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Executive brief

Southern and Eastern Africa: Agricultural trade policy debates and developments

1. Background and key issues

Food and agricultural sector policy is a politically charged issue throughout Southern and Eastern Africa. Policy development carries major macro-economic and political consequences, from economic collapse in Zimbabwe and famine in the Horn of Africa to periodic food riots in the face of rising food prices. The history of land dispossession and famine in some countries has a strong bearing on the policy-making process.

> *"Food and agricultural sector policy is a politically charged issue throughout Southern and Eastern Africa"*

In this regard, historical factors influencing agricultural policy formulation bear a striking resemblance to the EU's cold war agricultural policy, focused on food security, which was pursued from 1957 to the early 1990s. In the EU, it has taken 20 years of reform to bring about incremental changes, which are still strongly politically contested (witness the 2012–13 EU common agricultural policy (CAP) discussions).

In recent years, global food price trends have led to a renewed policy focus on agricultural development, while the ongoing crisis in jobs and livelihoods across the region has seen increased emphasis placed on local value-added processing and associated job creation. Food security concerns, the growing focus on expanding national food production, and aspirations to develop value-added food processing industries pose important policy challenges in terms of balancing the interests of consumers, agricultural producers and food processors.

This serves to complicate regional trade integration, with the agro-food sector being one of the most sensitive areas in the design and implementation of regional trade integration initiatives. Vast differences in the size of national economies and economic concentration in some agro-food sectors, which undermine the free functioning of markets, further complicate the matter.

In Southern and Eastern Africa, five main regional integration initiatives are being implemented or negotiated: two customs unions – the Southern African Customs Union (SACU) and the East African Community (EAC); two free trade areas – the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA); and a grand free trade area under negotiation, which is aimed at reconciling inconsistencies arising from different overlapping regional trade integration initiatives – the tripartite free trade area (T-FTA). Overlapping membership of different trade initiatives poses particular problems for Tanzania, which is a member of both the EAC customs union and the SADC FTA, and Swaziland, which is a member of SACU, COMESA and SADC.

Within these intra-regional trade agreements, trade in some food and agricultural products is particularly sensitive. This gives rise to exceptions to the principle of the free movement of goods (even within customs unions), and in some instances multiple exceptions to the customs unions' common external tariff (CET). Within FTAs the negotiation of market access for food and agricultural products is particularly sensitive, being subject to exclusions from tariff elimination commitments, tariff-rate quotas and special import licensing arrangements.

The active use of agricultural trade policy tools is an important feature within all trade integration initiatives in Southern and Eastern Africa. The elaboration of rules of origin for value-added food under trade integration arrangements also poses problems both in their design (wheaten products under the SADC FTA and COMESA FTA) and implementation (edible oil products under the COMESA FTA). Divergent policies on food safety requirements, sanitary and phytosanitary (SPS) measures, and divergent product standards further hinder the development of intra-regional trade in food and agricultural products.

Analysts have suggested that there is a marked reluctance to get to grips with these 'behind border' issues, given the variation in implementation capacities and the serious implications that this could carry for the market competitiveness of national producers.

There are many non-policy-based non-tariff barriers to trade (poor roads, administrative procedures, logistical constraints, corruption, etc.) that further complicate the development of intra-regional trade in food and agricultural products, with transportation delays (especially at border posts) undermining the value of traded goods in many instances. This constitutes one of the most important areas for action in the implementation of trade and development agendas in Southern and Eastern Africa. The 'one-stop border post' initiative, which is increasingly being taken up across the region, constitutes one of the most important areas of action in this regard.

Across regional integration initiatives in Southern and Eastern Africa, the absence of agreed arbitration arrangements and binding dispute settlement mechanisms (as in SADC) or the relative ineffectiveness of established arrangements in the trade sphere (as in EAC and COMESA courts of justice), compounds problems faced in implementing FTA arrangements in the food and agricultural sector.

In terms of Southern and Eastern African external trade relations, food and agricultural products are generally subject to higher tariffs than non-agricultural products, while diverse agricultural trade policy tools tend to be used in sensitive product areas. The difficulties in intra-regional trade negotiations are also faced at the inter-regional level. In the case of south–south trade arrangements, this has given rise to agreements with limited product coverage, while in north–south arrangements it has greatly complicated the negotiation of FTAs compatible with the rules of the World Trade Organization (WTO). Indeed, food and agricultural policy-related issues have been prominent among the outstanding contentious matters in the ongoing Economic Partnership Agreement (EPA) negotiations.

2. Latest developments

Evolution of use of agricultural trade policy tools

Making greater use of bound tariffs

While tariffs on food and agricultural imports have tended to be higher than on non-food products across Southern and Eastern Africa, high food prices in some countries have prompted tariff reductions and tariff waivers to ease inflationary pressures. But this is not a uniform trend across all countries and all sectors.

In the course of 2012–13, the South African authorities have been showing growing concern over "the increased penetration of imported processed foods", which is seen as slowing down job creation in the domestic food processing sector. According to government figures, the "import penetration ratio rose from 9% in 2005 to 13% in 2010." Increased importance is being attached to promoting agro-processing.

"In some countries increased importance is being attached to promoting agro-processing"

According to the South African Trade Minister Rob Davies, "agro-processing is of strategic importance to promote industrial development in South Africa." In April 2013, the South African authorities launched the Manufacturing Competitiveness Enhancement Programme (MCEP), worth some US$764 million (see *Agritrade* article 'Building up agro-processing seen as essential to South Africa's development', 13 May 2012).

Increased attention is also being paid to strengthening local animal feed supply chains, through the development of soya bean production. In terms of trade policy, given the surge in imports of poultry parts into South Africa (see *Agritrade* articles, 'Poultry exports to Africa on the rise', 9 December 2012, and 'South African poultry sector problems compounded by rising EU exports', 15 April 2013), the government first introduced safeguard duties against imports from Brazil, and subsequently withdrew this measure in favour of a more comprehensive approach, involving a review of the general tariff within bound tariff ceilings (see *Agritrade* article, 'South Africa defuses WTO poultry dispute with Brazil', 18 February 2013).

This forms part of a broader shift in South African government policy towards the use of a more sophisticated and transparent tariff policy in pursuit of industrial development objectives. Closely linked to this is an increased emphasis on agro-processing in SACU's regional industrialisation strategy.

Export restrictions

In terms of the evolution of agricultural trade policy tools, 2012–13 saw the continued use of export restrictions in the cereals sector, against the background of ongoing concerns over elevated global price levels.

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According to the US Department of Agriculture (USDA), "exports of grain are officially prohibited" in Ethiopia, with the exception of occasional exports to "neighbouring countries when there is sufficient local production" (see *Agritrade* article 'International trade plays limited role in Ethiopian cereals sector', 22 July 2013). It was reported, however, that the Ethiopian government was moving away from the use of export bans and restrictions, with commitments being made, in the context of New Alliance for Food Security and Nutrition, to lift restrictions on exports of maize, sorghum and raw cotton. It remains to be seen how the G8 initiative to promote private sector investment in African agriculture will dovetail with Ethiopian government policies on land allocations to foreign investors and privatisation of state wheat farms. Success in mobilising foreign private investment in the development of local agricultural supply chains may prove sufficient to overcome the domestic pressures which bring about periodic reversals of policy commitments on export restrictions in Ethiopia (see *Agritrade* article 'Agricultural trade policy changes pending in Ethiopia', 9 December 2012).

