

Contentious issues in IEPA negotiations: implications and questions in the agricultural sector

In some interim economic partnership agreements (IEPAs) a number of contentious issues have emerged, which in some countries will have profound and immediate implications for national agricultural development policies. The aim of this briefing is to set out the concerns around these issues with a view to assisting ACP governments in assessing whether they are relevant in their national situations.

The issues reviewed are:

- provisions prohibiting or limiting the use of import and export licences and other market-regulation measures;
- provisions restricting the use of export taxes as a policy tool to stimulate movement up the agricultural value chain;
- the tariff-standstill commitments made in the evolving context of high global food prices;
- the provisions dealing with infant-industry protection and their consistency with existing national and regional arrangements for infant-industry protection;
- the provisions dealing with agricultural safeguards and food-security issues.

It should be noted that since there is no consistency in the treatment of these issues across the various IEPAs, the specific text and circumstances of individual agreements and individual countries needs constantly to be borne in mind, with the key question being: how relevant are these concerns to the national agricultural development policies, policy tools and broader concerns and aspirations.



Prohibition of quantitative restrictions and the use of import and export licensing

In all of the IEPAs there are provisions dealing with the ‘prohibition of quantitative restrictions’, which places a requirement on IEPA member-state governments to immediately eliminate upon entry into force of the agreement all restrictions on imports, including import- and export-licensing arrangements. While in some IEPAs there are exceptions to this prohibition on grounds of infant-industry protection, public-finance and food-security concerns, this is not the case across all agreements. Furthermore in a number of countries it is far from clear whether the current wording allows the continuation of currently successful agricultural-development and food-security policies.

However in a number of countries of more immediate relevance than the basic tariff-elimination commitments are a number of IEPA provisions which impinge on the operation of national and regional policy tools, designed to facilitate and promote balanced forms of regional development.

The provisions of the SADC IEPA in relation to Namibia, is a case in point. Namibia currently operates a controlled crop-marketing system for sensitive food and agricultural products. So-called ‘controlled products’, which are clearly defined under national legislation, are subject to special marketing arrangements, including both a reference-price mechanism and certain import measures, including import licensing. This covers both grain and certain horticultural products, where local production is viable. The aim of this policy is to sustain and promote cereals and horticultural production to enhance national food security and promote rural income-earning opportunities.

For grains this system includes a prohibition on imports during the harvest period so that Namibian production can find a market locally. These restrictions even apply within the Southern African Customs Union and form part of the special arrangements in place under regional trading arrangements to support the development of the smaller less-developed members of SACU.

According to recent studies the abolition of current marketing measures to regulate seasonal imports of wheat and maize, would result in an immediate economic loss of N\$113.7 million and N\$96.5 million respectively to wheat and maize producers and a cessation of irrigated cereals production within a few years. It would also have profound implications for the horticultural sector serving the local market. A recently established horticultural development scheme has seen a quadrupling of production for the local market (now meeting 35% of local demand), with a significant expansion in small-holder production being a feature of the scheme. While this scheme includes broad industry-wide consultations and dialogue, and the establishment of a computerised market-information system, which on a real-time basis provides information on both local production and local demand, central to its effectiveness is the control over the allocation of import licences by the managing authority.

Retailers and traders have to work within an industry-wide framework to meet targets for the purchase and marketing of locally produced horticultural products, in order to be able to obtain import licences. The system is transparent and subject to appeal if local prices or quality are outside of the market norm. Given the market power of the retailers and traders, and the dominant role that South African producers play within the regional economy, this is a pragmatic solution to the local challenge of horticultural-sector development.

An assessment of these market regulation measures found them to be minimally trade distorting, to have little impact on consumer prices and they have been found not to be trade-distorting in terms of the general usage of the WTO definition of trade distortion.

The situation in Namibia raises the following questions:

- which ACP countries make use of similar market-regulation mechanisms for sensitive agricultural products involving the use of import- and export-licensing arrangements?
- how important are these schemes within national agricultural production?
- do the provisions of the IEPA to which your country is a signatory require their immediate abolition?
- what would be the impact on the sectors concerned of the immediate dismantling of these market-regulation mechanisms?
- are there any exceptions to this immediate prohibition on the use of quantitative restrictions within the IEPA which would allow you to continue with current agricultural policy measures?

