

EPAs: WHICH WAY FOR MALAWI?

REPORT OF A STAKEHOLDER

WORKSHOP

HELD ON 4TH DECEMBER 2007 AT

LILONGWE HOTEL

HOSTED BY MALAWI ECONOMIC JUSTICE NETWORK IN PARTNERSHIP AND WITH
SUPPORT FROM THE CONSUMER UNITY TRUST SOCIETY

1.0 Introduction/Background

Malawi's single most important trading and development partner is the European Union (EU), who has absorbed an average of 40% of their exports in the past five years. Malawi together with a number of other Eastern and Southern African (ESA) countries is currently re-negotiating its trade relationship with the EU as per the provisions of the Cotonou Agreement of 2000. These negotiations will lead to the signing of an Economic Partnership Agreement (EPA), which will require ESA countries to provide some degree of reciprocal access to EU imports in return for maintaining preferential access to European markets.

Negotiations have progressed at a slow pace with 'harvesting' having taken place in Market Access, Development Cooperation, and Fisheries out of the other negotiation clusters namely Services, Trade Related Issues and Agriculture. The EU has recommended that the two parties in the negotiations sign an Interim Agreement based on what has already been 'harvested'. The interim agreement will come into force on 1st January, 2008 for one year while the two parties conclude the negotiations in the other clusters.

Other stakeholders, in particular CSOs, have registered scepticism and concern on the scope and depth of the impact that these agreements will have on Africa throughout the negotiations. Of concern to them has been the impact of such an agreement on the poor people of Malawi. It is their firm belief that such an agreement will be retrogressive on the lives of these people.

Other groups in Malawi, including the private sector, fear the force of potential incoming goods from the EU, which may be more competitive than their own due to the un-level playing field that exists between the two parties.

Members of Parliament are concerned more than ever as to what this agreement will bring to their constituencies.

Time is running out for the Government of Malawi to make up its mind on what the way forward for the country will be. Should Malawi sign on to an Interim Agreement that will lead to it signing on to an Economic Partnership Agreement with the EU at a later stage or it should hold back and maintain the trading relationship that exists at present through the Everything But Arms Initiative?

The following presents the proceedings of a stakeholder meeting that took place on the 4th December to discuss these issues and other related matters relevant to making trade work for poor people in Malawi.

2.0 Objectives of Meeting

The following were the main objectives of the meeting:

- 2.1 To inform key stakeholders of the status of the EU-ESA Economic Partnership Agreement Negotiations;
- 2.2 To afford key stakeholders the opportunity to input into the negotiation process;
- 2.3 To chart out and advise Government on the next course of action

3.0 Proceedings

All proceedings were moderated by Andrew Kumbatira

3.1 Opening Remarks

Mr. Andrew Kumbatira the Executive Director of the Malawi Economic Justice Network (MEJN) welcomed the participants to the Meeting. He highlighted the issue of EPAs as being important to Malawi especially in light that as a country we have a collective goal of becoming a producing and exporting country. He expressed his disappointment that the issue has not been made a national issue by the lack of filtering through to the people that matter.

He thanked the Consumer Unity Trust Society (CUTS-UK) for supporting the meeting financially and technically. He called for the society to continue to support such efforts in Malawi. He then called upon the Guest of Honour Mr. H. Mandindi, Director of Trade in the Ministry of Industry and Trade to give the keynote address on behalf of the Principal Secretary.

Delivering the keynote address, Mr. Mandindi joined MEJN in thanking CUTS for the financial and technical support they made available to the Ministry through MEJN during the course of the negotiations and also in building the capacity of the Competition and Fair Trading Commission which is in its infancy.

He reiterated the importance of the partnership that exists between the people of Malawi and those of the European Union. He said that over the years European countries through the European Union and bilaterally had been central to this country's progress on a number of fronts. But worth mentioning for this meeting is the

development and technical assistance, notwithstanding the fact that they are the number one destination of Malawi's exports.

He stated that the current negotiations with the EC were aimed at facilitating poverty reduction in Malawi through trade; and integrating our private sector into the global economy. Malawi looked to harvest better rules of origin, support to overcome supply-side constraints (including those relating to the Shire-Zambezi Waterway), value addition, and the ability for us to meet global demand.

He welcomed input into the negotiation process from all stakeholders through the National Development and Trade Policy Forum.

Making his conclusion, he hoped that through the meeting Government would be closer to making its decision on whether to sign on to the EPAs or not.

He thanked all stakeholders for standing with the Ministry in the Negotiations and would count on that support for the future.

With these remarks he opened the meeting.

