Report of The

TDP Policy Round Table Meeting on Linking Trade, Development and Poverty Reduction

Held on June 28, 2007
At The Panafric Hotel, Nairobi

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This report captures proceedings from the round table meeting organised by the Institute of Economic Affairs (IEA Kenya), Trade Information Programme to have deliberation on linking trade, development and poverty reduction. Of concern is the need to create awareness that the World Trade Organisation (WTO) involves more trade in goods and agriculture, and which have been overemphasized. Both goods and agriculture have a service component that is reflected in the price and there is greater opportunity for trade in services. Hence, there is need to establish coherence between the national development goals and opportunities presented. Also, there is need to step up profile of General Agreement on Trade in Services (GATS) Policy in Kenya's Trade Policy.

1.0 GATS: Current Status and Development Opportunities for Kenya

By Kiama Njoroge, Ministry of Trade and Industry

General Agreement on Trade in Services (GATS) was first introduced into the multilateral trading system (MTS) during the Uruguay Round (1986-1994). It is one of the key agreements that came into force with the entry of WTO in 1995. The Rules and Disciplines contained in GATS marked the first step towards a long-term process of services liberalisation.

The service sector has been characterised by: very strong government involvement. The sector has also been intangible and without tariffs. Services account for over 70 percent of developed countries' Gross Domestic Product (GDP). The sector accounts for over 60 percent and 40 percent of employment in developed countries and developing countries respectively. It has been the fastest growing sector in world trade in the last two decades and since 1990, services exports from developing countries grew over three percent points (per annum) faster than those in developed countries.

GATS define "Trade in Services" as the supply of service through any of the following four Modes:

1. *Cross border supply:* The supply of a service from the territory of one member into the territory of any other member through telecommunications or mail.
2. *Consumption abroad:* This happens when the consumer moves to the territory of another country and buys service there.
3. *Commercial presence:* This involves a direct investment in the export market through establishment of a business there for the purpose of providing a service.
4. *Movement of natural person:* The temporary entry of an individual in the territory of another member for the purpose of providing a service.

Scope and Coverage of GATS

GATS coverage is divided into 12 sectors (excluding services offered by government). Table -1 shows the sectors

Table -1: 12 Sectors under GATS Coverage

• Business sector • Communication	• Health related services • Financial services

• Construction and Engineering related • Distribution • Education • Environmental	• Tourism and travel related • Recreation, Culture and Sport • Transport • Other services

Cancun to July 2004 Framework

Adoption of the July 2004 framework resulted from consultations to bring back negotiations on track following the collapse of the 5th WTO Conference in Cancun, Mexico in 2003. At the adoption of July Framework only 44 initial offers had been submitted. The framework established May 2005 as the benchmark for submission of revised offers and also made the following recommendations on services:

- Submission of initial offers by those members who had not done so;
- High quality offers;
- Reaffirmation of the interest of members particularly developing countries in Mode 4; and
- Provision of targeted technical assistance.

Hong Kong Preparatory Period

There was limited progress as between September 2005 to December 2005, 69 initial offers remained outstanding excluding 23 offers from least developed countries (LDCs). The LDCs were exempted but encouraged and there was demand for complementary approaches by developed countries. The Hong Kong Declaration and its Annex C led to:

- Enhanced level of equity in foreign participation
- Removal or substantial reduction of Economic Needs Tests (ENTs)
- New/improved commitments
- Indication of duration of stay with the possibility of renewal
- Clarity in scheduling of commitments
- Plurilateral approaches
- Exemption and encouragement of LDCs

Development dimension

- Flexibility for individual developing countries
- Regard to the size of the economies
- Particular attention to the sectors and modes of supply of export interest to developing countries
- Implementation of LDCs modalities
- Technical assistance and capacity building for supply side and regulatory framework

The Hong Kong Ministerial meeting injected momentum into the negotiations and as a result 22 collective requests were made under the plurilateral approach as bilateral process continued along side the plurilateral process. Lack of progress was linked to lack of progress in non- agricultural market access (NAMA) and Agriculture. The talks were suspended before the deadline for second round of revised offers i.e. July 31, 2006.

Opportunities and challenges of services liberalisation

Worldwide liberalisation of trade in services started two decades ago or earlier and economic benefits have been proven by practice. Income gains from services liberalisation have been greater than for trade in goods and agriculture.

