

# Regional Conference on “Count down to the conclusion of Economic Partnership Agreements (EPA) negotiations: Case for SADC and ESA”

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## COMMUNIQUÉ

We, the representatives of governments within the region, regional trade related organisations, ESA and SADC, parliamentarians, academia, the business sector, SMEs, labour met in Harare on 03-04 October 2007 to;

- assess the readiness of ESA and SADC EPA configurations to sign an EPA;
- to take stock of the outstanding issues in the negotiations to date and;
- to discuss measures to put in place in the event that the EPA is not signed by December 2007

On the basis of close analysis of the state of EPA negotiations so far, new proposals and the issues arising, the hurdles met thus far, the challenges that lie ahead and the incisive presentations during the two days, the following issues emerged;

- The ESA and SADC regions remain committed to the conclusion of EPA negotiations provided they fully reflect regional as well as national concerns as enshrined in the draft texts. However, judging by the amount of outstanding issues, they will not be ready to sign a full and comprehensive EPA by December 2007. It is important to note that the SADC and ESA regions are negotiating in good faith, and so should the EC. However in the event negotiations are not completed by December 2007, this should be interpreted as a genuine failure to meet the deadline, on account of the large amount of outstanding issues which are still mammoth.
- In terms of the status of negotiations for the two regions, it is noted that some progress has been made in some areas whilst in other areas progress has been slow and stunted. With regards to the ESA region, out of the 6 clusters tabled for negotiations, notable developments have been in trade in goods, fisheries and development as well as institutional and final provisions in the sense of having joint texts. There has been little progress in agriculture, and no progress in services.
- Outstanding issues to date which can either make or break the negotiations include are broadly categorized into issues on market access, development (even though there are still sticky issues in other clusters).

Under the market access cluster, the key outstanding issues include;

- ESA tariff offer. This has to be synchronized with the implementation of the Common External Tariff (CET) for the region.
- Sensitive lists are still to be finalized and harmonized. At present the sensitive lists stand at 55% exclusion, but it needs to be reduced to an average of 30% for the region. This seem mammoth considering the time left before negotiations are concluded
- Issue of rules of origins. ESA is demanding that rules of origins be granted and made binding whilst the EC prefers to grant them upon request. In addition ESA is demanding rules of origin that reflect asymmetry, wider product coverage, higher tolerance threshold for non-originating products, among other issues.

Under the development cluster the key outstanding issues include;

- Whether the development matrix should be annexed to the main EPA text or simply referred to as a separate document.
- Issue of financing the ESA development. Obviously the EDF and Aid for Trade funds are not enough to fund ESA's yawning resource gap of \$37bn.

Another key outstanding issue which can make or break negotiations is the issue of the final decision of parties to the negotiations that is whether parties to the negotiations will sign individually or collectively. Linked to this is the issue of the link between EPA and Cotonou agreement. The legal link and transition from Cotonou to EPAs is still outstanding and needs to be finalized.

- Regarding the issue of trade disruption, it was noted that trade disruption is already occurring for Southern and East Africa's exporters (especially exporters of horticulture products) to the EC. EC buyers normally confirm export orders during the August-September period. But the uncertainty in the EPA negotiations has forced them to put that on hold and worse still has even forced the EU buyers to source the produce from other non-ACP countries hence impacting negatively on export revenues.
- In terms of options it was agreed [after surveying the Everything But Arms (EBA) initiative, Generalized System of Preferences (GSP), Generalized System of Preferences Plus (GSP plus), extension of the WTO waiver, among others] that there seem not to be a credible and sustainable option which will guarantee the Lome acqui or which is at least as good as a "good" EPA.
- We further note that the lack of progress in the Doha Development Agenda is impacting negatively on EPAs, as the ACP countries had submitted a proposal in the WTO to pursue the flexibilities of Art XXIV of GATT. However EPAs continued inspite of the WTO negotiations.
- There is poor coordination (for the sake of EPA negotiations) between the ESA and SADC regions as well as with other sister regional economic communities

- COMESA programs as envisaged by the COMESA treaty do not adequately recognize the urgency of EPAs. Put differently, COMESA programs are slower in recognizing the EPA reality.
- Full, effective and meaningful participation of all key stakeholders to EPAs is still lacking.

