Boxing Smart on EPA's: Identifying the least bad options

Great Rift Valley Lodge, Naivasha 13-14 February 2007

Report on CSPP Workshop

Goals

The objective of the Workshop was to enable participants (who represent a wide range of Kenyan CSOs and private sector representatives with interests in the Economic Partnership Agreement (EPA) negotiations between their government and the EU) to assess the costs and benefits of alternative goods trade regimes with Europe after the current Cotonou trade agreement expires in December 2007. The intention is that the information and insights obtained will support dialogue between the Non-State Actors (NSAs) and government as well as campaigning designed to influence the content of any EPAs or alternatives to EPAs that are agreed.

The workshop was organised by CUTS-Nairobi Resource Centre (CUTS-NRC). Staff from the Overseas Development Institute (ODI) provided technical advice on how to analyse Kenya's defensive and offensive interests in EPA negotiations in detail. Thanks also go to CUTS-London Resource Centre (CUTS-LRC) for helping to make the workshop possible and participating actively in it.

Methodology

The approach to the Workshop is based on a 2 year learning process during which the methods for conveying to audiences the key features of EPAs that need to be investigated and the tools to do so have been refined. Building on experience gained in 8 previous (mainly governmental) workshops and on one civil society workshop in Lusaka/Zambia, the 2 day event was split into 4 sections:

1. An introduction by ODI into the main EPA issues being discussed and the role of the workshops (see PowerPoint presentations at appendix 1). As all participants were pretty familiar with the general challenges posed by EPAs, this session could be kept quite short and concentrate on some detailed technical points – which was appreciated by the participants.

2. A session in which the 22 participants split into 8 groups each with a computer to use the Excel based tools supplied by ODI (and retained by the CSOs for further use after the workshop) to create a list of the goods they felt should be excluded from any liberalisation under an EPA. All 8 groups completed their task by the close of the day and were combined and analysed after the end of the first day of the workshop by the ODI team (of Drs. Christopher Stevens and Mareike Meyn) (see list of participants at appendix 2).

Participants listening to the analysis of their combined exclusion list

3. At the start of the first half of Day 2 the ODI team reported on their analysis of the combined list. The rest of the morning and the afternoon were spent by the NSA representatives' lively discussion and forming of a consensus position on how to take their campaign forward.

Results

As can be obtained from Table 1, the participants selected in Session 2 around 2,800 products accounting for 46.2% of total imports from the EU (2003-05) which should be excluded in an EPA with the EU. Of these, 8 product lines (0.3% of total imports from EU) were selected by all the eight groups who reported as sensitive; seven of eight groups agreed on 84 product lines (2.7% of total imports from EU) as sensitive and so on.

Table 1: Participants' exclusion basket

Number of groups	Number of product lines selected	Share of total imports from EU
8	8	0.3%
7	84	2.7%
6	374	7.1%
5	786	8.7%
4	615	5.5%
Subtotal	***1867***	***24.3%***
3	503	8.7%
2	431	13.2%
Total	**2.801**	**46.2%**

As can also be obtained from Table 1, half of the 8 groups agreed on an exclusion basket covering 24.3% of total imports from the EU. To exclude such a share of total EU imports suggests that it may be possible to exclude all sensitive products without breaking the requirements of WTO Article XXIV as interpreted by the EU. This would protect sensitive livelihoods from increased import competition.

The main product groups selected by the participants can be obtained from Table 2. Participants' focus was on agricultural and manufactured products that are essential for Kenya's farmers and industries.

