

Workshop Report

EPA Development Benchmarks & Monitoring: Workshop organised by CUTS, ECDPM and FES in cooperation with APRODEV, 23-24 April 2007, Nairobi, Nairobi Safari Club – Workshop Report

1 Introduction

Following a brief introduction by ECDPM on the main findings from previous consultations and workshops conducted in Tanzania and Brussels, Mr. Andrea Morara presented the paper 'Towards a Monitoring System for the Economic Partnership Agreements: A Kenyan Perspective' which was prepared as a background paper for the conference.

He described the Kenyan Monitoring and Evaluation System and discussed how existing mechanisms and structures could be used for EPA monitoring.

a) The Kenyan M&E system

The Economic Recovery Strategy for Wealth and Employment Creation (ERS), the overarching national development strategy in Kenya, provides the overall framework for the development of the National Integrated M&E system (NIMES). Coordination of the NIMES is placed in the Monitoring & Evaluation Directorate (MED) of the Ministry of Planning and National Development (MPND). The Monitoring and Evaluation Department is responsible for collating, coordinating, and disseminating information. MED has established a coordination framework, consisting of horizontal linkages across line Ministries and civil society at the central and devolved levels, and vertical linkages from the Cabinet to the district level. Further a national Monitoring and Evaluation Steering Committee has been established comprising government stakeholders from the Ministries of Planning and National Development, the Ministry of Finance, development partners, and NGOs.

The Central Planning & Project Monitoring Units (CPPMUs) are the main units in all Government Ministries responsible for monitoring and evaluation of the implementation of their respective Ministry's Strategic Plans. The intention is that the CPPMU shall monitor and evaluate the implementation processes (inputs and activities), outputs and outcomes to ensure efficiency and effectiveness in delivering the strategic objectives. In collaboration with all departments in the Ministry, the CPPMUs are expected to institutionalise the M&E framework within the various departments. Each of these departments is expected to collect data using special

data collection tools and forward to the CPPMUs for collation and analysis. On their part, the CPPMUs will analyse the data and generate reports that will subsequently be used by management for decision-making.

Any M&E subsystem including the one to be designed for the EPAs is envisaged to plug into Kenya's National Integrated M&E System (NIMES). The government is making progress in strengthening its capacity for M&E but still much more remains to be done.¹

b) Main Results of Monitoring WS in Tanzania

This presentation was followed by an outline given by Ms. Agnes Mwakagi from University Dar Es Salaam who attended the Monitoring Workshop in Tanzania and presented the main findings.

c) General Discussion

After the presentation the floor was given to the participants for a short round of comments before finally splitting up the participants into two working groups.

- Some researchers pointed out the fact that the opening of telecommunication markets showed that employment and efficiency has improved but on the other hand had led to a decrease in government revenues. Thus, monitoring should not be limited to an assessment of negative outcomes but should assess both, positive and negative results.
- It was suggested to link EPA monitoring to the Mid-term reviews of the EDF programmes. Others felt that a simple adaptation of existing mechanisms to EPA monitoring needs would be insufficient. Most of the participants believe that Kenya lacks a monitoring culture and capacity, though their views differed with regard to how serious this problem is. Some stressed the point that it was not the lack of monitoring capacity but the willingness which hinders an efficient monitoring of EPA negotiations and implementation.
- With regard to the objectives of monitoring participants stressed the importance that not only capacity, compliance and impacts should be monitored but also remedy as the first categories would be useless when not inducing adjustments and changes.

¹ Development partners have worked together in supporting the development of the Statistical Master Plan. During the coming year donors commit themselves to work towards a sector wide approach for delivering support to further reduce transactions costs to the government. Such support will include support for building the capacity of line ministries and local governments to collect and analyze data , and disseminate information (source: Kenya: Consultative Group Meeting Joint Statement on ERS Monitoring and Evaluation)

- Participants were largely in favour of a participatory approach that involves civil society and the private sector. Some criticised the lack of linkages and information flows between private sector, civil society and government.

2 Working Groups

The participants were split into two working groups. Whereas working group A aimed to develop a concrete institutional design for Kenya and the ESA region according to the most important functions of Monitoring and stakeholders to be involved, working group B concentrated on ‘what’ needs to be monitored and methodological aspects of monitoring (with the aim to develop an impact chain for one key sector and develop respective indicators for the different steps of the chain).