In Zambia, meanwhile, concerns over rising cereals prices and possible food shortages led to a centralisation of import licensing arrangements in September 2012 (see *Agritrade* article 'South Africa's export profile complicates regional food security situation in Eastern and Southern Africa', 2 December 2012). This disrupted contracted private sector maize exports to Zimbabwe, something that the state-to-state maize supply arrangements of March 2013 did little to rectify. This does not encourage the development of private-sector-based intra-regional cereals supply chains (see *Agritrade* article 'Temporary export bans and GMO policies complicate Zimbabwe maize procurement', 26 May 2013).

Similarly, concerns in Malawi over maize shortages in the southern province brought the introduction of an export ban. This made it unclear how much of the projected Malawian maize surplus would be available for export. Significantly, the US Agency for International Development (USAID)-supported Famine Early Warning System Network reported in May 2013 that "despite a national maize export ban…, maize exports between April 2012 and March 2013 were 18% higher than the five-year average", with these exports via Tanzania "reportedly destined for the Greater Horn of Africa".

This raises serious questions about the effectiveness of maize export bans, suggesting that the negative effects of such measures are borne without any corresponding benefits, since they are largely ineffective in halting trade flows, and simply increase the costs of such transactions. This would appear to be borne out by analysis from the Economic and Social Research Foundation of the impact of Tanzania's 2011 export ban. This analysis found that the ban encouraged smuggling, undermined investment, and condemned farmers to poverty (see *Agritrade* article 'Agricultural export bans hit farmers', 20 May 2012). Building on this, in May 2013, the Tanzanian minister of agriculture announced significant income gains for farmers following the lifting of the export ban, with traders buying for export paying almost twice as much as traders serving the domestic market.

The periodic use of export bans also raises questions as to whether Zambia and Malawi can be seen as reliable alternative suppliers of maize to food-deficit countries in Southern and Eastern Africa.

This raises the policy issue of the use of more market-based tools to manage national and regional maize markets. Promoting increased transparency in the functioning of maize markets and cereals availability at national and regional levels is an important issue to both Grains South Africa and the Eastern Africa Grain Council, with a number of initiatives being taken in this regard. However, establishing improved and reliable national and regional grain information systems requires "a proper legislative environment and clear policies for the whole value chain" (see *Agritrade* interviews with Jannie De Villiers, 'The South African cereals sector: Recent developments and future challenges', 9 July 2012, and with Gerald Masila, 'The East African cereals sector: Recent developments and future challenges', 12 August 2012).

Import licences

> *"Across Southern and Eastern Africa, import licences continue to be used to regulate imports of food and agricultural products"*

Across Southern and Eastern Africa, import licences continue to be used to regulate imports of food and agricultural products. This is particularly the case in the SACU, where agro-food sectors in the smaller states live in the shadow of South Africa. Botswana and Swaziland, for example, both use import licences to regulate poultry imports, while Namibia is considering import licences in the poultry sector as part of broader infant industry protection arrangements.

Import licensing in Namibia is central to the 'controlled products' regime used to support cereal and horticulture sector development. In the horticulture sector, import licences have been managed as part of a wider initiative to strengthen the functioning of local horticultural supply chains, with this increasing local supplies from 5% of the market before the scheme to 37.5% in 2011, without any significant price inflation and minimal trade disruption.

In March 2013 Namibian dairy producers were reported to be seeking the inclusion of a range of dairy products under the 'controlled products' legislation, following the lapsing of broader infant industry protection. Import licences would be used to regulate imports, within a market split 80:20 between local producers and South African dairy exporters (see *Agritrade* article 'Technological changes and regulatory differences undermine Namibian dairy sector', 22 April 2013).

Elsewhere in Southern and Eastern Africa, import licences are used to manage import quotas, such as those applied in the Kenyan sugar sector under the extended COMESA safeguard arrangements, and the special dispensation for Uganda to allow it to meet national sugar consumption needs. In the context of customs unions, however, national import quotas can disrupt intra-regional trade, as neighbouring states restrict trade for fear of trade diversion. This occurred in the EAC when the Kenyan authorities blocked the transit of sugar to Uganda (pending payment of substantial cash bonds), fearing that these sugar imports would find their way back on to the Kenyan market. This gave rise to sugar shortages and raised sugar prices in Uganda (see *Agritrade* article 'Variable picture in EAC sugar sector with ongoing disputes escalating', 15 April 2013).

> *"Non-transparent, arbitrary application of import licences and other restrictive measures is a source of concern"*

The non-transparent, arbitrary application of import licences and other restrictive measures is a source of concern throughout Southern and Eastern Africa, with these measures being seen to undermine both the proper functioning of customs unions and progress towards the creation of a free trade area. Arbitrary, non-transparent import licensing arrangements are seen to increase the costs of trade and expand the scope for corrupt practices. Calls are growing for clearer and more transparent rules on the use of import licences and for the establishment of regional appeals and enforcement mechanisms in cases where such tools are inappropriately applied.

SPS, food safety and product standards

> *"Divergent requirements in SPS, food safety and product standards can add considerably to the costs of intra-regional trade"*

While SPS, food safety and products standards play a legitimate role in protecting plant, animal and human health, they can also provide a ready tool for protectionism. Divergent requirements in SPS, food safety and product standards can distort competition and add considerably to the costs of conducting intra-regional trade. The period 2012–13 saw the emergence and resolution of a range of SPS- and standards-related disputes, ranging from Kenyan restrictions on exports of Tanzanian cut flowers through Nairobi airport (see *Agritrade* articles 'Intra-regional SPS concerns threaten Tanzanian cut flower exports and sours broader trade', 11 March 2013, and 'Kenya–Tanzania SPS dispute on flowers in transit resolved', 10 June 2013), through the introduction of new packaging standards for edible oil in Tanzania, to the presidential announcement of a Kenyan ban on imports of genetically modified (GM) maize.

These disputes may be linked to genuine SPS/food safety concerns, a lack of confidence in the integrity of neighbouring country control systems, genuinely divergent technical standards, or an engineered divergence of standards linked to new patterns of national investment. Making a distinction between these different types of measure is important, since it affects the way forward in eliminating SPS-, food-safety- and standards-based barriers to trade. While initiatives are under way in many fora to address these issues, progress is uneven.

A major shortcoming in this regard is the absence of effective regional institutional arrangements for appeals and binding dispute settlement, despite nominal commitments under various regional trade agreements

Progress in regional integration in the agricultural sector

Developments in the SACU

Intra-SACU trade largely revolves around South Africa, with only limited volumes of trade in specific sectors taking place between Botswana, Lesotho, Namibia and Swaziland (BLNS). The scale of the South African economy means that South African enterprises tend to dominate BLNS producers in the agro-food sector. This is compounded by the spread of South African multiple retailers, with their centralised procurement practices, leading to repeated complaints about South African companies adopting abusive trading practices. Particular criticisms are levelled against the use of uniform SACU-wide pricing policies by the companies concerned, which provide a de facto transportation and distribution subsidy to operations in Namibia and Botswana.

