotes trade facilitation, trade finance for small and medium enterprises, green growth through trade and women's participation in trade amongst other priorities on the trade and development agenda. Tom also mentioned that at the forthcoming Commonwealth Heads of State Summit scheduled for April 2018 in the UK, where trade would be at the top of the agenda. He asserted that such initiatives are crucial in the development of an international trade governance work plan that would be beneficial to African nations.

Eva Bursvik², Counsellor – Trade and Economic Integration, Swedish Embassy, Lusaka raised fundamental questions about trade and development to be considered in the discussion on future trajectories for international trade governance. Among these are:

- What is the impact of the developments in global trade governance on the youth, women and the poor?
- What is the essence of the proposed international trade governance regimes on the private sector, investors, producers, workers and consumers?

² Her contribution was presented by Trudi Hartzenberg

- Will these regimes make a difference to the private sector, investors, workers, producers and consumers?

The Conference concluded with a brief discussion on the way forward. Participants identified priorities for the international trade governance agenda, and also for Africa's trade and integration agenda. Specifically, they also made suggestions for tralac and partners to take on board in pursuit of a broad good governance agenda for Africa, specifically Africa's trade governance and regional integration agenda. Here are some of the participants' proposals:

- Involvement of the private sector in the integration trade governance discourses at all levels
- Focus on youth development, women in trade and a broader sustainable development in the context of Africa's trade and integration agenda
- Aligning the trade agenda with Agenda 2063, SADC Vision 2050, the Sustainable Development Goals (SDGs), and National Development Plans (NDPs)
- Implementation of trade agreements
- Encourage think tanks to continue to suggest solutions to the problems in trade governance in Africa