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WTO Agriculture Disciplines And Negotiations

Implications for Equitable Agriculture Development in the East African Community

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Table of Acronyms

AfT	Aid for Trade
AGOA	Africa Growth and Opportunity Act
AMS	Aggregate Measurement of Support
AoA	Agreement on Agriculture
CTAMS	Current Total Aggregate Measure of Support
DFQF	Duty free quota free
EAC	East African Community
EBA	Everything But Arms
EIF	Enhanced Integrated Framework
FBTAMS	Final bound total aggregate measure of support
GATT	General Agreement on Tariffs and Trade
LDCs	Least-developed countries
ODA	Official development assistance
OTDS	Overall trade-distorting support
TFF	Trade Facilitation Facility

1. Introduction

In Africa the agriculture sector has the potential to accelerate development and poverty reduction on the continent, including in the East African Community (EAC) where more than 80 per cent of the population depends on the sector for their livelihoods; however for the potential to be optimally harnessed there is need to ensure equitable agriculture development that encompasses all stakeholders and provides an enabling environment for them to fully engage in and reap the benefits therein.

Whilst there is no agreed definition as to what constitutes equitable agriculture development, a recent study titled "Agriculture in Development of Select African Countries: Linkages with Trade, Productivity, Livelihood and Food Security"[1] found that such development should entail the following main elements: reformed international and regional trade disciplines in agriculture; increased investment to improve productivity; redress of agriculture related trade facilitation constraints; prioritizing capacity building of small and medium sized farmers and traders; and encouraging multi-stakeholder consultations and coordination. It is in this context that this paper will analyse the implications of WTO agriculture and related disciplines, including the on-going Doha round negotiations on the overall development of agriculture in the EAC.

The rationale of the paper is to identify the opportunities enshrined in these agreements and to what extent they facilitate equitable agricultural development more specifically with regard to reforms in the international trade disciplines, as well as the constraints faced by stakeholders in the East African countries in exploiting such opportunities. Ultimately the paper seeks to come-up with recommendations for stakeholders in the region that would facilitate harnessing of the well-endowed agriculture sector, towards equitable development and poverty reduction.

[1] See Agriculture in Development of Select African Countries: Linkages with Trade, Productivity, Livelihood and Food Security

2. Agriculture Disciplines in WTO

Prior to the WTO, the General Agreement on Tariffs and Trade (GATT) provided for the rules governing agriculture in the multilateral trading system; however these were markedly different to the rules applied to industrial products and largely led to distortions in agricultural trade. For instance there was no restriction on the use of export subsidies on agricultural primary products, whereas these were prohibited in the case of industrial products.[2] Import restrictions were also allowed under the GATT rules in cases where they were required to limit domestic production, this was however conditional on maintenance of a minimum proportion of imports relative to domestic production.[3] In addition many countries applied non-tariff measures to agricultural products such as import bans, quotas restricting the level of imports, minimum import prices and others that made effective trade in this sector difficult, all these factors hindered equitable agricultural development in developing countries.

The reluctance to strictly discipline agriculture was attributed in part to the policies adopted by many countries especially the developed ones, following the 1930's depression, whereby they provided market price support and administratively raised farm prices in their countries, while also imposing import access barriers, these policies were based on the idea at the time that countries should be self-sufficient in food production. However this resulted in increased productivity and production culminating in surpluses. Ultimately export subsidies had to be applied to dump the surpluses onto the world market, with the effect of depressing the world market agricultural products prices.

On the other hand developing countries during that period introduced low food price policies in favour of urban consumers, this coupled with the distorted world prices for agricultural products was a disincentive to farmers in the developing countries, negatively affecting their productivity, and hence equitable development could not be attained in a sector with so much potential in many of these countries.[4]

The Uruguay round of agriculture negotiations moved to address these distortions and imbalances in agricultural trade by improving the disciplines to the sector; these include those aimed at domestic agricultural policies, capping agriculture export subsidies towards their eventual elimination and ensuring market access for agricultural products globally. Disciplines were also developed for sanitary and phytosanitary measures so as to facilitate compliance to the Agreement on Agriculture, by preventing protectionist tendencies on the basis of such measures.[5]

The Agreement on Agriculture, (AoA) came into force in January 1995 and specifically recognizes in its preamble the long-term objective to establish a fair and market-oriented agriculture trading system along with initiation of a reform process through negotiation of commitments on support and protection and establishment of more effective rules and disciplines.[6] It also provides for

2 Article XVI:3 of GATT

3 Article XI:2(c) of GATT

4 See Agriculture: Explanation, available at http://www.wto.org/english/tratop_e/agric_e/ag_intro01_intro_e.htm

5 Ibid

6 See preamble to the WTO Agreement on Agriculture paragraph 2.

differential and more favourable treatment for developing countries in respect of these commitments.[7]

With regard to reformed international trade disciplines in agriculture; the AoA comprises specific commitments by WTO Members to reduce support and protection in the areas of domestic support, export subsidies and market access.