**In terms of the way forward, and in light of the above submissions, we propose the following;**

- To ensure there is no trade disruption, ESA and SADC member states on one hand and EC on the other hand need to finalize texts on trade in goods and development cooperation by December 2007 to ensure that there is at least a framework agreement on which both parties can build on later. In addition the Southern and Eastern Africa region need to ensure that they foster unity between Least Developed Countries and Developed countries as this is threatening the negotiations in this penultimate phase.

We further urge the European Commission and the East and Southern Africa and SADC negotiators to explore and put in place flexibilities and provisional applications which EC customs officials can use and implement so as to reduce trade disruption between now and December 2007.<sup>1</sup> This will solve the problem of trade disruption which exporters are facing at the moment (between now and December 2007)

- Regarding the outstanding issues, we call for vigilance to ensure that the region's concerns are comprehensively incorporated into the final text. We advice member states to expeditiously reconsider their sensitive lists with a view to trim them in a way that that does not jeopardize national as well as regional interests. Thus the objective should be to trim the lists NOT JUST TO MEET EU demands, but in a way that genuinely reflects and preserves national and regional comparative advantage and encourages trade.
- Even though there seems to be no option that is as good as a "good" EPA or which is as attractive as the current trade regime (in the sense of preserves the Lome acquis), we urge SADC and ESA countries not relent in their quest for viable options.
- With regards to the status of regional integration vis-à-vis the urgency of EPAs, we call upon COMESA and SADC secretariats to recognize the urgency of EPAs in the implementation of their regional programmes (as implementation of regional programs have tended to lack any compelling deadlines over the years). However due care should be taken to ensure that the regional programs are not rendered ineffective in the pursuit of EPAs.

To add to that the ESA region must also take advantage of the existing systems and use the modified EAC systems as a way of harmonising tariffs.

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<sup>1</sup> Under EC community law it is possible to enact laws that allow transitional arrangements.

- In terms of strengthening the negotiating capacity for both the SADC and ESA regions between now and December as well as beyond, we demand broadened participation in the negotiation process at both national and regional levels to include Non State Actors (in their entirety as well as SMEs), legislators, private sector, strengthened networking and the regions to tap expertise already existing in the region and the Diaspora. In this regard both SADC and ESA need to ensure that they retain teams of experts that have been used to address EPA specific issues such as team of lawyers used to tighten the legal aspects of the ESA text, etc. There is need for consistency in terms of structure and the team of negotiators back up from expertise, expedite flow of information as deadline is looming.
- Regarding the lack of cooperation among regional economic communities, we appeal to the regional economic communities to improve on cooperation by sharing information in order to harmonise regional differences. We recommend that SADC and ESA regions operationalize the cooperation framework between them. We further suggest that both SADC and ESA regions need to be fully aware of what other regions are signing and then try and borrow ideas to improve on their texts. We also call upon the African Union to play a catalytic role to increase collaboration of the RECs
- SADC and ESA regions as well as the whole ACP should not relent in following up on the ACP proposal in the WTO to ensure that EPAs are brought into sync with the development interests of the Doha development round (which was aborted).
- There is also a need to speed up the ratification of COMESA fund by member states, since the COMESA fund will play a crucial role in EPA negotiations as it will be used as a vehicle for provision of resources. Linked to this is the need for political will among member states.
- Forthcoming meetings at both technical, ambassadorial, and Ministerial levels need to be more decisive in terms of producing tangible outputs and clear statement on whether the regions are ready to sign or not.

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Dated 9 October 2007