

Experience - SADC Services Negotiations



Training Workshop On Trade in Services
Negotiations for AU CFTA Negotiations

24th – 28th August 2015

Hilton Hotel, Nairobi

SADC Protocol on Trade in Services



Signature

- 12 Member States have signed
- Not signed 3 Member States

Ratification

- 3 ratification

Entry into force

- Not yet ~ requires 2/3 ratifications

Complemented by **sectoral Protocols**

- Regulatory co-operation

Sector Protocols:

- Transport Communication & Meteorology
- Education and training
- Tourism Development
- Sports, Culture & inform.
- Employment & Labour
- Finance and Investment
- Energy
- Health
- Facilitation of Movement of Persons

The Protocol



☞ **General framework** for regional trade in Services

☞ Scope and Principles

- ☞ Excludes govt. procurement and air traffic rights
- ☞ MFN, DR, MA, NT, MR, Anti-comp. practices and Promote investment

☞ **Objectives**

- ☞ liberalisation and (deeper) services market integration
- ☞ Strengthened services capacity, efficiency and competitiveness
- ☞ Sustainable economic development
 - ☞ Diversified economic
 - ☞ Increase services capacity and export

Past Signature Agenda



- ❧ **Liberalisation schedules**
 - ❧ successive rounds of negotiations (within 3 years of concluding prev. round)

- ❧ **Mutual recognition agreement**
 - ❧ Negotiate within 2 years of entry into force

- ❧ **Rules of origin**
 - ❧ Negotiate Substantial business operation

- ❧ **Mechanism to Promote Investment**
 - ❧ Under the SADC Finance and Investment Protocol

- ❧ **Domestic regulation and subsidies**
 - ❧ Negotiate in line with the outcome of WTO negotiations

1st Round of negotiations



☞ **Commenced in April 2012**

☞ Liberalize six priority sectors – communication, construction, energy, finance, tourism and transport

☞ Schedules of commitments ~ better than GATS

☞ **Deadline - December 2015**

☞ Extended from March 2015

1st Round: How?



- ☞ **Scheduling and Negotiating Guidelines ~ adopted in 2009**
 - ☞ GATS commitments as starting point
 - ☞ Standstill – don't introduce new restrictions during the negotiations
 - ☞ Positive list approach

- ☞ **Request-Offer approach**
 - ☞ Transparent process
 - ☞ Bilateral negotiations
 - ☞ Sector focus groups

- ☞ **Complimentary sectoral annexes/reference papers**
 - ☞ Pro-competitive regulatory principles

1st Round: How?



Preparatory Work

Sector studies and background papers

- Market structure

- Identify trade restrictions

- Analysis of MS' applied regimes vis-à-vis GATS commitments

- Recommendations for SADC negotiations

Regional workshops/sector fora

- Sensitization, training and validate studies

Capacity building at national level

- Preparation of requests and offers

 - Secretariat ~ project staff

 - Short-terms experts

1st Round-Schedules: How far?



Date	Cum. Requests (#)	Cum. Offers (#)	Initial/ revised
Aug. 2013	5	4	Initial
Nov. 2013	8	6 1	Initial Revised
Mar. 2014		7	Initial
Aug. 2014		10	Initial
Nov. 2014	9	11	Initial
Mar. 2015		12 2	Initial Revised
Jul. 2015		5	Revised



1st Round-Schedules: How far?



- ☞ Substantive progress in communication, financial, tourism and transport services):
 - ☞ 9 requests
 - ☞ 12 initial offers and 6 revised offers (final offers?)
 - ☞ To what extent do the offers meet objectives & business interests? GATS+?
- ☞ Negotiating sectoral annexes/reference paper
 - ☞ Postal & Courier, telecoms, financial, transport & logistics and tourism
- ☞ Finalize the negotiations in the 4 sectors by Sept. 2015?

Sectoral Annexes / RP: why?



- ❧ **Complement MA and NT commitments**
 - ❧ add quality to negotiation outcome
 - ❧ Responds to requests beyond MA & NT

- ❧ **Legal clarity**
 - ❧ Define the scope of liberalized measures
 - ❧ prudential measure in the sectors

- ❧ **Promote pro-competitive regulation of the sectors**
 - ❧ Avoid burden some measures, balanced & transparent regulation
 - ❧ Defines anti-competitive practices in the sectors

Sectoral Annexes: How far?

- ✧ Postal and courier Services
 - ✧ Adopted as a Reference Paper (RP)

- ✧ Telecommunication
 - ✧ Only article is outstanding
 - ✧ Decide whether Annex or RP

Annex on Mode 4
➤ **More consultation required**

- ✧ Financial Services
 - ✧ Consultations on few articles
 - ✧ Agreed to be an annex

- ✧ Tourism services
 - ✧ More consultation at national level
 - ✧ Yet to agree whether annex or RP

- ✧ Transport and logistical services
 - ✧ Requires further consultation

Towards the Deadline: Dec. 2015



☞ Sept 2015

- ☞ Finalize negotiations in the 4 sectors
 - ☞ Schedules and annexes
- ☞ Start negotiations in 2 sectors (construction and energy)
 - ☞ Preceded by dedicated workshop
 - ☞ Schedules and annexes

☞ Oct./Nov. 2015

- ☞ Strategy meeting
 - ☞ Evaluate the progress and plan
 - ☞ Legal scrubbing?

☞ Dec. 2015

- ☞ Finalize outstanding work
- ☞ Recommendation to CMT

Trade in Services Statistics



- ❧ **Project – capacity building under REIS**
 - ❧ **Common (regional) data collection template based on MSITS 2010**
 - ❧ **Regional sensitization and training**
 - ❧ **Central bank and national statistics offices**
 - ❧ **2 workshops = January and March 2014**
 - ❧ **Technical meeting Aug 2014**
 - ❧ **Additional (yearly?) trainings – next w/shop in Oct 2015**
 - ❧ **Member States' level**
 - ❧ **4 countries have benefited in 2014**
 - ❧ **The rest of countries – planned for Nov. '15/Mar '16**
 - ❧ **Zambia already collecting services statistics based on MSITS 2010**

Lessons: Key to success



Effective preparation

- Regional and national consultation
- Information – helps in defining the objective & approach

Consistency

- Representation & capacity building
- What agreement(s) exists? Value addition?

Approach to the negotiations

- Type of agreement
 - Schedules & GATS-plus? Pro-competitive regulations?
- Sectoral expertise - regulators and private sector



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