

2015 tralac Annual Conference Report

tralac hosted its 2015 Annual Conference on 16 and 17 April 2015 in Lusaka, Zambia. This was the first time that **tralac**, a regional capacity building organisation based in South Africa, had held its conference in the region. The conference theme ‘Towards a continental integration agenda,’ provided the focus for discussions that included a review of developments in the World Trade Organisation (WTO), Africa’s quest for industrialisation and a review of regional trade developments in eastern and southern Africa, an update on the state of play in the Tripartite Free Trade Area (TFTA) negotiations, and the preparation for the Continental Free Trade Area (CFTA) negotiations, which are to be launched in June 2015.

The 2015 **tralac** Annual Conference provided an informal platform for participants to discuss trade and trade-related issues important for Africa’s regional integration agenda. The broad range of stakeholders participating in the conference included representatives from the African Union Commission, regional economic communities, private sector and non-profit organisations, donor organisations, government departments and academia. We also invited key experts to contribute to the programme on topics of particular relevance to the conference agenda. This facilitated debate on a variety of important issues, including the importance of the trade-industrial policy nexus; private sector participation and support programmes to enhance competitiveness; the importance of regulatory reform in service sectors for trade, development and industrialization; reducing NTBs and facilitating trade to reduce the cost of doing business in the region; and the lessons learnt from the TFTA negotiations process that we can take on board going into the CFTA negotiations.

Discussing the ‘way forward’ is a vital part of the **tralac** Annual Conference and broad stakeholder representation affords us an excellent opportunity for open and informal discussions on the direction of the African regional trade and integration agenda. **tralac** takes the opportunity of the Annual Conference to present its work on regional trade and integration matters to this broad audience and to benefit from the deliberations to develop its ongoing work programmes; **tralac** staff and Associates contribute substantively to the programme content. Contributions from experts, such as our Keynote speaker Treasure Thembisile Maphanga, African Union Commission Director of Trade and Industry; Trade Facilitation Expert Mark Pearson; Malcolm McKinnon, Senior Trade Advisor at the SADC

Secretariat; Professor Manenga Ndulo; and **tralac** Associates, Gerhard Erasmus and Ron Sandrey, provided key inputs on specific issues.

The Keynote address was delivered by Treasure Tembisile Maphanga, Director of Trade and Industry at the African Union Commission (AUC). The Director emphasised that Africa's integration is not a matter of choice but an imperative. Africa is the fastest growing, but the least globally integrated continent. To benefit from deeper integration, African countries must increase their capacity to produce tradable manufactured products. In the discussion of the CFTA, it is imperative to consider how intra-Africa trade in manufactured and intermediate goods can be increased. This will require the acceleration of industrialization through the promotion of regional value chains. Investment in transport, Information and Communications Technology (ICT) and energy is needed to boost Africa's competitiveness; simplifying regional import and export procedures can increase intra-Africa manufactures trade; Rules of Origin should favour value chains, promote made in Africa branding and promote intra-Africa trade; the importance of the services sector for value chains must be recognised; and the issue of quality infrastructure and the reduction of Non-tariff barriers (NTBs) are key to supporting industrialization and enhancing intra-regional trade. Africa needs to advance its integration, starting with the consolidation and implementation of existing levels of liberalisation, and to engage in negotiations that will go beyond trade in goods. Trade in services, regulatory harmonisation, movement of people, investments, competition and intellectual property rights must also be included. The CFTA is not just about the trade liberalization agenda, but also an important pillar in the continent's overall strategy for transformation.

Mark Pearson, Independent Consultant, discussed the developments regarding the WTO Trade Facilitation Agreement (TFA). The aim of the TFA is to expedite the movement, release and clearance of goods and at improving customs cooperation. To assist developing and least developed countries (LDCs) to achieve these objectives, flexibility arrangements have been included. According to these flexibilities countries can determine when individual provisions will be implemented and identify those provisions that will only be implemented once technical assistance and support for capacity building is received. The TFA also provides additional protection for LDCs. These include the ability of countries to apply for an extension to implement certain categories of provisions, an Expert Group can be appointed to examine certain capacity constraints, countries can shift provisions between categories, and LDCs will not be subject to the Dispute Settlement Understanding for 6 years after the TFA enters into force. Trade Portals, Integrated Border Management and National Single Window systems are three activities currently undertaken to ensure developing countries and LDCs comply with the TFA provisions. Although implementing the TFA will have cost implications (hard and soft infrastructure developments), it will reduce the cost of cross-border trade and enhance competitiveness; leading to economic growth, employment creation and poverty reduction.

