

## EPA negotiation issues between SADC and the EU

### Contents

<b>1 Background and key issues .....</b>	<b>2</b>
<b>2 Latest developments .....</b>	<b>3</b>
2.1 Process of negotiations in 2009 .....	3
2.2 Granting of full duty-free, quota-free access .....	5
2.3 Repositioning exports in response to preference erosion .....	7
2.4 Wider developments .....	8
<b>3 Implications for the ACP .....</b>	<b>8</b>
3.1 Reconciling different approaches to trade policy .....	8
3.2 Implications of the IEPA process for the SACU .....	9
3.3 Addressing concerns over the impact of IEPAs on regional integration .....	9
3.4 Beyond agriculture and trade in goods issues .....	10
3.5 The danger of non-agreement: A complex reality .....	10
<b>Information sources .....</b>	<b>11</b>



### About this update

CTA's *Executive brief: EU-SADC EPA negotiations*, was published in October 2008 and in CTA's *Agritrade: ACP–EU Trade Issues (2009 Compendium)*. This update consists of:

- 1. Background and key issues:** briefly summarising the original executive brief, and where necessary, updating developments related to key issues;
- 2. Latest developments:** reviewing developments that have taken place since the publication of the original executive brief;
- 3. Implications for the ACP:** examining the implications of recent developments for the ACP countries concerned.

The original executive brief (2008) is available on request from: [agritrade-mail@cta.int](mailto:agritrade-mail@cta.int).

## 1 Background and key issues

At the end of 2007, the governments of five countries that were party to the Southern Africa Development Community (SADC) interim Economic Partnership Agreement (IEPA) negotiations (Botswana, Lesotho, Namibia, Mozambique and Swaziland) initialled an interim EPA with the EU, with the government of one of these countries (Namibia) expressing formal reservations about specific aspects of the text put forward for initialling, and requesting further consultations on these issues to resolve ‘contentious issues’. The government of Tanzania declined to initial the SADC-EU IEPA and instead joined the East African Community IEPA configuration. The governments of Angola and South Africa declined to initial the SADC-EU IEPA.

Following the initialling of the IEPA these five countries became eligible for full duty-free, quota-free access to the EU market under EU Council Regulation 1528/2007, adopted in December 2007. This provided full duty-free, quota-free access, except for sugar, bananas and rice, where transitional quota-based arrangements were established up to 1 October 2009. Countries listed in annex 1 to this regulation were to remain eligible for such duty-free, quota-free access unless the EU Council, acting by qualified majority on the basis of a proposal from the EC, were to sanction their removal from the list. However, it was stipulated that this could only occur where a region or state indicated that it did not intend to ratify the initialled IEPA, where such ratification had not taken place within ‘a reasonable period of time’ or where a state or region formally terminated the agreement, or the rights and obligations set out under the agreement.

In early 2008 it was argued that ‘a host of recently tabled issues’ had complicated matters and given rise to a range of contentious issues, which members of the SADC EPA configuration considered needed to be resolved before they could sign the initialled agreement. It equally became apparent in 2008 that there were fundamental differences of approach to the resolution of ‘contentious issues’. The EC argued that the signing of the initialled IEPA was a prerequisite for addressing ‘contentious issues’, while a number of SADC IEPA configuration governments argued that there was little point in signing an agreement which contained substantive provisions with which they remained in fundamental disagreement.

Given the EC’s insistence that ‘contentious issues’ could only be addressed if other SADC IEPA members shared particular nationally expressed concerns, this gave rise to the emergence of a sub-group within the SADC IEPA configuration which became known as the ANSA group (Angola, Namibia and South Africa). This grouping has actively pushed for the substantive resolution of issues of concern as a means of moving forward the IEPA process. Major issues of concern impacting on the food and agricultural sector identified by the ANSA group include:

- provisions dealing with the prohibition of quantitative restrictions that would have an immediate impact on the use of import-licensing arrangements to manage trade in sensitive food and agricultural products and as a tool for the promotion of the structural development of certain national agricultural sub-sectors;
- provisions banning the use of export taxes, which it is felt would prevent the use of this trade-policy tool for the promotion of value-added processing in certain agricultural product chains, both traditional and non-traditional products;
- provisions that were incompatible with existing Southern Africa Customs Union (SACU) infant industry protection provisions, which would undermine the use of this policy tool to promote food security and value-added processing in a context of growing global price instability (impacting most notably on certain wheat-based products such as pasta);
- concerns over the ‘standstill’ provisions, which it was felt could lock in unrealistically low tariffs established in response to high global food prices;

- concerns over the limitations of the agreed safeguard clause, in terms of its application in the special circumstances prevailing in trade in food and agricultural products.