Table 2: Main product groups selected by participants

Number of groups	Share of total imports from EU	Main product groups
8	0.3%	Milk and cream, groundnut, wooden furniture
7	2.7%	Dairy products, potato starch, soya beans, vegetable waxes, lactose, woven fabrics, diverse clothes, table- and kitchen ware, some motor vehicles and furniture
6	7.1%	Dairy products, dried and fresh fruits and veggies, roasted coffee, tea, wheat, maize, coffee, seeds, cereals, sugar, animal and vegetable fats and oils, sausages, flours, malt, bread, pastries, some vegetables (incl. tomatoes), jams, fruits juices, woven fabrics, food preparations, wine, beer, sharps, cement, paper, glassware …
5	8.7%	Live animals, frozen meat, eggs, some veggies and fruits, spices, chocolate, pasta, alcohol, oilcake, cigarettes, paints, tubes, boxes, hides and skins, cotton yarn products, clothes, pencils…
4	5.5%	Fresh and frozen meat, eggs, frozen veggies, preserved fish, films, woven fabrics, clothes, iron + electrical products…
3	8.7%	Meat and meat products, preserved fish, building materials, coal, gas, electrical energy, candles, waste, plates, carpets, tubes, iron and steel products, aluminium, base metals, cars…
2	13.2%	Fresh and chilled meat, some fruits and veggies, petroleum products, pharmaceutical, photographic items, woven fabrics, base metals, gold, iron, steel and aluminium products, cutlery, centrifuges, washing machines, some electric apparatus, motor vehicles …

The selected goods account for less than half of total government revenue and so alternative sources will be needed to replace the more than half of revenue currently provided by the items that would be liberalised. Considering that just 10 products (most of them capital intensive machinery that are not considered to be sensitive) account for more than 22% of total import value and have low tariffs (see table 3), there seems to be scope to compensate for revenue losses as a result of EPAs. If the tariffs on some of these 10 products were raised during the early stages of the implementation period the revenue losses as a result of EPAs liberalising other products could be temporarily compensated while building up alternative income sources.

Table 3: Kenya's most valuable imports from the EU

HS2002	Description	? Click red bar to return to top of data	No liberalis-ation	Deferred liberalis-ation	MFN tariff		Average 2003-5 ($000)		Imports from EU25 ($000)		
					Min.	Max.	Import value	Theoret-ical import duty*	2003	2004	2005
	Total values of items in HS 1-97						**1,032,525**	**102,676**	**852,805**	**1,101,085**	**1,143,685**
	Total average value 2003-5 of imports of items selected ($000)		233,738	-							
	Share of value of average total imports from EU25 2003-5		22.6%	0.0%							
	Indicative revenue implications:										
*	Potential import duty **lost** ($000)		68,428	-							
*	Potential share of total import duty **lost**		66.6%	0.0%							
							??? Total of items selected (applicable when filter in				
							199,683	*25,735*	*171,058*	*248,158*	*179,833*
271019	medium oils and preparations, of petroleum or b		1		0	25	16,777	4,194	12,395	15,295	22,640
300220	vaccines for human medicine		1		0	0	18,458	-	15,405	20,114	19,855
300490	medicaments consisting of mixed or unmixed pr		1		0	0	32,095	-	27,458	32,094	36,735
630900	worn clothing and clothing accessories, blankets		1	45% or US$0.30/kg whi		0/kg whi	32,864	14,789	33,098	33,927	31,567
841112	turbo-jets of a thrust > 25 kn		1		0	0	13,520	-	21,713	15,218	3,628
851730	telephonic or telegraphic switching apparatus		1		10	10	14,364	1,436	12,209	14,202	16,680
851790	parts of electrical apparatus for line telephony o		1		10	10	15,131	1,513	14,096	19,061	12,236
852520	transmission apparatus incorporating reception		1		0	0	22,538	-	23,375	28,891	15,350
870422	motor vehicles for the transport of goods, with c		1		0	25	15,210	3,803	11,310	13,178	21,143
880240	aeroplanes and other powered aircraft of an of a		1		0	0	18,727	-	-	56,180	-

Additionally, Kenya imports many items from the EU at a zero tariff. Again, there might be scope to increase tariffs on the selected items for a temporary period of time while implementing alternative income sources. It is therefore recommended to assess options of temporary tariff increases under consideration of economic, legal and political implications.

What are the costs for Kenya of not joining an EPA?

After having assessed the costs of import liberalisation when joining an EPA, the ODI team elaborated on the costs Kenya might have to bear when not joining an EPA. Table 3 gives an overview of Kenya's 10 most valuable export products to the EU in 2003.