1.1 Market Access

In order to improve market access for agricultural products, the AoA and Member country schedules established bound tariff commitments as opposed to non-tariff measures that had prevailed, hence enabling international agricultural trade conditions that are more transparent, predictable and competitive. It expressly prohibits use of agriculture specific non-tariff measures, which include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, and voluntary export restraints among others.[8] Such measures would otherwise restrict agricultural trade and thereby affect its contribution towards equitable agricultural development more especially in developing and least developing countries such as the EAC Member States.

The AoA however does not prohibit non-tariff measures consistent with the GATT or other WTO agreements applicable to traded goods generally; these include general safeguard provisions, the Agreement on the Application of Sanitary and Phytosanitary Measures, and the Agreement on Technical Barriers to Trade among others.[9]

Upon tariffication of the non-tariff measures, the AoA provided for a starting point or base-period tariff from which member countries made commitments to improve market access by reducing these tariffs. Developed countries were to reduce their tariffs by an average of 36 per cent, subject to a minimum reduction of 15 per cent in each tariff line over a six year period; for developing countries the commitments were an average of 24 percent and 10 percent in the individual tariff lines, over a ten year period; while in the case of least-developed countries (LDCs) there were no reduction commitments. At the end of the implementation period all tariffs were bound at the final level above which they could not be raised, except under the special safeguard provisions applicable to specified commodities, in situations where import prices of a member country are low, or where there is a sudden surge in imports.

The market access provisions in the AoA sought to promote development of trade in the agricultural commodities by first requiring members to maintain the levels of access based on the volume of imports during the base period (1986-88); and where such level was negligible, a minimum access was required at not less than three percent of domestic consumption during the base period. Exceptions were made in the case of traditional staple commodities of developing country members

1.2 Domestic Support

The outcome of the Uruguay Round on agriculture sought to ensure that members' binding commitments in the areas of market access and export competition were not circumvented through domestic support. The objective was to discipline and reduce domestic support without affecting the ability for governments to implement

7 WTO Agreement on Agriculture Part IX Article 15

8 Ibid Part III Article 4

9 Ibid

policies in response to certain circumstances that they could individually be faced with.[10]

Domestic support was hence categorised into that with no, or minimal, distortive effect on trade (referred to as Green Box measures) and trade-distorting support (referred to as Amber Box measures). The later is subject to reduction commitments made by the WTO members providing such support.

Government agricultural service programmes such as stockholding for food security purposes and domestic food aid are considered as Green box; the same treatment is afforded to other services including agricultural extension and advisory services. The other category of support not subject to reduction commitments are direct payments made under production limiting programmes (referred to as Blue box measures), these are considered to be those made on fixed areas and yield or a fixed number of livestock.

With regard to the domestic support reduction commitments, the AoA provides that they are expressed in terms of "Total Aggregate Measurement of Support (AMS)" which is the amalgamation of product and non-product specific support in a single figure. At the commencement of the agreement, twenty eight members had non-exempt support and dully made reduction commitments in their schedules. Developed country members undertook reduction commitments of 20% of their domestic support over a six year period, with an allowance of 5% of the support categorised as *De minimis;* developing country members providing such support committed to its reduction by 13.3% over 10years with the *De minimis* allowance set at 10%, they are further entitled to special and differential treatment under Article 6.2 of the AoA, which exempts domestic support geared towards investment subsidies availed for agriculture development programmes, as well as input and diversification subsidies from reduction commitments; in the case of LDCs no reduction commitments were provided.

In addition to the above obligations with regard to domestic support, all members are required to notify the WTO Committee on Agriculture the extent of their support measures periodically. The notification should include both exempt and non-exempt categories of the support, including the calculation of total aggregate measurement of support where it applies. Modifications to existing measures or introduction of new measures must also be notified. These notifications are examined by the Committee and provide a basis for agriculture policy discussions.[11]

1.3 Export Subsidies

The AoA defines "export subsidies" as subsidies contingent upon export performance and prohibits their use except as otherwise provided in the Agreement and the commitments made in the Members schedules.