Malcolm McKinnon, SADC Secretariat, gave a presentation on the implementation of the WTO LDC Services Waiver allowing non-LDC Members to provide preferential market access to the services and services suppliers of export interest to LDCs. Any preferential treatment must be an improvement on scheduled GATS commitments and will apply to all LDCs for 15 years. The collective request of LDCs focuses on greater access for all modes of supply in specific services sectors and the movement of persons in 72 service occupations. It emphasises also the need for recognition of foreign qualifications and the relaxation or removal of measures relating to visas, permits and fees. Indications are that offers from Members confirm existing market regimes or extend treatment already offered in the Doha negotiations or in preferential arrangements. McKinnon also gave an update on ongoing trade in services negotiations in SADC. Twelve SADC members have signed the Trade in Services Protocol in 2012 and 3 Members have ratified it. Negotiations are taking place in six priority services sectors including communication, construction, energy-related, financial, tourism and transport services. Eleven Members have submitted negotiating offers. Efforts are also made to negotiate annexes to the Protocol containing provisions on pro-competitive regulatory principles in specific services sectors.

Ron Sandrey, **tralac** Associate, highlighted the importance of Rules of Origin (RoO) for industrialization. RoO are becoming increasingly complex through an interlay of different rules and therefore unduly trade restricting, costly to manufacturers and overall welfare reducing. These rules can become NTBs in a global trading environment where these NTBs are becoming more trade restrictive than tariffs. In the twenty first century the manufacturing sector is evolving in several ways, with the modern emphasis upon integrating into global value chains. The outstanding example is the textile and apparel sector, and here cumulation may well be the most attractive RoO policy measure to encourage integration into the manufacturing and export chain. Re-examination of Africa-wide trade and trade-related policies is a priority for the continent, and as always the East Asian economies provide the benchmarks for the broad infrastructural and policy reforms needed. Specifically, for the RoO it is just as important for Africa to take a critical look at its own policies as it is to seek reforms in its usually developed country partners. RoO, however, are similarly restricting intra-Africa trade, particularly in clothing.

Professor Manenga Ndulo of the University of Zambia and William Mwanza, **tralac** researcher, presented case studies to illustrate the need for structural reform. Professor Ndulo discussed industrial policy developments in Zambia from independence in 1964 to 2013. Even though the industrial sector grew rapidly from 1964 to 1969 and diversification of the industrial base took place between 1969 and 1990 (through state intervention), no significant structural change has taken place in Zambia's industrial sector over the last 50 years. After 1991 manufacturing became increasingly concentrated in the production of food and beverage products. Due to the lack of diversification, insufficient

collaboration between the private and public sector and a plethora of incentives ineffectively administered and managed, the need exists for structural transformation and the development of new industries. This industrialisation programme should be based on competitive and comparative advantage of Zambia's production base and a dynamic trade policy to ensure economic growth and sustainable development.

William Mwanza looked at Malawi's industrial policy experience since it attained independence in 1964. In view of the fact that structural transformation has not been effectively attained, two sets of priorities were proposed. First, the development of hard and soft regional infrastructure to increase connectivity between production centres in Malawi and consumption centres in neighbouring and other countries in the region. Second, the development of the competitiveness of specific products targeted at specific markets in regional and global value chains, taking into account policy considerations of importance in respective markets.

Gerhard Erasmus provided an update on trade remedies and dispute settlement in African Regional Economic Communities (RECs). Trade remedies are WTO permissible import restraints that can be used when imports cause injury to the domestic industry. These multilateral instruments are divided into safeguards, anti-dumping measures and countervailing duties. Although African RECs allow these WTO based trade remedies, they are hardly used in an intra-REC context (South Africa and Egypt are exceptions; they do use trade remedies). This is mainly due to low levels of industrialization and the lack of domestic arrangements, dedicated institutions and sophisticated laws in most countries to utilize these measures. In the TFTA negotiations there has been a call for 'flexible' trade remedies by many countries. Trade remedies are on the built-in agenda for the TFTA, and will be addressed following the launch of the TFTA in June.

Willemien Viljoen presented an update on NTBs within the TFTA. These barriers are problematic because they add to the cost of doing business in the region and erode competitiveness. The TFTA member states have all recognised that NTBs are problematic and need to be addressed. However, the online NTB reporting, monitoring and eliminating mechanism created through Annex 3 to the Draft Agreement remains problematic. Although the NTB mechanism has addressed some important governance issues (lack of transparency, clear complaint resolution process and the promise of a dispute resolution mechanism) of previous mechanisms in the individual RECs, the mechanism still has some serious shortcomings. The mechanism does not provide a platform to address the fundamental problem of NTBs arising from public policy issues, i.e. better governance at home, respect for trade agreements and focused regional harmonization of policies and regulations. Only by ensuring the implementation of existing mechanisms, ensuring that countries abide by their commitments made in regional trade agreements (including the harmonization of technical standards, sanitary and phytosanitary measures, transit systems and customs operations) and implementing an

effective dispute resolution process can we effectively reduce NTBs to increase intra-regional trade and competitiveness.

