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**African Union/RECs Workshop on Trade in Services**

**In Collaboration with ILEAP and AfDB**

**29-30 March 2012**

**Lusaka, Zambia**

**TI/TD/TIS/REP/01**

**Original: English**

**Report**

**REPORT OF THE AFRICAN UNION/RECS WORKSHOP ON TRADE IN SERVICES HELD ON 29-30 MARCH AT THE MULUNGUSHI INTERNATIONAL CONFERENCE CENTRE LUSAKA, ZAMBIA**

1. The African Union/RECs Workshop on Trade in Services organised in collaboration with the International Lawyers and Economists Against Poverty (ILEAP) was held at Mulungushi International Conference Centre from 29 to 30 March 2012. It was chaired by the representative of COMESA, Dr. Francis Mangeni.

**Agenda Item 1: Opening Ceremony**

2. The meeting received opening remarks from the AU Commission, African Development Bank (AfDB), ILEAP, Common Market for Eastern and Southern Africa (COMESA) Secretariat and the Government of Zambia.

3. In her statement, the representative of the African Union recalled the decision of the AU Summit to devote the two Summits of 2012 to the theme Boosting Intra-African trade. In enumerating the seven priority clusters identified in the Action Plan adopted by the 2012 January Summit, she pointed out that an important component of the Plan is services-related. She then underlined the importance of the present workshop towards advancing the trade agenda as well as the need to build the capacity of African countries in services trade. Finally, she highlighted the expectations of the Commission from the workshop.

4. In taking the floor, the Representative of AfDB underscored that Services were gaining the necessary recognition by national Governments. He gave a brief overview of the Bank's services-related activities in Africa. He encouraged governments in Africa to match the level of ambition that has been demonstrated by the private sector in developing services by providing an enabling environment and policies. He called on the meeting to focus on how to develop the national services sectors, the approaches to follow, the need to identify gaps facing RECs and areas where the Bank could intervene.

5. The representative of ILEAP indicated the work carried out by his organisation for African regions. He suggested that the meeting identify a role for the African Union on Services and concluded by reiterating ILEAP's commitment and support to Africa.

6. In his statement, the representative of COMESA situated the workshop within the context of establishing the continental Free Trade Area (CFTA) and July 2012 AU Summit. He recommended that the issue of services should be tackled along with the goods sector in establishing the CFTA. He pointed out that although the private sector had moved forward in services, there needed to be put in place a proper regulatory framework for optimal operation.

7. In his Opening Address, the Representative of the Government of Zambia highlighted the critical role of the services sector, especially tourism, on GDP growth.

He indicated that Zambia had mainstreamed trade in services in its national development plan. He enumerated some expected outcomes from the workshop such as best practices to emulate with benchmarks, strategies for the harmonisation of laws and policies in services, ways and means to strengthen and improve domestic services, and developing a cluster of capacity building needs. Finally, he declared the workshop formally open.

### **Agenda Item 2: Adoption of Agenda and Organisation of Work**

8. The meeting adopted its agenda and programme of work. The Agenda of the meeting is annexed to the Report.

### **Agenda Item 3: Overview on services trade and integration in Africa and Agenda Item 4: REC experiences on Trade in Services**

9. Due to the commonality of the issues, Agenda Items 3 and 4 were discussed together. During this session, the Representative of the AU sought to lay the initial basis focusing on the objectives of the workshop. As background, the presentation highlighted trends in global services, underscoring the critical role services play in the global, regional and national economies in spite of the adverse impact of the global economic financial crisis. The, EU, China and India have shown sustained growth in services trade, with only two countries in Africa attaining a threshold of USD 25 billion. The presentation further focused on the specific trends in Africa, which indicate that services trade performance is still low, although there are strong potentials for growth, low adjustment costs associated with reforms, and a few bright spots such as tourism, IT as well as opportunities for diversification, regional economies of scale etc. However challenges still remain.

