UGANDA’S TRADE NEGOTIATION FRAMEWORK

SEPTEMBER 2013
Regional and International trade is important for the economic development of developing and Least Developed countries. However, potential export destinations erect trade barriers against imports from other countries to protect local industries, special interests or provide stable employment to their citizens. This calls for trade negotiations in order to reduce these trade barriers. Trade negotiations refer to a process of bargaining between two or more parties aimed at a mutually acceptable agreement on one or more matters of common trade interest. In order to undertake negotiations, governments establish negotiation frameworks which consists of institutional structures and systems for coordination of the negotiations processes.

Uganda is currently involved in a number of negotiations both as a country and as part of various regional configurations. These include; the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), the Tripartite Free Trade Agreement involving the EAC, COMESA and SADC, the Trade and Investment Partnership Agreement with the USA; the Economic Partnership Agreement (EPA) being negotiated with the EU and various agreements under the World Trade Organization (WTO) framework. Negotiations in Uganda are conducted under formal negotiation frameworks namely; the National Development and Trade Policy Committee (NDTP) and, the Inter- Institutional Trade Policy Committee (IITC).

This study aims at examining Uganda’s framework for trade negotiations in line with best practices. The study seeks to identify factors that constrain effective consultation, coordination, negotiation and ratification of regional and multilateral trade agreements and identify policy recommendations to improve Uganda’s trade negotiation capacity and draws on primary and secondary sources to analyze the trade negotiation framework in Uganda. The study literature was derived from the government of Uganda documents including legislations, reports and previous studies undertaken on trade policy formulation. Qualitative data was derived from interviews with key informants from the Ministry of Trade, Industry and Cooperatives (MTIC), the Ministry of Finance, Planning and Economic Development (MoFPED), Ministry of Foreign Affairs (MoFA), Private sector, civil society actors and Parliament.

The study revealed that different structures are in place for trade related negotiations in Uganda. For example, trade negotiations in the EAC are coordinated by the Ministry for East Africa Community Affairs (MEACA) which in turn selects a specific ministry to lead the negotiations depending on the specific area of focus. For example, negotiations for the EAC Common Market Protocol were led by the Ministry of Finance, Planning and Economic Development, while Multilateral trade negotiations at the WTO and Bilateral Trade Negotiations like EPAs are coordinated and led by the Ministry of Trade, Industry and Cooperatives. In addition, other government agencies are also involved in trade negotiations. These include Uganda Investment Authority (UIA), National Environment Management Authority (NEMA), Uganda National Bureau of Standards (UNBS), Ministry of Agriculture and Animal Industries and Fisheries (MAAIF), Ministry of Finance, Planning and Economic Development and Ministry of Foreign Affairs.

Whereas, frameworks for trade negotiation in Uganda exist, they are not operationalised and the mechanisms for consultation and negotiation are still weak. Five main factors were identified as responsible for the lack of effective negotiation capacity at the national and regional level namely:
i. Inadequate coordination between the lead Ministry and other Ministries, Departments and Agencies (MDAs), as well as among other stakeholders i.e. civil society, Parliament and the private sector.

ii. Lack of a well structured process for formulation of the country’s negotiation positions and selection of negotiating teams.

iii. Limited resource allocation to key ministries to enable them coordinate the negotiations in line with the country’s economic and social aspirations.

iv. Lack of a credible mechanism for awareness about trade agreements to the various stakeholders in terms of benefits and risks.

v. Absence of a monitoring and evaluation system to assess the benefits, risks and relevancy of agreements before and after negotiations and during the implementation process.

To enhance Uganda’s capacity to negotiate effectively, there is need for a well structured institutional framework to provide for:

i. Establishment of a specialized unit/department within the Ministry of Trade, Industry and Cooperatives to coordinate the formulation and management of trade negotiations;

ii. Formalize the Inter-Institutional Trade Committee (IITC) which brings together Government Stakeholder Ministries, Departments and Agencies, and non-state actors;

iii. Prioritization of budget funding to facilitate trade negotiation at the ministerial level especially for MTIC and MEACA;

iv. Establishment of Data and information management strategy for effective monitoring and evaluation of trade negotiations.

v. Increase the level of awareness and appreciation of the impact of trade agreements on Uganda’s economic development to enhance buy-in from the private sector and other stakeholders.

vi. Update and modernize the depository for all trade agreements signed and ratified be Uganda.
Acknowledgements