In Namibia, these criticisms focused in mid 2012 on the dairy sector, with Namibia Dairies claiming that it had been driven out of cheese production and was facing increasing pressures in the long-life milk component of the market (see *Agritrade* article 'Addressing dairy product predatory pricing practices within customs unions', 9 September 2012). By June 2013 the focus had shifted to the poultry sector, with the Namibian Chamber of Commerce and Industry (NCCI) calling for "greater protection of the country's fledgling industries that are at the mercy of the big South African companies" and for the Namibian government to make full use of SACU infant industry protection in the poultry sector to counter these practices.

The perceived urgency of infant industry protection in the Namibian poultry sector cannot be divorced from the major rise in SACU imports of low-cost poultry parts, and the marketing responses of South African poultry sector enterprises, which focus increasingly on regional markets (see *Agritrade* article 'Regional expansion of poultry companies intensifies trade policy debates in Namibia', 12 May 2013). This corporate response to rising volumes of poultry-meat imports from the EU (a sixfold increase between 2010 and 2012) provides an important transmission belt for the consequences of expanded EU poultry exports across the Southern African region.

A number of potential problems arise around the use of SACU infant industry protection provisions in the poultry sector. The first of these relates to how this is reconciled with the provisions of the EU–South Africa Trade Development and Cooperation Agreement (TDCA) and the SADC–EU interim EPA (IEPA) commitments. The South African Poultry Association (SAPA) has suggested that the commitments made under the South Africa–EU TDCA mean that measures other than tariff increases will be needed to deal with the increased volumes of poultry-meat imports (see *Agritrade* article 'South African poultry sector problems compounded by rising EU exports', 15 April 2013), while the current provisions of the SADC–EU IEPA explicitly commit the SADC EPA parties to the abolition of the use of import licences and other forms of quantitative restrictions. How this will work out in practice will depend on the outcome of the ongoing SADC–EU EPA negotiations on agricultural safeguards.

The push by South African poultry companies for higher levels of tariff protection raises the issues of cross-subsidisation, given their growing regional focus. The elevated prices which tariff protection can bring on domestic markets can be used to cross-subsidise export prices. This applies whether it is EU exports to South Africa, South African exports to Namibia or potential Namibian exports to regional markets (see *Agritrade* article 'Use of policy tools to protect SACU poultry sectors raises trade policy issues', 13 January 2013).

A third issue relates to the dangers of extended infant industry protection. In Botswana's poultry sector, infant industry protection has now been in place for 30 years. Local analysis in Botswana has suggested that, given the functioning of the global poultry economy, even South African poultry factories are "simply too small and its maize too expensive for the country to be able [to] compete against the true global giants". In this context the question was raised: if South Africa with its relatively "giant poultry factories and a huge maize producing sector cannot compete, how can all the countries of SACU and even the SADC countries possibly ever be globally competitive?"

This underlying analysis suggested that any new use of poultry sector infant industry protection by Namibia could well become similarly durable, locking consumers in to high-priced poultry meat.

The dismantling of SACU infant industry protection for the dairy sector in Namibia has led Namibia Dairies to push for the inclusion of dairy products in the list of 'controlled products' subject to import permit requirements. This would be consistent with practices elsewhere in the SACU (see *Agritrade* article 'Addressing dairy product predatory pricing practices within customs unions', 9 September 2012). No final decision has been taken, however.

> *"Leaving agro-food sector developments to the vagaries of the free market is not seen as a viable policy under some regional integration initiatives"*

Because of concerns over rising global food prices, leaving agro-food sector developments to the vagaries of the free market is not seen as a viable policy under regional integration initiatives in BLNS. This has important implications for the agro-food sector components of wider regional integration initiatives, particularly the T-FTA.

Developments in the EAC

According to the 2012 State of East Africa report, intra-EAC trade has "doubled over the past five years" (see *Agritrade* article 'EAC to get tough on NTBs', 9 July 2012). Contrary to expectations, Kenya has not dominated this trade expansion. According to a report commissioned by Kenya's Ministry of the East African Community, the growth rate in Kenyan exports to the EAC "has been declining over the past eight years", and has been slower than for other EAC members for the past 5 years. "Kenya's contribution to total intra-EAC exports declined from 78.3 per cent in 2005 to 57.2 per cent in 2010". In contrast "Tanzania and Uganda's contributions to total intra-EAC trade increased sharply from 6.6 and 4.2 per cent in 2005 to 20.67 and 19.2 per cent respectively in 2010." Kenyan businessmen have reportedly blamed "non-tariff barriers imposed by the other EAC countries" for the decline in Kenya's relative export performance, with product standards being seen as a particular problem where local production is being developed: (e.g., for Kenyan exports of edible oils to Tanzania – see *Agritrade* article 'More balanced trade emerging within the EAC?', 6 April 2013).

According to the WTO Secretariat, while there are no longer any tariffs on intra-EAC trade in originating goods, incomplete implementation of EAC trade policy commitments poses "a major collective risk for the economies of [the] EAC", with non-tariff barriers (NTBs) seen as "major impediments to trade and business development in the EAC". The uneven progress in eliminating NTBs is compounded by "non-harmonized technical regulations, sanitary and phytosanitary requirements, customs procedures and documentation, rules of origin", as well as informal barriers to trade (e.g., police roadblocks). Efforts continue to get to grips with the wide range of NTBs to trade. According to the EAC Secretariat, while NTBs should have been removed by December 2012, only some 36 of the identified NTBs had been removed, a further 35 remained unresolved, while, "about 10" new NTBs had emerged. There is a common frustration in EAC countries over the continuation of these NTBs where they affect exports. Agriculture is the sector most severely affected.

> *"The EAC Secretariat has identified a need for a legally binding framework for the elimination of NTBs"*

The EAC Secretariat has identified a need for "a legally binding framework", for the elimination of NTBs, with a draft law prescribing penalties for countries failing to eliminate prescribed trade barriers having been "submitted to the regional parliaments in November 2012".

Currently, regionally agreed policy commitments are not always followed up by"domestication" of these measures into national legislation. This explains the continued existence of certain NTBs that have hindered the development of regional trade in basic foodstuffs (see *Agritrade* article 'Regional agricultural aspects of the East African Community WTO trade policy review', 21 January 2013).

Overall, the Kenya Private Sector Alliance (KEPSA) has expressed concerns at the way in which the EAC has handled the re-emergence of NTBs. KEPSA has sought to develop an action plan for fast implementation of a fully fledged customs union, including the removal of NTBs to trade. Such an approach is not universally endorsed within the EAC, however: the Speaker of the Tanzanian Parliament argued in May 2012 that Tanzania was "just not ready" in many areas for any accelerated implementation of EAC commitments.

