REGIONAL INTEGRATION AND EPAS:
CHALLENGES FOR SADC–EPA GROUP

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1. Introduction

The objective of this paper is to highlight some of the challenges facing the SADC EPA group arising from the multiple membership of SADC Member States and the TDCA. The paper summarises key issues and makes recommendations on possible way forward regarding a SADC-EU EPA with the view to strengthen the negotiating capacity and position of the group.

The main issues facing the SADC -EPA group include;

- How to deal with the SADC multiple membership issue and the related complexities
- How to accommodate or be accommodated in TDCA between SA and EC particularly for the BLNS
- How to ensure EPA promote than undermine SADC integration and particularly the SADC trade project
- What kind of EPA can be negotiated namely how to put development as a stand alone cluster back on the EPA agenda or how EPA can deliver on delevopment.

2. Multiple Membership and EPAs.

SADC Member States are involved in a web of regional and bilateral trade arrangements. They are members of four regional preferential trading arrangements namely the Southern African Customs Union (SACU), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), the Indian Ocean Commission (IOC) and Economic Community of Central African States [ECCAS]. Except for Mozambique, all of the SADC Member States belong to at least one other arrangement. SACU is the only customs union, but all of the arrangements have plans for deeper regional integration. Both the EAC and COMESA are planning to implement a Common External Tariffs (CET) in 2008 and 2005 respectively. Table 1 and 2 respectively provide a summary of the multiple memberships for SADC countries and the targets of regional integration initiatives.

Table 1: Regional Trading Arrangements

	SADC	SACU	COMESA	EAC	IOC	ECCAS
Angola	X					X
DRC	X		X			
Botswana	X	X				
Lesotho	X	X				
Malawi	X		X			
Mauritius	X		X		X	
Mozambique	X					
Namibia	X	X				
South Africa	X	X				
Swaziland	X	X	X			
Tanzania	X			X		
Zambia	X		X			
Zimbabwe	X		X			
Madagascar	X		X		X	

Table 2: Targets of Regional Integration Initiatives

	SADC	SACU	COMESA	EAC	IOC
Free Trade Area	2008	Y	Y	2004	X
Customs Union	2010	Y	2008	2005	
Free movement of persons	X		X	X	
Common Market	2015				
Monetary and Economic Union	2016		X	X	

Note: Y=already achieved; X=planned; Dates indicate targets

SADC is currently implementing a FTA that is expected to be achieved by 2008 and multiple membership is not a problem so far. However, with the advancement of regional trade towards a customs union [CU] multiple memberships become a problem as no country can be a member of more than one CU. As SADC moves to a customs union [by 2010 according to RISDP] then any country belonging to another customs union will have to either abandon the SADC CU project or vice versa. Mozambique is the exception but one country cannot establish a CU alone. For the other countries, it would mean withdrawing from the CU of EAC, COMESA and SACU.

Realistically such a possibility is remote even for SACU that is considered as the nucleus of SADC CU particularly in view of the revenue sharing factor.

Generally, **SADC trade regime is not a key integrating factor in the region as it is a relatively new area. Trade integration is currently more advanced in SACU and COMESA. SADC lacks comparative advantage in trade integration and should thus leave this area to other blocs and concentrate on areas of its comparative advantage such as, production, infrastructure and food security. SADC's advantage lies in its solidarity and the political unity built during the struggle against apartheid and the developmental approach to integration.** Thus, <u>the achievement of a SADC CU in 2010 as planned in the RISDP is not realistic and a non starter in the medium term</u>. For now the realistic target of a SADC FTA is achievable.

In conclusion the debate about multiple membership takes us back to the vision of the founding fathers of these groupings who consciously followed some division of labour. This means in the short term multiple membership is not an issue where it not the pressure from EPA. It is important however, to note that according to the Cotonou Agreement, achievement of an FTA or CU is not a prerequisite for negotiating an EPA. Regions have set own programs and road maps to attain FTA and CU and the EC should not push too much as this could be counter productive. Obviously for both EC and our RTAs is better dealing with one trade regime.

3 THE TWO OFFERS APPROACH – SADC EPA GROUP

Negotiations of EPAs pose a number of challenges for the SADC region particularly in terms geographical configuration, priorities and implementation of regional integration programmes. For purposes of negotiating EPAs with EU, the region has been divided into three groups. The <u>first group is six SADC countries</u> [DRC, Malawi, Madagascar, Mauritius, Zambia and Zimbabwe] that are negotiating an EPA with EU as part of the bigger and wider Eastern and Southern Africa [ESA] group. The <u>second, is RSA</u> that already has a Trade and Development Cooperation Agreement with the EU that was concluded in 2000. The <u>last group includes seven countries</u> namely Angola, Botswana, Lesotho, Namibia, Swaziland, Mozambique and Tanzania negotiating with the EU as SADC-EPA Group. Four of them BLNS are members of SACU and the remaining three Mozambique Angola and Tanzania [MAT] are LDCs

A number of challenges arise for SADC EPA countries. The more immediate challenge is how to accommodate or be accommodated in the TDCA given that four of the SADC EPA countries are members of SACU. SA already has TDCA with EU. It is important to note that while SADC-EU EPA negotiations are in progress there is currently a review of the TDCA which issue begs the interest of all SACU countries in the outcome of the process. The question is whether the SADC EPA group can negotiate a single EPA outside the TDCA or whether the TDCA can be opened up to accommodate SADC-EPA countries.