The report is a result of the opinions and contributions from many experts and stakeholders on trade and trade related issues in Uganda. While the contributors to this study cannot be acknowledged by name, the team is indebted to officials from the Ministries of Trade, Industry and Cooperatives (MTIC), Finance, Planning and Economic Development (MoFPED); East African Community Affairs (MEACA), various Government Departments and Agencies. In additions, stakeholders from the civil society organizations, private sector and Parliament made valuable contributions to this study. Our sincere appreciation goes to Dr. Paul Bagabo, Dr. Martin Kaggwa, Mr. Africa Kiiza and Ms. Jane Nalunga who assisted in the production of this study. SEATINI would also like to thank Rosa Luxemburg Stiftung for the financial support rendered in the production and publication of this study.
<table>
<thead>
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<tr>
<td>ACP</td>
<td>African, Caribbean and Pacific</td>
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<tr>
<td>COMESA</td>
<td>Common Market for Eastern and Southern Africa</td>
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<td>EAC</td>
<td>East African Community</td>
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<td>EALA</td>
<td>East African Legislative Assembly</td>
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<td>EC</td>
<td>European Commission</td>
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<td>EPA</td>
<td>Economic Partnership Agreement</td>
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<td>ESA</td>
<td>Eastern and Southern Africa</td>
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<td>EU</td>
<td>European Union</td>
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<td>FTA</td>
<td>Free Trade Agreement</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>HLTF</td>
<td>High Level Task Force</td>
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<td>IGAD</td>
<td>Inter-Governmental Authority on Development</td>
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<td>IITC</td>
<td>Inter Institutional Trade Council</td>
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<td>IOC</td>
<td>Indian Ocean Commission</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>MEACA</td>
<td>Ministry for East African Community Affairs</td>
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<td>MoFPED</td>
<td>Ministry of Finance, Planning and Economic Development</td>
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<td>MTIC</td>
<td>Ministry of Trade, Industry and Cooperatives</td>
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<td>MTS</td>
<td>Multilateral Trade Systems</td>
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<td>MTTI</td>
<td>Ministry of Trade, Tourism and Industry</td>
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<td>NEPAD</td>
<td>New Economic Partnership for Africa’s Development</td>
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<td>PPP</td>
<td>Public Private Partnership</td>
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<td>PSFU</td>
<td>Private Sector Foundation Uganda</td>
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<td>RNF</td>
<td>Regional Negotiating Forum</td>
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<td>RPTF</td>
<td>Regional Preparatory Task Force</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SEATINI</td>
<td>Southern and Eastern African Trade, Information and Negotiations Institute</td>
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<td>STIFI</td>
<td>Sectoral Committee for Trade, Industry, Finance and Investment</td>
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<td>UMA</td>
<td>Uganda Manufacturer’s Association</td>
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<td>USA</td>
<td>United States of America</td>
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1.1 Introduction

Regional and International trade presents an opportunity for Uganda to expand the markets for agricultural and industrial products. However, most export destinations erect trade barriers against imports from other countries in order to protect local industries, protect special interests and provide stable employment to citizens. This calls for trade negotiations in order to reduce these trade barriers. Trade negotiations refer to a process of bargaining between two or more parties aimed at a mutually acceptable agreement on one or more matters of common trade interest. Trade negotiations are aimed to:

1. Open markets for a country’s exports
2. Obtain cooperation of trading partners on technical and financial support necessary to comply with market preferences as well as health, technical standards and other customs entry requirements in targeted regional and international markets.
3. Address production and supply side constraints to fully develop and increase domestic production capacity in the exporting country.

Trade negotiations vary in the coverage and content but are generally of two types, bilateral and multilateral trade negotiations. Bilateral trade negotiations involve two governments while Multilateral trade negotiations involve more than two governments but can also be conducted among groups of countries.

2. Rudaheranwa and Atingi-Ego, 2005

Trade Policy and Trade Negotiations

The trade policy is an enabling framework through which the private sector can thrive and build capacity to increase the level of production of goods and services competitively and on a sustainable basis. Trade Policy supports government’s efforts to eliminate national barriers to trade and mitigate the impacts of international trade barriers faced by the country’s productive firms. The National Trade Policy spells out those policy reforms and actions to be implemented to mitigate the possible negative aspects of trade liberalization and ensure that the National Trade Policy acts as a tool of development. Trade policies are necessary to set the framework for trade negotiations, implement agreed agreements, and monitor and evaluate the implementation of the trade agreements (OECD 2001; Rudaheranwa and Atingi-Ego 2007; Tsebelis G, 2002).

Trade Policy in Uganda is formulated within the framework of the National Development Plan (NDP). The NDP is Uganda’s medium term planning framework which guides policy formulation and implementation for all sectors in the country as well as other National Development Policies and Strategies, particularly the Poverty Reduction Strategy Paper, the Competitiveness and Investment climate Strategy (CICS), The Plan for Modernization of Agriculture (PMA), The Rural Development Strategy and Vision 2040. The World Bank, Country Economic Memorandum (CEM), the Diagnostic Trade Integration Study (DTIS), Millennium Development Goals (MDGs), as well as international agreements to which Uganda is a signatory also provided significant guidance to the formulation of the national trade policy. As provided under the 1995 Constitution of the Republic of Uganda, Trade policy is the mandate of the Ministry of Trade, Industry
and Cooperatives. The Ministry is mandated to coordinate trade matters including trade negotiations. To implement trade policy, the Ministry coordinates with other key government Ministries, Agencies and Departments.

At the EAC level, the East African Partner States signed the Treaty for the establishment of the Community on 30th November 1999 and it entered into force on 7th July 2000. The Treaty outlines a comprehensive system of cooperation among the Partner States in trade, investment, industrial development, monetary and fiscal policy; and the free movement of the factors of production among others. The Treaty provides for adoption of common laws related to the Customs Union as the entry point for trade policy, a Common Market, Monetary Union and political federation. The Customs Union came into force after ratification in 2005 following the Partner State’s adoption of the East African Customs Management Act, 2004. The Act provides for simplification and harmonization of trade documentation customs regulation and procedures, tariff classification and a common external tariff to guide the conduct of trade between the Partner States and the rest of the World.

In 2009 the Partner States adopted the Common Market Protocol as a common policy on the movement of goods, persons, labour, the rights of establishment and residence as well as the free movement of services and capital. Article 37, 37 and 25 of the customs union protocol, Common Market and Monetary union respectively provide for mechanism for partner states to conclude trade agreements with other parties either individually or as a bloc. In addition the East African Legislative Assembly passed the EAC negotiations Act in 2008. The Act provides for joint trade negotiations and related provisions in order to promote regional and international trade.

**Trade Negotiation Framework**

Trade negotiation frameworks differ from country to country but generally refer to the structure and coordination of trade negotiations. The institutional structure includes the organizations involved in the negotiations at the national level including the lead ministry and their respective functions. On the other hand, coordination refers to the systems in place to facilitate consultation to develop negotiation positions, negotiations and feedback on the negotiations process (OECD 2001: KIPPRA 2007).