Challenges

- Trade barriers are higher in services than goods
- Lack of transparency
- Effects of protection of economy in general.

Opportunities

Benefits for Consumers

- Benefits similar to those of open trade in goods
- Price and quality competition
- Better choice of supply
- Access to better quality, competitive and cost effective services
- Improvement of consumer's purchasing power and standards of living.

Attracting Foreign Direct Investment

- Interest of developing countries on Foreign Direct Investment (FDI)
- Increasing of relationship between trade in services and FDI
- Trade liberalisation must be supported by appropriate domestic polices in view of the multiple factors affecting FDI decisions of foreign investors and international competition to attract FDI..

Improving the competitiveness of manufacturing and exporting industries

Manufacturing and exporting industries need a wider range of quality, competitive and cost effective services inputs to further their production. This is true also of agricultural products for exports. Infrastructure and production services are most relevant.

Contributing to sustainable development through employment and poverty alleviation

The World Bank estimates that liberalisation of trade in services could provide US$6tr of additional income in the developing world by 2015.

Liberalisation of trade in services does not mean deregulation. It requires appropriate regulation to ensure national policy objectives like consumer protection, proper functioning of financial markets, traffic safety, pro-competitive regulation in telecommunication and other infrastructure services, universal access requirements in health and education, safe guarding cultural identify in cultural and audio visual services. GATS guarantees national sovereignty and flexibility to regulate domestic services markets.

Kenya's participation in MTS on GATS
Since the launch of the services negotiations in the year 2000, Kenya has been an active participant. It is among very few African countries that have been able to make request under the GATS. In total, Kenya made 17 requests which went to the regional stakeholders and mostly to the South. In addition to the unilateral liberalisations undertaken before the entry of WTO, Kenya made commitments in the financial, transport, communication, tourism and other services. Some of these were not well received by members of the business community.

Kenya is also among the few developing countries that have been able to send its initial offer during this round (October 25, 2004). With support from Information and Communication Technology (ICT), Kenya undertook a study on the regulatory framework in the services sector in 2005. In 2006, with support of ILEAP further studies aimed at informing Kenya on areas of commitments and conditions to attach to such liberalisation on selected sectors was carried out. The studies could also help in preparing Kenya's revised offers.

Trade in services in Kenya is very well established in certain sectors such as tourism, commercial, transport services and financial services. ICT is making strong in-roads in service exports. Kenya has a competitive advantage over her neighbours and within the region. This leadership however does not manifest itself in WTO submissions on areas of interest for Kenya. Kenya's main export markets for services are East Africa Community (EAC), Common Market for East and Southern Africa (COMESA), European Union (EU) and United States (US). In addition, East Asian nations are becoming increasingly important service trade destinations for Kenya.

Hindrances to service development for Kenya:

- Poor infrastructure;
- Inadequate access to capital for emerging businesses;
- Important of further liberalization of services sector; and
- Inadequate information on foreign markets.

Issues at Hand

- Need to address regulatory and promotional issues for the service firms to exploit the ready business opportunities in the region and beyond.
- Suggestion that developing countries should take advantage of Mode 4 by using it as an entry point.
- Development of agriculture and manufactured goods rely on services.
- Need to put down good structures on the ground for investment.
- Need to come up with a regulatory framework before of venturing into other service sectors.

DISCUSSION

Issues, concerns and suggestions raised at the round-table were:

- Communication contributes greatly to various sectors of development;
- There is need for information in ITC on regulation framework;
- On out sourcing, there is need to open further to Mode 1;
- Deregulation and liberalization lead to an explosion in service provision;
- Reduction in the number of licences required to establish businesses will encourage/assist more people get into business; and
- Liberalisation provides a wider scope and has contributed greatly domestically.

Concerns

- Failure to regulate leads to organisations making excess profits;
- Bilateral investment treaty limits the government's control on repatriation of profits;
- Trade should not be entirely about agriculture as there are opportunities in the service sector too;
- Parliamentarians should shape policy formulation;
- Need to put in place regulatory measures before carrying out further liberalisation;
- Need to improve the legal service sector by diversifying from the criminal element to economic e.g. trade issues; and
- Need to include legal aspects in regulation.