There are in addition concerns over:

- the impact of the IEPA process on regional integration processes;
- the implications of the most favoured nation (MFN) clause for efforts to diversify trade relations in the context of the shifting focus of global economic growth;
- provisions that place restrictions on local procurement and local content rules;
- an insistence on institutional requirements far removed from regional institutional realities.

By the final quarter of 2008, a situation existed where:

- two distinct positions existed within the SADC IEPA grouping, with continuing efforts being made to ensure that despite intra-regional differences, a common approach to negotiations was maintained;
- the implications of contentious issues for food and agricultural sector development in certain SADC IEPA configuration countries were increasingly clearly articulated and efforts were under way to elaborate alternative text which would address ANSA concerns.

## 2 Latest developments

### 2.1 Process of negotiations in 2009

Despite the ongoing expressions of concern over contentious clauses in the IEPA, in mid-2008 the EC was expressing the belief that agreement could be reached that would allow the signing of the agreement in October 2008. In September 2008, the then trade commissioner Peter Mandelson reiterated his view that a prerequisite for addressing issues of concern to Namibia was that 'both sides should sign what has already been agreed before engaging on the different issues'. This remained a fundamental point of divergence between the parties.

The arrival of Baroness Catherine Ashton as EC trade commissioner however served to change the mood around the negotiations, with Namibian officials expressing the view that the appointment of the new trade commissioner would increase scope for negotiations on controversial issues. This indeed proved to be the case, although it was matched by an increase in tensions within the SACU around the IEPA negotiations, with certain governments in the Botswana, Lesotho, Namibia and Swaziland (BLNS) grouping fearing the implications for market access of delays in the signing of the initialled agreement.

In December 2008 proposals were tabled to 'retrofit' the EU-South Africa Trade Development and Cooperation Agreement (TDCA) and the SADC IEPA tariff-elimination commitments, in order to ensure the integrity of the SACU common external tariff. This proposal involved extending the phase-in period for tariff reductions under the TDCA on some 33 tariff lines and accelerating the implementation of tariff reductions under the TDCA on some 320 tariff lines, with in exchange South Africa receiving improved access on certain agricultural, fisheries and industrial tariff lines. This proposal was described in some quarters as 'an extremely open-handed gesture from the EC', while South Africa's chief negotiator described the proposal as 'quite an important development'. The EC maintained that the proposal 'would allow South Africa to align its tariff regime with that agreed with the BLNS, ... solve the problem of regional coherence, and give South Africa the improved market access it seeks'. It would, so it was argued, allow the folding of the TDCA into the regional EPA, if the South African government so wished.

However, this tariff proposal left unaddressed a range of trade-related issues, many of them felt to have greater economic implications. Against this background, in January 2009 the ANSA grouping submitted a joint demarche to EU member states, setting out concerns over the EC approach to addressing contentious issues and the implications of that approach for regional integration processes. It should be recalled that many of these issues have a direct bearing on the use of trade-policy tools in the food and agricultural sector. In the demarche, the view was expressed that EC engagement on the substantive issues raised by ANSA governments ‘has thus far been extremely limited’, with it being asserted that to date ‘no flexibility has been demonstrated by the EC on the key substantive points of concern’. The demarche argued that ‘proposed solutions that unduly exacerbate differentiation between South Africa and other members of SADC and SACU should be avoided, as they create additional trade-policy divisions in the region’. It went on to argue that in the light of the experience to date, ‘the indication that these may be addressed in negotiating towards a full or final EPA offers little comfort’, particularly given that ‘the signing and entry into force of [the] IEPA will create a new legal framework ... that will make changes to the legal text of the IEPA, in order to address the concerns, more difficult to obtain’. The demarche closed by calling for ‘more time to fully engage EU member states and the Commission on each of these issues’, given that there is no imminent danger of a WTO challenge, as Botswana, Namibia and Swaziland are already *de facto* members of a free-trade area (FTA) with the EU as a result of their membership of the SACU, and thus the basis for trade relations with the EU is already WTO-compliant.