**Ratification of Treaties**

Ratification is one of the means through which states express their willingness to be bound by a treaty. Article 14 of the Vienna Convention defines ratification as a process by which a State establishes on the international plane its consent to be bound by a treaty. However, there is no standard procedure for ratification of treaties implying that States can follow its established procedure to ratify international treaties.

In Uganda, ratification of treaties is governed by the 1995 Constitution of the Republic of Uganda and the Ratification of Treaties Act Cap 204. Article 123(2) of the constitution gives the parliament powers to make laws governing the ratification of treaties, conventions, agreements and other arrangements.

Under section 2 of the Act, treaties are ratified as follows:

i. By Cabinet; or

ii. By resolution of Parliament in relation to treaties on armistice, neutrality, peace or the subject of which require amendment of the Constitution.

Upon approval by Cabinet or Parliament, the Ministry of Foreign Affairs is charged with the preparation, signature and deposit or exchange of the ratification instrument on behalf of the Republic of Uganda. The Ministry of Foreign Affairs is responsible for the preparation, signature and deposit or exchange of the ratification instrument on behalf of the Republic of Uganda. The Ministry of Foreign Affairs is responsible for the preparation, signature and deposit or exchange of the ratification instrument on behalf of the Republic of Uganda. The Ministry of Foreign Affairs is responsible for the preparation, signature and deposit or exchange of the ratification instrument on behalf of the Republic of Uganda.
Affairs is charged with preparing the ratification instruments and preparing regulations to guide the process. However, regulations regarding the ratification of treaties have not been developed implying that the ratification process is not standardized by a statutory instrument as required by the Act. This has resulted in a number of treaties not being ratified. In addition, the depository of treaties at the Ministry of Foreign Affairs is not computerized rendering retrieval of treaties cumbersome.

1.2 Objectives of the Study

The main objective of the study was to conduct an assessment of the trade negotiation framework at national and regional level; specifically, the objectives of the study were to:

i. Assess the formulation and coordination of Uganda and EAC’s Trade Negotiation framework

ii. Recommend policies and practices to improve and strengthen Uganda’s trade negotiation framework

1.4 Methodology/ Approach

The study involves a review of both primary and secondary information. Secondary information was obtained from a review of relevant literature on trade negotiations as well as reports from the Ministry of Trade Industry and Cooperatives, the Ministry of Finance, Planning and Economic Development and other agencies. Interviews were held with a cross section of stakeholders in Uganda. Respondents were selected based on their knowledge and participation in the negotiation process. These included officials from the private sector, Civil Society, Ministry of Finance, Planning and Economic Development, Ministry of Trade, Industry and Cooperatives.

1.5 Organization of the Report

This report is structured in five chapters including this introduction. Chapter two reviews literature on trade negotiation frameworks in Africa and Latin America. The chapter analyses the institutional structure and coordination mechanisms for trade negotiations in selected countries and draws lessons for Uganda. Chapter three analyses Uganda’s trade negotiation framework for regional and multilateral trade negotiations. Chapter four highlights the challenges of the existing trade negotiation framework in Uganda while chapter five presents conclusions, draws policy recommendations to improve Uganda’s trade negotiation capacity and outlines areas of future research.

9 Eunice Kigenyi, 2010
2.  LITERATURE ON TRADE NEGOTIATION FRAMEWORKS

2.1 Introduction

Trade negotiation frameworks differ from country to country depending on the structure of the economies. However, the aim of these frameworks is to establish a system to effectively negotiate for trade agreements. This section outlines the experiences of countries that have formulated and implemented trade negotiation frameworks in order to draw useful lessons for trade negotiations in Uganda.

2.2 Brazil

Trade policy in Brazil has evolved over the past 20 years. In the early 1970’s, trade policy in Brazil was mainly dominated by the import substitution discourse that was more geared towards development of domestic enterprise. There was limited formal stakeholder participation in the identification of issues, negotiation and formulation of trade policy during this period. However, the 1990’s witnessed a change in the strategy that guided trade policy formulation with a drive for export promotion that led to more formal stakeholder participation including the private sector and civil society.

In Brazil, trade negotiations are led by the Ministry of external affairs in collaboration with the Ministries of Development, Industry and foreign Trade, although other Ministries play an important role depending on the sector in which the trade agreement is designated. As part of the negotiation strategy, an inter-ministerial coordination system that includes active participation of the private sector, civil society and academia was created. However, different trade-related bodies exist for different types of trade negotiations in Brazil. For example, the Secretaria Nacional da ALCA – SENALCA is the National Free Trade Area of the Americas (FTAA) Secretariat for the FTAA negotiations; SENEUROPA for the Mercosur-European Union negotiations; and, the Grupo Interministerial de Trabalho sobre Comércio Internacional de Mercadorias e Serviços (GICI) for WTO-related matters (KIPPRA 2007;14). The trade negotiations strategy is driven by the country’s trade policy which is geared towards access to regional and international markets for Brazilian products and to protect Brazilian producers and consumers from the harmful consequences of trade liberalization.

In sum, the strategy and institutional framework for trade negotiations in Brazil reflects openness and inclusiveness. In addition, political support has been critical in concluding agreements with other developing countries.