Table 3: Kenya's top ten exports to the EU

CN2003	Description	Value 2003 (€000)	Share of total	Volume 2003 (Tons)	EU tariffs 2003					
					MFN		Standard GSP		ACP	
					Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
					AV Specific	AV Specific	AV Specific	AV Specific	AV Specific	AV Specific
	Chs 1-97	**794,917**	**100%**	**502,991**						
06031010	fresh cut roses and buds, of a kind suita	153,903	19%	40,362	8.5	12	5	8.5	0	0
09024000	black fermented tea and partly fermente	113,652	14%	75,262	0	0	0	0	0	0
09011100	coffee (excl. roasted and decaffeinated)	65,218	8%	39,654	0	0	0	0	0	0
07082000	fresh or chilled beans vigna spp., phase	64,962	8%	25,285	10.4 min 1.6€/100 kg/net	13.6 min 1.6€/100 kg/net	6.9	10.1	0	0
06031080	fresh cut flowers and buds, of a kind suit	49,086	6%	12,967	8.5	12	5	8.5	0	0
07099090	fresh or chilled vegetables n.e.s.	48,856	6%	16,954	12.8	12.8	8.9	8.9	0	0
06021090	unrooted cuttings and slips (excl. vines)	26,254	3%	1,654	4	4	0	0	0	0
08044000	fresh or dried avocados	25,163	3%	19,649	4	5.1	0	1.6	0	0
20082079	pineapples, prepared or preserved, cont	20,755	3%	26,120	19.2	19.2	15.7	15.7	0	0
07081000	fresh or chilled peas pisum sativum , she	16,359	2%	4,677	8	13.6	4.5	10.1	0	0

Currently, all of Kenya's exports face a 0% tariff under the Cotonou Agreement. Since the trade component of the Cotonou Agreement expires by the end of this year, the EU might have the legal right to increase tariffs from 01 January 2008 on, treating Kenya like other developing countries under the General System of Preferences (GSP). Not signing an EPA might therefore result in EU tariffs for Kenya's most valuable exports, such as roses (maximum GSP tariff 8.5%); fresh beans (max. GSP 10.1%), other fresh cut flowers (GSP 12.8%), pineapples (GSP 19.2%) and peas (max. GSP 13.6%) increasing. Only coffee and tea would enjoy continued duty free market access under the GSP.

In addition to the potential loss of the EU market as a result of tariff increases and decreased competitiveness of Kenyan products, Kenya faces two other risks when opposing EPAs:

1. In future, EU development aid might be channelled increasingly towards ACP countries that have joined an EPA. The EU has already channelled regional funds towards the Eastern Southern Africa (ESA) configuration and away from COMESA.

2. If Kenya's neighbours, Tanzania and Uganda, which form together with Kenya the East African Community (EAC), sign an EPA, EU imports might enter the Kenyan market indirectly. Since the customs' supervision of rules of origin is imperfect, EU goods that enter Tanzania duty free might be further exported duty free to Kenya under the EAC Customs Union Agreement.

Participants' evaluation of the workshop

The written evaluation of the workshop is being analysed by the organisers and the results will be supplied to all participants including ODI. In their oral comments it was clear that the opposition to EPAs held by all participants was so strong among some that they were not interested in learning ways to 'mitigate' any effects. For the remainder, however, the overall impression given was that they found the workshop informative, helpful and "eye-opening". The workshop was seen as valuable input to get more detailed information about EPAs and to support NSA's position in Kenya. The participants enjoyed the detailed and in-depth analysis and said that they found it refreshing and very useful to look at an EPA in a more technical way. It was regarded as positive that the workshop challenged the participants and helped them to learn about EPAs from a different perspective by creating their own defensive list.

Some participants from the private sector announced that they intended to make use of the Excel tool and to train private sector organisations accordingly. Other participants want to use the Excel tool to brief local governments and to explain possible implications of EPAs and assist them to identify their interests.

What should an EPA look like and what needs to be done?

Participants' positions

The organisers asked the participants to assess the following questions:

1. Is it possible to do both: EPAs and protection for sensitive industries?
2. What happens if the Kenyan government signs an EPA and CSO are against it? What is the CSO strategy?

A minority of participants held the view that EPAs are not an option because the cost implications are too high and the EU would have a hidden agenda. Kenya would not have the capacity to defend its interests in EPAs. Moreover, the regional approach of EPAs would put additional strains on Kenya since most ESA countries are classified as LDCs and thus allowed to keep a non-reciprocal trade relationship with the EU under the Everything But Arms (EBA) initiative. It was therefore regarded as very difficult to find a common regional position.

