



ECA/RCID/0075/99

United Nations
Economic Commission for Africa

Seminar on “Comparative Analysis of the Commitments under the Treaty
establishing the African Economic Community (AEC) and Agreements
of the Uruguay Round of Multilateral Trade Negotiations”

11-12 November 1999, Addis Ababa, Ethiopia

REPORT OF THE SEMINAR

A. Opening statement

In his opening statement made on behalf of Dr. Yousif. A. Suliman, Director of the Regional Cooperation and Integration Division, Mr. A. Traoré, acting as Officer-in-Charge, stated that in spite of the multilateral trading system, there was an increasing regionalized approach to trade, and in some instances to economic development all over the world as manifested in the formation of free trade areas, custom unions, common markets etc. In the case of Africa, the establishment of the African Economic Community was planned to be the climax of various endeavours at the subregional levels towards economic cooperation, ultimately aiming at integration of the countries involved.

He further mentioned that because of the most-favoured nation principle of the global system, members of such arrangements could not keep any better preferential trading deal only and exclusively to themselves, unless under certain conditions as stipulated under Article 24 of GATT 94.

As the majority of African countries are members of the WTO, the regional seminar was, therefore, designed to bring together the various actors in the AEC processes, in particular officials from the Regional Economic Communities, (RECs), the OAU/AEC and member States in order to:

- examine the AEC commitments vis-à-vis the multilateral trade agreements;
- recommend for correction any compatibility problems of the AEC with the global agreements; and
- draw lessons from the complex statutory provisions of the global system to improve those of the AEC.

In his concluding remarks, Mr. Traoré thanked all participants and the resource persons. He expressed appreciation to the WTO experts who were kind enough to accept ECA's invitation to take part in the seminar to explain issues relating to the relationship between regional trading arrangements and the world trading system.

Attendance

The list of participants is attached in Annex.

B. Account of Proceedings

- (i) Presentation of the Report on "Comparative Analysis of the Commitments under the Treaty establishing the AEC and Agreements of the Uruguay Round of Multilateral Trade Negotiations".

A representative of the ECA secretariat presented doc. ECA/RCID/72/98 entitled "Comparative Analysis of the Commitments under the Treaty Establishing the African Economic Community (AEC) and Agreements of the Uruguay Round of Multilateral Trade Negotiations."

In his presentation, he stated that as a result of the Uruguay Round, WTO members had become party to all major arrangements concluded on goods, services and intellectual property protection, which together constitute an integrated system of rights and obligations. The treaty establishing the African Economic Community provided a framework to achieve regional integration in the continent by consolidating the over fifty national economies into a single continental market through a phased approach spanning over 30 years.

The representative explained the commitments made by the African countries under the AEC treaty, which covered areas including the removal of tariffs and non tariff barriers, rules of origin, subsidies, dumping and anti-dumping practices, customs valuation, trade promotion and dispute settlement and monitoring of trade policies. He pointed out that in the context of the AEC treaty, various trade liberalization schemes had been launched by the Regional Economic Communities (RECs) whose common objective was to create a free trade zone within their respective subregions, followed by a custom union, and eventually a common market leading to an economic union.

With regard to commitments under the WTO/Uruguay Round multilateral trade negotiations, he discussed the basic package of the agreements binding on all the WTO members. These consist of the multilateral agreements on Trade in Goods, the Agreement on Trade related Aspects of Intellectual Property Rights and the General Agreement on Trade in Services.

In comparing the AEC commitments and the WTO agreements, the ECA representative outlined the following three fundamental differences:

- The AEC treaty has quite different goals from those of the WTO agreements because for the African countries, the treaty is not just a matter of freeing trade within the regional space, but also, it is a means towards the collective transformation of the African region;
- Unlike the AEC treaty which is unequivocally aimed at an economic and political union of the African continent, the WTO is not an arrangement for an eventual economic and political union of the countries of the world. At least for the time being, there is nothing in the WTO agreements that suggests that such an objective is envisaged. However, there is the possibility that future multilateral trade negotiations and agreements could be conducted on the basis of regional economic and trading blocs rather than on individual country basis.

- In terms of composition, the WTO is an amalgam of countries of the world with significant economic diversities, as for instance between developed and developing nations, whereas the AEC is basically a grouping of countries with fairly equal levels of development.