2.3 Mauritius

Mauritius is viewed as a successful export oriented developing country. The coordination for trade negotiations in Mauritius includes government and private sector organization. Trade negotiations are spearheaded by the Ministries of Foreign Affairs, Industry and International trade with support and coordination from economic sub-committee of Cabinet. This coordination structure includes the Bank of Mauritius and the Investment and Export Promotion Authority (MEDIA). Literature reveals that the inter-ministerial coordination committee has challenges in coordinating all the various ministries involved in trade promotion in the country. On the other hand, the private sector in Mauritius is well organized through the joint economic council and with vibrant trade unions (Bhowon et al; 2004).

Mauritius is focused on attracting export-oriented Foreign Direct Investment (FDI) characterized

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10 This section draws heavily on the work of KIPPRA on best practices in trade policy formulation and implementation.
by increased collaboration between the government and private sector based on a quasi corporatist style and collaboration. For example, the private sector represented by the Chamber of Commerce and Agriculture has in the past negotiated trade agreements on behalf of government (KIPPRA 2007).

2.4 Mexico

The trade policy regime in Mexico is increasingly focused on export led economic growth with exports accounting for over 30 percent of GDP in Mexico (Carlos A. and Gustavo V., 2002). The policy negotiations structure in Mexico recognizes the need for greater collaboration with private sector and other civil society actors that are represented under the Coordinating Body of Foreign Trade Business Associations (COECE). The main objective of the COECE was to develop a common private sector position on a trade issue that is the subject of the trade negotiation. In addition, an advisory committee on Free Trade Agreement composed of government, private sector, civil society, and academia and farmer groups was established. This committee is a platform on which discussions and negotiations for trade policy are held (Bustamante 1991).

A key component of Mexico’s structure is the level and depth of consultations throughout policy formulation, negotiation and ratification processes. These advisory processes also serve as a channel for information flow between the central government agencies and the private sector and civil society. In this way, the private sector in Mexico has become an important component of the negotiation process. The consultation process in Mexico is elaborate and takes place prior to the negotiations, during the trade negotiations and during the process of ratification and implementation of the trade agreements. The mechanism for consultation is effective in channeling the views of stakeholders and private sector to government agencies responsible for formulating and negotiating trade agreements (Carlos A. and Gustavo V., 2002).

2.5 South Africa

Trade negotiations in South Africa are designed to facilitate access to markets while providing for reciprocity in order to encourage competition for domestic industries. The Strategic choices concerning which partners to negotiate with and on what issues have been largely driven by international trade considerations (Draper, 2007). The Department of Trade and Industry (DTI) in South Africa is the lead Ministry for trade negotiations although the Parliament plays a key role in ratification of regional and international agreements (KIPPRA 2007; 16). Within the Department of Trade and Industry, there are a number of departments that handle different aspects of the trade negotiation and trade policy formulation process. For example the International Trade and Economic Development Division (ITED) is the key agency in charge of negotiations while the International Trade Administration Commission (ITAC - formerly the Board of Tariffs and Trade) administers trade policy; and Trade and Investment South Africa and promotes exports and investment. The Department of Agriculture also plays a key role in trade policy negotiation and formulation. The department undertakes research through academic institutions and has a well developed consultative process which facilitates stakeholders to interact and contribute positions towards effective trade negotiation. This platform derives data and research analysis from think tanks and academic institutions. In addition, the Justice department is a key component in the trade negotiation and formulation process to ensure that the proposed trade policy is consistent with the constitution in South Africa (KIPPRA 2007; DTI, 2010).

2.6 Kenya

Trade policy formulation and negotiation framework in Kenya has undergone a number of reforms over the last thirty years11. The reforms are mainly geared towards export led economic growth. Trade policy negotiation and formulation is a multi-stakeholders undertaking in Kenya. Although the Ministry of Trade and

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11 Adapted from KIPPRA (2007)
Industry is the lead agency, negotiations are undertaken through an inter-ministerial committee that assesses policy formulation and negotiation depending on the specific trade aspect under consideration. For example, the National Committee on the World Trade Organization (NCWTO) leads discussion on WTO and the Kenya-European Union Post-Lome Trade Negotiations (KEPLOTRADE) Committee handles EU-ACP Economic Partnership Agreements (EPAs). However, the various committees involved in the trade negotiations and consultation process have different memberships that are not well coordinated. This affects the capacity for effective consultation and development of negotiations positions. In addition, the level of consultation in Kenya is limited since most of the consultation is informal and cannot be mainstreamed into the formal negotiation positions that form the basis for trade policy negotiations. Literature reveals that trade policy development in Kenya lacks transparency since a formalized system of engagement with civil society is lacking (Odhiambo, W. et al, 2004; Sally, R., 2005).

### 2.7 Lessons Learnt

The chapter highlights the structure and coordination of trade negotiations in a number of African and Latin American countries. The main lessons from this chapter are that effective trade negotiations require the need;

i. To develop an information system for consultation to solicit and receive views of stakeholders throughout the negotiations process.

ii. For an effective government structure to gather views of stakeholders through a transparent and more inclusive consultative process in order develop a common position for negotiations.

iii. Government support and resources to enable consultations and representation at the negotiations.

iv. For an effective organ to undertake research and analysis on trade related issues in order to inform and support the negotiation process.

v. The need for an effective trade advisory and coordination mechanism to channel advice from the Civil Society, private sector and other stakeholders to government agencies responsible for formulating negotiation positions is critical for successful negotiations.

vi. An effective monitoring and evaluation information system for tracking and reporting on progress of the negotiation process.
Uganda’s Trading Arrangements

Uganda is currently involved in a number of negotiations both as a country and as part of the East African regional configuration. Uganda is a signatory to a number of trade and trade related agreements. These include: the East African Community (EAC), the Common Market for East and Southern Africa (COMESA), the Tripartite Free Trade Agreement involving the EAC, COMESA and SADC, and various agreements under the World Trade Organization (WTO) framework. In addition, Uganda is negotiating the Economic Partnership Agreement (EPA) under the EAC configuration and is a beneficiary of other non-reciprocal unilateral trade preferences signed with other regions i.e. the European Union’s ‘Everything But Arms’ (EBA) under the European Union, the African Growth Opportunity Act (AGOA) with the United States of America; Other unilateral preferences include offers by China, Canada and Japan agreed under the Generalized Systems of Preferences (GSP).