2.1 Working Group A

a) Function of MM

The working group started with a brainstorming on most important functions of Monitoring EPAs. Finally five main functions were identified, encompassing the following:

(i) Monitoring the Capacity

Monitoring the capacity (to implement and take advantage of EPAs) would cover the assessment of private sector institutions and the public sector with the aim to identify capacity building needs. ‘Monitoring Capacity’ over time would then encompass capacity building and accompanying measures implemented by respective countries and through respective EU assistance, according to capacity needs.

(ii) Conformance/Complementarity²

To see whether EPA objectives and outcomes are conform to national development objectives

(iii) Compliance

Participants stressed that monitoring compliance should not only encompass an assessment of whether parties comply with EPA provisions but also if accompanying measures and reforms would reduce risks and boost positive impacts of EPAs.

² The term ‘coherence’ as discussed in previous consultations was explicitly rejected

(iv) Impact/Objectives

Monitoring should encompass an assessment of impact and outcomes of EPAs on broader development objectives.

(v) Remedy/Adjustment

Monitoring for remedy and adjustment of the EPA text or single provisions would serve as a kind of underlying objective of the whole monitoring exercise. The importance that Monitoring would lead to changes and not simply be for information purposes and future learning was highlighted by all stakeholders

The participants emphasised that the two categories of capacity and compliance are closely interlinked, as parties might implement the provisions of the agreements only fragmentary or not in time due to capacity constraints. Interestingly the participants' discussion focused on 'monitoring capacity' instead of monitoring impact and output which has been the focus of another consultative session in Brussels.

b) legal foundation and design

Having identified the above listed five broad functions of Monitoring EPAs the participants claimed that the Monitoring Mechanism should be specified to the greatest extent possible in the EPA legal text, acknowledging the danger that this might entail the risk that monitoring becomes a political exercise only. It was agreed that monitoring should be specified in the EPA agreement itself to the greatest extent possible and avoid being placed in the Annex, as normally not much attention would be given to the Annex.

It was interesting to see how the 'reality check' changed opinions. First the participants argued that monitoring should be conducted by independent institutions and involve the private sector and civil society. Once we started discussing concrete design options and linkages with existing institutions participants changed their view. They finally agreed on the following proposal for a Kenyan-Regional Monitoring Mechanism:

The structure of the monitoring mechanism should be two-fold and consist of

- A joint EU-ACP monitoring mechanism at regional level, and
- An intra-institutional mechanism at national level.

At national level participants argued that the Government has to get the overall authority as it will provide resources for monitoring. According to the working group the Ministry of Planning and National Development (MPND) should take the coordination function, while the concrete monitoring exercise should be done by

cluster³ in the respective line ministries. The institutional linkage with the Ministry of Planning would ensure that enough resources are provided for monitoring. Furthermore coordination of the NIMES is already placed in the Monitoring & Evaluation Directorate (MED) of the Ministry of Planning (see above summary of presentation). The concrete monitoring would be done by Central Planning Units (CPU) in the respective line Ministries, who are already in charge of conducting the annual reports of each Ministry who should report their results to the Ministry of Planning.

By using existing structures, the costs for monitoring would be minimized. Thus it was agreed that CPU would need to strengthen their monitoring capacity.

For each Cluster a Forum should be established to bring together Private Sector and Civil Society Organisations to feed into the reporting. Surprisingly participants discussed what the role of non-state-actors should be only when explicitly requested to do so by the facilitators and the idea of such a Forum has not been further elaborated in the working group.

Monitoring at regional level would be necessary for monitoring of regional integration (RI). In the ideal case this would be done by a regional institution that has country offices in each member state. A further task of a monitoring institution at regional level would be to coordinate activities at national level and to standardize reports to make country reports comparable. It was agreed that monitoring at regional level could be linked to the COMESA Secretariat's work as they are currently working on a programme for Monitoring RI ('RI Surveillance Mechanism').

One important point that was stressed was the need to have a legally binding agreement among the regional partners that countries should provide data to the regional authorities, as participants presumed there might be a large reluctance to do so.

While it was agreed in the beginning of the session that Monitoring should be a joint exercise, the question on how to involve the EC in this exercise remained open. The possibility of having a third structure at the 'international level' was considered but not discussed further due to lack of time.