In addition to the above structural differences, he mentioned two key purposes of the comparative study of the commitments and agreements between the AEC and the WTO system:

The first is the fact that as the majority of African countries are members of the WTO, Africa's integration process, within the framework of the AEC treaty, has to take account of the WTO regulations governing regional cooperation arrangements as stipulated under Article XXIV of GATT 94. In that regard, it is essential to test those regulations against the provisions of the AEC to ensure that there is conformity.

Secondly, there is a lot that can be learned from the WTO agreements in order to complete the unfinished business with regard to the package of protocols accompanying the AEC treaty.

The representative of the ECA Secretariat went on to analyze the key areas of comparison between the AEC and the WTO agreements in terms of: liberalization of trade in goods; liberalization of trade in services; investment-related measures affecting trade; dispute settlement and monitoring of policies; and compliance with GATT Article (XXIV).

The comparative analysis showed a need for improvement of the AEC treaty and its subsidiary protocols, particularly in the area of liberalization of trade. It raised a number of issues which could serve as a basis for further reflection by African countries and their integration institutions and hopefully contribute to efforts to review and finalize the AEC subsidiary protocols for adoption and implementation by member States.

(ii) Presentation of a paper on WTO Agreements : Their Main Substance, Requirements and Implications for Regional Arrangements

Representatives of the WTO Secretariat presented a paper on Economic Integration and the WTO Rules. The presentation reviewed the main substance of the WTO rules governing regional integration agreements, improvements to these rules and the requirements and implications of how those rules are functioning in practice.

They mentioned that three sets of rules guide or govern regional trading agreements within the WTO. The first is Article XXIV of GATT that deals with territorial applications, Customs Union and Free Trade Areas. Under this article, if WTO contracting parties, acting jointly, assessed that the plans and schedules in the interim agreements were not likely to lead to the formation of the customs union or free trade area within a reasonable time frame, they could make appropriate recommendations. The regional agreement could not be maintained or put into force unless it was amended in accordance with such recommendations. Custom unions and free trade areas covering trade in goods must be reciprocal and cover "substantially all the trade" among the parties.

The second set of rules is the "Enabling Clause", which allows GATT members to accord differential and more favourable treatment to developing countries notwithstanding Article 1 of the General Agreement. It provides a legal cover for the Decision of 25 June 1971 granting trade concessions to developing countries under the Generalized System of Preferences (GSP). The clause allows for developed countries to form a preferential trade agreement with developing countries. It also allows for differential treatment with respect to the entire provision of the WTO vis-à-vis developed and developing countries, and thus gives a legal backing to the GSP initiated in the early 70s. Furthermore, it allows for the creation of preferential trade or custom union among developing countries themselves. The representatives remarked that the provisions of this clause are much more favourable than those outlined under GATT Article XXIV.

The third set is the waiver embodied in Article XXV which had been used occasionally to authorize regional integration agreements. It permits contracting parties acting jointly to grant waivers from obligations under the General Agreement.

On the subject of notification, the representatives stated that most of the agreements notified under Article XXIV are generally interim in nature. Article 24 of GATT 94 requires that plans of such interim agreements towards the formation of a custom union or a free trade area should be accomplished within a reasonable time. The understanding of Article XXIV deals with clarifications about notification, by requiring all agreements notified under Article XXIV to be examined by a working party. What should be notified is the plan and any subsequent changes. So far, 194 regional agreements were said to have been notified to WTO.

The Representatives stated that there are about 135 members of the WTO all of which are engaged, one way or another, in trading agreements, except for Japan. All WTO members are required to notify the regional groupings they belong to.

The Representatives explained the 'Review Process', and pointed out that since WTO is dealing with more than 150 regional groupings, it became necessary to create "the Committee on Regional Trading Agreements", with a mandate to examine or assess the consistency of regional agreements and the WTO rules, and to make appropriate recommendations to correct any deviations with WTO principles. The Committee is also responsible for reviewing interim agreements brought to the attention of the WTO.