The application of this category of subsidies is a result of policies that provide substantial support to domestic producers leading to production of large domestic surpluses.

This is typically the case in developed countries where as a result of the support given to producers, the volume of commodities produced by the domestic farmers outweighs the volume purchased by domestic consumers resulting in the surpluses. Where the domestic price of the commodity is higher than the world price as a result of market price support provided to the farmers, the sale of the surpluses on the world market necessitates a subsidy in order for the producers to avoid a loss.

[10] Ibid

[11] Ibid p.16

These export subsidies account for the depressed international prices of commodities and the resultant general market instability. The AoA introduced constraints on these subsidies.

First, export subsidies, measured in terms of both the volume of subsidised exports and in terms of the budgetary expenditure on subsidies were capped to levels applied during a certain period that was agreed as the starting point (referred to as the base period in the agreement)

Second, member countries were committed to reducing export subsidies for a range of agricultural commodities. Specifically the commitment to reduce these subsidies is with respect to the following:[12]

- Direct subsidies contingent on export performance
- Sales of non-commercial stocks of agricultural products for export at prices lower than comparable prices for such goods on the domestic market
- Producer financed subsidies for instance government programmes requiring a levy on all production that is then used to subsidise the export of a certain portion of that production
- Cost reduction measures such as subsidies to reduce the cost of marketing goods for export
- Internal transport subsidies applying to exports only, and
- Subsidies on incorporated products, i.e. on agricultural products that are incorporated in export products e.g. wheat used to bake biscuits for export.

Member country schedules that are an integral part of the AoA show the reduction commitments of export subsidies for the countries that apply them. They specify the base period level of subsidies for each affected commodity; the bound level as of 1995; and the level to which the subsidy would be reduced by the end of the implementation period.[13] Developed countries were committed to reducing the volume of subsidised exports by 21 per cent and the budgetary expenditure on such subsidies by 36 per cent, over a six year implementation period to the year 2000; while for developing countries it was a reduction of 14 per cent volume of subsidised exports and 24 per cent in the case of budgetary expenditure over an implementation period of ten years to 2004. In calculating the export subsidies commodities are grouped in various categories, upon which reductions then applied.

[12] Supra footnote 7 Article Part V Article 9(1)

[13] FAO Corporate Document Repository, The Implication of the Uruguay Round Agreement on Agriculture for developing countries.

3. Agriculture Negotiations in the Doha Round

The AoA provided for fundamental reform in the disciplines governing agriculture trade, and in order to achieve its long term objective of substantial progressive reductions in support and protection, a provision was made for continued negotiations a year before the end of its implementation period that would take into account *inter alia* non-trade concerns, special and deferential treatment to developing countries, and the objective to establish a fair and market-oriented agricultural trading system, along with further commitments necessary to achieve this long term objective.[14]

The on-going agriculture negotiations in the Doha round are therefore to improve upon the achievements made in effectively disciplining agriculture during the previous Uruguay round. The negotiations are an opportunity for further reductions in tariffs, trade distorting domestic support and the eventual elimination of export subsidies. The round anticipates more market access as well as elimination of trade distortions that should lead to more incentives for investment in agriculture sectors of developing countries.[15]

The negotiations, like in the Uruguay round are based on the three pillars of market access, domestic support and export competition.

2.1 Market Access

The tariffication process during the Uruguay round allowed for averaging of tariff reductions across all commodities, which resulted in tariff peaks especially for politically sensitive products on which only the minimum required reductions were made. The negotiations under market access seek to rectify this shortcoming among others. Tiered tariff cuts are proposed, with products that have the highest tariff rates receiving the biggest reduction, this would result in developed countries making an overall average reduction in tariffs of 54 per cent. In the case of developing countries the tiered formula would result in about 34 per cent tariff reduction; while LDCs are wholly exempted from making any tariff reductions.

In the negotiations, it is proposed that certain products categorised as "import sensitive" will be excluded or make less than formula tariff cuts, for developed countries these will constitute 4 per cent of the tariff lines, while a higher percentage is proposed in the case of developing countries.

A further 12 per cent tariff lines for agriculture products of developing countries may be self-designated as special products and for these no tariff cuts may be made on 5 per cent of such tariff lines. The rationale for this is to ensure food and livelihood security, as well as promoting rural development.