These developments provided the background to the visit to southern Africa by Trade Commissioner Ashton in early February 2009. During this visit consultations were held with the South African government, the ANSA sub-group and the SADC EPA configuration members as a whole. Trade Commissioner Ashton reiterated the importance of keeping all countries on board in the EPA negotiating process, and indicated that she would not be pressing for an early signature of the SADC IEPA. It was agreed that all substantive issues of concern would be discussed at a meeting of senior officials in March 2009. EC officials subsequently sought to prioritise these issues, with these ‘priorities’ being the focus of discussion at the meeting in Swakopmund. ANSA negotiators however continued to focus on all of the substantive issues of concern.

In March a meeting of senior officials took place in Swakopmund at which alternative texts were agreed on many of the ‘unresolved negotiation issues’, although by no means all of the ‘contentious issues’ of concern to ANSA countries. This included agreed texts on export taxes, infant industry protection, the use of import licences, free circulation of goods and food security, with no agreement being reached on the MFN provision and the technical issue of the ‘definition of the parties’, and no substantive discussions taking place on a range of other issues. Nevertheless, when the concerned officials departed from the meeting in Swakopmund, it was felt that an agreement was in sight on a range of issues that had a direct bearing on the use of trade-policy tools in support for food and agricultural sector development. Subsequently, however, further legal scrutiny of the agreed texts revealed drafting weaknesses which left considerable uncertainty as to how the agreed compromise would be incorporated into the text of the IEPA and how such provisions would then be subsequently applied. It also left unaddressed the majority of the total body of issues that had been identified as unresolved. The emergence of a fundamental disagreement on whether the agreed changes should be incorporated into the text of the IEPA prior to signature, or only be taken up in the comprehensive EPA, remained an ongoing matter of controversy within the negotiations. It was a controversy that stymied further discussion of unresolved issues that had not been substantively discussed in Swakopmund.

Meanwhile, on 20 March 2009 Trade Commissioner Ashton sent a letter to SADC EPA configuration trade ministers arguing that a date should be set for the signing of the IEPA, describing this as ‘a matter of urgency’. The ANSA group however continued to see no WTO imperative for rushing into the signing of an agreement that still contained provisions with



which they remained in fundamental disagreement, mainly because the failure to incorporate the changes agreed at the Swakopmund meeting into the text to be signed made further discussion of issues which had not been substantively discussed in Swakopmund largely irrelevant. Despite this, the EC continued to press for early signing of the initialled IEPA, and on 4 June 2009 the governments of Lesotho, Swaziland and Botswana duly signed the IEPA, with the Mozambican government signing on 15 June 2009.

The Namibian government declined to sign the IEPA at this stage, but reiterated its continued commitment to signing once outstanding ‘contentious issues’ (or ‘unresolved negotiation issues’ as they are also referred to) had been addressed in the text of the agreement to be signed. In this context, Trade Minister Geingob committed the Namibian government ‘to [continuing] negotiations as a matter of urgency and priority’. It should be noted that while the countries that signed the IEPA represent slightly over a quarter of the population of the SADC IEPA configuration, as a whole their GDP represents only 7% of the combined GDP of the remaining SADC EPA configuration countries.

Namibian concerns hinged on the relative legal status of the IEPA text that it was being asked to sign, and the letter and annexed text nominally incorporating the compromise provisions agreed in Swakopmund into the scope of the agreement. There remains concern that the IEPA text is governed by a broad body of international trade law, while the letter and annexed text have virtually no legally enforceable status. This, it is felt, could have serious implications for the use of traditional agricultural trade-policy tools. It is this issue that now needs to be addressed, in order to ensure the legal right of the Namibian government to continue to use those trade-policy tools that it currently successfully deploys in support of food- and agricultural-sector development.

Commission officials then warned that the Namibian government faced the possibility of a legal challenge to its duty-free, quota-free access established under the December 2007 regulation. In November 2009, EU member state representatives urged the Namibian government to sign the IEPA, while the Namibian foreign minister reiterated the government’s seriousness in engaging with the IEPA negotiations. A round of negotiations planned for November 2009 was cancelled at the insistence of SADC IEPA member state governments, with consultations between SADC IEPA governments being intensified, and Swaziland’s minister of trade arguing that the internal activities of SACU needed first to be aligned before a final EPA with the EU could be concluded.