If the aim of IEPAs is to support locally designed and led agricultural-development and food-security initiatives, an area to which increasing priority is being accorded in the light of the global food-price crisis, then it would appear to be necessary to give ACP government more flexibility in the use of those policy tools currently in use which have proved effective in stimulating local agricultural development and food security.

Prohibitions on the use of export taxes

All IEPAs have provisions dealing with ‘duties, taxes or other fees and charges on exports’, which limit the ability of governments to use export taxes on basic raw materials to encourage the development of value-added processing. Only in exceptional circumstances, linked to revenue needs, infant-industry protection or environmental protection concerns are temporary export taxes allowed subject to prior consultation with the EU.

Given the importance to ACP countries of moving up the value chain to escape dependence on the export of basic commodities, in many countries this is seen as an unnecessary restriction on the use of an important tool for economic development. This use of export taxes as a policy tool to promote value-added processing and the structural transformation of ACP economies, particularly in the agricultural value chain, needs to be seen in the context of the limited possibilities such governments have to provide financial incentives for such investment.

In countries such as Namibia, export taxes have been used as part of broader policy packages to promote movement up the agricultural value chain in ways which contribute to the structural change of the Namibian economy. A concrete example is the beef sector. Prior to independence Namibian cattle were largely exported ‘on the hoof’ to South Africa, with the value addition and structural development of the meat-processing industry taking place in neighbouring South Africa. Since independence however, government policies (including securing preferential access to the EU market and the use of export taxes) has encouraged the development of a slaughtering and meat-processing industry, as well as a tanning and leather-working industry. This has extended the beef-sector value chain in Namibia and created thousands of new jobs.

The Namibian government is trying to pursue a similar policy in regard to the small-stock sector, with a flexible export tax being applied, export licenses being linked to the level of livestock processed locally, and possible use of export taxes under certain circumstances. In addition, in drought-prone countries such as Namibia, the use of export taxes can prove particularly valuable in maintaining supplies to agricultural processing industries, an important factor in encouraging investment.

In future, export taxes may prove a useful tool in developing the value chains associated with products based on traditional knowledge. A concrete example in this regard in southern Africa is 'hoodia'. 'Hoodia' is an appetite suppressant traditionally used by the 'San' people while hunting. Its modern use is as a slimming aid. The real commercial value of 'hoodia' of course lies not in the root itself, but in the value-added products derived from the root (a 100 gram pack of 'hoodia' and rooibos blended tea retails at €6 –equivalent to €60,000 per tonne).

The policy issue is how to stimulate the production of value-added 'hoodia' products in southern Africa? One tool would be the use of export taxes on raw 'hoodia', with export licences only being issued on the basis of a progressively increasing percentage of local value-added processing.

There are concerns that the provisions of the SADC IEPA with regard to export taxes could prevent the use of such a policy tool. Indeed, there is a more general concern to avoid an unwarranted restriction on the use of this policy tool, given the central policy concern with stimulating movement up the value chain in ways which expand income earning opportunities in rural areas.

Once again the use of export taxes in ACP countries needs to be seen against the background of the more limited range of policy tools open to developing countries in stimulating value-added processing.

This experience raises the following questions for ACP governments elsewhere:

- which ACP countries make use of export taxes to try to stimulate value-added processing in the agricultural sector?
- how effective are these export tax schemes within national agricultural production?
- do the provisions of the IEPA to which your country is a signatory limit the use of such measures?
- what would be the impact on the sectors concerned of the limitations on the use of such measures included in the IEPA?
- are there any exceptions to the use of export taxes which would allow you to continue with current policy measures?

Unforeseen implications of tariff-standstill commitments

Under a number of IEPAs (but not all) a provision has been included which stipulates that no new customs duties shall be introduced on trade with the EU, nor those already applied be increased, as from the entry into force of the agreement, for all products subject to liberalisation.