The WTO Representatives also pointed out other areas of interest to developing countries, in particular the issue of common external tariff of custom unions. Some groupings in Africa e.g. UEMOA, appear to have encountered difficulties where the external tariff was established much higher than the existing average tariffs before the formation of their customs union. The other difficulty was how to determine the common denominator for revenue sharing among members. These difficulties arise when the bound tariff commitments in the context of the WTO are lower than the common external tariff. Whenever such situations occurred, the members concerned could resort to Article XXVIII, which allows for a possible renegotiation or withdrawal of the concessions made.

(iii) Summary of Discussions on the two presentations

After the two presentations by ECA and the WTO, participants made the following comments and observations:

In order to facilitate the regional integration process, participants expressed the need for African countries to internalize internationally agreed provisions in their domestic policies and promote greater harmonization of economic and other policies amongst themselves. The region could also enhance its world trading capacity by identifying dynamic comparative advantages in competitive and diversified products. It was felt that many African countries were too dependent on the production and export of primary commodities. Absolute reliance on comparative advantages in raw materials and primary commodities was considered to be inadequate in a global economy characterized by increasing technological change and the creation of new and more competitive products.

Another key factor to make integration work to Africa's advantage is political will. It was noted for instance that some countries were not implementing agreed integration objectives, while others had contemplated withdrawing from a grouping altogether. Political will and commitment to the integration process was essential to its success.

A number of African countries were observed to suffer from loss of revenue as a result of their participation in trade liberalization schemes, which required the elimination of tariffs on which many of them depended as a source of revenue. Solutions to such difficulties, including the establishment of "compensation mechanisms", needed to be found.

Participants observed that in general, the regional and multinational arrangements were complementary to each other in as far as they shared a common objective of promoting freer trade among the members. They stressed the importance for the AEC Treaty and its ancillaries to be notified to the WTO in order to benefit from the MFN exemptions in the application of the preferential treatment arrangements in the context of the AEC.

The participants generally agreed with the recommendations contained in the ECA study on the comparative analysis between the AEC commitments and the WTO Agreements.

(iv) Presentations by the Regional Economic Communities (RECs)

Intergovernmental Authority on Development (IGAD)

The Representative of IGAD gave a historical background of IGAD. He said that IGAD was originally established in 1986 as the Intergovernmental Authority on Drought and Development (IGADD) with the mandate to combat drought and desertification in its member countries. As time evolved, the Heads of State felt the need to revitalize IGADD as a vehicle to promote regional economic cooperation. They, therefore, established the new IGAD, with objectives focusing on agriculture, infrastructural development (in particular transport and communications) and conflict resolution.

He stated that IGAD was currently working on a regional policy harmonization programme in the priority sectors of trade and transport, and making efforts to complete missing links in roads network among member states, in order to facilitate trade. To this end,

a number of projects have been identified which include the Kenya-Ethiopia (Isiolo – Moyale) road (in which a feasibility study is being undertaken with the assistance of the EU) and the road linking Djibouti and Ethiopia. IGAD, in collaboration with the ECA, also developed strategic papers in the areas of trade, industry and transport.

In the area of telecommunications, the representative reported that IGAD was making efforts to inter-connect the member states in the context of the PANAFTEL project. Although, donors have already been identified for this project, actual financing has been put on hold until the conflict situation in the region improved, he added.

He stated that a workshop was organized in Addis Ababa to identify problems and constraints in the transport sector within the subregion. A follow-up workshop in Nairobi resulted in an action plan for addressing technical barriers to the development of transport in the subregion.

The representative laid emphasis on the need to implement projects that can improve the transport infrastructure and network.

With respect to the trade sector, he reported that workshops were organized on trade facilitation in the subregion. IGAD was also expected to implement the COMESA trade facilitation programme within the context of the IGAD-COMESA policy harmonization scheme.

On WTO matters, the representative indicated that IGAD has embarked on a sensitization campaign for its member States to join the WTO. He stated that currently, three of its members (Kenya, Djibouti and Uganda) are members of WTO, while two members (Ethiopia and Sudan) are in the process of acceding to WTO membership.

In conclusion, the representative emphasized that for IGAD to achieve its objectives, collaboration with ECA, the OAU and other relevant RECs, such as COMESA, was necessary. As IGAD members are also members of the COMESA, he stressed the need for the two organizations to conclude a memorandum of cooperation with a view to better coordinating and harmonizing their activities. A similar arrangement could also be made with the East African Cooperation.