10. Further addressing the role of the AU and the objectives of the Workshop, it was noted that the AU has not actually engaged in the service trade area and hence the objective of the Workshop among others, which is to help kick start activities; define specific roles, in line with the principle of subsidiarity; how to work better with the RECs and the development partners. Other issues for discussion are what priorities should be targeted at: Mainstreaming Services trade, Reform of regulations or capacity building. The ultimate objective is how to advance the services trade agenda as a critical sector that can significantly contribute to the overall ambition of boosting Intra-African trade in line with the decisions emanating from the 18<sup>th</sup> Summit of the AU held in January 2012.

11. The second presentation under this agenda item was made by the representative of ILEAP. He noted that despite activity across Sub-Saharan Africa (SSA) on service sector reform, integration and liberalisation, access to information on this activity is difficult. The preliminary scoping undertaken by ILEAP for the five RECs in SSA has shown that while all address regional integration in services, investment and migration to varying degrees, there are mixed results with respect to the actual implementation of agreed provisions.

12. The presenter noted that there are some common elements in the challenges and constraints being faced by all the Regional Economic Communities in the area

of trade in services. Such challenges include the absence of services statistics, problems of multiple REC membership and differential levels of ambition, the need for political leadership – within the public and private sectors, as well as a range of technical and capacity constraints revolving around the management of reform, integration and/or liberalisation processes – notably in terms of translating commitments on paper into policy in practice. In terms of a possible role for the AUC, the presenter outlined a range of options, spanning from a relatively lighter monitoring and information exchange role to one that involves more active coordination and deeper substantive engagement.

**13.** The presenter further stressed that a series of basic interventions could help to raise the general awareness on services issues with the general public, both at the political level and with the private sector. Such interventions could also send strong signals to RECs, national stakeholders, as well as partners and should be done in a bottom-up approach that takes into account the needs of all stakeholders, particularly the private sector.

**14.** The representatives of the RECs, COMESA, EAC, SADC, ECOWAS and CEMAC supplemented the two presentations by providing information on the latest developments in their regions.

**15.** The representative of the United Nations Economic Commission for Africa (UNECA) made a presentation on trade in services as an engine for growth. In his presentation he highlighted the importance of developing clear strategies for trade in services at the national, sub-regional and continental levels. He highlighted the importance of carrying out a regulatory audit at all levels to identify constraints in competition and investment policies as a basis to engage on Technical Assistance and Capacity Building negotiations.

**16.** The presenter further indicated that adopting a sectoral approach rather than the broad GATS-type positive list approach may be a more effective way to get results. He also noted the importance of ensuring that the right balance is achieved between liberalisation in service sector and capacity to regulate. He called for the acceleration of mutual recognition of qualifications within and among RECs. He ended by underscoring that services sectors are key inputs to other traditional sectors such as agriculture and manufacturing, therefore, restricting the development of these sectors results in a higher cost of doing business.

**17.** In the discussions that ensued after the presentations, participants raised the following issues;

- There is need for countries and RECs to implement the protocols on free movement of persons. However, it was noted that the issue of free movement of natural persons is not only a trade issue but it also involves other ministries that may have other priorities;
- African countries have to be more ambitious in services liberalisation so as to achieve deeper and wider integration. In this respect, during regional

negotiations, countries may schedule their commitments based on the negative list approach but allow for more flexibilities;