Uganda has also negotiated and concluded bilateral agreements with various countries with regard to Investment-Promotion and Protection, popularly called Investment Promotion and Protection Agreements (IPPAs). Notable examples of concluded agreements are with a number of EU countries, the Republic of South Africa, The Arab Republic of Iran, the Kingdom of Norway, the Republic of Mauritius and the Republic of Bosnia. The overall objective of these trade agreements and arrangements is to enhance market access of Uganda goods and services into the markets of these countries and generally to promote investment and trade. These trade agreements and preferences offer an opportunity for Uganda to export goods and services. Agreements once finalized are mainstreamed into the national trade policy through the domestic policy formulation process.12

The next section highlights Uganda’s current trade negotiation arrangement. It outlines the structure, preparation and coordination of the negotiations at the national level and assesses how the structure and coordination impact on Uganda’s participation in trade negotiations. The analysis of the trade negotiation framework is aimed to provide a better understanding of the capacity and coordination of the negotiation process for Uganda at the regional and multilateral level.

3.2 Trade Negotiations within the East Africa Community

At the regional level, Uganda is involved in negotiations for the East Africa Community. The EAC is composed of five countries namely Uganda, Kenya, Tanzania, Rwanda and Burundi. The treaty establishing the EAC was signed in 1999. The progress towards deeper integration of the EAC Community included the formation of a customs union which became effective in 2004, a Common Market Protocol signed in 2009, a Monetary Union signed in 2013 and a Political Federation proposed for 2015. The various stages have implications for increased trade in the region. For example, the customs union provides for a Common External Tariff on goods imported into the region as well as elimination of tariffs on intra-regional trade for elimination. The Common Market will entail free movement of goods, services, labor, capital and the recognition of a right of establishment and residence.

12 Concluded regional and multilateral agreements are approved by parliament and ratified by the ministry of foreign affairs. Thereafter, the regional and multilateral agreements are gazetted in the national laws.
3.2.1 Institutional Arrangement for EAC Trade Negotiations

Institutional arrangements for trade negotiations at the EAC involve a number of stakeholders at the national and regional level. The Ministry for East African Community Affairs (MEACA) is the coordinating Ministry in Uganda. The Ministry receives invitations for negotiations from the EAC Secretariat on specific trade policies and invites stakeholders for consultations and to select a lead Ministry to undertake consultations and collect opinions on behalf of government depending on the trade-related issue to be negotiated. For example, the lead Ministry for the customs union and Common Market negotiations was the Ministry Finance, Planning and Economic Development.

At the national level, the lead Ministry constitutes a team of key experts composed of officials of different stakeholders from government ministries, agencies and other stakeholders. At the regional level, the institutional framework for negotiations of trade policies is the Sectoral Council of Trade, Industry, Finance and Investment (STIFI) committee composed of senior officials from the five partner states; a coordination committee composed of Permanent Secretaries from the relevant ministries; the council of ministers of the relevant ministries and the summit of heads of state.

Respondents noted that although the East Africa Legislative Assembly (EALA) is responsible for policy formulation, its role is limited in the negotiations and formulation of regional trade policy. Policies once agreed are ratified by the Partner States Ministries for Foreign Affairs and tabled at the EALA. The EAC Trade Negotiation Act was passed in 2008. The Act provides for an EAC Joint Trade Negotiation Commission, an EAC Trade Regime, joint trade negotiations and other related matters. However, the provisions of the Act that include establishment of the joint Commission have not been operationalised.

3.2.2 Consultation and Negotiation of EAC Trade Agreements

At the national level, government undertakes consultations with the private sector and civil society to develop consensus on the key issues for negotiation at the EAC. Participation of the non-government stakeholders is provided for under the EAC Treaty. For example, Article 127 of the EAC Treaty provides that the Secretary General shall provide the forum for consultations between the private sector, CSOs, other interested groups and appropriate institutions of the EAC. In Uganda, consultations are organized between the Ministry and private sector, and civil society stakeholders.

Prior to the formation of the Ministry for EAC, the Ministry of Foreign Affairs coordinated the negotiations for the EAC customs union protocol. However, with the establishment of the Ministry of EAC, overall coordination of the EAC trade negotiations is the responsibility of the Ministry for EAC Affairs (MEACA). The ministry selects a specific ministry to lead the negotiations depending on the specific area of focus. The Lead Ministry analyses the issues and develops a policy paper to support the initial stages of regional negotiations as the chief negotiator. The agreed issues are developed into a policy paper that serves as the national position for negotiation. The paper is submitted to Cabinet for approval and the President is briefed by the Minister for MEACA. Subsequently, the agreed country position is presented at the regional level. Overall coordination of the EAC trade negotiations is the responsibility of the Ministry for EAC Affairs (MEACA). Prior to the formation of the Ministry for EAC, the Ministry of Foreign Affairs coordinated the negotiations for the EAC customs union protocol.

The actual negotiations between Uganda and other Partner States in the EAC are government led with little private sector and civil society involvement. Negotiations for the EAC trade protocols are based on consensus. This implies that all partner states need to convince the others of the merits of a position before it can be adopted. Once a position is adopted at the high level task force, it is forwarded to the sectoral
council, the coordination committee; council of ministers for approval and submitted to the Summit of Heads of State for assent in to law.