The aim of this provision is a reasonable one: to establish the baseline from which tariff-reduction commitments should be implemented. However in the context of recent policy responses to high global food prices, this provision could have some unforeseen consequences.

In response to very high food prices a number of governments reduced import duties and in some instances even set them at zero. At this juncture therefore the strict application of this provision fixing applied duties at the levels in force upon entry into force of the agreement, could result in freezing in place exceptionally low import duties on basic food products.

Against this background the following questions arise:

- in response to high food prices, did your government reduced import duties on basic food-product imports?
- if these currently applied duties were to be frozen in place under the provisions of the IEPA, would this have any impact on existing national food production if world market prices were to fall back to levels closer to historical levels?
- is there a need to review the standstill clause in order to establish more appropriate base levels from which tariff-reduction commitments should be implemented for basic food commodities?

If it was felt that the current standstill provisions should be revised then the approach favoured in the Caribbean EPA and the Israeli-EU preliminary agreement, could be adopted. This establishes on a line-by-line basis in dedicated annexes, the tariff level from which tariff-reduction commitments should be made. In the case of the Israeli-EU agreement this establishes the base-line for tariff reductions somewhere between the applied and bound tariff levels.

Infant-industry protection provisions

Somewhat surprisingly given the quite different nature of the protection required for bilateral safeguards against import surges and infant-industry protection, under IEPAs the issue of infant-industry protection is dealt with as part of normal bilateral safeguards. There is in many respects a need for a separation of these issues, through the establishment of distinct provisions for infant-industry protection.

Currently in a number of IEPAs the infant-industry protection provisions included in the bilateral safeguards:

- limit infant-industry protection to products where duty reduction is underway (i.e. it is not applicable to products excluded from the duty-reduction provisions under the agreement);
- defines the period of time over which infant-industry protection can be accorded from the date of entry into force of the agreement;
- limits the scope of the protection measures which can be adopted to those applicable under bilateral safeguards and subjects the application of infant-industry protection measures to cumbersome procedures.

In addition to these perceived shortcomings, the provisions of IEPAs on infant-industry protection can also give rise to problems for regional integration initiatives. This is the case in southern Africa. The infant-industry protection provisions under the Southern Africa Customs Union Agreement stipulate that provisions for infant-industry protection only apply where 'such duties are levied equally on ... like products imported from outside that area'. Thus were the IEPA provisions to be applied, involving separate measures and arrangements for their invocation, then the infant-industry protection made available under the SACU agreement would be brought into question - and would *de facto* become inoperative.

This could then serve to undermine infant-industry protection accorded to newly established agri-food processing industries, to the detriment of the local structural development of the agri-food sector (e.g. current infant-industry protection accorded to pasta and UHT milk production in Namibia). This has given rise in the SADC IEPA context to calls for the revision of the IEPA infant-industry provisions to ensure consistency with SACU measures for infant-industry protection.

This is particularly the case since the infant-industry provisions in the SACU agreement, unlike the provisions in the SADC IEPA, determine the length of the period of protection of the industry with reference to the establishment of the industry within a SACU member state. This is a far more sensible basis for infant-industry protection than the arbitrary eight-year time-frame established in the SADC IEPA, which effectively ends infant-industry protection from 2016. The danger of such time-restricted infant-industry protection is that it could lock less-developed ACP economies into their current economic structures and prevent the emergence of locally designed agriculture-based regional industrial-development strategies.

Against this background the following questions arise:

- to what extent are infant-industry protection instruments already in place at the national and/or regional level in your country?
- to what extent are the provisions for infant-industry protection in the IEPA consistent with existing national and regional provisions for infant-industry protection?
- would the abrogation of existing national and regional provisions for infant-industry protection have any direct impact on existing agri-food processing sectors?
- would the abrogation of existing national and regional provisions for infant-industry protection be likely to have any impact on the development of potential agri-food processing sectors?

Agricultural safeguards and food security

Agriculture is central to the economies of most African ACP countries. It is the principal source of employment and a major source of external trade and in addition is central to the social fabric. Given the difficulties in the WTO on the issue of special safeguard mechanisms for agriculture, the recent surge in global food prices and the global attention which has been focussed on the consequent plight of the poor in many developing countries, renewed attention is being focused on the provisions of IEPAs with regard to agricultural safeguards and food security.