Special safeguard measures are also proposed for developing countries. These may be applied on the basis of volume and price triggers, without having to establish that increased imports are causing injury to domestic producers, as is the case under the Agreement on Safeguards. However it is yet to be agreed as to whether additional duties applied under such measures could exceed the present bound rates, with the developed countries arguing that the additional duties should in no case exceed

[14] Ibid Part XII Article 20

[15] Tim Josling & Charlotte Herberand Doha and Beyond: Continuing the Reform of the International Trade System for Food and Agriculture

the bound rates made under the Uruguay round, while developing countries opine that any such restrictions would counter the very objective of the measure rendering it useless. These differences are among the reasons for the stalled negotiations.[16]

Tariff reduction for tropical products and diversification goods is envisaged and tariff escalation with regard to these products will likely be eliminated through implementation of formulae that ensure processed products are subjected to tariff cuts as high as the raw materials they contain.[17] This would be an important outcome for EAC given its potential in agriculture, more so with the possibility of value addition on their products that would attract higher prices in the export markets, hence ensuring higher incomes and better livelihoods for the farmers and associated stakeholders in the region.

2.2 Domestic Subsidies

The proposals in the on-going Doha agricultural negotiations are to tighten and extend commitments on domestic support, which would drastically reduce the final bound total aggregate measure of support (FBTAMS), lower the *de minimis* thresholds, and put a limit on the blue box categorised subsidies.[18]

The overall trade-distorting support (OTDS), comprising Current Total Aggregate Measure of Support (CTAMS), *de minimis* Aggregate Measure of Support (AMS), and blue box payments will have a ceiling and this is intended to redress the issue of "box shifting" and to ensure that commitments are met. Limits will also be made on AMS support as well as blue box payments.[19] The proposed constraints will be more effective than in the current AoA, in restraining application of domestic support, while also giving more flexibility to developing countries.

Ultimately the objective of ensuring that countries providing the largest support make the largest cuts in their commitments should be realised, which would be a positive step towards redressing the effects and impact made by such domestic support on international agricultural markets.

2.3 Export Subsidies

With regard to export competition, the negotiations are seeking a commitment to eliminate export subsidies. Disciplines will also be made for export credits as well as food aid. It is generally agreed that developed countries should eliminate export subsidies by end 2013, while developing countries providing such subsidies should eliminate them by end 2016.

If the above outcome is realised, it would enhance equitable agriculture development through trade at the multinational level, by ensuring that world prices for agricultural products are not artificially depressed, and thereby guaranteeing better prices for such products including those from the EAC region.

2.4 The Cotton Issue

In the agriculture negotiations, the cotton issue has received specific attention. The commodity is of special interest to four African countries that are dependent on cotton production and export; their products had been significantly affected by developed countries producers that are heavily subsidised leading to lower prices of cotton on the world market, hence the move to present it as a

[16] ibid

[17] ibid

[18] David Orden, David Blandford, et al. WTO Disciplines on Agriculture Support Experience to Date and Assessment of Doha Proposals

[19] Ibid

separate negotiation issue. WTO members agreed to address the issue "ambitiously, expeditiously and specifically" hence its incorporation in the December 2008 draft modalities. It is proposed that trade distorting support for cotton should be reduced by applying a formula that results in deeper subsidy cuts than for other products, and that development assistance is provided to enhance cotton production in the least developed countries dependent on the commodity. To-date several initiatives have been provided by development agencies as well as development partners towards the cotton sectors of the affected countries. The eventual elimination of subsidies on this commodity will be a positive step towards equitable development in cotton producing developing countries, including the EAC region where cotton is widely produced.

All in all, the overarching objective to improve international agriculture trade disciplines in the on-going Doha Round of negotiations will need to be achieved in order to redress the historical imbalances and enable the multilateral trade system to facilitate development in the countries whose comparative advantage lies in the agriculture sector.

4. Leveraging the Multilateral trading System

The multilateral trading system is an avenue through which trade can substantially contribute to growth and development including poverty reduction. In the case of the EAC whose potential lies in agriculture, creating an enabling environment that encourages and supports healthy interaction between farmers, the private sector and traders would enable the region better exploit the opportunities presented in the multilateral trading system that encompass agricultural trade, and thereby facilitate equitable development amongst the stakeholders in the sector.

Given the improvement in agriculture trade disciplines at the multilateral level that commenced with the introduction of the AoA, as well as the proposed deepening of these commitments in the on-going Doha round agriculture negotiations, opportunities abound for EAC; however as is the case for many developing countries and more so the LDCs of which four of the EAC countries are members, several challenges hinder their effective integration and beneficial participation in the multilateral trading system and these need to be redressed in order to create an enabling environment that would facilitate equitable agricultural development in the region.

