

Services in the EPA Negotiations

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Introduction

- Services is one of the contested issues in EPA negotiations
- Not only between the ACP and the EC, but even among and within ACP regions
- Many reasons: ideological, protectionist, complexity, lack of capacity to negotiate, unilateral or multilateral policy preference, etc.

Cotonou Agreement and Trade in Services

- Recognition of the importance of services in trade and development
- Reaffirmation of GATS commitments and SDT provisions
- No legal obligation on ACP States to start negotiations on services
- Article 41.4: objective of extending under EPAs services liberalization in future when experience is acquired
- EC commitment to support ACP efforts to strengthen services supply capacity, mention of specific sectors

SADC EPA Guidelines, February 2004

- The SADC EPA agreed to negotiate services guided by
 - principles of the Cotonou Agreement
 - key GATS provisions as relating to developing countries
 - proper sequencing in line with the intra-SADC trade in services liberalization.
- all-ACP phase 1 of EPA negotiations concluded that *‘services liberalization in an EPA should be progressive, based on a positive list, adapted to the level of ACP countries and their sectors and specific constraints, and underpinned by principles of special and differential treatment, asymmetry and positive regional discrimination’*.

2006 SADC EPA Strategic Framework

- The framework sought to align the TDCA between South Africa and the EU with the EPA process
- Trade in services was included in the '*new generation trade issues*', which should be limited to the establishment of cooperation arrangements rather than binding commitments
- Cooperation: policy, institutional and regulatory interventions at national and regional levels

The EC Response

- Services liberalization critical for EPA to deliver a development outcome (EC argument)
- Trade in services liberalization is a component of the EU's new trade strategy (Global Europe)
- Cooperation is to be linked to commitments, which can be phased-in / step-by-step
- EC proposed services chapter: *“Establishment, Trade in Services and E-commerce”*

Current SADC Stance

- Cooperative arrangements without binding commitments as per the SADC Framework
and/or
- Commitment to future trade in services liberalization / a built-in-agenda

Observations

- A SADC EPA framework beyond 2007 or individual SADC EPA States built-in-agenda?
- Perhaps similar to trade in goods liberalization framework?
- To some SADC EPA countries: a clear policy orientation of viewing certain services as key inputs into their economic diversification strategy (financial, transport, communications, etc) rather than ‘offensive’ export interests
- Also part of their strategies to induce FDI
- Less protectionist aspirations

Observations (cont.)

- Can a services –approach in the EPA be an instrument for supporting such strategies?
- The need for regulatory capacity interventions and the opportunity that the EPA may avail as opposed to unilateral policy, the multilateral process or other FTAs (e.g. US / SADC?) – efficient bargaining
- Regulatory cooperation may be more effective in an EPA context
- Therefore, there are many advocates for linking a built-in-agenda to capacity building

Observations (cont.)

- The above arguments make the case of first developing common policies and regulations in the region less attractive unless future commitment schedules will be on a regional basis
- The experience of regional integration initiatives is not necessarily convincing, especially when it comes to a ‘services integration’ agenda
- A built-in-agenda, while desirable to most countries, is confronted with intellectual, technical and political challenges!

Conclusions

- The way forward on the treatment of services in the EPA framework is still not clear
- If a built-in agenda is adopted, it will open up lot of challenges related to preparations for future negotiations
- This may generate positive energies towards integrating services in national trade policy processes