2.2 Working Group B

Before this workshop, for various reasons, interested stakeholders in Kenya have devoted very little time and resources to the issues of: a) what needs to be

³ Agriculture, MA, Trade, trade-related, fishery and services

monitored as part of EPA implementation; and b) methodological aspects of monitoring (how to monitor the implementation of EPA). These two areas are very complex and were new to most participants, some of which found it difficult to contribute significantly in the short time available during the workshop.

The first session of this working group addressed point a) on 'what to monitor', and participants agreed on the following points.

-In spite of the fact that the long term objectives of EPAs are shared by the ACP and EU, there is serious disagreement between them on how to achieve those objectives (desired impact) starting from the EPA provisions (inputs). Such attribution gap relates therefore to the exact steps by which specific EPA inputs will bring to certain outputs and the desired outcomes (leading eventually to fulfilment of goals). It is such (impact) chain of steps that should be monitored.

-This implies that there are different elements to be monitored: both the content and the process of EPA implementation; the compliance, the capacity and the impact of EPA; the implementation of both the legal text (i.e. a binding agreement between ACP and EU parties) and the actions accompanying EPA (involving third parties in certain cases while in others of exclusive responsibility of only one of the parties). An EPA monitoring system will have to monitor a combination of all these elements, and choosing only one or few of them would lead to a narrow and unsatisfactory approach to monitoring.

-However, given the range of issues and the limited capacity to address them all, some prioritization, or at least sequencing, of what needs to be monitored is necessary. This could be done by prioritizing according to the chapters of the EPA text, the economic sectors, the involved social groups, or the most serious impediments to achieve the EPA goals.

Taking the above into account the working group undertook such prioritization exercise, identifying key economic sectors and the EPA-related provisions (input) likely to be most important to achieve the related objectives (desired impact).

Participants decided to categorize the priority EPA-related input in three groups: market access (MA) into the EU; measures to address supply-side constraints; development resources accompanying EPA. For each category, the key policy areas were specified more in detail and the respective goals attached to these identified. For instance, MA into the EU was subdivided into EU tariff and non-tariff barriers, and under the latter category, EU rules of origin and sanitary & phytosanitary measures (SPS) were recognized to be the most serious impediments to Kenyan export growth. Therefore, in the case of SPS, EPA should aim at putting in place policy reforms and capacity building measures (responsibility of both Kenyan

government and the EU) to achieve the goal of 'improved and effective access to European markets by Kenyan exporters'. The same line of reasoning was applied to the other policy areas. For example, under 'measures to address supply-side constraints', 'firm-level policies and support measures' were deemed crucial and in this context both behind-the-border (such as fiscal incentives) and border interventions (such as tariff reduction to make imports of intermediary goods cheaper) should aim at value addition for the Kenyan industries. This exercise was done initially taking the example of the Kenyan agriculture sector, but everyone realized this framework could be applied to all other industries as well.

Participants agreed these are all examples of answers to the scope of monitoring during EPA implementation. A monitoring system will have to verify that the different steps in each of these policy areas (inputs) will lead (or at least contribute positively) to the final specific EPA goals. Precisely '*how to monitor*' this was the subject of the second session of working group B, that considered the example of one sensitive agriculture sub-sector particularly debated at present in the Kenyan society (sugar) and only one specific long term *outcome* (value addition) important to lead to the final objective (desired impact) of poverty reduction.

The methodology chosen was to attempt at developing a 'sectoral impact chain', describing the policy measures (inputs) that are most important for the sector, the direct/indirect outputs and different impact for different stakeholders, and the respective indicators for the different steps of the chain that could be used for monitoring. Participants therefore moved:

- *from the inputs* -in the three broad categories above- (for instance using performance requirements to attract new investment in the sugar processing industry);
- *to outputs* (both positive and negative, such as increased investment in machineries but also more environmental waste from sugar cane crushing);
- *to some indicators* that these outputs can lead to the desired outcome -value addition (such as reduced cost of production and share of profits reinvested in technological upgrading, or in the case of negative impact that environmental waste reduction does not overburden Kenyan firms' budget).

Importantly, participants realized that all the identified three broad policy areas are interrelated. In the example of value addition for the sugar processing industry, also MA measures (for instance regional rules of origin stimulating sourcing of cheaper inputs from neighbours) and development cooperation resources (to facilitate for example research&development in new seeds by local SMEs) will be crucial to complement supply-side policies (such as performance requirements).

