



Services and Investment in the SADC EPA

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The process of negotiations

- Who are going to negotiate trade in services?
- The unique position of Namibia – possible that more countries would have opted out of the services negotiations if given the choice
- Things changed - more countries now appreciate the '*possible*' benefits of services liberalisation
- No guarantee that liberalisation will bring benefits
- South Africa is very active on the African continent – why?
- The answer might point to the decision of South Africa not to negotiate binding commitments on trade in services

South Africa and services in the EPA

- No legal obligation or compelling reason for South Africa to negotiate services
- We can speculate on the issues influencing South Africa's decision – sequencing of regional negotiations is crucial
- South African services industries are considerably more developed and this informs the services strategy
- Point of view from the lesser developed neighbours is different – opening up their markets would make more sense
- Problem of regional inequality historically addressed through the revenue sharing mechanism
- Is there a suitable mechanism for a wider agenda?

What now?

- Degrees of development are giving rise to differences in approaching services negotiations
- The Common Negotiating Mechanism was suppose to address the differences as provided for in Art. 31 (2) of the SACU agreement
- Member states are not in agreement on how to move forward with only Botswana, Lesotho, Swaziland and Mozambique likely to negotiate
- But still no combined effort to negotiate together despite the advantages
- Demanding undertaking to identify gaps in the target market or sensitive industries in local markets
- Combining scarce resources and capacity makes more sense and even more important now that the regional processes are underway

Investment in the CARIFORUM

- Services include: business; communications; construction and engineering; distribution; educational; environmental; financial; health and social; tourism; recreational, cultural and sporting; transport; and other services
- Investment schedules in the CARIFORUM EPA: A) Agriculture, hunting and forestry; B) Fishing; C) Mining and quarrying; D) Manufacturing; and E) Production, transmission and distribution on own account of electricity, gas, steam and hot water
- CARIFORUM EPA provides for the liberalisation of these investment sectors
- Investment schedule sets out the liberalisation commitments i.e. to what degree they are willing to open up their market for foreign competition
- The scope we dealing with here is exceptionally wide – we have to understand all of these issues

Investment in the SADC EPA

- Services liberalisation has been addressed at the multilateral level - but not investment liberalisation
- TRIMs and BITs deal with investment issues to some extent
- Investment liberalisation is not addressed in SADC - investments are permitted in accordance with national laws:

Annex 1. Art. 2

“1. Each State Party shall promote investments in its territory, and admit such investments in accordance with its laws and regulations”

- How is investment addressed in the SADC EPA – seeing as the Investment Chapter must take regard of the SADC Protocol on Finance and Investment:

Art. 67: II.a) Investment

“1. The Parties agree to negotiate an Investment chapter, taking into account the relevant provisions of the SADC Protocol on Finance and Investment..”

Conclusion

- Two important areas to prepare for the services and investment negotiations
 - 1) Improving our knowledge of the framework within which services and investment are regulated**
 - Examination of domestic policies and laws to build internal capacity
 - 2) The role of stakeholders in the process of negotiations**
 - Best placed to identify opportunities and barriers in niche markets– these must feed into a services strategy
 - Ensuring there are avenues for constructive engagement to formulate an informed position