- There is need for a meaningful involvement of the private sector in regional negotiations and processes on services trade. On the other hand, the private sector also needs to be proactive in lobbying national governments to take up the issue of trade in services at the regional level. The private sector should be in the forefront of lobbying the national government for market access in services as they are the ultimate users of the trade agreements;
- There is need for technical assistance and capacity building for services negotiators and other relevant stakeholders to facilitate services negotiations in most countries. There should be consultations with Small and Medium Enterprises (SMEs) to ensure that their interests are taken into account and that they understand that they also stand to benefit from services trade liberalisation;
- Trade Statistics in services is a major challenge. Without statistics, it is very challenging for countries to identify their interest in various service sectors and for policy makers to analyse and make informed policies on services. There is need to improve the methodologies used in service trade data collection;
- Trade ministers at the 8th WTO Ministerial Conference adopted a waiver to enable developing and developed-country Members to provide preferential treatment to services and service suppliers of least-developed country (LDC) Members. However, it is important to ensure that the beneficiary countries have the capacity to identify their market access requirements and are able to utilise the opportunities offered by the waiver;
- The Non-Tariff Barriers (NTBs) reporting, monitoring and eliminating mechanism which is used by the Member States in the Tripartite Community for trade in goods could be replicated in the area of services for the identification of barriers to services trade at the regional and continental level.
- The level of liberalisation that REC's and African countries agree to in regional and continental negotiations should be deeper than what is agreed to in trade negotiations with third parties;
- The promotion of trade in services should not result in unregulated markets. It is important to ensure that a proper institutional and regulatory framework is in place and the interests of the consumers are adequately protected.

## **Recommendations**

**18.** The workshop made the following recommendations:  
The AUC could,

- i. Promote trade in services with a view to ensuring explicit recognition by the Policy Organs of the AU and RECs on the fundamental importance of services to the achievement of the CFTA/AEC;

- ii. Ensure that trade in services is a standing agenda item on key AUC meetings for relevant sectoral ministerial meetings and other meetings of the policy organs of the AU;
- iii. Create AUC 'services desk and call on RECs to do same;
- iv. Establish a continental services integration monitoring mechanism aimed at tracking progress on integration and monitoring barriers in services trade between countries among other things;
- v. Take a coordinating role to promote cooperation, convergence and/or harmonization of regulatory policies for appropriate services sectors;
- vi. Commission targeted studies and facilitate dissemination of information on regional and cross-regional regulatory issues;
- vii. Undertake work on continent continental 'model legislation' for appropriate services sectors;
- viii. Organise dedicated workshops on specific service sectors. The prioritization of sectors should be determined in consultation with the private sector.

**Agenda Item 5: Private Sector experiences in developing services industries and trade in services**

**19.** Under this item, presentations were made by the representatives of the COMESA Business Council (CBC), Norwich Insurance and Ng'andu Consulting. The meeting called for the genuine involvement of the private sector in relevant policy making processes. It also called for the development of an efficient payments system across countries in the same region. For increased intra-regional trade, there is need to reduce the cost of doing business in Africa through competitiveness.

**20.** The meeting was informed that in the area of services, CBC has formed sectoral working groups on financial services with focus on Banking and Insurance Sectors. It is expected that the work of the working groups will lead to increased policy dialogue between the private sector and policy makers. The working groups will also lead to effective advocacy and the elimination of barriers to trade/business.

**21.** The CBC further called for the involvement of relevant stakeholders in the implementation of the protocol on free movement of people in COMESA. The presenter emphasised the need for national Chambers of commerce or private sector associations to lobby governments for the implementation of the protocol.

**22.** The representative of Norwich Insurance informed the meeting that some of the challenges in doing business regionally in the Insurance sector include but are not limited to;

- i. Lack of harmonized legislation on Insurance in Africa;
- ii. Legislation relating to Third Party Liability Limits;
- iii. High Capital entry requirements;

- iv. Empowerment /Protection laws relating to minimum shareholding thresholds for locals;
- v. Differences in culture of doing business and language barriers;
- vi. Lack of recognition of insurance policies issued by companies in other countries in the same region;
- vii. Inadequate information exchange amongst regulators in different countries in the same region;
- viii. Lack of mutual recognition of qualifications in the region.

**23.** The presenter highlighted the need for increased collaboration and co-operation between insurance companies and regulators in Africa. Such collaboration will lead to common/similar regulations and standards governing the insurance business in Africa and increased crossed boarder trade in insurance services within the continent.