After the identification of impact paths, due to limited time, the exercise could only be partially completed in terms of selection of impact indicators, related intermediate proxies for quantitative / qualitative indicators, as well as examples of determination of research approaches&methods and data/information requirements.

3 Interviews

The following individual interviews were conducted.

3.1 Consumer Information Network

- The focus of monitoring should lie on impacts as this is the key concern of consumers (for instance, do EPAs enhance access of consumers to basic goods? How are consumers' rights changing with change in trade rules?)
- Interviewees criticised that NSA were not included in Impact Assessment and argued that lack of capacity prevents them to engage in negotiations
- Interviewees further criticised the lack of transparency of EPA negotiations
- Monitoring should be done by an independent forum ("something like a public assembly") that feeds into government report.
- Asking the participants about their views on the Monitoring Mechanism model likely to be proposed by the EU (regional Joint EPA Council with technical level committees) they said the format would be generally adequate but claimed that crucial sectors would not be represented and monitoring should be done by independent institutions.
- A general problem in EPA negotiations and monitoring would be that certain sectors would not have an effective representation (especially in certain countries in Africa) and would not receive support for establishing adequate organisations.
- Consumer Organisations would need funds to create an effective organisation to voice their concerns and would need capacity building support for monitoring.
- Asked about the MM proposed in working group A the interviewees criticised the strong role of the government. Limiting the role of the Civil Society Organisations (CSOs) to just delivering input would be insufficient and it should be avoided to have one official government report and parallel reports from Civil Society. Monitoring should be a participatory process; otherwise it will be an 'empty box'.
- Involving NSA would not only strengthen credibility of the report but also empower CSOs. In addition, interestingly, some of the Kenyan CSOs (including the Consumer Information Network) are used to undertaking applied research on

the impact of different policies (for instance impact of liberalisation on the access to food by the poor and a study on government budget monitoring) and have direct experience on data collection for such analyses (for example data on prices in rural and streets markets). In certain cases the Government (Kenya Bureau of Statistics) shared its methodological manuals to support CSOs in their research.

- National-level monitoring of EPA will be crucial, though of course a synthesis at regional level should be the final reporting stage of a monitoring mechanism. Monitoring should be either done by regional organisations that work together with liaison offices at national level or be done by national organisations. In any case it should be an independent Monitoring System of NSAs that also allows holding the Kenyan Government (and not only the EU) accountable for the beneficial reforms it has committed to undertake as part of the EPA process.
- Monitoring should be done by cluster: consumers, farmers, fisheries,... and involve key regional organisations of each sector (in a sort of 'peer review mechanism'). It should further distinguish between producers and consumers as they had different objectives: while producers might be disadvantaged in some sectors due to EPAs, competition might benefit consumers (e.g. sugar industry in Kenya which is protected at the expenses of the consumers)
- Regarding monitoring of PRSP interviewees argued that these were most elaborate but still the organisations involved were close to the government ("you can't monitor yourself")
- KIPRA was also deemed too close to the government to deliver realistic and fully independent reports

3.2 Kenyan Fish Processors and Exporters Association (AFIPEK)

- An independent private sector driven monitoring mechanism should be designed. This should report to the government, that has to be involved as final decision maker for economic policies and trade relations ('only the Government can provide such monitoring mechanism with teeth, to be effective'). However, for purposes of compliance and complaint, it would be important for the monitoring system to include a sort of 'ombudsman' mechanism to allow the private sector to make its case directly to the highest level of ACP-EU EPA decision-making (a Regional Joint EPA council or others) (instead of going first through slow national-level bureaucracy/procedures) when harm to the business environment is caused by actions (or non-actions) by the EU or the national government as part of EPA. It was mentioned that more transparency and government

accountability are badly needed, as issues related to corruption, red-tape, and lack of implementation of business environment/trade facilitation reforms are the most serious impediments to growth for the Kenyan private sector.