Research revealed that there is no systematic system for consultation at the national level; most times, the invitation letters from the EAC Secretariat are not received on time and consultation meetings are hastily organized and attendance is poor. The lack of adequate research resources and adequate preparations by both the lead agency and key stakeholders implies that consultation process is seldom comprehensive. As a consequence, the process of approval and confirmation of country negotiation positions is not clear or properly followed.

Further, delegations to the regional negotiations are poorly constituted and not based on competency and preparedness; inappropriate representation at high level meetings implies that negotiations at the regional level do not achieve the desired outcome for the country. The feedback mechanisms and follow up on decisions reached or progress of the negotiations is not effective. Very often the key policies cannot be gazetted and mainstreamed into the national legislative system. For example, 1100 key standards were harmonized at the regional level but could not be gazetted into the national law (Mugisa et al 2009).

3.2.3 Negotiations as an EAC Bloc

The EAC is composed of five Partner States, Burundi, Kenya, Rwanda, Tanzania and Uganda. The five partner states are integrated under the East African Community Treaty signed in 1999. In order to strengthen the capacity to negotiate for trade agreements, the EAC has evolved as a single bloc in multilateral and international negotiations. The EAC Partner States have been negotiating with the European Union an Economic Partnership Agreement (EPA); and the COMESA-SADC-EAC Tripartite Free Trade Area as a region\(^\text{14}\). Other negotiations include an Agreement for Trade in services under COMESA as well as the cross border initiative (CBI)\(^\text{15}\). The negotiation structure for the EAC is composed of the EAC Ministers of Trade, Ministers of EAC affairs, EAC Senior officials, Permanent secretaries in EAC and Trade Ministries and representatives from the National Development and trade Policy Forum.

3.2.3.1 Economic Partnership Agreements

Discussion with MTIC officials indicate that prior to the Cotonou Agreement there was no negotiating framework for the Lome Conventions. Negotiations were purely a Government affair comprising of MTTI officials and there was no consultation with the private sector or civil society. This changed when the new negotiations on Economic Partnership Agreements (EPAs) began in September 2002. The negotiations are between the EU and various groupings of the ACP countries and were to be concluded by 2008. Uganda’s negotiation with the EU during that period was conducted through the Eastern and Southern Africa (ESA) group consisting of 16 countries. The countries were expected to prepare country negotiation positions that would be summarized into an ESA position. However, in 2007, Uganda and the rest of the EAC countries commenced negotiations as a bloc and initiated the Interim Framework Economic Partnership Agreement (FEPA) on November 27, 2007 in Kampala, Uganda.

As provided by the 1995 constitution of the republic of Uganda, the MTIC has the mandate to represent Uganda at the negotiation and the implementation of agreements signed at the EAC-EU EPA negotiations. In addition, other ministries also play a vital role in the negotiations. Specifically the Ministries of Finance, Planning and Economic Development (MFPED), Foreign Affairs (MOFA), Agriculture, Animal Industry and Fisheries (MAAIF), and Justice and Constitutional Affairs are key ministries in the negotiation process.

In Uganda, preparations for the EPA negotiation are organized under the Ministry of Trade Industry and Cooperatives. The national institutional framework comprises of the national trade negotiation team with the Permanent Secretary
as the chief negotiator for the country on trade matters. The chief negotiator receives the country positions from the negotiation teams which collect reports from various agencies. These agencies are in charge of collecting analytical studies on the broad sectors and categories after which a national position is formed through a consultative process and approval by Cabinet. Due to financial constraints, funding for IITC coordination is organized through the EPA TAPPS trade negotiation support program\textsuperscript{16}.

However, the development of country positions is delayed by divergences among the countries in the EAC. Officials in the Ministry of Finance pointed out that this sometimes arises due to the differences in the level of development among the countries that affects the pace of consensus on common negotiation positions.

\subsection*{3.2.3.2 The EAC-SADC-COMESA}

The formulation of trade policy under COMESA involves five stages\textsuperscript{17}. These stages composed of the following:

1. At national level, an inter-Ministerial Committee composed of public and private sector stakeholders spearhead the COMESA Trade negotiations

2. At regional level, the technical Committees and the National Working groups under the regional integration Facilitation Forum (RIFF) review, negotiate, and monitor implementation of specific sectoral programs and activities for member states on the Common Tariff Nomenclature.

3. Agreed positions of the Technical Committee are tabled at the COMESA Intergovernmental Committee consisting of Permanent Secretaries from the member states responsible.

4. The approved action plans are presented to the COMESA Council of Ministers for approval

5. The approved trade policies are passed on to the Heads of State to assent the policies

\section*{3.3 Uganda’s Multilateral Trade Negotiations}

\subsection*{3.3.1 Coordination for Multilateral Trade Negotiation}

The process of developing a country trade negotiation position in Uganda is provided for under the Inter-Institutional Trade Committee (IITC)\textsuperscript{18}. The IITC includes government institutions, the private sector, academia, media and civil society organizations. The IITC is a multi-stakeholder body that coordinates the formulation of negotiation positions for Uganda. The Ministry of Trade Industry and Cooperatives (MTIC), chairs the IITC and acts as the principle government negotiator. The role of the Ministry is to co-ordinate the negotiation process by consulting stakeholders during the formulation of the country’s negotiating positions, linking stakeholders with the government, and articulating and defending Uganda’s interests during the negotiation process. Specifically, the role of the IITC is to;

(i) Seek stakeholders’ views on the expected outcomes from the trade negotiations;

(ii) Build consensus on the key issues that are critical to ensure that stakeholders are not disadvantaged as a result of the negotiations; and