Suggestions

- Need to have a local aspect of ownership as a way of ensuring regulation;
- Need to completely liberalise the communication sector;
- Kenya should package and sell its human capacity to the region;
- Repatriation of profits by investors should be regulated;
- Investors should give back to the community from profits made;
- Formulation of laws that are complimentary to service provision;
- Kenya needs to consider consumption of imports as we export;
- Measures should be put in place to ensure that we get quality tourists into the country;
- Need to raise the profile of GATS within Kenya's Trade Policy; and
- Moderate deficits in trade accounts through services.

2.0 Coherence Between Kenya's National Development Goals and Trade Policies *By Margaret K Chemengich*

This presentation looked at Kenya's national development goals and what is undertaken as trade goals so as to determine whether the country is achieving the objectives, including identifying the limitations.

Post Independence Period

During the post independence period, the main policy thrust and national development goals have been based on the fight against poverty, illiteracy and diseases as detailed in Session Paper No. 1 of 1965. The trade policy in place then was that of import substitution accompanied by public sector marketing boards and trade support institutions to handle production, and both domestic and export marketing. Additionally, production and trade was based on self-sufficiency. Prohibitive tariffs were in place.

Milestones

- Period registered economic prosperity based on expanded agriculture;
- Elaborate public sector administrative arrangement to support industry and trade, by way of licences, permits etc;
- Heavy public sector involvement in the productive and services sectors since there was no private sector to undertake the activities; and
- Functional centrally planned economy.

Handicaps

- Lack of competitiveness;
- Diminishing markets with the collapse of the EAC in 1977;
- Lack of diversification;
- Dependence on trade in primary agricultural products to sustain the economy;
- Concentration of budgetary resources on production with little emphasis on trade;
- Little emphasis on trade as a tool to spur the well being of the people;
- Limited linkages to external markets;
- Lack of preparedness for external/internal shocks e.g. oil shocks, shrinking markets, product substitution;
- Narrow trade options;
- Limited attention to the services sector; and
- Limited stakeholder involvement.

Structural Adjustment Programmes Period

During the Structural Adjustment Programmes (SAPs) period, while maintaining the post independence thrust, it improved governance and export orientation as a way of improving the well being of the people. The main features of trade policy during this period centered on liberalisation and privatization with reduction of government involvement in productive sectors.

Milestones

- Price liberalisation/decontrols in most sectors of the economy including exchange and interest rates with eventual effect of prices coming down;
- New players with new precuts came into the market;
- Efforts were made to rationalize tariffs;

- New initiatives adopted to improve competitiveness e.g. Export Processing Zones (EPZ);
- Establishment of Kenya Revenue Authority (KRA) to operate outside Treasury;
- Success stories of privatisation in Kenya Airways;
- Diversification into horticulture sector with limited public sector involvement; and
- Improved policy stability and predictability.

Handicaps

- Closures of businesses due to lack of preparedness of the business community for the new policy environment;
- Lack of re-alignment of business support institutions to new policy changes. Retaining institutional structures operating under import substitution;
- Ineffective legal and regulatory framework;
- Inadequate involvement and sensitisation of the public;
- Lack of market analysis on changing market requirements, including new traded products substituting existing product ranges;
- Lack of strategic preparedness for new and niche products/services;
- Frequent policy reversals;
- Widening gap between the poor and the rich; and
- Maintaining *status quo* on what is traded.

Globalisation/Regionalisation Period

During the globalisation/regionalisation period (1990s and beyond) the national development goals build on sessional paper No.1 of 1986, sectoral sessional papers and Economic Recovery Strategy (ERS) paper. The main trade features of this period relate to globalisation and wider and deeper regional integration within the context of further liberalisation, restructuring, reforms and new institutions being set up.

Milestones

- New markets in particular COMESA, EAC, US/(AGOA and new traded products;
- Wider private sector involvement at policy, production and trade levels;
- Further liberalisation of strategic parastatals;
- Liberalisation of the energy generation and communication sectors;
- Deepening of regional integration;
- Re-aligning of budgets and plans;
- Devolution of limited budget resources to the community level;
- Establishment of youth and women enterprise funds;
- More stakeholder involvement in trade negotiations supported by analytical work;
- Diversifying trade negotiations to include services; and
- Involvement of the President in the business sector through National Economic and Social Council (NESC).

