

Civil Society Consultation on the SADC-EU Economic Partnership Agreement



Introduction

On the 22nd of August, the Southern African Liaison Office (SALO), in partnership with the Southern African Trust (SAT) and Friedrich Ebert Stiftung (FES), hosted a multi-stakeholder dialogue on the role of civil society in the Southern African Development Community (SADC)-European Union (EU) Economic Partnership Agreement. This policy brief provides a summary and recommendations from the dialogue. In Botswana on the 10th of June 2016, after 10 years of negotiation, the EU and six countries of the SADC region – Botswana, Lesotho, Namibia, Swaziland, South Africa and Mozambique – signed an Economic Partnership Agreement (EPA) giving the SADC EPA Group 100% free access (South Africa had 98.7% customs duties removed) to the EU market. The EPA became fully operational in February 2018. The economic partnership is development-orientated with the expectation of facilitating sustainable development, reducing poverty and advancing regional integration. Some of the key issues raised in this dialogue pertained to the developmental and economic intentions of the EPA, the role of civil society within a SADC EPA framework, the post-BREXIT environment, development finance, implications for regional integration of SADC

countries belonging to different trade blocs, opportunities and challenges faced by the EPA and possible partnerships available for work on EPAs.

The EU-SADC EPA agreement

Though the EPA agreement provides wide access to EU markets for the partnering group of countries, there are several concerns. TRALAC, the Trade Law Centre, notes that the EPA only covers trade in goods and developmental provisions. It is a reciprocal, but asymmetrical trade agreement which includes some of the following goods:

- Products from the SADC EPA region include agricultural products - beef from Botswana, fish from Namibia or sugar from Swaziland - and energy and chemical products such as oil from Angola or aluminium from Mozambique. South Africa's exports to the EU are more diversified, ranging from fruit to platinum, and from manufactured goods to wine.
- The EU exports a wide range of goods including vehicles, machinery, electrical equipment, pharmaceuticals and processed food.

The SADC EPA is different to previous arrangements – it is a rules-based agreement with the hope of providing market certainty. It provides a dispute resolution mechanism where partner countries can raise issues as they arise – mechanisms involve consultation, mediation and finally, arbitration. It also recognises the importance of providing access to funding or development financing within the EPA development objective framework, which states that trade must contribute to the reduction and eradication of poverty; trade partnerships must be ‘consistent with the objective of sustainable development’; and promote regional integration and good governance, amongst many other objectives.

The ‘Rules of Origin’ (RoO – laws and regulatory procedures that determine products’ country of origin) determine which products can benefit from trade preferences. One of the ‘key advantages’ stated by the EU is that the ‘SADC EPA has been formulated in a way to make it much easier for SADC EPA countries to benefit from reduced EU customs duty rates for their textiles products using an imported fabric’ (EU 2016). These rules are also formulated to support development of new value chains in the region, and enable producers to source new inputs from other countries.

The final objective of the EPA is to strengthen existing relations based on principles of solidarity and mutual interest. Consistent with World Trade Organisation (WTO) rules, the agreement aims to enhance commercial and economic relations, while supporting new trade dynamics that will foster progressive and asymmetrical liberalisation of trade.



Discussion

Possible benefits of the SADC-EPA

During the discussion, the nature of the mutually beneficial aspect of the EPA was highlighted, and what this means for future capacity building - particularly within an agricultural business (agro-business) context. TRALAC note that agriculture, fishing and wine industries will benefit significantly under the agreement due to improved market access, and favourable provisions within the agreement. These provisions lay out a reciprocal trade arrangement that may address the economic and political issues of African development in a more focussed way, as opposed to previous arrangements. Other noted possible benefits:

- Right to regulate and establish its own levels of domestic environmental and labour protection
- Multilateral environmental and labour standards providing for decent work for all – linking to sustainable development in partner countries
- Promotes multilateral cooperation on trade and sustainable development – strengthens dialogue and cooperation on sustainable development issues in the context of trade relations
- Cooperation on protection of intellectual property rights

As the SADC-EPA agreement is at the early stages of being fully operational, the possible benefits will not be fully realised soon. During the dialogue, issues with the agreement were highlighted, as well as concerns around future events that will impact on EU-SADC agreements.

Issues with the EPA – mutually beneficial or unbalanced?