3.1 Reformed International Trade Disciplines in Agriculture

With the introduction of the AoA and its three pillars of market access, domestic support and export competition in the multilateral trading system, more opportunities in international agricultural trade were envisaged for developing countries dependent on the agriculture sector; however there were some negative outcomes that still need to be redressed, for instance tarification of non-tariff measures often resulted in tariff peaks in the case of politically sensitive products in developed country markets of interest to developing countries, this prevented value addition and hence the possibility of better incomes from these protected products. Further the notification obligations and monitoring mechanism to ensure conformity to domestic support reduction commitments have not been effective, resulting in continued disruption of agriculture commodity prices, as was proven in the WTO cotton dispute, successfully filed by Brazil against the United States.

The United Nations recognised the inability of weaker nations to participate effectively in global trade and in the 2000 UN Millennium Declaration a call was made to the industrialised countries to offer meaningful market access to LDCs through duty free quota free access (DFQF) market access of essentially all their exports.[20] The WTO Ministerial Conference of 2005, in Hong Kong reaffirmed this call by calling upon developed countries and developing countries in a position to do so, to provide such access to LDCs. As a result, in the on-going Doha round of trade negotiations, 97 per cent DFQF is proposed for LDCs.

It is worth noting that developing countries and LDCs specifically are beneficiaries of similar market access opportunities through preferential programmes such as the Africa Growth and Opportunity Act (AGOA) extended by the US and the Everything But Arms (EBA) extended by the EU among others, however utilization and benefits from these have been limited. Besides the capacity constraints that prevent effective utilisation of unilateral preferences, the programs exclude products of interest to beneficiary countries and come with stringent rules of origin hence limiting their utilisation.[21] Beyond that, these preferences lack the certainty and predictability necessary to attract investors in the region, as well as ensuring that products from the region are more attractive as sources for importing firms.[22] For the proposed DFQF initiative to provide meaningful market access that would positively impact on countries such as the EAC, these shortcomings would need to be redressed.

The on-going WTO negotiations that are considering extension of DFQF to LDCs presents an opportunity to have such commitments bound for the countries extending them, hence making it certain and predictable; however the proposed exclusion of 3% tariff lines could have the effect of excluding products of export interest to the EAC (Bouët *et al* 2010), impeding the capacity to exploit its potential and the enabling environment for equitable agriculture development.

Tightening of commitments on domestic support along with the eventual elimination of agricultural export subsidies as proposed in the WTO negotiations, would minimise international agricultural market distortions, creating an enabling environment towards equitable agriculture development in EAC. The special treatment of cotton would also benefit the region, as it is among the agricultural products of their interest.

An enhanced monitoring and surveillance mechanism of domestic support as negotiated in WTO will facilitate more transparency in international agriculture trade further ensuring an enabling environment for the EAC to realise equitable agriculture development.

[20] Resolution adopted by the General Assembly 55/2 United Nations Millennium Declaration, Part III para 15

[21] Trade Preferences For LDCs: An Early Assessment of Benefits and Possible Improvements. UNCTAD/ITCD/TSB/2003/8

[22] Judith M. Dean and John Waino Quantifying the Value of US Tariff Preferences. January 2006

3.2 Increased Investment towards Improved Productivity

Improved market access opportunities through WTO agriculture and related agreements would create more incentives for increased investment in EAC agriculture sector and thereby improve productivity in the region. The horticulture sector in Kenya is an example of improved productivity that resulted in higher receipts from exports exceeding the previously dominant tourism industry.[23]

Implementation of supporting policy measures, along with resource allocation and a supportive business environment, would enable the EAC to effectively harness the new and lucrative international agriculture markets. Organic agriculture for which EAC has immense potential presents a niche through which the region could reap benefits from the multilateral trading system, and thereby contribute immensely towards poverty reduction and sustainable development in the region.[24]

Increasing productivity of organic products that attract premium prices on the world market especially in developed countries, along with improved market access to such markets, would immensely increase incomes of stakeholders in EAC, thereby facilitating equitable agriculture development. The potential for the region in this sector, merits further discussion and this follows.

Organic agriculture is already well established and growing in the region, which is endowed with the most expansive area for organic agricultural land in Africa, most of which is in Uganda, while Tanzania is ranked fourth on the continent (Bouganimbeck 2009).[25] The number of certified organic agriculture farmers is also on the increase and though they often produce on small land holdings, they make-up a large proportion of the population (Tumushabe 2006).