Negotiations are currently continuing to resolve the ongoing impasse. South Africa’s chief negotiator however has warned that if progress is to be made, the EC will need to move beyond ‘broad declaratory statement’ to addressing the ‘detailed outcomes of the negotiating processes’. In particular it is felt that the provisions of the IEPA need to take into account the efforts under way to establish common industrial, agricultural and trade policies within the SACU and the broader processes for deepening regional integration which still need to be initiated. Despite these continued disagreements, to date Trade Commissioner Ashton’s assurance, that duty-free access would not be withdrawn while negotiations on unresolved negotiation issues are ongoing, continues to hold. Indeed, in response to questioning from the European Parliament, Trade Commissioner-designate Karel De Gucht committed himself to maintaining the flexibility in the EPA negotiations demonstrated by his predecessor Baroness Ashton.

## 2.2 Granting of full duty-free, quota-free access

All SADC EPA configuration countries whose governments initialled the IEPA have benefited from the maintenance of traditional trade preferences. For Botswana and Swaziland, securing the continuation and expansion of duty-free access to the EU market was a major concern in the IEPA negotiations. This was achieved through the initialling and subsequent signing of the IEPA. The principal benefit to Botswana in the agriculture sector was the waiving of the 8% residual special duty paid on beef exports, which yielded exporters additional income of an

estimated €1.96 million per annum. In the case of Swaziland the end of quota restrictions on sugar exports from 1 October 2009 saw the attainment of its primary trade-policy objective with regard to supporting its internal sugar sector adjustment process. It is envisaged that in the coming seasons as much as 300,000 tonnes of sugar per year may be exported to the EU market, depending on world market prices. This expansion of exports to the EU is seen as effectively ‘compensating’ for the revenue losses arising from reductions in the EU reference price for sugar, thereby reducing the impact of the EU reform process on the Swazi sugar sector. This is particularly the case given the restructuring of Swaziland’s export trade with the EU, which has seen the negotiation of new marketing arrangements involving a revenue-sharing formula for the distribution of the profits (minus costs) arising from the sale of refined sugar produced from Swazi raw sugars. Despite these more favourable marketing arrangements, the increase in world market prices of sugar to a 29-year high means that exports to the EU market are currently held to be attracting a net price of up to €80/tonne less than that obtainable on the world market. However, this foregone income in the short term is likely to be more than balanced in the long term by the improved security of revenues derived from the new marketing arrangements established.

In addition, for Swaziland the granting of duty-free, quota-free access appears to have removed the disadvantage, in terms of investment attractiveness, arising from the granting of full duty-free, quota-free access to LDCs under the EU’s 2001 ‘Everything But Arms’ (EBA) initiative. This has seen extensive sugar sector investment flow into neighbouring LDCs since 2001 in order to exploit the pending duty free-quota free access to the EU market. However this should not be overstated, as the structure of the EU’s transitional safeguard arrangements means that their application would fall particularly heavily on Swazi exports, a reality which may serve to undermine the attractiveness of Swaziland as an investment location. Both Swaziland and Botswana also appear to be benefiting from improvements in rules of origin for textile products agreed as part of the IEPA negotiations (both now benefiting from a single-stage processing requirement, as does Lesotho).

Mozambique also appears well placed to benefit from the granting of full duty-free, quota-free access for sugar under the EBA initiative (with IEPA duty-free, quota-free access provisions having little additional effect). It is reported that in 2010/2011, sugar companies with production in Mozambique will be looking to export some 310,000 tonnes of sugar to the EU market (exports in 2006/07 were a mere 37,042 tonnes). Some of this trade will take place through intra-corporate arrangements within the Tereos family of companies, while other parts of this trade will take place through trade arrangements within the Associated British Food group of companies. The investment in the sugar sector which Mozambique has attracted since 2001 is expected to see sugar production rise to 500,000 tonnes by 2012. Beyond the sugar sector there are reports of multinational companies investing in Mozambique in the development of banana production for export to the EU, with initial experimental exports already reportedly under way.