One participant believes that trade agreements with the EU operate in a highly volatile environment, where countries are being pressured to agree on a set of principles that may have unfavourable outcomes. The dialogue brought experiences of interim EPAs (IEPA) onto the table, such as with Zimbabwe and countries in the East African community. For Zimbabwe and other IEPA participants, some of the challenges of implementation related to weak ownership and institutional capacity:

- IEPA information deficit at almost every level in the public and private sectors
- IEPA weakly imbedded into national development strategies

Other issues related to poor productivity, weak competition and production capacity:

- Supply side constraints that can counter the “mutually beneficial” argument of the IEPA agreement
- Weak capacity among businesses and civil society – difficult to argue positions that are more favourable to African businesses
- Low technology and obsolete processes – poor tech infrastructure and operational awareness. Poor processes can inhibit competitiveness compared to a highly competitive and strong EU market
- Lack of development finance to promote sustainable development in an IEPA context

Poor knowledge capacity on export/import rules which puts you in a weak position when negotiating terms. This coincided with export barriers and low export development capacity:

- Lack of business-enabling environment
- Weak understanding and knowledge of IEPA rules and reforms
- High export barriers due to product and standards regulation – for example, the EU has high health standards on agro-business, which can counter IEPA business practice
- Weak knowledge of export markets and development – again, African trade delegations came from a place of weakness due to poor knowledge base

While general capacity issues in Africa were raised, it is important to highlight that a major critique of the IEPAs is that they don't satisfactorily reflect the common African positions on some of the important aspects. Moreover, the European Commission negotiators don't seem to have shared the same understanding as the African negotiators on

key issues’¹. During the dialogue, similar concerns were raised regarding the SADC-EPA. While South Africa has a stronger economy than most on the continent, it is still threatened by poor institutional capacity and aggressive competition from the EU market. More needs to be done to engage with EU institutions and SADC governments to ensure African business and innovation isn’t threatened within the SADC-EPA framework.

SADC-EPA, BREXIT and other possible issues

Some participants noted the possible positive future outcomes of the SADC-EPA, and how provisions had been improved on compared to previous agreements. The negative implications were also highlighted, with some expressing concerns on the long-term progression of some of the Southern African industries. As noted before, the EU has been very aggressive in pushing for EPA agreements. The SADC-EPA can be a path to the rest of the continent in terms of trade – benefits of EPAs asymmetrically favour the EU which allow for increasing expansion of agro-exports. If provisions in the agreements are rigorously applied, smaller SADC nations could lose their ability to develop their agro-food sectors. It can also affect smaller sized farmers, who could be pushed out of business due to increasing imports from EU. Other issues raised:

- Smaller SADC members are inhibited by non-tariff restrictions which affect investments in small farmers – for example, the Southern African Customs Union (SACU) deploy certain non-tariff trade policy measures to encourage the creation of market space for local agricultural development. EU provisions could prevent this from occurring in many different agro-food sectors
- Stringent food and health regulations can affect local SADC producers in accessing the EU market to export their produce – compliance measures become more difficult
- Expanding EU-agro market after full implementation of SADC-EPA can diminish traditional preferential access to the EU market – EU agro reforms have reduced prices paid for certain food imports into the EU – EU Free Trade Agreement (FTA) can reduce margins of tariff preferences enjoyed by SADC agro-food exporters
- The EU also wants SADC countries to adopt EU product standards, which may place prohibitive barriers against small farmers, thus destabilising local supply chains

Certain SADC countries are undergoing land reform programmes, and concerns were raised on the impact it may have on small farmers and their ability to thrive within an EPA agreement. This will be an important point to consider, particularly within South Africa.

If a ‘no-deal BREXIT’ or Hard BREXIT is to occur on the 29th of March 2019, the current EPA deal will be invalidated, due to the UK exiting out of the EU having numerous consequences for the SADC export market. The EU 27 will likely ensure that the new SADC-EPA, excluding the UK, will copy the one that became operational earlier in 2018. Concerns were raised that EU agro-exporters may aggressively expand into more African markets and push more stringent demands within an EPA framework, due to the likely negative economic impacts on agro-business following BREXIT. One participant noted that benefits of access to the EU market can be diminished if the EU are aggressively seeking new markets in a post-BREXIT climate, as it may undercut markets that SADC agro-businesses export to. It cannot be doubted that countries within the EU 27 will be pushing to protect their export interests following BREXIT – we may see Irish/Dutch/Danish farmers pushing to ensure that they have access to more African markets, due to likely delays in trade agreements with the UK.

If there is a withdrawal agreement, Southern African nations will still have access to the UK market until the end of the transition period (end of 2020) as the UK must engage with trading EPA agreements unilaterally (Africa does not have to reciprocate). However, the UK have always sought to replicate the EPA deal with South Africa, post-BREXIT, and it is understood that this deal is ready to be signed off between both parties. The UK needed to ensure that supply chain was protected, particularly in relation to Ford cars.

¹ The African Trade Policy Centre (ATPC) highlighted many issues within IEPA framework and disconnect between EU and African trade delegations: <http://www1.uneca.org/Portals/atpc/CrossArticle/1/WorkinProgress/75.pdf>

Recommendations

The role of Civil Society

During the discussion, some participants raised the issue that currently, there is not much coordination among civil society regarding EPAs. How then do we bring Civil Society Organisations (CSOs) back to the table? CSOs who work on trade and protection of African business interests must be mapped and brought together to participate in progressive spaces with trade experts. We must know who and how to engage with in the public, private, academic and civil society sectors.