Export markets for organic products from the region have continued to grow, and although these are dominated by the traditional cash crops such as coffee, tea, cotton; non-traditional and processed products with higher value on the international market are also on the increase. For instance in Kenya value added products derived from organic honey, nuts, oil seeds, herbs and nutritional materials are increasingly exported.[26]

The potential for organic agriculture to contribute towards equitable development in the EAC is also evidenced by the range of stakeholders increasingly participating in the sector. Governments and civil society organisations recognise the trade-related opportunities arising by promoting the often resource-poor farmers. Stakeholders are organised within various categories, making it strategically convenient to exploit the potential in this sector, for instance in Tanzania, small farmers are organized into two main cooperatives, while in Uganda small producers are organised in private companies or cooperatives.[27] There are also national organic movement organisations that are largely responsible for advocacy and lobbying on behalf of stakeholders which has resulted in development of the sector and its resulting contribution towards equitable agriculture development.

An East African standard for organic products was developed and has been adopted by the EAC as its

[23] Regional Agricultural Trade in East Africa a focus on Kenya, Tanzania and Uganda. GTZ 2010

[24] Organic Agriculture: Opportunities for Promoting Trade,, Protecting the Environment and Reducing Poverty Case Studies From East Africa.

[25] Ibid

[26] Ibid

[27] Ibid

official standard. Certification of organic products is also undertaken by both local and international certification bodies in the region.[28] These aspects of standards and certification are crucial in accessing international markets where there is a proliferation of standards that are often barriers to markets; however harmonised standards and certification of products allows for negotiating mutual recognition agreements with the markets of interest to the EAC.

Despite the potential rewards from organic agriculture, the cost of conversion from conventional farming is a deterrent given the long period required (first three years) before products can be certified as organic and therefore able to access the premium prices that come with certification.[29] Other costs required in the conversion include increased labour, training, packaging and labelling materials, as well as an effective monitoring system that must be paid up front. These coupled with insecure land tenure prevalent in the region impede conversion to the more lucrative organic farming.[30]

The other challenge to organic agriculture is that government policies tend to favour conventional agriculture, and policies along with the requisite institutional frameworks that promote organic farming are lacking in the region. There are also no financial, economic and domestic market incentives to attract conversion to organic farming.[31]

Certification requirements with the associated costs are another challenge to reaping the lucrative potential of organic farming in the region, more so from the perspective of the small holder farmers. For instance in 2000 in Uganda, a certification firm charged individual producers a fee of 200 British pounds in addition to inspection costs of 350 pounds per day per inspector.[32]

Small holder farming is also a challenge in itself since practitioners are not able to take advantage of economies of scale; besides the large distribution centres and international global chains prefer not to deal with numerous small producers.[33]

From the foregoing, requisite policies at the national and regional level, that target development of the organic agriculture, would facilitate the region to better harness its potential and thereby contribute towards equitable agriculture development among stakeholders.

3.3 Redressing Agriculture Related Trade Facilitation Constraints

The EAC member states are faced with trade infrastructure constraints manifested by fragmented and imperfect markets, increased costs of agricultural production and trade, hence exacerbating poverty in the region, given the majority of the population relies on the agriculture sector.[34]

Among the trade facilitation constraints in the region, is the unreliable and inefficient internal transport networks, making it costly to access agriculture inputs, as well as transporting the products to markets. With regard to the cross-border and international trade, the formal border trade points constrain trade through cumbersome

[28] Ibid

[29] Rungren, G. 2008. Best Practices for Organic Policy: What developing country Governments can do to promote the organic agriculture sector. Geneva: UNEP-UNCTAD-CBTF

[30] Supra note 18

[31] Ibid

[32] Maura, F., G. Tumushabe, A. Ruhweza. 2008. Organic Agriculture in Kenya: An Integrated Assessment for Policy Advocacy. Geneva: UNEP-UNCTAD-CBTF

[33] Supra note 18

[34] How can Agriculture and Trade Lead to Livelihoods, Food Security and Development? Evidence from Eastern and Southern Africa

procedures, rampant corruption and delays that frustrate access to targeted markets.[35]

Many developing countries and especially LDCs are faced with similar constraints that have limited their ability to harness the opportunities in the multilateral trading system; recognizing the need to assist the weaker members of WTO to effectively integrate and compete in global markets, the Aid for Trade (AfT) and Enhanced Integrated Framework (EIF) initiatives were geared towards redressing these constraints.