Lesotho and Namibia are less well placed to benefit from improvements in access arising from the granting of full duty-free, quota-free access, although both Lesotho and Namibia could potentially benefit from the more favourable rules of origin now applied to textile exports. In the food and agriculture sector, Namibian grape exports have benefited from no longer having to pay duty on export volumes above 800 tonnes. With off-season grape exports expanding, this will bring Namibian exporters certain additional financial gains, but will not have a major impact on their market position, as exports were already expanding prior to 1 January 2008, despite the duty applied. Despite these benefits, Namibian exporters continue to look for alternative markets to the EU, in order to reduce their market dependency. According to press reports carried on the freshplaza.com website, at the end of 2009 Namibia exported some 110,000 cartons of grapes to the Chinese market, with a value of US\$1.1 million (some 3.4% of the total value of Namibian grape exports). Similarly to the situation in Botswana, Namibian beef exports have benefited from no longer having to pay the 8% of the special duty that was still applicable

up to 1 January 2008 (yielding a financial benefit of around €1.5 million per annum). Beyond these limited areas, no new benefits from the granting of full duty-free, quota-free access are immediately apparent in the food and agriculture sector.

### 2.3 Repositioning exports in response to preference erosion

In the course of 2009, in response to the erosion of the value of traditional trade preferences in the beef sector, the main Namibian beef exporting company MEATCO continued to develop its efforts to serve 'quality'-differentiated components of the market. This has involved:

- a clear identification of the quality-differentiated 'luxury-purchase' market components to be served, not only in traditional EU markets but beyond;
- the appointment of overseas representatives whose job is to get to know in-depth final consumer needs and requirements;
- the development of a distinct brand identity (the 'Nature's Reserve' brand launched in September 2008), to facilitate product identification by discerning quality-conscious consumers;
- investment in new packing equipment (e.g. vacuum packing equipment) to ensure that customers' requirements are more effectively met.

This more targeted marketing approach and associated investments in production to more effectively service the needs of particular luxury-purchase market components has enabled MEATCO to secure a larger share of the premium prices available from the sale of quality-differentiated Namibian beef cuts. This in turn has enabled the exporter to pay Namibian beef farmers price premiums of N\$183 million (some €18.58 million at March 2010 exchange rates) per annum above the prices received by comparable South African farmers. It has also enabled the Namibian beef industry to diversify away from its exclusive dependence on overseas EU markets for prepared meat products (most notably by serving the quality end of the South African and Norwegian markets). Overall this has served to stabilise the number of cattle being offered for slaughter at MEATCO facilities, and has even begun to prompt a small increase in the number of cattle placed for slaughter (+ 9% in the last marketing season compared to the previous year).

**Table: MEATCO beef exports: Percentage of sales value by region/country**

Destination	Percentage of sales value (%)	
European Union	39.6	
South Africa	29.5	
Namibia	12.8	
Other African countries	0.9	
Norway	13.5	
Switzerland	1.4	
Reunion	2.3	

Source: based on figures given at MEATCO presentation to CTA seminar, November 2009, Windhoek

This experience contrasts markedly with that of Swaziland, where exports of undifferentiated beef products first shrank and were then discontinued. While nominally this was a result of shortcomings in sanitary and phytosanitary (SPS) compliance, this is likely to have been a consequence of the reduced attractiveness of the EU market leading to a deferment of investments necessary to maintain SPS compliance.

A proactive response to preference erosion is also apparent in the Swazi sugar sector, where the focus has been on redefining the routes to market for Swazi sugar and strengthening the

commercial ties with European importers. To date however no strategy has been adopted to substantially shift production away from dependence on raw sugar exports to the EU, by expanding refined and speciality sugar exports. Corporate players in the Swazi sugar sector have rather focused on the development of supplementary revenue streams from sugar cane production (such as alcohol sales, ethanol sales and co-generation of electricity) to reduce costs. Investments in sugar refining appear to be awaiting the outcome of the final shake-out in the European sugar sector following the full implementation of EU sugar sector reforms.

## 2.4 Wider developments

As a result of the impact of the global economic downturn, in February 2009 South Africa's minister of finance announced an impending decline in SACU revenues of R1 billion with a further decline of R1.5 billion anticipated for the following year. This was in marked contrast to the annual increase in transfers from the SACU revenue pool to the BLNS countries of 22% per annum over the period 2000/01 to 2006/07. Swaziland and Lesotho were identified as most vulnerable to this decline in SACU financial transfers, given their high revenue dependence on trade-based taxes. However the economic downturn also had severe effects on the fiscal position of Botswana, with the suspension of diamond mining operations at the beginning of 2009 leading to a sharp drop in government mineral revenues and hence total revenues. This reportedly led to a re-evaluation of the role of trade policy in national agricultural and industrial development in Botswana. This may well have contributed to a greater openness within the SACU towards a discussion of what trade-policy tools should remain available to governments in order to promote wider agriculture and industrial development policy objectives. This greater openness may in time promote a greater degree of consensus in the SADC EPA configuration on the role of trade policy in national agricultural and industrial development.