The majority of participants however shared the view that Kenya would need to sign an EPA since it does not have the choice to continue its non-reciprocal trade relationship with the EU like LDCs. To ensure that EPAs are development-friendly, civil society would need to push forward, build up strategies and help to increase the bargaining power of Kenyan trade negotiators. The Excel tool could be used in this respect, helping to concretise Kenya's position and present its defensive and offensive interests to the EU.

Most participants agreed that EPAs should:

- Help to increase domestic manufacturing value addition;
- Address manufacturing sector capacities, exports, and diversification efforts;
- Address supply-side constraints;
- Decrease Kenya's dependency on raw material exports to finished products;
- Exclude sensitive products from trade liberalisation, protect farmers and promote development issues;
- Provide for skills and technology transfer;
- Help to build-up a real partnership between EU and ACP;
- Help to reduce poverty and to integrate Kenya into the world market (increase exports of manufacturers).

Moreover, it was emphasised that the EU should bare some costs of EPAs (such as revenue losses and increasing costs to meet standards).

Course Evaluation by Participants

This is a synthesis of the evaluation reports on the course submitted by participants.

For a number of other reasons, most participants attended this workshop mainly with the aim of acquiring effective tools for strengthening their positions and how they could skilfully Box Smart in the EPA negotiations. It seems that the content of the training and the networking opportunity were the two key attractions to most participants.

The workshop provided an opportunity for participants to exchange their different perspectives on EPAs and forge a united position. It was clear that participants' expectations were met on a scale of more than 80%. This was attributable to the open discussions and interaction among participants.

The Excel tool was found to be very relevant and valuable to all participants in the various works. Most participants said they would tutor their workmates on how to use spreadsheet tool and to individually come up with a list of sensitive products based on their areas of expertise. CUTS was asked to reconvene a follow-up meeting where all participants would reconvene and collectively draw up a Non-State Actors' exclusion list that would put Kenya in a better position if it signs an EPA with the EU. Participants were eager that they would countercheck their list with that of the government to feed in what their government might have left out in its exclusion list.

Participation was fair in terms of representation but participants wanted more government officers handling EPA issues and a few more private sector representatives should be invited in such future events. CUTS should organise a similar course to be undertaken by parliamentarians since they anyway hold the key to EPAs ratification finally.

The overall strengths of the event were the quality of facilitation that enabled participants to learn more on the opportunities and challenges of EPAs and more to the fact that practical activities had greater effects than theories.

The venue was very serene and contributed to the success of the event success as it allowed very minimal disturbance. However, time was too short to cover all the details expected.

Lack of similar tools to build positions on other areas such as Services, Singapore Issues and Negotiating Strategies other than Market access was a limitation as there is need to build a comprehensive and consolidated national position.

Participants are looking forward to more similar events with more effective tools for building positions in other sectors to enable them forge an effective way ahead as a solid group. Participants would also like to gain an insight of the experiences of other countries who have signed FTAs with the EU in terms of their strengths and limitations.

Next steps

All participants will be sent by the organisers: the final versions of the presentation, the Excel tool sheet, information how to use it, participants' results and the exclusion basket of the Zambian government.

ODI will prepare a complete HS-4 digit code list of the sensitive products selected for the organisers to be distributed to the participants. The participants agreed that the next step should be to compare this list with the government's list (if available to the public) and to advocate for their position. The ODI team offered to compare the CSO list with the government list as part of its follow-on programme of continued support to the Kenya NGOs under this project so as to allow Kenyan civil society organisations to evaluate their results and to lobby accordingly.

Participants at the CSPP Training Workshop held in Naivasha Kenya posing for a group photo

(L-R) **Front row:** Michael Omondi, Dr. Mareike Meyn, Victor Ogalo and Catherine Wanja. **Middle row:** Felix Okatch, Justus Lavi, Eldad Girma, Ezekiel Mpapale, Emma Wanyonyi, Ayoma Matunga and Juliet Wanja. **Back row:** Edward Kateiya, Esther Bett, Gideon Rabinowitz, Patricia Parsitao, Dr. Chris Stevens, Collins Odote, Cecilia Achieng, Carole Kariuki, Sofia Njagi, Tabitha Mutua and David Ngige

Appendix 1: PowerPoint Presentations

Appendix 2: Participants List

S/No	Participants Name	Address
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