The AfT initiative is designed to promote growth and development in developing countries and LDCs by facilitating trade. In pursuing this objective projects are undertaken in the beneficiary countries, ranging from major infrastructure ones such as construction and rehabilitation of ports and roads, to improving agricultural productivity and reducing red tape in export/import procedures. Although no specific WTO agreement or issue under negotiations directly provide for this initiative, WTO members have consistently called for more and better AfT. Periodic monitoring and evaluation of AfT is also undertaken to assess whether the desired outcomes are achieved or on course, and to identify areas where improvements may be needed.

AfT is part of official development assistance (ODA) programmes provided by donor countries through bilateral and multilateral means as well as through established international institutions such as the World Bank, regional development banks and others. The Trade Facilitation Facility (TFF) of the World Bank is among the means through which developing countries can access assistance to overcome the trade bottle necks arising from weaknesses in trade logistics. The East Africa Trade and Transport Facilitation Project is one such initiative, established in 2006, its objective is to improve the trade environment in the region by significantly reducing transit costs and transportation times. Although primarily concentrated in bridging the transportation system between Kenya's Mombasa seaport and Uganda's Malaba border post, the project will also facilitate the neighbouring countries including Rwanda.[36]

The above transportation corridor is critical for the EAC especially Uganda and Rwanda that heavily rely on the route for up to 95 percent imports and exports in the case of Uganda (per World Bank report-July 2011).

The project has already resulted in lower transit costs of goods exchanged in the region, mainly in Uganda and Kenya, which in turn should lead to lower prices of basic consumer goods. Efficient transit routes translate into reduced transportation costs for traders, especially those operating on a small and medium scale basis. The corridor has the ability to handle increased traffic volumes of goods in transit, with the overall trade volume at port of Mombasa growing close to 9% a year between the periods of 2006 to 2009; whilst in Uganda, the import and export estimates for the same years having grown by 24% a year and 22.7% a year respectively.[37]

The project has also been able to support port security as well as providing facilities for information sharing among country border agencies. In other words, joint inspections of cargo that allows for quicker processing times, as well as an exchange of electronic information between borders.[38]

In terms of clearance, the waiting period of processing and clearing cargo transiting between ports reduced. At the Malaba border crossing, for example, the waiting times have gone down

[35] Ibid

[36] World Bank (July 2011)

[37] Op cit 36

[38] Op cit

dramatically from 3-5 days to only a fraction of 15 minutes on both the Kenya and Uganda sides. A one-stop border post for joint clearance to minimize handling time is planned.

Crossing times at the border of Malaba have also been reduced from 3 days or more to hardly a days' work, involving just 3-5 hours. As for the dwell time at the port of Mombasa, the number of days to complete all necessary processes has been minimized from 19 to 8 days; with the transit time along Mombasa-Nairobi-Kampala being reduced immensely from 15 days to 5 days.

The North-South Corridor project will be another avenue through which the trade facilitation constraints in EAC will be redressed. Implemented through the regional trade facilitation program, it will effectively link the region to Southern Africa providing a larger market for its agriculture products.

Four of the five EAC members are also beneficiaries of the EIF initiative that is tailored specifically for LDCs. Inaugurated in 1997 by six multilateral institutions[39] the facility was designed to respond to the trade and trade-related infrastructure needs of LDCs. It initially commenced as the Integrated Framework whose main objective was to improve the trade capacity of beneficiaries to formulate, negotiate and implement trade policies that would enable them to fully integrate into the multilateral trading system. Later the initiative was revamped and its objectives focus towards mainstreaming trade into national development plans and coordinated delivery of trade-related technical assistance.[40]

Despite shortcomings that have been highlighted by beneficiaries of the AfT and EIF initiatives, such as the question of additionality in the case of AfT, and cumbersome processes in accessing EIF funding, both initiatives are playing a significant and crucial role in complementing national efforts towards redressing agriculture related trade facilitation constraints in the region.

In the ongoing WTO Doha round of negotiations, Trade Facilitation is one of the issues under consideration. The main objective is to ensure that clearance of goods through customs bureaucracies is expedited, by *inter alia* requiring customs administrations to reduce time for clearance of goods. The lack of technical competences required to apply the resulting rules, in the case of LDCs and developing countries at a lower level of development is recognized and it is proposed that developed countries will be obliged to provide the technical assistance required for this category of members, such an outcome would benefit the EAC as well.

Taken as a whole, the above initiatives will contribute to the creation of an enabling environment towards equitable agriculture development in EAC.