In some IEPAs there are not even separate chapters on agriculture and food security, while across all IEPAs, agricultural safeguard measures are included within the general bilateral safeguard provisions.

An emerging concern with regard to agricultural safeguards lies in the fact that the operative clauses of the IEPAs are of temporary duration and aimed at dealing with temporary import surges, whereas the distortions to trade in food and agricultural products are structural in nature (arising from the deployment of EU public aid to farmers, which encourages higher levels of production and trade than would be the case in the absence of such extensive levels of public support).

This concern also needs to be seen against the background of the difficulties that EU exporters are facing on third-country markets arising from increased competition from non-traditional exporters (e.g. Ukraine and Russia) and advanced developing-country suppliers (e.g. Brazil).

The concerns linked to food security relate to the prospects of significantly higher food prices in the coming period compared to the recent historical period (although lower than the peaks experienced in the past two years), and the likelihood of increased price volatility on international food commodity markets. It also needs to be seen against the background of recent trends in EU-ACP agricultural trade. Figures posted on the DG Agriculture website covering trade in food and agricultural products from 1999 to 2006, show EU exports of food and agricultural products to ACP markets growing by 38.9% in value terms between 1999 and 2006, while the value of ACP exports to the EU market have stagnated (in fact the value of ACP food and agricultural exports in 2006 was 1% lower than in 1999).

This has seen the ACP group’s agricultural trade surplus with the EU decline from €5.337 billion in 1999 to €3.832 billion in 2006, a fall of 28.2%.

This reflects the divergent price trends between the agricultural products exported by ACP member states to the EU (where prices are largely stagnant or declining) and the prices of agricultural and food product which the ACP imports from the EU (which have been increasing and which are likely to stabilise at levels higher than historical levels). These trends raise new food-security concerns, the political significance of which has been heightened by the recent global surge in food prices.

Total agricultural trade 1999 and 2006

	1999 (€ million)	2006 (€ million)	% change 1999-2006
ACP exports to EU	8,981	8,892	- 1.0
EU exports to ACP	3,643	5,060	+ 38.9
ACP surplus	+ 5,337	+ 3,832	- 28.2

Source: EU exports http://ec.europa.eu/agriculture/agrista/tradestats/2006/eur25ch/page_071.htm;
EU Imports http://ec.europa.eu/agriculture/agrista/tradestats/2006/eur25ch/page_072.htm

Future prospects for global agricultural markets would also suggest a need for a more nuanced approach to agricultural trade liberalisation, something which, given the EU’s own experience, one might have expected EC negotiators to be sensitive to. The June 2008 OECD review of the causes and consequences of rising food prices argued that ‘tight markets may be a permanent factor in the period to 2017’, with, in the coming ten years cereals, rice and oilseed prices likely to be ‘10 to 35% higher than in the past decade’ in real terms (35-60% higher in nominal terms). In this context it should come as no surprise that ACP governments are seeking to actively promote agricultural development and national and regional food security, particularly since, as the OECD points out, the worst affected by rising prices are ‘poor consumers in developing countries, and food-importing developing countries’.

In such a context there has emerged a certain concern about the existing IEPA provisions for agricultural safeguards and food security.

ACP governments thus need to carefully review existing national and regional trends in agricultural and food-product trade with the EU to see whether the existing IEPA agricultural-safeguard provisions are adequate in the emerging context of high food prices (although prices are likely to fall back from recent peaks, they are nevertheless expected to remain significantly higher than the price levels of the past decade).

L aunched by CTA (Technical Centre for Agricultural and Rural Cooperation ACP-EU) in 2001, Agritrade aims to create or heighten awareness of the critical issues and deadlines involved in international agricultural negotiations and those concerning the fisheries sector. It provides regularly updated information on the progress of ACP-EU negotiations on EPAs and on the developments of WTO discussions. It complements this information with a variety of comments and analyses from an ACP perspective.

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

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