Handicaps

- Limited dissemination and promotion of new preferential markets and products to the business community;
- Lack of complementary national policies to benefit from multilateral/regional and bilateral agreements;
- Lack of legal and regulatory frameworks in support of new trade policies;
- Disparity of knowledge within both of the public and private on trade related issues;
- Continued monopoly in a number of service sectors e.g. power transmission;
- Limited participation of youth and women in economic activities;
- Capacity constraints in negotiations;
- Inadequate funding of trade facilitating institutions;
- Delayed privatisation/reforms in key trade supporting service sectors;
- Continued fragmented trade policy making processes and implementation;
- Lack of impact assessments on trade policies;
- Limited policy analysis to trade policies and overall national development goals; and
- Continued limited attention to the services sector.

Recommendations

- Need to strengthen and institutionalise the national analytical capacities to address lack of harmony between trade policies and overall national development policies;
- Move more into value addition;
- Wider involvement of stakeholders in policy making process and negotiations;
- Need for comprehensive trade policy analysis, monitoring and evaluation;
- Need to invest in business support institutions, infrastructure and the services sectors;
- Wider involvement of the private sector;
- Enhancing the legal and regulatory frameworks;
- Move more into partnerships; and
- Investing more in technical education.

Lessons from country studies on TDP

1. Agriculture is not only a source of employment but provides food security. There is need not to expose these sectors through policies that can erode them.
2. A good trade policy should guarantee the government efficient policy space e.g. to regulate business practices, labour rights etc.
3. Increasing trade and development are interlinked. There is need to convert trade liberalisation policies to national development strategies.
4. Consider the importance of economic integration as a means of bringing about peace among members.

5. Need to examine sector specific constraints before exposing sectors to trade liberalisation.
6. Need to establish strong partnership between all stakeholders.

DISCUSSION

Issue, concerns and suggestions at plenary were as follows:

- A Trade and Industrial Policy is at its final stages of development;
- A Trade and Industrial Policy Institute is being established to provide analytical work;
- Institutionalise key functions of implementation, evaluation and monitoring;
- Kenya should domesticate regional policies with flexibilities and safeguards within;
- Kenya should consider partnering with countries carry out value addition on its raw agricultural produce;
- Need to progress into value addition, branding, marketing and promoting of unique products e.g. tea and coffee;
- Need to negotiate tariff peaks and escalations;
- Changes in trade, legal institutions and policies should be complimentary;
- Involve Kenyans in the Diaspora to market Kenyan produce;
- Need for an informed civil society that can compliment private and public sector issues;
- Context trade policies on strong analytical basis by identifying areas of interest, looking at trading partners and what they are doing;
- Need for trade policy initiative that links up ministries for coherence;
- Put in place safe guard mechanism in trade;
- Policy making should be a technocratic process free from populist and political pressure;
- Need to diversify to where our competitive edge is and align our industries accordingly;
- Need to address factors of production that make our products less competitive;
- Poverty reduction can be achieved through liberalisation as competition helps in bailing out poverty reduction as it leads to variety choice and cheaper services/products.
- Need to link services to poverty reduction. and
- There is need to develop agriculture through improved skills and value additions as majority of the poor are in agriculture.

Concerns

- Policy reversals scare away investors;
- The formulation of policies based on personal whims;
- Discussion and formulation of policies from a political point of view;
- Ambivalence in what should drive trade. Should we stop trade so as to protect jobs?
- There is inadequate measures put in place during policy transitions;

- Parliament has been a disincentive as it does not prioritise laws regarding trade e.g. Intellectual Property (IP) laws that have lied in waiting for 10 years;
- Weak legal and regulatory framework making it difficult to put in place safe guards;
- Conditionalities that may not be favourable put in place by institutions driving policy e.g. the International Monetary Fund (IMF), World Bank and other partners-peg conditionalities;
- Fragmented formulation and implementation of trade policies;
- Poor synchrony in EAC as Kenya is more advanced;
- The use of capital intensive strategies to increase productivity may lead to unemployment and as a result increase poverty;
- Liberalisation has increased inequality as most trade policies focus on commercial interest by promoting exports;
- Poor feed back to public on what is being negotiated on and the outcomes; and
- Government's weak analytical capacity.