1. We need to go back to a development template when raising concerns with EPAs
2. Must coordinate development plans for each country and integrate into EPAs
3. Hold regional governments and EU nations accountable in development and EPAs context – push for more transparency
4. Better coordination between CSOs and private companies, mainly SMEs, but also big business
5. Focus on different clusters in the region and look at different issues that need to be addressed
6. Engage more with trade ministries – identify which departments and institutions we need to target
7. Importance of mapping issues, partners, possible solutions, data etc – this improves coordination
8. New campaigns like the previous ‘Stop EPAs’ campaign must promote realistic strategies that challenge EPA issues, while providing mutually beneficial recommendations

There is a challenge in organising CSOs at national and regional level – not much grassroots backup – legitimacy of CSOs can be questioned if not much local/national support. Lack of financing can also cause issues, so CSOs must be proactive and engage with the private sector more, and adopt public-private partnerships. Identifying beneficiaries, in Africa and the EU, will be an important step in building new partnerships that will work on mutually beneficial trade agreements. CSOs must also actively participate in the EPA implementation: technical assistance – identification of grey areas, needs and gaps requiring funding support; institutional and human capacity building; productive and export capacity; technical/financial/budgeting.

Coordination with EU and development partners

Civil society, with support from their EU partners, must raise their concerns in the public domain particularly within the EU. These concerns will highlight the possible negative consequences of the SADC-EPA and how they affect local markets in Africa. EU civil society groups and EU parliamentary members have an important role and must be engaged to promote mutually beneficial trading agreements. EU members are looking for more transparency on their side to ensure that trading agreements can run parallel to capacity development in Africa.

- CSOs must engage with their EU partners on the implementation process of the EPAs
- RoO constraints that must be addressed in BREXIT climate - the EPA addresses different rules to determine origin, ranging from ‘wholly obtained’, ‘sufficiently worked’, ‘processed’ and ‘cumulation’ – definitions can be found on the SADC-EPA agreement²
- Dialogue between African stakeholders and EU bodies must be fostered to promote developmental and capacity building outcomes
- Ensure developmental finance is provided to key areas that ensure protection of local businesses in SADC-EPA countries

SADC public and private sectors must be proactive

Capacity building must also build on knowledge and export market awareness. SADC businesses need to identify and exploit opportunities for new export markets, particularly within a BREXIT climate. New institutions that create space for expertise, dialogue and trade can help alleviate pressure on civil society groups and government bodies who do not have the ability to focus on trade issues. Youth forums can be a useful tool, as they can highlight trade issues

² Text of SADC-EU EPA agreement can be found here: http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153915.pdf

that negatively impact youth innovation and employment. SADC countries can engage with the African Union (AU) and incorporate AU63 national monitoring frameworks and engagement with civil society into an EPA context. AU63 can also help encourage Private-Public partnerships to improve capacity and competitiveness, in order to compete with a vibrant EU export market. Ultimately, SADC and other African nations need to assist local businesses in improving their capacity and competitiveness. They must engage the EU more in securing funding that promotes local businesses or/and farmers as well as business training to help with capacity building.

Practical Steps

The following were agreed as steps that can be taken, going forward;

1. Mapping of CSOs involved in trade and development at national and regional level
2. Identify key sectors to catalyse advocacy, e.g., the agri-food sector
3. Strengthening and consolidating regional CSOs voices on EPAs and building strategic alliances by;
 - a. convening a broader regional CSOs meeting on EPAs. There was an offer from a colleague from the EU to assist with resource mobilisation towards this.
 - b. Leverage on EU connection to expose the informal pressure that the EU is placing on African countries to make problematic commitments.
4. Petition the SA government and SADC to establish a formal structure for engagement with CSOs on EPAs
5. Track and monitor implementation of development provisions within the EPA, to hold government and institutions accountable. This will include ensuring alignment and that EPAs do not undermine national development priorities.
6. Track and monitor utilisation and management of donor funds related to EPAs e.g., EU EPA Fund and SADC Trade Related Facility, among other funds.
7. Facilitate capacity building among CSOs through evidence-gathering to strengthen advocacy and knowledge sharing. The following are possible ways of doing this;
 - a. Make use to SAT's CSOs knowledge hub
 - b. Capacity building workshops
 - c. Director knowledge sharing and exchange

The analysis and recommendations included in this Policy Brief do not necessarily reflect the view of SALO or any of the donors or conference participants, but rather draw upon the major strands of discussion put forward at the event. Participants neither reviewed nor approved this document. The contents of the report are the sole responsibility of SALO, and can under no circumstances be regarded as reflecting the position of the donors who provided financial assistance for this policy dialogue session.

About the Southern African Liaison Office:



The Southern African Liaison Office (SALO) is a South African-based not-for-profit civil society organisation which, through advocacy, dialogue, policy consensus and in-depth research and analysis, influences the current thinking and debates on foreign policy especially regarding African crises and conflicts.

This meeting was Co-hosted by SALO, SAT and FES