While the emergence of new NTBs is a matter of concern, it is important to disaggregate the non-tariff measures that are simply barriers to trade and those which have a legitimate purpose, for example maintaining food safety and ensuring the integrity of necessary SPS controls. With regard to SPS controls, the WTO Secretariat has noted that, despite EAC treaty commitments on harmonisation, "in practice there is no formal structure for the application of SPS measures at the regional level" (see *Agritrade* article 'Regional agricultural aspects of the East African Community WTO trade policy review', 21 January 2013). This in part reflects underlying capacity constraints (laboratory, technical, and operational funding) across the region in the design and implementation of SPS control systems. In 2012/13 Kenya blocked Tanzanian cut flower exports via Nairobi airport, having taken 23 months to accept assurances over recommended actions to address SPS shortcomings and lift restrictions (see *Agritrade* article 'Kenya–Tanzania SPS dispute on flowers in transit resolved', 10 June 2013). Concerns regarding trans-boundary transmission of plant and animal diseases are only too real, so this is an issue that is quite distinct from the use of NTBs to restrict imports in the face of an underlying lack of competitiveness, and NTBs arising from infrastructure, logistical and administrative constraints (see *Agritrade* article 'Agriculture should be target for support in East Africa', 18 February 2013).

Trade within the EAC in food and agricultural products is further complicated by anomalies in the EAC CET. As the WTO Secretariat has pointed out, while a CET is nominally in force, member states are still allowed to extend preferences bilaterally, and the EAC Council can grant country-specific import duty waivers. This has led business representatives to claim that the list of derogations has become so long that "the current CET exists only in book form as each country is now operating its own external tariff albeit with substantial similarity". This situation is further compounded by the application of many solely national "para-tariff measures" (e.g., import fees and levies).

This system of national exceptions and discretionary measures is particularly problematical in the food and agricultural sector, with a wide range of products simply not covered by the CET. This then greatly complicates the free movement of goods within the region, most notably in the sensitive sugar sector, where a number of related disputes emerging in 2012/13 began to escalate, with tit-for-tat measures being introduced (see *Agritrade* article 'Intra-regional SPS concerns threaten Tanzanian cut flower exports and sours broader trade', 11 March 2013).

> *"Calls have been made for a comprehensive review of the EAC CET to eliminate exceptions and discretionary measures"*

This has led to calls for a comprehensive review of the EAC CET to eliminate country specific exceptions and duty remission arrangements, and reduce the scope for the application of discretionary measures and the accommodation of bilateral third-party agreements.

While agricultural policies such as the EAC agriculture and rural development policy and food security action plan have been developed at the regional level, the absence of regional financial resources for programme implementation (i.e., a sort of EAC "mini-CAP budget") ensures that agricultural policy implementation remains firmly rooted in national agricultural policy-making processes.

Developments in SADC

Analysts maintain that considerable progress has been made among the core membership of SADC in eliminating tariffs on intra-regional trade. A June 2013 analysis from the South Africa-based trade law centre TRALAC noted that imports from SADC Trade Protocol signatories into the SACU are "largely tariff free", while, with the exemption of Angola, DRC and Seychelles, which have remained outside the SADC Trade Protocol, SADC members have largely honoured their commitments on tariff elimination. There are, however, several notable exceptions.

While by January 2012 the phasing down of tariffs on sensitive products had largely been completed, this process has been deferred until 2015 for Mozambique, where in 2012 "there seemed to be tariffs on all agricultural imports… from South Africa". Malawi, Zimbabwe and Tanzania all have derogations from tariff-elimination commitments. Indeed, according to TRALAC's analysis, Tanzania is "far from offering duty-free access to South Africa, with extreme tariffs reported for rice, sugar, milk products and cereals in particular". Madagascar, for its part, charges a 20% duty on live animals, meat, fish, and fruit and vegetable products from South Africa.

At the sector level, particular problems of market integration arise for sugar. Quota restrictions limit access for SADC sugar to the SACU market, while no concessions on sugar imports are offered by SADC members to SACU sugar under the SADC Trade Protocol (see *Agritrade* article, 'TRALAC reports uneven progress in SADC trade integration', 5 August 2013).

"SADC Trade Protocol commitments to eliminate existing NTBs and introduce no new NTBs remained largely unfulfilled"

Analysis published by TRALAC in September 2012 noted that SADC Trade Protocol commitments to eliminate existing NTBs and introduce no new NTBs remained largely unfulfilled (see *Agritrade* article 'SADC: Progress on tariff liberalisation but less on NTBs', 2 December 2012). Indeed, TRALAC analysts have suggested that, beyond the shallow integration represented by tariff elimination commitments, there appeared to be little appetite among all SADC member states for greater integration on 'behind border' issues (regulatory harmonisation, customs coordination, trade facilitation, and so on).

In addition, analysts at TRALAC have suggested that the phrasing of the provisions of the SADC Trade Protocol left considerable room for manoeuvre to defer the elimination of both tariff and non-tariff measures. Article 3 (1) (c), and the interpretation placed on Articles 9 and 10 of the SADC Trade Protocol, are seen as providing scope for reversing tariff liberalisation commitments already made, with national food security objectives providing the most common justification for not implementing agreed regional policy commitments (see *Agritrade* article 'SADC: Progress on tariff liberalisation but less on NTBs', 2 December 2012).

"Problems continue to arise under SADC rules of origin, particularly in the agro-food sector"

Problems also continue to arise under SADC rules of origin, particularly in the agro-food sector, with this being seen as an important factor in the low use of SADC preferential tariff arrangements. The reality is that the SADC rules of origin were the result of "a trade-off between substantial tariff liberalisation and restrictive rules of origin". Illustrative of this is the treatment of wheat flour, which "continues to be traded on [a] non-preferential basis … as no rule could be agreed upon". Rules-of-origin requirements on processed food products also continue to restrict intra-regional trade development.

The June 2013 TRALAC review of trade data concluded: "intra-SADC trade is low" and "not necessarily increasing".

Following the suspension of the SADC Tribunal in 2010, the absence of mechanisms whereby governments or private sector bodies "can bring an application for the enforcement of rights provided for in any of the SADC legal instruments" is seen as a particular problem. According to TRALAC, the Southern Africa Trade Hub 2012 audit of the SADC FTA found that "certain member states are not complying with basic obligations in the SADC Trade Protocol". Some are charging "surtaxes" and levies on goods imported from other state parties in violation of the applicable tariff schedules. In other instances, "goods from selected member states are targeted, amounting to discriminatory treatment". Complaints have also been made over the use of health standards to block imports, with little objective justification being provided. This led TRALAC analysts to conclude that trade under the SADC FTA now "takes place on the basis of discretions and ad hoc policy responses".

The problem of non-implementation of agreed commitments is not a new one, but has been repeatedly highlighted. To date, however, SADC structures have been unable to agree on how to tackle problems of non-implementation of regional trade policy commitments. The TRALAC analysis highlighted the need for independent adjudication processes, specifically for trade disputes. It was maintained that the absence of such mechanisms alongside implementation problems is leading to "growing cynicism" in the private sector over regional trade integration processes. This is felt to carry important implications for the T-FTA negotiations.