Within the statusquo, the BNLS have already offered reciprocity through their membership in SACU and can not negotiate any other variant of market access with the EC. That effectively means the BLNS have to accede to the TDCA on market access issues namely to its free trade provisions. <u>This leaves only Mozambique,</u>

Angola Tanzania [MAT] as the three countries having to negotiate market access or an FTA with EU. As such, this means that the SADC EPA group would have to make two offers to the EU on market access covering namely agriculture, non agricultural products and fisheries.

The **first offer on market access would be for the BLNS and this would be the same as under the TDCA both in terms of product coverage, sensitive products and liberalisation timeframes. The second offer would be by the MAT and may include appropriate flexibilities in terms of timeframes, sensitive products and product coverage.**

For the BLNS the stakes are rather high as they can not negotiate outside what is already in the TDCA unless both SA and EC are willing to open up the TDCA for renegotiations and thus provide the BLNS an opportunity to advance national interests. TDCA provisions for SA market access into EU market are not as favourable as under Cotonou arrangements and without any adjustments this would mean the BLNS by being part of TDCA are worse off than they currently are under the Cotonou arrangement. This would be contrary to the principle that no country or region should be worse off due to EPA. To resolve this problem there are four or so options for the BLNS;

- Formally request SA and EC to open up the TDCA to accommodate their interests [timeframes, product coverage and sensitive products]
- Make proper provision for compensation for the BLNS by creating a special fund
- Seek a derogation that allows flexibilities for the BLNS to take the TDCA commitments
- Revise the revenue sharing formulae to build in adequate compensation.

The TDCA is already creating problems for SACU. It is a common that liners are prefer to dock in SA ports than in Walvis Bay due to differences of tariffs applied.

The challenges for MAT on market access on the other hand are huge as their bargaining power as LDCS vis a vis the EU is seriously limited. It should be recalled that EC has insisted on reciprocity in terms of market access as one of the key pillars of EPAs. MAT have to seek strategies to deal with this issue taking account of their national interests. There are a number of options as follows.

1. The status quo. Pool together all available resources and capacities to negotiate market access issues. Prior to that each of them has to define clearly the national interests and potential.
2. Join SACU and thus become part of the TDCA and seek the same compensation as what the BLNS may receive
3. Strategically join ESA group for purposes of negotiating EPAs especially on market access. That way the MAT countries would be able to get whatever the 20 ESA countries are able to get from EC. Joining ESA does not at all mean joining COMESA. On signing the EPA the MAT countries can then sign as SADC EPA group. **The 16 member ESA Group already has a draft 'first approximation of EPA' drawn and have been able to put development as a stand alone cluster on the agenda for EPA negotiation with EC which SADC EPA group tried to do but failed.**

4. Follow the negotiations to the end and if the deal is not good enough by <u>2007 December be able to walk away and then use the multilateral route and thus receive EBA status.</u>
5. Reconfigure and ensure coherence.

The biggest challenge though lies on Tanzania which is a member of the EAC CU. Members of a CU have one trade regime vis'a' vis third parties. This means that Kenya, Tanzania and Uganda can only provide one/uniform trade regime to the EU. As such, it's either the EAC CU project does not take off or the three countries come together and agree on how to do it. Technically there are possibilities

- Kenya, Uganda and Tanzania negotiate EPA as EAC and they apply the CET to EU
- Tanzania negotiates as part of ESA and thus coordinates its position with other EAC members resulting in them applying the CET
- Tanzania gets a derogation from EAC and applies under the SADC EPA something different from EAC CET
- The EAC CU is abandoned
- Status-quo until a problem arises

In terms of content, the EPA between SADC and the EC would typically cover the following parts:

I. General provisions –objectives and principles
II. Trade cooperation covering free movement of goods mainly elimination of customs duty, sensitive products; review clause; special safeguards
III. Trade related issues namely; **rules of origin, elimination of non tariff barriers;** SPS, TBT, trade facilitation, **remedies**
IV. Trade in services
V. Economic and development cooperation covering namely a*griculture, i*ndustry infrastructure, natural resources and other sectors
VI. Trade related development finance co-operation covering development finance instruments and implementation modalities
VII. Fisheries
VIII. Other areas of cooperation
IX. Final provisions

However, commitments SADC EPA members take with respect to market access would be different. The BLNS would not be able to take commitments in areas highlighted above meaning that SADC EPA would not be a uniform undertaking by the Group. These areas would be covered under TDCA while for MAT it would be in the EPA agreement. As such, SADC EPA commitments would fully apply only to three countries [MAT] while the BLNS would be excluded from market access provisions. **This means SADC EPA group need to prepare two offers on market access.**

Another, serious challenge is how to ensure that the division caused by EPAs does not undermine the SADC integration project. Of particular concern is the extent and scope of implementation of commitments MS have under SADC TP and those arising from the EPA. This issue deserves serious analysis and should be of concern not only to SADC EPA group but to all the membership.