In terms of the SACU's wider trade relations, in October 2009 a preferential trade agreement was concluded with Mercosur, although with only a limited product coverage of some 1,000 tariff lines (compared to the 6,500 tariff lines covered by the EU-South Africa TDCA). Trade in sensitive products such as sugar and beef, however, was excluded from the SACU-Mercosur agreement. This needs to be seen against the background of concerted efforts to diversify trade relations away from traditional links to Europe towards faster growing regions of the global economy. Preferential trade agreements are also under negotiation with China and India, while negotiations continue around a possible merging of the FTA arrangements for the Common Market for Eastern and Southern Africa (COMESA), SADC and East African Community (EAC) into a single grand FTA. However, the existence of very different tariff elimination commitments towards the region's major trading partner, the EU, via the various bilateral and plurilateral IEPAs concluded, is seen as complicating this process, particularly in regard to the contentious area of the rules of origin to be applied under such a grand FTA.

## 3 Implications for the ACP

### 3.1 Reconciling different approaches to trade policy

The progress of the IEPA negotiation in 2009 highlighted fundamental differences within the SACU with regard to the use of trade-policy tools in support of industrial and agricultural development. An article published in *Trade Negotiations Insights* in the July-August 2009 edition argued that the government of Botswana favours wholesale liberalisation to kick-start a process of economic diversification, while the South African and Namibian governments wish to see trade-policy tools actively used as part of wider industrial and agricultural development policies. South Africa in particular, with its more broadly based economy, was reported to be increasingly 'favouring a sector-based industrial policy incorporating potential tariff increases, a renewed emphasis on state-owned enterprises in network service sectors, and a retention of



policy space'. According to the analysis, 'this dichotomy is at the heart of the differences concerning trade negotiations with the EU'.

The launching in October 2009 of a review of the SACU revenue-sharing formula in the context of a wider review of the functioning of the SACU as whole, offers one vehicle for resolving these divergent views on the role of trade policy. The commission established under the chairpersonship of the Namibian permanent secretary of finance, Calle Schlettwein, has been given a remit 'to come up fast with a blueprint to overhaul the customs union' and 'position it at the centre of the SADC economic integration agenda'. This may include drawing up proposals for the diversion of part of the SACU revenue transfers to a development fund, to support industrial and agricultural development programmes. If agreement can be reached on the role of trade policy in agricultural and industrial development, then a basis could be laid for the SADC configuration to once more move forward together in developing its trade relations with the EU.

### 3.2 Implications of the IEPA process for the SACU

There is considerable debate over what the implications of the conclusion of an IEPA with the EU would be for the SACU if it excluded the SACU's largest economy, South Africa. The EC at times appears to take the view that on the basis of its practice to date, the SACU is capable of sustaining parallel trade arrangements with the EU. After all, since 1975 two parallel import regimes have applied to EU trade with the SACU, while since 2000, two parallel export regimes have applied to EU trade with the SACU (the non-reciprocal Cotonou Agreement and the reciprocal TDCA). Deeper concerns however arise within the SACU: South Africa's minister of trade and industry has warned that the application of the SADC-EU interim-EPA could 'send SACU progressively backwards' by requiring a 'strengthening [of] customs controls within the region'. This is giving rise to fears that agricultural trade could be hindered if the partial signing of the IEPA were to lead to a breakdown in effective administrative cooperation within the SACU. The situation will however only arise once the signed IEPAs have been ratified. This would appear still to allow time to address the outstanding issues of concern. However it is far from clear whether the lead for addressing the outstanding issues will come from within the IEPA negotiations process, or from the process under way of reviewing the functioning of the SACU.