**24.** In his presentation, the representative of Ng'andu Consulting informed the meeting that the challenges being faced in exporting their services to their countries in the region include entry visa and work permit requirements, language barriers, shortage of local skills, double taxation and conflicting highway regulations.

**25.** In the discussion that ensued after the presentations, participants raised the following issues:

- The experience of the COMESA Business Council in building consensus;
- There is need for a participatory approach between government and the business community;
- The private sector could facilitate the creation of cross border shareholdings and alliances;
- There is need to pay more attention to competition regulation.

### **Recommendations:**

**26.** Thereafter, the workshop made the following recommendations:

- i. There should be meaningful involvement of the private sector and other relevant stakeholders in regional and continental policy making processes as well as in services negotiations. In this regard, Member States should include at least one member of the business community in their delegations to trade negotiations;
- ii. The AUC should initiate action towards the development of competition regulation at continental level;
- iii. A continuous and sustainable dialogue should be developed between Government, the business community and civil society;

- iv. Meetings of the business community should be held back to back with intergovernmental meetings so that their views can be considered by Governments in making trade policies;
- v. RECs should encourage Member States to establish inter-institutional committees at the national level for the consideration of relevant trade in services policy issues. The private sector should be involved in these committees;
- vi. The private sector should play a role in lobbying governments and national parliaments for the domestication of regional policies or protocols at the national level.

### **Agenda Item 6: Mainstreaming trade in services into regional and national development plans**

**27.** The Representative of the Republic of Zambia made a presentation on mainstreaming services into the regional and national development plans. Zambia has a five year development plan that aims at developing an export driven, competitive and viable commerce sector by 2030. The goal of the plan is to increase the contribution of exports to GDP from 35% to 40% by 2015. The main objectives are to stimulate the growth of domestic trading sector, increase trade in services and to secure and facilitate improved market access for locally produced goods and services.

**28.** The Fifth National Development Plan (FNDP) mainstreamed trade into Zambia's national development plan which ran from 2006 to 2010. A number of sectoral assessments have been conducted covering six sectors namely: tourism and related services, financial services, communication services, Business services in particular professional services and Health related and transport services. The assessments are key in assisting stakeholders in appreciating services as a tradable sector and highlight the sector's strengths weaknesses, opportunities and threats including possible intervention measures in order to enhance access to both the domestic and international markets.

**29.** In terms of success, the country has been able to undertake sectoral assessments where work was finalised for the first six sectors namely education, construction, distribution, environmental services, recreation, sporting and cultural services. The main challenges are:

- Most of the sectors have not outlined how the sector and the services therein can contribute to trade;
- There is a general lack of appreciation of services as a tradable sector by many stakeholders in the country;
- Financial constraints have led to challenges in undertaking national sensitisation programmes and delays in the conclusion of the assessment of the remaining six sectors and subsequent development of the National Services Strategy.



**30.** In order to finalise the process of the development of the national services strategy there is need to finalise the assessments for the remaining six sectors.

**31.** The representative of CEMAC informed the meeting that the region is in the process of developing a Services Master Plan for the region. The need to develop the Master Plan arose after the region identified gaps during EPA negotiations. The objective of the master plan is to promote the trade of services in the region and enable the region engage the European Commission in EPA negotiations. In the development process of the Master Plan, there are on-going consultations at the national and regional levels. Each country in the region will identify three sectors that will be prioritised in the master plan.

**32.** The representative from UNCTAD informed the meeting that while mainstreaming trade in national development policies may be obvious to policy-makers today, trade in services are not always adequately integrated in the national development plans. It was noted that there are number of challenges that remain and Developing Countries still need to devote attention to improving this process.

**33.** The presenter noted that an analysis of the main policy documents that encompass countries' broad national development plans and trade strategies, trade policies or national export strategies reveals that services in some cases are still absent and in most cases represented by the inclusion of a few key sectors.