Developments in COMESA

Problems similar to those under the SADC FTA are faced under the COMESA FTA. There, too, special treatment is allowed, with Kenya having secured repeated extension to the special safeguard provisions granted for trade in sugar (see *Agritrade* article 'Kenya secures sugar safeguard extension against background of foreign investment', 20 November 2011). In certain sectors, such as cereals (and even quota-restricted access for sugar to the Kenyan market), COMESA tariff concessions play an important role in maize procurement decisions, with Malawi and Zambia having become important suppliers of maize to Kenya.

Overall, when faced with a choice traders have shown a preference for exporting under the COMESA FTA rather than the SADC FTA. Simpler rules of origin are seen as playing a role in this regard, although the COMESA 35% value-addition requirement is seen as hindering the development of intra-regional trade in certain products (e.g., wheat flour, given that wheat grain constitutes 90% of the value of wheat flour). In Zambia, for example, complaints have emerged over the non-originating status of Kenyan palm-oil-based edible oil products, with COMESA tariff concessions not being applied. This may have been a factor behind recent moves by a Kenyan company to set up an edible-oil processing facility in Zambia (see *Agritrade* article 'Regional investment in oil crop processing in Rwanda', 1 October 2012). This interaction between the interpretation and application of trade policy commitments and inward investment constitutes an important dimension to intra-regional trade. This applies not only in the COMESA context but also in the EAC context, with Kenya's declining share in intra-EAC trade in part being linked to regional investment decisions taken by Kenyan companies which, in the agro-food sector, see the establishment of local facilities as providing a sounder basis for market development than simple exports.

The use of tariffs to stimulate food sector investment came to the fore in Zimbabwe in 2012–13, with the Zimbabwean government reviewing tariffs applicable to wheat flour with a view to stimulating a revival of its cereals processing sector (see *Agritrade* article 'Zimbabwe wheat flour tariff being questioned', 6 August 2012).

In terms of SPS and food safety constraints on trade, while COMESA member states have adopted the Regulation on Application of Sanitary and Phytosanitary Measures and have designated the Mauritius Food Technology Laboratory as the regional reference laboratory for food safety, challenges are still faced in getting member states to 'domesticate' COMESA-wide decisions and establish effective institutional mechanisms for their routine and effective application. The need for effective national measures to operationalise the proposed COMESA 'green pass', a product certification scheme that would enhance trade in food commodities in the region, is illustrative in this regard (see *Agritrade* article 'Efforts to modernise and harmonise food safety standards under way', 10 June 2012).

Problems of credible domestication of regional SPS/food safety commitments cannot be divorced from institutional and technical capacity constraints faced at national level. Until a uniform system of standards for verification of control of SPS/food safety compliance is set in place, national authorities are likely to give priority to nationally determined SPS/food safety measures, with this providing scope for protectionism where the system of decision-making in not transparent or accountable.

It was in part to address this kind of issue that in September 2012 South Africa's minister of trade and industry set out a vision for "regional development integration" under the proposed T-FTA.

Developments in the T-FTA

The regional development integration approach set out by South Africa's trade minister "combines market integration, cross-border infrastructure development through the Spatial Development Initiatives, and policy coordination to advance regional industrial value-chains". In the T-FTA context, particular importance is attached to trade facilitation at the level of rule-making (e.g., on rules of origin, and customs administration and cooperation) and implementation, particularly the elimination of delays in cross-border movements of goods.

It should be recognised, however, that this often involves nations striking a balance between regional commitments and national priorities in terms of how to reposition individual member states' own industries. This greatly complicates what is often seen as a technical process. This is a particularly sensitive issue in the food and agricultural sector, given food security concerns (see *Agritrade* article 'Development integration concept to be applied as a priority to regional agricultural sector development', 4 January 2013).

At a private sector workshop held in Rwanda in July 2012, considerable importance was attached to consolidating regional integration processes before delving deeper into the T- FTA. The chief executive officer (CEO) of the Rwanda Private Sector Federation expressed scepticism as to whether the EAC is "ready to fully open up to competition from COMESA and SADC" (notably South Africa). This being noted, Rwandan companies are already seeking to exploit regional trade facilitation instruments (e.g., the COMESA Regional Customs Transit Guarantee system), to penetrate regional markets.

Similarly, Tanzanian private sector representatives stressed the importance of "proper preparation" of trade negotiations if smaller economies are not to be "swallowed by the bigger economies". In this context strengthening the EAC was seen as the first priority, with this being addressed by progressively eliminating NTBs to trade, getting to grips with negative policies of partner states and addressing the challenge of poor infrastructure.

This East African private sector perspective is broadly in line with the emerging South African approach, within which, according to analysts, "the preference is to first channel scarce resources to existing commitments..., trying to make them as beneficial as possible." This implies consolidating the SACU by addressing problems and subsequently negotiating the conclusion of the T-FTA (see *Agritrade* article 'Putting the EAC house in order before pursuing the T-FTA', 8 October 2012).

This type of approach was also reflected in the Zambian Institute for

Policy Analysis and Research (ZIPAR) review of the T-FTA process. This analysis urged the Zambian government to "continue its path of tariff reform and regional integration", while clearly identifying its "offensive and defensive interests" within the T-FTA negotiations through intensified dialogue with Zambian stakeholders (see *Agritrade* article 'Putting the EAC house in order before pursuing the T-FTA', 8 October 2012).

Beyond South Africa, the focus on addressing underlying competitiveness issues prior to engaging in broader trade integration initiatives is a common theme across the Southern and Eastern African region. Getting to grips with underlying competitiveness issues is seen as the only effective means of preventing regional integration at the level of the T-FTA from being undermined by extensive product exclusions (particularly in the agro-food sector).

> *"Any agricultural trade integration should be accompanied by instruments to improve infrastructure and help with necessary production adjustments"*

It is widely felt that, ideally, any agricultural trade integration should be accompanied by the establishment of instruments to improve infrastructure and assist countries adversely affected to undertake necessary production adjustments. A variety of initiatives are under way in this regard, with their effective operationalisation being critical.

This provides important background to the ongoing process of technical discussions within the T-FTA negotiations, which are progressing more slowly than originally scheduled.

Agriculture and third-country trade relations

Agricultural trade relations with the EU

Countries in the Southern and Eastern African region continue to be important markets for EU food and agricultural products. Indeed, the importance of the South Africa market to EU food and agricultural exports has grown significantly since 2002, with growth four times that of growth in exports to the ACP, and two-and-a-half times the growth in overall EU food and agricultural product exports. Of total EU exports to South Africa, the value of food and agricultural products increased from 3.2 to 5.5%.

> *"South Africa's food and agricultural trade surplus with the EU fell from €1,378 million in 2002 to €567 million in 2011 – while 95% of EU food and agricultural exports enjoy duty-free access to the SACU market"*

South Africa's food and agricultural trade surplus with the EU fell from €1,378 million in 2002 to €567 million in 2011. By 1 January 2012 South Africa and with fellow SACU members were the only ACP countries with a WTO-compatible free trade agreement fully in place. According to South Africa's minister of agriculture, some 95% of EU food and agricultural exports enjoy duty-free access to the SACU market.