(iii) Inform stakeholders on the progress of the negotiations based on a country position

The IITC structure provides for a team of trade experts supported by other officials and stakeholders to undertake consultations and negotiate on behalf of government. A monitoring mechanism as part of the IITC is meant to provide continuous update and feedback on the progress of trade negotiations. Recommendations of the IITC and agreed negotiation positions are supposed to be cleared and endorsed by

\textsuperscript{16} Response from an official at the Ministry of Trade, Industry and Cooperatives

\textsuperscript{17} See KIPPRA; 2007; Tindyebwa; 2011

\textsuperscript{18} The section is mainly derived from Interview with senior official of MTIC
Cabinet prior to adoption as national positions. An analysis of the effectiveness of the IITC reveals that while the structure is in place, most of the provisions are not implemented. For example, not all negotiations are undertaken under the Ministry of Trade, Industry and Cooperatives. For example, NEMA and UIA negotiate for agreements that may affect trade. In addition, the proposed monitoring framework is not operational implying that stakeholders are uninformed on the progress of negotiations. Further, agreed positions are sometimes not forwarded to Cabinet in time implying that negotiations proceed without Cabinet approval.

3.3.1.1 World Trade Organization

The consultation process for Uganda’s participation in WTO trade negotiations occurs in two main places; at the WTO headquarters in Geneva and in Uganda. The negotiations WTO are coordinated by the Ministry of Trade, Industry and Cooperatives. Consultations on WTO issues are conducted between the Ministry and private sector, civil society as well as academia. The consultative process has established a link between representatives of Uganda at the WTO talks and government institutions in Uganda. The link is aimed to update government institutions and other stakeholders on the progress and any issues that arise during the negotiation and is expected to provide further input to the negotiation process in Geneva.

The negotiation team in Geneva not only presents Uganda’s position on various issues but also monitors and relays information on the daily happenings in Geneva. These include notifications by other countries. Where situations arise and Uganda needs to respond to an issue, the Geneva team relays the information to MTIC, which acts as the secretariat for the WTO team. Once the information is received at the Ministry, the Ministry contacts the relevant sub-committee and working groups prepare reports which are passed on the MTIC.

Decision-making at the WTO begins with the adoption of positions by respective country focal-point officials on trade proposals originated at the WTO. These positions are presented to the sub-committee of the WTO. At this level decisions are made by consensus. However, when decisions cannot be reached by consensus, voting may be used. The decisions of the sub-committee are forwarded to the Geneva mission or the Ministry of Trade, Industry and Cooperatives (MTIC) in Uganda for discussion and adoption. Negotiations are also conducted at a bilateral level between Uganda and individual WTO countries on specific WTO provisions. This arises out of specific requests and offers sent to the Ministry of Trade, Industry and Cooperatives (MTIC).

19 Interview with Ministry of Trade, Industry and Cooperatives official
4. CHALLENGES IN TRADE NEGOTIATIONS

This section highlights the challenges faced by Uganda in the negotiations at the regional and multilateral level. Five key challenges were documented from interviews with officials in government, private sector and the civil society as well as review on literature on trade negotiations in Uganda.

4.1 Inadequate Resources

Although trade negotiations are organized through the IITC, the framework lacks adequate funding. The funding to the framework is derived from the meager MTIC budget funds which are insufficient for the IITC to organize consultations workshops and undertake studies and analysis to inform the negotiation position.

Table 1: Budget Allocation to Ministry of Trade Industry and Cooperatives

<table>
<thead>
<tr>
<th>FY</th>
<th>Total National Budget (Bn UGX)</th>
<th>Allocation to MTIC (Bn UGX)</th>
<th>Percentage of Total Budget</th>
<th>Allocation to Trade Development (Bn UGX)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010/11</td>
<td>7896.67</td>
<td>170.40</td>
<td>2.0</td>
<td>10.0</td>
</tr>
<tr>
<td>2011/12</td>
<td>10,167.3</td>
<td>111.00</td>
<td>1.0</td>
<td>10.1</td>
</tr>
<tr>
<td>2012/13</td>
<td>11,475.35</td>
<td>293.00</td>
<td>2.5</td>
<td>9.8</td>
</tr>
<tr>
<td>2013/14</td>
<td>14,032.68</td>
<td>133.11</td>
<td>0.9</td>
<td>5.7</td>
</tr>
</tbody>
</table>

Source: MoFPED Budget Office

Table 1 above shows that allocations of funds to the Ministry of Trade, Industry and Cooperatives are low and have been reducing every financial year. In addition, the allocation of the total Ministry budget to trade development is low and not sufficient to adequately cover trade negotiations. The lack of funds affects the participation of Uganda at regional and multilateral negotiations since it is expensive to fly officials to the EAC and Geneva yet for any country to effectively participate in trade negotiations, there is need for sufficient numbers of technically trained staff (Mugenyi and Nuwamanya, 2003). As a consequence, funding for the IITC is mainly donor-funded with the EPA-TAPPS project providing funding to the consultation process. This affects the capacity of the framework to effectively develop a country negotiation position that is in Uganda’s interest.

4.2 Inadequate Capacity

Trade negotiations usually take place between government officials at the exclusion of non-government IITC members. Since views of other stakeholders are gathered during the consultations and form part of an integral part of Uganda’s negotiation position. However, there is need for sufficient numbers of technically trained members who constitute the negotiation team. Discussions with government officials revealed that for Uganda, the missions to the WTO in Geneva and to the EU and ACP in Brussels are insufficiently staffed and this affects effectiveness in engaging in and monitoring the negotiations. In addition, interviews revealed that the technical capacity of government officials in formulating requests and offers is not
adequate in the relevant Ministries. For example, there is lack of a resource centre to serve as a depository and reference for research material to support the development of comprehensive country negotiating positions. The existing WTO resource centre at MTIC established under the donor-funded Uganda Program for Trade Opportunities and Policy (UPTOP) and the Joint Integrated Technical Assistance Program (JITAP) for African countries, lacks funds to collect up-to-date research on trade matters.