JB Cronjé provided an update on trade in services negotiations in the region and discussed possible regulatory cooperation approaches for trade in services in the TFTA and CFTA. Developments outside the continent indicate a notable shift in trade in services negotiation approaches. Important lessons can be learned from experiences in the region and further afield regarding possible approaches for the negotiation of trade in services and regulatory cooperation in the TFTA and CFTA. The sequencing of negotiations requires careful consideration of the linkages between priority services sectors and the industrialisation agenda. Negotiations on market access commitments could be preceded and underpinned by a set of general and sector-specific regulatory disciplines. These regulatory disciplines should apply to all parties, including LDCs. This will allow RECs to consolidate and implement liberalisation commitments and will provide a platform for the negotiation of effective market access at the continental level.

Next, Ron Sandrey discussed Global Trade Analysis Project (GTAP) results of simulations completed to examine the impact of regional integration and intra-African trade barrier reductions that could be achieved through the CFTA negotiations. Although tariff elimination on intra-African trade is promising, these barriers are not as significant as the trade-related barriers affecting intra-Africa trade. Especially impressive results were forecast by simulating a modest 20% reduction in the costs associated with the particular African problem of transit time delays at customs, terminals and internal land transportation. The results of this and other simulation scenarios are presented in a new e-book, *The Continental Free Trade Area – A GTAP assessment*, which is available on **tralac**'s website¹.

The legal and institutional matters for the CFTA negotiations were discussed by Gerhard Erasmus. The session highlighted the draft objectives and guiding principles that will steer the negotiations process. The main objectives of the CFTA include enhancing competitiveness of African enterprises, overcoming Africa's dependence on primary product exports, the promotion of sustainable development, and the diversification of intra-Africa trade. In order to achieve these objectives the CFTA needs to include trade in goods and services, investment, intellectual property rights and competition policy, building on what has already been achieved in the individual RECs. The negotiations will also be driven by member states, RECs and Customs Territories. The principles that will guide these negotiations include variable geometry, flexibility and special and differential treatment in transitional periods, transparency, liberalisation of substantially all trade, Most Favoured Nation and National Treatment, reciprocity and decision-making by consensus.

¹ <http://www.tralac.org/publications/article/7287-the-continental-free-trade-area-a-gtap-assessment.html>

The final session reviewed the state of play in the TFTA negotiations and highlighted some lessons for the CFTA negotiations process. The TFTA Draft Agreement currently consists of one overarching Agreement, containing the objectives and principles, and 14 Annexes. This Agreement is still a work in progress given that the tariff offers, rules of origin, trade remedy provisions and specific Annexes were still to be finalized as of the end of March 2015. Important lessons can be learned from the TFTA negotiations which countries should take on board in their preparations for the CFTA negotiations; one of the most important being that trade in goods negotiations offer little space for creating a bold and realistic new African trade arrangement. Legal certainty and predictability have not been advanced in any significant manner and the TFTA Agreement does not contain provisions to provide support to member states to implement their obligations. The question is, how will the Agreement be implemented and what new building blocks will the TFTA add to African integration to meet the challenges of the 21st century?

The review of the TFTA and the preparations for the CFTA indicated that, despite calls to ‘think out of the box’ to find new approaches to regional integration for Africa, this remains a significant challenge. The starting point should be, ‘What do we want the CFTA to achieve?’ Establishing a CFTA is not an end in itself, but a means to addressing the fundamental challenges that are clearly articulated in a number of AU policy documents. These include Boosting Intra-African Trade (BIAT), Accelerated Industrial Development for Africa (AIDA) and the Programme for Infrastructure Development for Africa (PIDA). Modern Free Trade Areas are innovative in their design, and address specific challenges. So should the CFTA be. It cannot be business as usual, with a continental integration agenda that copies the template of the TFTA and other regional economic communities.

The concluding discussion on the ‘Way Forward’ included important suggestions from participants, which **tralac** will incorporate in its work programme:

- **tralac** should continue to update their website on issues relating to the tripartite and continental free trade area as there is not much information on these issues.
- The quality and detail of the conference was current and contemporary. This forum allows for practical and objective discussions pertaining to other regions in Africa. These issues need to continuously be discussed until governments begin to appreciate these realities and shape up accordingly.
- Can **tralac** undertake a study on the relationship between security and trade in Africa?
- **tralac** should consider the possibility of conducting a week long training workshop for cabinet ministers and permanent secretaries on interpretation and implementation of trade treaties

- An aspect which should be emphasised is whether trade is contributing to growth and competitive industries or not?
- Political will to integrate the continent is important. But first sort out the problems (listed already) at each REC, and then proceed with higher integration, i.e. focus on issues such as trade facilitation, with time frame and monitoring.
- Might be a good exercise to propose a draft model of an African Customs Union framework, i.e. what would the CFTA look like with 100% participation and starting from a clean slate with no internal tariffs and reduced NTBs.
- The theme for next year should be on industrial development/market integration and allow the private sector to explain their views.
- In terms of objectives, one of the outcomes from these discussions should be an advisory paper to COMESA, SADC, EAC and AU on the weaknesses identified in the negotiations, legal texts drafted and how the participants feel the process should be managed and shaped.