The value of EU exports of food and agricultural products to Kenya has grown threefold, but from a much lower base, while the value of Kenyan food and agricultural exports increased by 47.6%. Kenya's food and agricultural product trade surplus with the EU increased from €689 million in 2002 to €939 million in 2011.

The trends in EU food and agricultural product exports to South Africa and Kenya can be taken as indicative of broader trends in trade in food and agricultural products between the EU and Southern and Eastern Africa.

Particular problems emerged in 2012–13 as a result of expanded EU exports of poultry meat to South Africa, following the imposition of safeguard duties against certain Brazilian poultry-meat exports. By the end of 2012, EU poultry-meat exports to South Africa were almost six times those of 2010, with EU exports accounting for fully 36% of South African poultry-meat imports, up from a mere 4% in 2009. Calls grew from the South Africa Poultry Association (SAPA) for increased tariff protection, and an application was submitted to the International Trade Administration Commission (ITAC) for specific tariff increases (see *Agritrade* article 'Poultry policy debate in SACU intensifies', 1 July 2013). According to SAPA, however, this will not address the problem of the rapid increase in poultry meat imports from the EU, given the provisions of the TDCA, and as a consequence "other measures" will be required.

Added importance therefore attaches to the outcome of the SADC–EU EPA negotiations around agricultural safeguard provisions. This issue has a wider relevance across Southern and Eastern Africa, with concerns having been expressed as far north as Uganda about the impact of poultry meat imports on domestic producers (see *Agritrade* article 'Controversy emerges over chicken meat imports to Uganda', 13 January 2013).

In 2012–13, with EU milk production quotas scheduled for abolition, the Danish dairy sector has expressed interest in dairy markets in East Africa, given the need to find an outlet beyond the EU for expanded milk production (see *Agritrade* interview with Peter Helk, manager of the Confederation of Danish Industry, 'A Danish perspective on investment in African dairy sector development', 24 February 2013, and *Agritrade* article 'End of dairy quotas leads to greater external focus of EU dairy companies', 4 March 2013). It has yet to be determined whether this will involve local investment in association with existing companies, direct foreign investment in dairy processing linked to SMP exports (through turn key projects), or simply increased exports of dairy products.

EU-based sugar companies continued to play a role in the expansion of sugar production in Southern and Eastern Africa in 2012–13. Illovo, the major EU-owned regional sugar company, reported a 14% increase in sugar production, a 41% increase in operating profit, and a 44% dividend increase in May 2013. Illovo shares gained 28% in value in the year to May 2013. This occurred despite rising input costs and falling global sugar prices (see *Agritrade* article 'Fears over future of ACP sugar exports as Southern African sugar companies announce excellent results', 7 July 2013).

A critical issue in 2013–14 and beyond will be the extent to which lower global sugar prices translate into lower returns to sugar cane farmers in Southern and Eastern Africa.

An additional issue arising with specific reference to Illovo's subsidiary, Zambia Sugar, relates to establishing an equitable level of local tax payments in a context of reports of total estimated tax payments to the Zambian state of an average of only US$90,000 per annum since 2007.

"The EU tightened its application of SPS and food safety regulations in 2012–13"

The EU tightened its application of SPS and food safety regulations in 2012–13. This is a growing source of concern, since these measures affect major food and agricultural product export sectors in Southern and Eastern Africa. In January 2013 "more than a fifth of Kenya's vegetable exports to the European market were rejected… after they were found to contain traces of a banned chemical", dimethoate. This followed a 90% reduction in the permitted level of residues to 0.02 parts per million (see *Agritrade* article 'New EU maximum residue levels hit Kenyan vegetable exports', 28 April 2013). Smallholder growers are particularly severely affected. According to press reports, some grower groups' sales for export to the EU were down 92% following the introduction of the stricter controls (see *Agritrade* article 'SPS approval opens US market to Kenyan French bean exports', 19 August 2013).

In the case of South Africa, the EU has tightened controls on interceptions of Citrus Black Spot (CBS), with a maximum of five interceptions of CBS per season being allowed. This is a source of concern since, according to the Citrus Growers' Association of Southern Africa, there has not been a season when there have been fewer than 12 interceptions. The fifth interception occurred at the end of August 2013. After subsequent consultations, restrictions were placed on citrus imports from zones where CBS interceptions have occurred. See *Agritrade* articles 'Tightening of Citrus Black Spot controls could pose challenges', 28 April 2013, and 'Fifth incidence of Citrus Black Spot intercepted in South African citrus exports to EU', 7 October 2013).

Similar problems have arisen in the livestock sector, with the EC modifying the basis for traceability of segregation of EU-compliant and non-compliant cattle, despite there having been no change in the underlying production conditions and disease status of beef production in Namibia since exports were initiated in 1992. (This contrasts with the situation in neighbouring Botswana, where periodic outbreaks of foot and mouth disease have led to EU import bans being frequently imposed.) In Namibia this is threatening to drive emergent communal area beef farmers out of EU market supply chains (see *Agritrade* article 'Commercial implications of EU SPS requirements hinder development of smallholder beef supplies in Namibia', 4 May 2013).

Closely linked to the difficulties and rising costs faced in serving EU markets for food and agricultural products is the EC's announcement in May 2013 of proposals to revise food and feed control regulations. This would include increased mandatory controls, and moves in all member states towards full cost recovery for inspections carried out. Current EC proposals "include detailed measures for the calculation of fees", with an exemption for micro-businesses from the new fees, but not from controls. This exemption was included in recognition of the impact that such fees could have on the competitiveness of micro-enterprises (see *Agritrade* article 'New EU food and feed controls to include full cost recovery', 7 July 2013).

"Stricter EU SPS/food safety controls are prompting a more active exploration of alternative markets"

The emergence of stricter EU SPS/food safety controls, when combined with stagnant demand in Europe, is prompting a more active exploration of alternative markets in faster-growing areas of the world, including markets in Africa for some products (e.g., South African apple exports – see *Agritrade* article 'South Africa deciduous industry commences market diversification', 29 July 2013).

It is against the background of these issues that the ongoing EPA negotiations process in Southern and eastern Africa should be seen.

In terms of trade relations with the EU, Southern and Eastern African governments operate under a number of distinct trade arrangements. Four countries (Mauritius, Seychelles, Zimbabwe and Madagascar) have signed their IEPAs and commenced full implementation from 1 January 2013. Five countries (South Africa, Botswana, Lesotho, Namibia and Swaziland) have now virtually fully implemented the tariff elimination commitments enshrined in the South Africa–EU TDCA. A WTO-compatible FTA arrangement is now fully in place, which de facto applies to the whole territory of the SACU (see *Agritrade* interview with Xavier Carim, Deputy Director-General of the International Trade and Economic Division of South Africa's Department of Trade and Industry, 'Agricultural dimensions of the EPA negotiations between the SADC EPA Group and the EU', 30 June 2013).