In addition, trade negotiations involve a number of disciples including law, taxation and economics. Uganda does not have sufficient numbers of experts in the various fields as most of the negotiators are trade economists implying that economic and legal implications may not receive adequate attention.

Further, the mechanism for feedback is inadequate since representatives do not have sufficient time and financial resources to consult their members which imply that many important views are not mainstreamed into the national position. For example, there is little consultation with Members of Parliament due to lack of resources and time. A regional meeting for MPs noted that the level of participation of MPs was inadequate leading to challenges to accountability and transparency. For example, the Uganda’s ratification of treaties Act Cap 2004 grants parliament authority ratify only treaties involving armistice, neutrality or peace but does not grant the Parliament authority to ratify protocols including trade agreements.

4.3 Contradiction in Negotiations Positions

Prior to 2004, the Inter Institutional Trade Committee (IITC) was structured according to the different sectors of the economy on which trade agreements were negotiated. For example, there were committee for agriculture, market access, and intellectual property rights with a single plenary session to develop a national position on the different sectors. These sub-committees developed common positions on these key areas for all forms of multilateral negotiations lines. The IITC was reconstituted to focus on the different types of negotiations with different plenary sessions to develop negotiation positions for the different areas. The new configuration of the IITC provides for different sub-committee for COMESA, EAC and EPAs. This has often led to development of contradictory positions on the same issue. For example, the Ministry for East Africa Community Affairs is responsible for EAC negotiations and develops independent negotiation positions while the Ministry of Trade, Industry and Cooperatives has overall responsibility for WTO and EPA negotiations. At the same time, the constitution does not provide for Parliament to engage in ratification of trade agreements apart from agreements that involve armistice which limits the oversight capacity and role of parliament to ensure that trade agreements do not adversely affect stakeholders whom they represent.

4.4 Inadequate Awareness

Interviews with government officials revealed that the private sector and other stakeholders lack adequate understanding and awareness of the provisions of regional and multilateral trade agreements and the potential impact on the national economy in Uganda. This according to interviews may partly explain the negative perceptions of the private sector and civil society regarding signing of multilateral trade agreements. The respondent from the PSFU informed the study that this prevents private sector from supporting the process and he added “no wonder private sector seems to delay the negotiations position due to lack of awareness. In addition, the monitoring and evaluation system to enhance feedback and assess implementation of the trade agreements is not well implemented in the country. As a result, stakeholders are uninformed on the progress of trade negotiations.

4.5 Inadequate coordination

Although the IITC exists as a framework for consultation and participation of all stakeholders, negotiations take place between governments.
This implies that non government IITC members are not involved in actual negotiation. However, the government is supposed to coordinate the process of development of a national position. A number of respondents interviewed revealed that while the structure provides for coordination by the Ministry of Trade, Industry and Cooperatives, the Ministry does not effectively coordinate consultation of stakeholders prior to the negotiations and does not provide sufficient feedback on the outcome of the negotiation process. In addition, there is lack of coordinated, complementary policies to support trade policy negotiations. For example, the fiscal policy regime outlined by the Ministry of Finance, Planning and Economic Development places more emphasis on revenue generation at the expense of trade facilitation and private sector development. Similar conclusions have been made in other studies. For example, a survey by UNECA (2007) revealed that in most African countries, non state actors such as civil society, private sector organizations, and Parliament are often not adequately informed on the state of play of negotiation and negotiation processes.
5. CONCLUSIONS AND RECOMMENDATIONS

Participation in regional and multilateral negotiations is inevitable in view of the intense search among countries for trade opportunities in general and the search for markets, sources of raw materials and investment opportunities in particular. The challenge is with managing the process more effectively and adopting mechanisms to take full advantage of the opportunities that result from regional and international trade agreements and at the same time protect Uganda’s interests. For Uganda to effectively benefit from trade agreements, the government needs to design an effective capacity building and training program to take care of both institutional capacity needs as well as individual capacity needs. This can be accomplished by establishing a trade policy centre as part of the IITC to provide a platform to undertake training and research support to the negotiation process.

The government needs to increase funding to the Ministry of Trade, Industry and Cooperatives and to adequately cater for the National Trade Policy making processes and the trade negotiations. In addition, the Ministry of Trade, Industry and Cooperatives should prioritize funding towards negotiations to reduce dependence on Development Partner in order to ensure that negotiations are undertaken in the interest of Uganda.

The government needs to improve coordination between the Ministry of Trade, Industry and Cooperatives and other Ministries and relevant stakeholders in the development of the country position and provide update and feedback on the progress of the negotiations to enable the development of a common negotiation position on specific sectors in the different trade negotiations whether bilateral, regional or multilateral.

The government needs to increase the level of awareness on the details of the trade negotiations and the impact of regional and multinational trade agreements on various economic activities and investments in order to enhance buy-in of the negotiation process/positions from the private sector.

There is need to finalize regulations on the ratification of treaties to ensure that the ratification of Treaties Act is enforced. In addition, there is need to modernize the depository of treaties at the Ministry for Foreign Affairs to serve as a reference for all treaties signed on behalf of the Republic of Uganda. This may involve cataloging for easy retrieval as well as an updated website with information on the progress of ratification of treaties.
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