**34.** The main challenges in mainstreaming trade into national and regional development strategies are as follows;

- There is limited capacity to conduct trade policy analysis in lead trade agencies and key stakeholder groups;
- Shortcomings in stakeholder consultation and inter-ministerial action and policy coordination mechanisms at the national level; and also a narrow involvement of the private sector, civil society and other stakeholders in trade policy formulation;
- Human, financial, technical and management constraints affect implementation capacity;
- Weak leadership limits the lead trade agency's ability to influence key policy decisions, including the national budget as an instrument of policy;
- Poor accountability in trade negotiations and implementation of trade-related reforms.

**35.** The presentation by UNCTAD was supplemented by UNDP who presented the publication on "Trade and Human Development: A practical Guide to Mainstreaming Trade" and the on-going support to mainstreaming trade in Africa.

**36.** In the discussions that ensued after the presentations, participants raised the following issues;

- There is need to take into account Investment Treaties and bilateral trade agreements that a country has signed when carrying out assessments;
- There is need to address the problem of double taxation at the regional level by concluding a regional framework that addresses the issues. It was noted that although most of the COMESA countries have signed double taxation agreements with third parties, very few COMESA countries have concluded double taxation agreements between themselves;
- There is need to clearly understand the linkages between the various service sectors if services is to effectively mainstreamed in national development plans;
- There is need to facilitate more collaboration between the trade negotiators and regulatory authorities;
- There is also need to develop technical assistance capacity building so that the private sector could take an active role and provide inputs into the process.

### **Recommendations:**

**37.** The meeting made the following recommendations:

- i) A more holistic approach should be adopted to deal with the sector, e.g. Services Trade Policy, Services Export Strategy, National Services Master Plan should be encouraged, including a focus on linkages between services sectors and the rest of the economy;
- ii) Government should also continue to maintain the lead in mainstreaming trade, while the private sector has a role in analysing obstacles to trade and advocating appropriate solutions.

### **Agenda Item 7: Technical assistance and capacity building programmes on trade in services**

**38.** Under this item, the following agencies briefed the meeting on their activities: USAID trade platform, GIZ/SADC, World Bank, ILEAP, TradeMark and TRALAC.

**39.** The USAID representative elaborated on its activities in support of regulatory capacity and of reducing cost of doing business. As a trade hub, USAID is involved in both negotiations and support to the private sector to engage with governments to communicate their interests on the type of regulations needed at national level to advance trade. It is presently assisting in the transport sector in Malawi/Tanzania and in South Africa/Namibia and in Tourism in Botswana/Namibia. Within its work programme, USAID also works directly with regulators to carry out training and analysis. Finally, it invited the meeting to make its requests for cooperation and technical assistance.

**40.** The representative from GIZ stated that his organization worked in several African RECs, but only had a dedicated services programme in SADC. The

programme was staffed with two trade in services experts and delivered legal, technical, and strategic advice to the SADC Secretariat and SADC Member States in the context of the negotiations on the liberalization of the six trade in services sectors.

**41.** The World Bank representative stated that their capacity building programmes focus on professional services, on distribution services and EPAs at explicit demand of Member States or organizations and that the service element is emphasized in all of them. In terms of policy dialogue which is not disseminated in an appropriate way, the global development learning network is used, especially the knowledge platform. Capacity building is carried out at both national and regional levels. With regard to the knowledge platform, very detailed information is provided on professional services, namely, accounting, engineering and legal. Regulatory and business surveys are carried out to get as much information as possible on market structure, trade flows, policy information on trade barriers, among others. A website will be set up in June 2012 where debate can take place on topics of interest. The World Bank also addresses political economy constraints.

**42.** The representative of ILEAP briefed the workshop about the services-related activities of its organisation, which include advisory support, capacity building and the creation and dissemination of knowledge and information. He noted the engagement at the level of trade negotiations, as well as policy, regulatory and implementation-related matters. In terms of advisory support, he highlighted some results achieved in West and Central Africa (on EPA services preparations), work in the EAC on the Common Market, support to the LDC Group (the adoption of the LDC services waiver), as well as support to the private sector (notably around the formation of service coalitions). On capacity building, he underlined in particular the ILEAP Fellows, posted in Geneva and/or RECs and regional private sector bodies.