### 3.3 Addressing concerns over the impact of IEPAs on regional integration

The concerns arising over the impact of the IEPA negotiations on regional trade integration processes constitutes a major unresolved issue in the IEPA negotiations. Addressing the SADC Southern African Forum on Trade, South Africa's deputy director-general for trade and industry, Xavier Carim, highlighted the fact that EPAs in their current form 'limit the SADC region's policy space to promote industrial and agricultural development, would hamper efforts to promote trade diversification, and would undermine regional integration processes'. The latter dimension is seen as a very real issue, with the IEPA process having given rise to SADC member states being engaged in five separate negotiating configurations with the EU, each with different tariff dismantling obligations, different product coverage and different schedules for tariff reductions. According to Carim, 'all of this is going to certainly complicate and possibly foreclose efforts to foster deeper regional integration in SADC'. Indeed it was argued this could even give rise to a situation where there would be a need for 'strengthening customs controls and rules of origin controls within the region'. Despite this, the South African government remains committed to 'addressing these issues with the EU and other members in the SADC and the Southern African Customs Union'. However it remains to be seen how concretely this can be realised, given the advanced stage of the various EPA negotiations. Any breakdown of effective customs cooperation or the reintroduction of border controls is likely to undermine emerging regional trade in food and agricultural products. This could then serve to close down

the development opportunities in the food and agricultural sector that could be opened up by closer regional trade integration.

### 3.4 Beyond agriculture and trade in goods issues

Beyond the issues taken up in the SADC-EU IEPA, the EC remains committed to concluding a comprehensive SADC-EU EPA embracing provisions dealing with trade in services and a multiplicity of trade-related areas. Against this background there remains concern in certain SADC IEPA governments that the EC's unwillingness to include agreed alternative text dealing with unresolved negotiation issues in the IEPA prior to signing, is rooted in its desire to ensure that a comprehensive EPA is concluded with all SADC EPA configuration members, including South Africa. Given South Africa's ongoing reluctance to be drawn into commitments on trade in services and trade-related areas within the framework of an EPA (preferring to negotiate on these issues at the WTO, if at all), a fundamental question arises as to whether the conclusion of an ambitious EPA embracing all members of the SACU is a realistic policy proposition. This in turn generates uncertainty as to the possibility of a future IEPA agreement that includes revised provisions dealing with unresolved negotiation issues drawn up on the basis of the agreements reached in Swakopmund. This is important, as many of these provisions have a direct bearing on the right of SADC IEPA governments to continue to use the affected trade-policy tools in support of food and agricultural sector development.

### 3.5 The danger of non-agreement: A complex reality

If agreement cannot be reached on the incorporation of such alternative provisions, then a number of SADC IEPA configuration governments may continue to defer signature of the agreement. This could create demands for the EC to propose the withdrawal of the country or countries concerned from the list of beneficiaries of the December 2007 EU Council Regulation (1528/2007), a move which if approved by the EU Council would result in the loss of duty-free, quota-free access. If duty-free, quota-free access were withdrawn, this would result in the *de facto* closure of the EU market to exports of beef and sugar from the affected countries, and would reduce the profitability of exports of a number of other agricultural products. In this context, some SADC IEPA governments may wish to continue with the IEPA process (moving forward with ratification), while other SADC IEPA governments, notably Namibia, may see exports having to take place under the EU's standard Generalised System of Preferences (GSP) regime.

The introduction of different trade arrangements between the EU and SACU governments could see the reintroduction of border controls and, in a worst-case scenario, raise the spectre of the break-up of the Southern African Customs Union, since it would undermine the integrity of the SACU's common external tariff. No government of a SACU member state would view such a development with equanimity. However this doomsday scenario for SACU would appear to be unlikely to emerge, since the EU *de facto* already enjoys duty-free access to the SACU market (including Namibia) on 'substantially all trade', via the South Africa-EU Trade Development and Cooperation Agreement, which will be fully implemented by 2012. In this context, withdrawing duty-free, quota-free access from an individual SACU member state in the name of WTO compatibility would, to say the least, appear perverse.