While negotiations continue for a comprehensive SADC–EU EPA, substantial progress has been made. The number of unresolved legal provisions is reported to be down from 30 to only a handful of issues. These unresolved issues, however, relate mainly to agriculture. They include:

- the extent of further EU marketing opening to South Africa (with the treatment of 4 of 21 products still outstanding);
- the extent of further reciprocal access to the SACU market for EU food and agricultural exports;
- the specific provisions to be included in an agricultural safeguard clause;
- rules-of-origin issues, particularly cumulation provisions;
- the treatment of export taxes.

At the EAC level, negotiations continued in 2012–13 for the finalisation of the EPA process, with progress being reported in the development cooperation and agricultural provisions. No agreement has yet been reached on the provisions related to export taxes and full cumulation under the rules of origin. In April 2013 Kenya's permanent secretary of trade spoke positively of how the range of unresolved issues in the EAC–EU EPA negotiations is narrowing. He maintained that "on economic cooperation and development, it is almost complete at 80 per cent of the issues agreed. Agriculture is at 90 per cent, rules of origin at 90 per cent and outstanding market access issues at over 90 per cent agreed."

Following the Kenyan elections, the deputy president announced that he expected a deal to be concluded that would secure Kenya's long-term access to the EU market within 2 months. Concerns have been raised in fellow EAC member states about possible unilateral action, since "under the East African Customs Management Act, trade negotiations usually require coordinated action of five member states."

Of the least developed countries (LDCs) in Southern and Eastern Africa which enjoy duty-free, quota-free access to the EU market under the 'Everything But Arms' agreement (EBA), Malawi announced in October 2012 that it was considering concluding the EPA process. Representatives of the Malawi Confederation of Chambers of Commerce and Industry (MCCCI), however, expressed concern that "the capacity of business in ACP countries is not strong enough to face the reality of opening the markets" (see *Agritrade* article 'Malawian government looking to sign interim EPA', 16 December 2012).

In terms of an all-embracing, comprehensive EPA for the whole of Eastern and Southern Africa, progress was described by the South Centre as "sluggish", with many unresolved issues, including those related to the use of export taxes, rules of origin, special agricultural safeguards, the most favoured nation (MFN) clause, Mode 4 service provisions (related to the free movement of labour linked to the provision of services), and development assistance provisions.

The most significant development in 2012–13 related to the ongoing EPA negotiations was the conclusion of the EU 'trilogue' process, which set 1 October 2014 as the date for the lapsing of market access regulation (MAR) 1528/2007, which on a transitional basis has been providing duty-free, quota-free access to the EU market for ACP countries which had initialled an IEPA (see *Agritrade* article 'European Parliament set to endorse "trilogue" 1 October 2014 deadline for completion of EPA process', 6 April 2013). The lapsing of MAR 1528/2007 will see non-LDCs that have not concluded an EPA process by 1 October 2014 losing their duty-free access to the EU market.

Agricultural trade relations with the USA

"The agricultural sector benefits little from AGOA"

In terms of agricultural trade with the USA, a review of the US African Growth and Opportunity Act (AGOA) regime carried out by the Brookings Institution found that the agricultural sector benefits little from AGOA (less than 1% of AGOA exports are agricultural products), given quota limits, the range of product exclusions and US SPS requirements. The report called on the US government to do more to address these limitations to the benefits of AGOA in the agricultural sector, and also called for greater harmonisation of AGOA with the 'Increasing American Jobs through Greater Exports to Africa Act' (see *Agritrade* article 'US African Growth and Opportunity Act needs to do more for agriculture', 27 August 2012).

In 2012–13 a number of developments occurred in agricultural trade with the US. South Africa continued to expand and consolidate its citrus (oranges) exports to the US (since 2009, export volumes have increased 34.5% on a steady upward trend), as more and more production zones have been classified as CBS-free. Given the different EU and US approaches to control of CBS, the launch of EU–US negotiations on harmonisation of SPS standards design and implementation in the context of the proposed Transatlantic Trade and Investment Partnership potentially carries important implications not only for citrus exports but also for a range of other agricultural exports.

In May 2013 Kenya secured SPS approval for the export of French beans to the US, opening new market opportunities for Kenyan exporters. According to press reports, however, the US may seek to limit access for Kenyan French beans, given the potential effects of Kenyan exports on US producers (see *Agritrade* article 'SPS approval opens US market to Kenyan French bean exports', 19 August 2013). This can be taken as indicative of why the agricultural coverage of AGOA is currently limited.

In terms of trade negotiations, EAC ministers and US trade representative Ron Kirk jointly resolved in June 2012 "to pursue a new trade and investment partnership between the United States and the East African Community", building on existing trade and investment relations. This was followed by the signing of a trade and investment framework agreement between the US and South Africa in mid June 2012. Areas of cooperation highlighted included anti-dumping measures, SPS issues, energy, infrastructure and investment. Neither of these initiatives involves the launching of comprehensive FTA negotiations.

Agricultural trade relations with Asia

The trade potential of Asian markets is sparking interest across Southern and Eastern Africa. According to South Africa's minister of agriculture, exports of agricultural products are increasingly shifting away from Europe to Asia, with exports to Asia growing from R10 billion in 1996 to R48 billion in 2011. This trend was seen as likely to continue into the future (see *Agritrade* article 'Trade agreements and South Africa's shifting agricultural trade flows', 8 October 2012).

While non-traditional export markets are growing in importance for certain South African agro-food exporters, however, these markets remain relatively small compared to the traditional EU market. Indeed, while exporters are favouring market diversification, this does not mean that traditional EU markets are being ignored. Targeted marketing initiatives are being taken in some major sectors to consolidate market share.

This is a common reality across Southern and Eastern Africa. While East African coffee exporters have placed considerable emphasis on market diversification in the 2012/13 season, for Tanzania the traditional EU market share of total exports increased to 50.7%, up from 32.63% in 2011/12, while the main EU markets continued to account for 70.1% of Kenyan coffee exports (see *Agritrade* article 'Good performance in the EAC's coffee sector, despite depressed global prices', 29 July 2013). This suggests that even for bulk commodities such as coffee, market diversification is a complex task, even in a context of falling global prices and weak European demand.

There are several problems in developing exports to Asian markets, the most significant of which in the agro-food sector is securing SPS approvals.

> *"The most significant challenge for market diversification in the agro-food sector is securing SPS approvals"*

The granting of tariff preferences and identification of business partners (see *Agritrade* article 'Opening of Chinese market to Kenyan meat exports could prove timely', 8 October 2012) will come to nothing if SPS approvals are not secured. While improved tariff treatment for Zambian exports to China was announced in December 2012 (see *Agritrade* article 'Increase in Zambian duty-free access to the Chinese market announced', 18 February 2013), this will have no impact in the agro-food sector unless dedicated agricultural export protocols are also agreed and operationalised.

In August 2012, Namibia appeared to be making progress in this area, hosting a delegation from the Chinese Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) as part of the final SPS approval process (see *Agritrade* article 'Prospects for Namibian beef exports to China', 4 January 2013). Even where SPS protocols are in place, however, it has to be borne in mind that the structure of demand in Asia and the profitable routes to markets are often very different from those familiar to regional exporters through their experience in Europe. Against this background, a critical determining factor for exports to start up will be identifying higher-value commercial opportunities relative to those available on other markets, and building up the marketing and distribution network.