3.4 Capacity Building Initiatives for Small and Medium Farmers and Traders in EAC

Being rural based, with smallholder farming practices, the majority of farmers in EAC consider agriculture as a way of life for self-consumption rather than commercial purposes, studies have found that there is lack of information and knowledge on trade issues, such as national, regional and international policies that provide market opportunities. As a result, trading opportunities that would improve livelihoods go

[39] International Monetary Fund, International Trade Centre, UNCTAD, UNDP, World Bank, and WTO

[40] Atul Kaushik, Reassessing Scope and Mandate of the Enhanced Integrated Framework

un-utilised.[41] There is therefore need for capacity building targeted at small and medium farmers as well as traders in the region that should emphasise better farming practices to improve productivity, highlight the trading opportunities available in the region and beyond, the rules and requirements to conform with, as well as the potential benefits towards improving their livelihoods.

At the WTO various agreements and decisions mandate capacity building in the form of technical assistance to developing countries and more so in LDCs, indeed the Doha Ministerial declaration clarified and further enhanced this mandate, based on which the WTO Secretariat undertakes several trade-related technical assistance programmes at its headquarters in Geneva, through regional courses, workshops and seminars, and at national level following requests from beneficiary countries. LDCs are entitled to 3 national events periodically. It is incumbent on the beneficiary country to identify participants; however the norm is to second government officials for the capacity building courses often neglecting the other critical stakeholders such as the small and medium farmers.

It is imperative that participation in capacity building programs include representatives of all stakeholders, so as to equip them with the requisite knowledge and skills and hence ensure equitable agriculture development.

The AfT and EIF initiatives in developing countries and LDCs also provide an avenue through which the critical capacity building of the small and medium farmers can be redressed; it is therefore incumbent upon the national and regional Governments to design initiatives geared towards this cause, in order to access their funding through development partners.

[41] Supra note 28

3.5 Multi-stakeholder Consultations and Coordination

The role of functional consultative forums that bring together all stakeholders in formulating and implementing trade policies cannot be understated (CUTS: 2009a), this calls for involvement of all relevant stakeholders in the development and implementation of trade and agriculture policies and strategies. Multi-stakeholder consultations would ensure that in formulating policies and subsequent projects, the interests of all the relevant stakeholders as well as the challenges they may be faced with, are taken into account.[42]

With regard to the EAC, a functional multi-stakeholder coordination mechanism for stakeholders in the agricultural sector would also be a vehicle through which the benefits from policy interventions and market opportunities, such as those presented through the multilateral trading system, are conveyed and utilized.[43]

With respect to WTO agreements, the challenge remains on how to ensure inclusive participation of all relevant stakeholders, in the negotiations and outcomes of the resulting rules that form the basis upon which national and regional trade policies are formulated. A functional multi-stakeholder consultation mechanism in the EAC would facilitate an avenue through which their interests are relayed to officials and delegations that participate in the negotiations. Conversely outcomes, including opportunities arising from concluded agreements would be relayed through such mechanism ensuring their better utilization.

[42] How can Agriculture and Trade Lead to Livelihoods, Food Security and Development? Evidence from Eastern and Southern Africa

[43] Ibid

The EIF initiative in LDCs provides a good example and mechanism through which multi-stakeholder consultation and coordination would facilitate better participation in policy creation and implementation. A recent project in Zambia illustrates this possibility, in that the composition of the EIF structure was found to promote and enhance the capacity of state and non-state actors especially the marginalized, to assume greater ownership of the EIF process by actively participating in the policy discussions and ensuring that their needs are reflected in the policy outcomes.[44]

[44] See the CUTS ARC project EIF for Poverty Reduction available at www.cuts-international.org/arc/

Conclusion and Recommendations

In order for agriculture to effectively contribute towards equitable development in EAC, the multilateral trading system provides opportunities; however the challenges faced by the region would have to be redressed at the national, regional and international levels, for these opportunities to be harnessed. Specifically the following are among the actions required:

- National Governments should advocate for meaningful market access in their markets of interest; including the push for effective monitoring and evaluation on domestic support restrictions in respect of trade distorting subsidies
- At the national and regional level implement and promote measures geared towards promoting sectors in which the region has a niche, for instance organic agriculture that has the potential to spur equitable agriculture development
- At the national and regional level, allocate resources towards trade facilitation and redressing the constraints faced in this regard, such resources would complement the AfT and EIF initiatives and hence contribute to an enabling environment towards equitable agriculture development.
- Provide and promote capacity building of the small and medium farmers in the region, including through their secondment to international capacity building programmes, as well as designing fundable capacity building projects through the AfT and EIF initiatives.
- Facilitate multi-stakeholder consultations and coordination in the formulation and implementation of agriculture related policies and programmes.

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