Southern African Development Community (SADC)

In her presentation, the representative of SADC stated that trade was considered a vital sector in contributing to the growth of the SADC members. To this end, in 1996, SADC Heads of State and Government signed a trade protocol which provides the framework for promotion and expansion of trade in the subregion. The ultimate objective is to achieve a free trade area within a period of eight years. The Trade Protocol is envisaged to enter into force in January 2000.

Five SADC members have so far ratified the protocol and other members are in the process of ratification or are expected to ratify once current negotiations for tariff reduction schedules and the elimination of non-tariff barriers are completed. Other issues addressed by the protocol are simplification, harmonization and standardization of all SADC trade documents in accordance with internationally accepted standards.

In the tariff reduction schedule, it has been agreed to classify products into three categories: (a) the immediate liberalization list; (b) the gradual liberalization list; and (c) sensitive products list. The last list constitutes almost 25% of the products. For non tariff barriers, a general commitment has been made by all member states to ensure the elimination of all such barriers once the trade protocol was in enforce. While the protocol may address trade obstacles relating to market access, its effectiveness would depend on the elimination of other obstacles including the inadequate production base, inadequate trade policies and insufficient commercial skills etc. SADC countries have taken due of cognizance of WTO rules and procedures in the design of the trade protocol.

East African Cooperation (EAC)

The representative of the EAC stated that the EAC was a subregional grouping of three member States namely Kenya, Uganda and Tanzania. These countries had a long history of cooperation and integration under the defunct East African Community. In 1993, they signed a protocol establishing a permanent tripartite commission for East African Cooperation, with a mandate to examine the possibility of relaunching the EAC and the cooperation activities commenced in March 1996. The three member States then negotiated a Treaty to establish the East African Community, which was expected to be signed before the end of 1999.

The Commission had prepared a development strategy paper for the period covering 1997 to 2000, identifying four main priority areas of cooperation, namely: policy harmonization and coordination; development of infrastructure to link economic spaces; development of scientific capacity; and development of human resources.

The policy harmonization programme includes activities for currency convertibility and standardization of goods. There is also a project on infrastructure development and another one on digital transmission has been launched to upgrade the telecommunication network of the subregion. The EAC secretariat also facilitated the holding of a donor conference on the East African Road Network in which donors pledged about US\$1 billion towards its development. A civil aviation project to be financed by the European Investment Bank has also been formulated. In the area of scientific development, a study has been undertaken on a framework for scientific cooperation and research within East Africa.

The EAC representative stated that although integration was a major preoccupation of the EAC, the agreement to this end is general and flexible and takes account of other cooperation arrangements to which the EAC members belong. For instance, in the trade sector, the Commission decided that the three member States should continue to apply the COMESA trade regime as they all belong to COMESA. Those implementing the Cross-Border Initiative (CBI) could also use its scheme on the reduction of tariffs. This notwithstanding, the trading system to be followed from time-to-time would be guided by the Commission.

The EAC, with the support of the AEC process, had envisaged to achieve zero tariffs by July 1999 and a customs union eventually.

In terms of activities within the framework of the WTO system, notification of the EAC is yet to be effected.

(v) Discussion on the presentations made by the RECs

The following comments were made on these presentations:

- Countries tend to belong to different regional trading blocks within the same subregion, which complicates coordination and harmonization of policies and programmes.
- Effective linkages between the RECs and their member countries are usually constrained by the absence or weakness of focal points to handle activities related to integration at the national level.
- Participants called for the need for member States to work out a national programme on how to implement the various cooperation agreements and mechanisms (e.g. on rules of origin) proposed by the RECs, and integrate them into their national policy and planning processes.
- Participants reiterated the importance of the RECs to notify their treaties to the WTO and to address any compatibility problems with the WTO provisions regarding regional trading arrangements.



**United Nations
Economic Commission for Africa**

Workshop on “Analytical, Communication and Negotiating Skills
for African Trade Negotiators”
8-10 November 1999, Addis Ababa, Ethiopia

Seminar on “Comparative Analysis of the Commitments under the Treaty
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11-12 November 1999, Addis Ababa, Ethiopia

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