3.2 Documentary

As part of the consultation process, MEJN commissioned a documentary aimed at capturing a record of stakeholder's views on the gains and costs of EPAs in Malawi. Participants in the Meeting were shown this documentary as a precursor to the presentation by the Ministry on the Status of the Negotiations.

The documentary clearly demarcates the different expectations that different stakeholders have on the negotiations. It presents the different challenges that the negotiations will have to tackle if Malawi is going to stand any chance of benefiting in these negotiations.

3.3 Status of EPA Negotiations¹- Presentation by Mr. H. Mandindi, Mr. of Industry & Trade

¹ Find presentation in Annex

In his presentation the Chief Negotiator gave the rationale for the negotiations and the status of the negotiations. He stated that negotiations on Market Access, Fisheries and Development Cooperation were concluded at the EC-ESA Ministerial meeting held in Brussels, Belgium on 12th November 2007. An Interim Agreement has been negotiated and only those countries with acceptable Market Access Offers will initial and benefit from the interim Agreement. This agreement he said would be used to avoid disruption of trade, as the negotiations continue in other clusters (Agriculture, Trade-Related Issues, Trade in Services, etc). Pressing this point, he said that it would not be in Malawi's interest to disrupt its trade with the EU hence it should sign on to this interim agreement.

3.4 Plenary

The master of ceremony Mr. Kumbatira opened the floor to the stakeholders for their inputs, and positions on the subject matter.

- 3.4.1 Honourable Mark Katsonga opened the floor by welcoming Government's efforts to negotiate economic partnership agreements with the EU. He stated that it was his firm belief that through trade with other countries Malawi could develop. In spite of this potential, he noted with deep regret that the country had not benefited from previous trade agreements (with special mention of the Malawi-Mozambique and Malawi-Zimbabwe bilaterals) because of not negotiating them to a level that they can alleviate us out of poverty. He lamented our weakness in negotiating trade agreements, easily succumbing to pressure from the other party and not exhaustively consulting stakeholders. On the exclusion list, he warned the ministry not to base their criteria on a static assessment but rather on a dynamic assessment which encompasses the country's set vision.
- 3.4.2 Honourable Friday Jumbe raised caution in the way Malawi should go about agreeing trade agreements with other countries. He recommended that Malawi would have to develop its productive capacities first before venturing into ambitious programs of liberalisation. He expected government to offer a level of shielding to domestic traders in all trade agreements they intend to sign on to.
- 3.4.3 Another participant asked the Chief Negotiator if the negotiating position (at national level) had decided who

would bear the brunt of the revenue losses. They felt that with the spirit of trying to attract Foreign Direct Investment (through offering tax holidays) it was the poor man who was going to be affected most as government seeks alternative sources of revenue.

- 3.4.4 What is the possibility of getting an extension in the negotiations? In addition to this will it be possible for Malawi to withdraw from the EPAs if they find that the negotiations haven't gone their way come December 2008?

The representative of Action Aid International- Malawi Carol Kayira sought clarification on the following matters:

- 3.4.5 Is one year enough to negotiate the remaining clusters outside the Interim Agreement?
- 3.4.6 Is there an opt-out clause in the text?
- 3.4.7 Has the Ministry carried out a cost-benefit analysis on the possible impacts of these EPAs on the poor?

The Chief Executive of the National Smallholder Farmers Association of Malawi (NASFAM) expressed concern that the country's bureaucracy when it comes to importing and exporting processes is not improving and was not supportive of the country's development objectives. A case in point is where his organisation with support from ICRISAT imported a machine that would build their technical capacity to meet the aflatoxin requirements for groundnut exports to the EU. The machine was going to give an opportunity to the members of NASFAM to earn more income and sustain their livelihoods. Looking at the nature of the import, NASFAM applied for the duty free entry of the machine. However, the Ministry of Finance has refused, and ICRISAT has now decided that the machine be returned to India because of this development.

- 3.4.8 On EPAs Mr. Chibonga felt it was illogical that we should be in such haste to conclude the EPA negotiations when more important discussions on the WTO Doha Development Agenda haven't been concluded. He called

upon a swift conclusion on the DOHA Agenda before tying ourselves to conditions that are less flexible in the EPAs.

3.4.9 The Consumer Association of Malawi (CAMA) reinforced Mr. Mandindi's position that the Interim Agreement should be signed on to by the Malawi Government. As a Consumer Association they welcomed the increased competition that EU products would bring to the domestic market believing that this would translate into low prices and high quality products for consumers. In addition to this their representative reiterated that without the Interim Agreement, trade between Malawi and the EU would be disrupted.