- The private sector should play a key role in the EPA monitoring, and the information should flow in both directions: results from private sector to feed into official reports as well as formal government results should be spread 'downstream' to the private sector
- Monitoring should be done by industries (agriculture, fisheries, service,..) so that the private sector has better chances of playing a leading role in the mechanism. The results should be reported to the competent authorities of the specific cluster (e.g. Ministry of Agriculture) so that these are best placed to implement effectively the required changes.
- Regarding the issue of capacity, the interviewee argued that the main problem was not a lack of human resources to undertake the monitoring but a lack of sufficient funds, especially to collect data (for instance in marine fisheries important data like the max sustainable catch levels would be missing).
- Another problem was the lack of interest of the fish industry, which will be only willing to get involved if it benefits directly from monitoring. Therefore incentives should be provided to the private sector to join such system, in which case certain businesses may be even willing to contribute their own (financial) resources to make the monitoring mechanism work.
- Monitoring should generally be conducted at national level and coordinated a regional level. For Fisheries however a regional approach would be necessary, as stocks are normally shared by the region (e.g. Lake Victoria, representing the main fisheries sector for Kenya as the marine fisheries is still at its infant stage).
- The fisheries industry has previous experience of a collaboration with the government to monitor implementation of certain policies (for instance on eco-labelling of products), whereby the Kenyan producers appointed an independent monitoring body (such as a consultancy firm) and used its reports to ask the government to make certain legislative/regulatory changes. These and other options could be explored for EPA, for instance the Kenya Marine and Fisheries Research Institute (KEMFRI) could conduct Impact Monitoring for the fisheries sector. Compliance should be monitored by government, together with implementation of possible legislative change as result of monitoring. And the private sector would be in between the two stages of this process, to receive impact assessment results, analyse them and turn them into requests to government (competent authorities) for change to EPA/national legislation.

- Examples of what exactly the fisheries private sector would like to be monitored on a very regular basis (monthly rather than yearly) include: effective market access improvements (especially for Kenyan goods to comply with EU SPS measures); employment generated in the various sub-sectors; investment flows in the Kenyan industry; number of joint ventures established with local producers.

3.3 Kenya Small Scale Farmers Forum

- The interviewee claimed that farmers should be involved in the monitoring as they are the key stakeholders concerned by EPAs. At present Farmers in Kenya and the ESA region would not have a sufficient amount of organisation to effectively represent their concerns.
- To effectively engage in monitoring Farmers would need to get support to build national and regional farmers' unions to increase knowledge, awareness and information sharing

3.4 Economics Department, University of Nairobi

- A general problem that would arise with EPA monitoring is related to the very serious lack of relevant data. The availability of production and trade-related data in Kenya is extremely poor (with the sole exception of import/exports flows) and there is no plan by the government to improve the situation (mainly due to lack of resources for data collection). The only area where proper databases exist or are under construction is the MDGs (especially data on poverty) but there is no connection with other economic data. An additional problem is the lack of coordination within government/public sector, and even in cases where new data are indeed collected by an agency or a department, they are not shared with others or interested stakeholders at large.
- Development cooperation resources should address this situation to build the capacity to both collect and analyse data, both within and outside government agencies. KIPRA has the overall mandate from government to deal with trade-related data and analysis in cooperation with the Kenyan Bureau of Statistics, but their capacity is not adequate and so far they have also used very old dataset for their research on trade. It is crucial therefore that any monitoring system for EPA include such capacity strengthening component.
- There is in Kenya a pool of researchers, including within universities (with increasing numbers of PhD students) and CSOs (such as the Economic Affairs

Institute, Econews, or Oxfam), that have improved their ability to undertake relevant trade-related research of the kind needed for EPA monitoring. With appropriate resources and under the supervision and mandate by the Ministry of Trade&Industry they could undertake such important exercise for data collection.

- The cooperation between government and research community is improving in Kenya and most likely the government would not oppose the idea of giving a formal role in EPA monitoring to CSOs and the private sector. The option of sharing responsibility for different areas of monitoring should be explored; for instance the government could monitor compliance to the agreement while private sector and CSOs monitor the impact of EPA respectively on local industries and the poor.
- In order to identify suitable and feasible ways to collect and analyse EPA-related data, and taking into account the present status of available quantitative information, methodological discussions on 'how to monitor' an EPA should also cover qualitative methods.
- Given the very different social and economic realities within the ESA region and the number of issues at stake in EPA implementation, any monitoring mechanism focusing only on the regional synthesis of available information and not covering the national level of analysis is likely to be inappropriate.