It should also be borne in mind that finding one's way around Asian markets is by no means a simple task, particularly when the critical development policy issue is how to capitalise on growing consumer demand in Asia in order to transform the structural engagement of ACP agro-food sectors with the global economy. This is not straightforward, with South Africa's rapid expansion of exports to China having replicated, in exaggerated form, the primary commodity-dependent export profile which characterised its earlier trade relationships with the EU and US (see *Agritrade* article 'China's growing role in African trade', 13 May 2012).

In terms of trade negotiations, while in 2012 the South Africa–India trade negotiations gathered momentum, by mid 2013 negotiations were still going on, with the target date for conclusion having been shifted to the end of 2013. This occurred despite the limited scope of the product coverage of the negotiations. Analysts at the South African Institute for International Affairs (SAIIA) maintain that any agreement is unlikely to have a significant impact on South African exports, given the highly regulated nature of the Indian market. Imports into SACU, however, are a different matter. TRALAC's May 2012 analysis of India's market opening request revealed that some 8.8% of the 1,022 tariff lines on which reductions are being sought related to food and agricultural products, with average tariffs in these areas being among the highest, ranging from 10 to 24.7% (see *Agritrade* article 'Trade agreements and South Africa's shifting agricultural trade flows', 8 October 2012).

In the course of 2012–13, India established a joint study group with COMESA "to examine the possibility of a free trade pact", with the Indian government also seeking to negotiate a comprehensive EPA with Mauritius.

Agricultural trade relations with Brazil

The major role played by Brazil in international agricultural commodities of production interest to Eastern and Southern African economies greatly complicates the elaboration of trade arrangements and the development of agricultural trade flows. This is particularly the case in the sensitive sugar sector, where MFN tariffs around the SACU market have still allowed entry to Brazilian sugar.

In 2012/13, however, the underlying competitive challenges from Brazilian exporters in the agro-food sector were most vividly illustrated in poultry sector trade with South Africa. Safeguard duties were introduced against Brazilian exports of poultry parts, in the face of a major surge in imports (from 206,000 tonnes in 2009 to an estimated 368,000 tonnes in 2012, and a projected 395,000 tonnes in 2013) and their subsequent removal after Brazilian protests and threats of WTO action (see *Agritrade* article 'South Africa defuses WTO poultry dispute with Brazil', 18 February 2013), in the context of moves to raise the general tariff towards the bound ceiling.

The importance of Brazil's role in agricultural commodity trade thus greatly complicated the bilateral process of negotiation, despite calls for an intensification of cooperation between Brazil, Russia, India, China and South Africa (BRICS), including proposals for the creation of a free trade agreement to give these economies a greater voice in global economic issues (see *Agritrade* article 'Chinese calls for closer trade cooperation amongst the BRICS', 22 July 2013).

Brazil is also developing strong links to the Southern and Eastern African region via Angola, a major destination for Brazilian exports of poultry meat and sugar.

3. Current policy debates and issues

Building transparency and accountability into the use of agricultural trade policy tools

Given the extensive use of agricultural trade policy tools in Southern and Eastern Africa, a first essential step is establishing clear and transparent rules for their use. This is essential if the use of agreed trade policy measures is not simply to degenerate into open-ended protectionism, supporting inefficient practices.

This will require, in some instances, the establishment of new structures, and, in other institutional contexts, the strengthening of existing structures, to which appeals can be made over the non-transparent and arbitrary use of permitted trade policy tools, with findings of arbitration bodies binding the parties concerned. This may offer a more pragmatic approach to ending the arbitrary and excessively trade-distorting use of a range of agricultural trade policy tools.

Some advantage may be gained from establishing such bodies on the widest possible geographical basis, so as to escape the confines of 'big brother' concerns that arise in smaller economic groupings where one state is particularly dominant

Establishing a regulatory framework to promote structural investments

Public policy measures can potentially play an important role, in determining the extent to which growing EU corporate interest in the East African dairy sector translates into structural investment in the development of the sector, linked to expanded local milk production. This constitutes an important area for policy attention in the coming years.

Getting to grips with strengthening the functioning of sugar supply chains

Public policy measures can potentially play an important role in determining the extent to which lower global sugar prices translate into lower returns to sugar cane farmers in Southern and Eastern Africa. Issues that might arise where government regulation to strengthen the functioning of sugar supply chains could play a role include:

- the determination of which income streams should be included in the common revenue pool to be divided between growers and millers;
- the determination of the basis for calculating deductions to be made (e.g., costs of shipping raw sugar to market) from the common revenue pool, prior to division of the proceeds between millers and growers;
- the basis for determining the division of the proceeds between millers and growers;
- the establishment of transparent mechanisms for price formation in transactions between millers, traders and refiners, particularly where trading within a "single corporate family" is involved.

Collectively these issues can be seen as requiring a common government response to the policy challenges of strengthening the functioning of sugar sector supply chains.

Establishing dialogue on the application of standards and cost recovery measures

Given the importance of the basis for application of SPS and food safety measures to actual trade flows, there appears to be a need for the establishment of more effective dialogue structures on the operational basis for the application of the basic regulatory standards and requirements. This should include dialogue about the basis for charging inspection fees. A differential approach to charging inspection fees, building on the EU's own exceptions for micro-enterprises, could potentially offer a means of extending ACP countries' preferences in an era of tariff dismantling.

Complementary to this, there would appear to be a need to develop common regional approaches to building and strengthening institutional capacities across the region to comply with evolving SPS and food safety standards (from training, through coordinated development of laboratory capacities, to dealing with trans-border pests and diseases). This would then facilitate the establishment of regional marketing initiatives in those sectors where this is commercially advantageous.

Monitoring the implications of standards harmonisation for current exporters

Given the recognition that any process of EU–US standards harmonisation would carry implications for the global system of rule-making on product standards, it would appear important for concerned ACP exporters' associations to monitor any such process. Standards harmonisation could either help or hinder Southern and Eastern African exporters, depending on the types of changes introduced by the EU or US authorities.

Ensuring that the concerns of regional exporters are taken on board within EU–US standards harmonisation would appear to be an important priority in the coming two years, as EU–US negotiations get under way and intensify. Ignoring this process is not an option, since in some sectors the process of standards harmonisation could result in market closure or, at a minimum, greatly increase the costs of serving established markets.

Developing common sector-based regional strategies to target Asian markets

Given the scale of Asian market demand (particularly in China) there is little danger of African suppliers competing with each other in this market, which suggests considerable scope for developing joint sector-based marketing strategies to penetrate and find one's way around the Asian markets. Indeed this suggests a need to develop, wherever possible, sector-specific regional marketing strategies for promoting exports to non-traditional markets. It also suggests a need for greater region-wide collaboration on marketing products in traditional markets, if returns are to be maintained during periods of economic recession.

Ensuring effective consultations on new trade agreements with emerging economies

Detailed analysis and consultations over the likely impact of tariff concession to be granted to emerging economies under new trade agreements will be required throughout Southern and Eastern African if efforts to promote broader free trade in food and agricultural products in the context of the proposed T-FTA are not to be undermined.

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About this update

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