3.4.10 University of Malawi Economics Association wanted to know if the EDF funding that the Government receives from the EU was a conditionality for the signing of the EPAs that is to be clear on whether the EDF money was linked to the EPA negotiations.

3.4.11 Honourable Hussein, Member of Parliament wanted to find out what was making us 'think' that we can meet the standards of the EU market this time around, having received these donations and non-reciprocal access for the past 25 years. Commenting on the Exclusion list, he commended the ministry for coming up with a list that is going to be protected from liberalisation in the negotiations. He however questioned the country's capacity to keep out these imports from the domestic market. Experience in this regard has shown that the country has no ability to keep out any form of imports as is shown by a number of these so called 'excluded list' products cropping up on the black market and in some cases in formal trade.

3.4.12 Mr. Gondwe, Programme Manager- Trade for the Malawi Economic Justice Network, made a submission on behalf of Civil Society Organisation from the institutions' consultations on these matters. The following are some highlights:

3.4.12.1 Civil Society remains pessimistic of how an EPA can benefit a Least Developed Country like Malawi and facilitate the process of turning Malawi into a producing and exporting country.

3.4.12.2 The EU's insistence to place market access at the heart of the negotiations instead of ensuring that the outcome is development centred as is the wish of ESA governments, leaves a lot to be desired. If development is not enshrined and committed to, this whole process would be in vain on the part of the African Governments, especially Malawi.

3.4.12.3 It is the view of Civil Society Organisations that signing on to an Interim Agreement will not add value to the relationship that already exists between the EU and Malawi. This conclusion was arrived at based on the following assessment:

3.4.12.3.1 The language in the development text is not binding and does not represent any legal commitments on the part of either party. This is not fitting for an LDC whose primary purpose in joining the negotiations was to get development aid. On the other hand, the text on market access is binding to both parties with clear timelines and requirements.

3.4.12.3.2 The Ministry of Trade are on record saying that one of the reasons this country needed an EPA was to negotiate flexible rules of origin governing trade with the EU. However, this is not going to materialise through this interim agreement as the EU has stated that rules of origin are going to be negotiated in a separate protocol and are not part of the EPAs

3.4.12.3.3 The EPAs now put two very unequal parties at the same level. Malawi will be signing on to this agreement not as part of a region as originally envisaged. To the extent that Malawi will be entering into a schedule of reducing tariffs with the EU

(which is a bloc with 27 countries), if this is a fair and beneficial agreement then nothing is.

3.4.12.4 Civil Society also made a formal request for the ministry of trade to submit the agreement to parliament for deliberations before they sign on to it. It is the firm belief by CSOs that involvement of Members of Parliament as custodians of the people is critical, as this agreement will affect all Malawians.

3.4.12.5 Malawi has been party to a partnership agreement with the EU that lasted for 25 years (called the Lome Convention) that is largely agreed to not have benefited the country, what sureties does the country have this time that this agreement will work to our benefit?

3.5 Summary Responses from the Chief Negotiator

- 3.5.1 Malawi has low tariffs due to IMF/WB policies, and it is bound to these low tariffs because of the agreements that government has signed with these international financial institutions. This presents a great challenge in negotiating bilateral and regional trade agreements as other countries are not willing to bring their tariffs down to our level. Thus negotiating for Malawi is difficult to begin with
- 3.5.2 On extending the negotiations further, the negotiator felt that the Interim Agreement provide sufficient extension for Malawi to negotiate for a favourable outcome in the remaining issues. Once Malawi signs onto the Interim Agreement, it is not yet clear if an opt-out mechanism will be agreed to.
- 3.5.3 In his view, the negotiator felt that there would limited costs if Malawi signs on to an EPA, because the import-export portfolio of the two parties was not competing. Malawi also stands to benefit from this agreement.
- 3.5.4 Government of Malawi will continue to receive development funding from the EC under the EDF as this is under the Cotonou Partnership Agreement and not the EPA.
- 3.5.5 Government has no other viable option other than signing on to the EPAs.

3.5.6 The EU is not proposing Free Trade Agreements (FTAs), as there is no such thing as free trade in the world. Malawi will ensure a good measure of protection for our strategic industries.

4.0 Conclusion

Making closing remarks, MEJN's Executive Director thanked the stakeholders for their input and pledged MEJN's support to the Ministry as it endeavours to make Malawi a productive country.

The meeting was closed by Honourable Gwengwe, the Chairman of the Trade, Commerce and Tourism Committee of Parliament. He pointed out that the EPA negotiations were a continuing process, which entails that the stakeholders should still be at the table.