## Information sources

### Key developments in the SADC EPA negotiations (in reverse chronological order):

1. ICTSD, 'The moment of truth for regional integration', *Trade Negotiations Insights*, No. 6, Vol. 8, 6 August 2009:  
<http://ictsd.net/i/trade-and-sustainable-development-agenda/52602/>
2. ICTSD, 'The future of the Southern African Customs Union', *Trade Negotiations Insights*, No. 6, Vol. 8, August 2009:  
<http://ictsd.net/i/news/tni/52394/>
3. EC, DG Trade, *EPA Flash News*, press statement 'EPAs: Mozambique joins EU SADC interim EPA' 15 June 2009:  
[http://www.acp-eu-trade.org/library/files/EC\\_EN\\_170609\\_EC\\_Mozambique-joins-EU-SADC-interim-EPA.pdf](http://www.acp-eu-trade.org/library/files/EC_EN_170609_EC_Mozambique-joins-EU-SADC-interim-EPA.pdf)
4. ICTSD, 'Three southern African nations sign interim EPA with EU', *Bridges Weekly Trade News Digest*, Vol. 13, No. 21, 10 June 2009:  
<http://ictsd.net/i/news/bridgesweekly/48336/>
5. EC, 'Fact sheet on interim EPAs: SADC group', January 2009:  
[http://trade.ec.europa.eu/doclib/docs/2009/january/tradoc\\_142189.pdf](http://trade.ec.europa.eu/doclib/docs/2009/january/tradoc_142189.pdf)
6. South Africa-EU Strategic Partnership, joint communiqué from the Ministerial Troika meeting in Kleinmond, South Africa, 16 January 2009:  
[http://www.acp-eu-trade.org/library/files/Conseil-UE\\_EN\\_160109\\_Conseil-UE\\_Joint-Communique-South-Africa-EUTroika.pdf](http://www.acp-eu-trade.org/library/files/Conseil-UE_EN_160109_Conseil-UE_Joint-Communique-South-Africa-EUTroika.pdf)
7. Joint Angola, Namibia and South Africa demarche to the EU member states, 7 January 2009:  
[http://www.acp-eu-trade.org/library/files/ANSA%20\\_EN\\_070109\\_Demarche-to-EU-MS.pdf](http://www.acp-eu-trade.org/library/files/ANSA%20_EN_070109_Demarche-to-EU-MS.pdf)
8. ICTSD, 'EPA negotiations update', *Trade Negotiations Insights*, Vol. 7, No. 9, November 2008:  
<http://ictsd.net/i/news/tni/32875/>
9. EC, DG Trade, *EPA Flash News*, open letter from Commissioner Mandelson to Namibian civil society, 2 September 2008:  
[http://www.acp-eu-trade.org/library/files/EC\\_EN\\_050908\\_EC\\_Commissioner-Mandelson-s-open-letter-to-Namibian-civil-society.pdf](http://www.acp-eu-trade.org/library/files/EC_EN_050908_EC_Commissioner-Mandelson-s-open-letter-to-Namibian-civil-society.pdf)
10. ECDPM, 'EPA negotiations: state of play in August 2008', 2 September 2008:  
[http://www.acp-eu-trade.org/library/files/ECDPM\\_EPA\\_Negotiations\\_State\\_of\\_Play\\_August\\_2008.pdf](http://www.acp-eu-trade.org/library/files/ECDPM_EPA_Negotiations_State_of_Play_August_2008.pdf)

**L** *unched by CTA (Technical Centre for Agricultural and Rural Cooperation EC-ACP) in 2001, the Agritrade website (<http://agritrade.cta.int>) is devoted to agricultural trade issues in the context of ACP (Africa, Caribbean and Pacific) – EU (European Union) relations. Its main objective is to better equip ACP stakeholders to deal with multilateral (World Trade Organization - WTO) and bilateral (Economic Partnership Agreement – EPA) negotiations. Thus it provides regular and updated information and analysis on technical aspects of the trade negotiations, developments in the CAP and their implications on ACP-EU trade, as well as on major commodities (bananas, cereals, sugar, fisheries, etc).*

*CTA was created in 1983 in the framework of the Lomé Convention between ACP (Africa, Caribbean, Pacific) and EU (European Union) countries. Since 2000, the Centre has been operating under the ACP-EU Cotonou Agreement. CTA's tasks are to develop and provide services that improve access to ever-changing information for agricultural and rural development, and to strengthen the capacity of ACP countries to produce, acquire, exchange and use information in this area.*

**For more  
information:**

**CTA:**

Web: <http://www.cta.int>

**Agritrade:**

Web: <http://agritrade.cta.int>

Email: [agritrade@cta.int](mailto:agritrade@cta.int)

**Postal Address:**

CTA

Postbus 380

6700 AJ Wageningen

The Netherlands

Telephone: +31 (0) 317 467100

Fax: +31 (0) 317 460067

E-mail: [cta@cta.int](mailto:cta@cta.int)

**Visiting address:**

Agro Business Park 2

Wageningen

The Netherlands

**Brussels Branch Office:**

CTA

Rue Montoyer, 39

1000 Bruxelles

Belgium

Telephone: +32 (0) 2 5137436

Fax: +32 (0) 2 5113868