**43.** TRADEMARK was presented as a programme funded by DFID (UK) that provides technical assistance on demand basis within the Southern and East African regions, especially within the Tripartite. It also works at RECs level, ensuring that the regional programmes are harmonized within the tripartite structure. Its work focuses on four areas: trade policy, trade facilitation, infrastructure development and industrial development that are supportive of trade programmes. TradeMark responds to requests on services, in addition to attending to services within the four areas.

**44.** TRALAC is a research and training institution. It conducts short courses and has linked up with universities to provide formal qualifications. It also has a website that can be consulted. Its representative advised that countries which have opened their services sectors could still have options available to impose certain conditions on foreign investors.

**45.** The South Centre is an intergovernmental organization made up of 50 countries, most of which are African. It focuses on three programmes, namely, trade, Intellectual property and climate change. It undertakes work at multilateral level on demand such as WTO and EPAs.

## **Agenda Item 8: Way forward on strengthening the services agenda in Africa**

**46.** In charting the way forward, participants agreed on the elements identified below as possible areas where AUC should have a role: Monitoring mechanism, Information and experience exchange, Coordination, Substantive engagement and Training/capacity building.

### **I. Political-level interventions**

- Ensuring that political leaders and Ministers better appreciate the fundamental importance of services to CFTA/AEC and provide the necessary political leadership for the promotion of trade in services at the continental level;
- Possible development of Continental Action Plan on services;
- Create AUC 'services desk and call on RECs to do same.

### **II. Monitoring/information interventions**

- Establish continent-wide monitoring mechanism on services integration;
  - Track progress /consider tracking barriers
- Disseminate relevant information and knowledge on relevant cross-cutting and sectoral issues;
- Engage relevant continental stakeholders on services issues;
  - Private sector, regulators and civil society.

### **III. Substantive interventions**

- Mainstreaming' services into AUC work programme;
  - Ensure services is a standing item on key AUC agendas (Trade, Regional Integration, etc);
  - Integrate services into Minimum Integration Program;
  - Assist RECs to do the same.
- Take a coordinating role to promote cooperation, convergence and/or harmonization of regulatory policies for appropriate services sectors;
- Commission targeted studies on regional and cross-regional regulatory issues;
- Undertake work on continental 'model legislation for appropriate services sectors;
- Continue and expand on training/capacity building on services issues at the RECs, government, support institutions and private sector levels.

47. While noting the broad scope of the foregoing recommendations, it was however agreed that the Commission would need to further distil the elements and identify key priorities, including the development of a detailed work programme on services, as part of the overall work programme of the Department of Trade and industry as well as in the specific objectives of facilitating the CFTA and the broad dimension of boosting Intra-African trade. Emphasis was also placed on closer collaboration and involvement of the private sector in the AU's services related activities, as the drivers of services trade; in order to enable the private sector have a stronger voice in the process. Furthermore, efforts should be made both at the RECs and National levels to strongly encourage the establishment of Coalitions of Service Industries which can also help the Services Sector Stakeholders to better articulate their views and contribute to policy making. Finally, efforts should be made tap into existing resources on services information, in particular the newly developed services knowledge platforms, while concerted efforts should be made by relevant institutions, in the area of collation of data on Services in Africa.

#### **Agenda Item 9: Consideration and Adoption of the Report of the Workshop**

48. The meeting considered its Report and adopted it with minor amendments.

49. Following the presentations, the workshop recommended that, since the capacity building institutions were working in almost the same direction, there was need for rationalization for better co-ordination of service delivery.

#### **Agenda Item 10: Closure of the Meeting**

50. The Chairperson of the meeting brought the meeting to a close following brief statements from the AUC, ILEAP and the Government of Zambia.