



SOUTHERN
AFRICA
TRUST



The SADC-EU Economic Partnership Agreement: Mozambique

Southern Africa Trust

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Acronyms

ACPs	African, Caribbean and Pacific Countries
AU	African Union
CARIFORUM	Caribbean Forum (African, Caribbean and Pacific States)
CMA	Common Monetary Area
EBA	Everything But Arms Agreement
ECOWAS	Economic Community of West African States
ED	European Development Funding
EPA	Economic Partnership Agreement
ESAP	Economic Structural Adjustment Policy
EU	European Union
FDI	Foreign Direct Investment
FRELIMO	Frente de Libertação de Moçambique
GPA	General Peace Accord
GSP	Generalised System Preferences
IMF	International Monetary Fund
MDM	Movimento Democrático de Moçambicana
NAO	National Authorizing Officer
NSA	Non-State Actors
PALOP	Portuguese African Speaking Countries
REC	Regional Economic Communities
RENAMO	Resistência Nacional Moçambicana
RIP	Respective Indicative Programme
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAIIA	South African Institute of Internal Affairs
SATUCC	Southern African Trade Unions Coordination Council
TRALAC	Trade Law Centre
WTO	World Trade Organization

1. Introduction

Under the SADC EPA, the EU will guarantee Botswana, Lesotho, Mozambique, Namibia, and Swaziland 100% free access to its market. The EU has also fully or partially removed customs duties on 98.7% of imports coming from South Africa. The SADC EPA States do not have to respond with the same level of market openness. Instead, they can keep tariffs on products sensitive to international competition. This is sometimes called asymmetric liberalisation. For that reason, the Southern African Customs Union (SACU) removes customs duties on around 86% of imports from the EU and Mozambique around 74%.

Outside EPAs, the EU has never agreed before to such a degree of asymmetry in any free trade agreement. The EPA contains a large number of 'safeguards' or safety valves. EPA countries can activate these and increase the import duty, in case imports from the EU increase so much or so quickly that they threaten to disrupt domestic production. There are no less than five bilateral safeguards in the agreement, a number not replicated in any other EU trade agreement. In addition, should the EU apply a safeguard under WTO rules, the EU offers its EPA partners a renewable 5-year exemption from its application, so the SADC EPA countries will still be able to export.

The Rules of Origin determine which products can benefit from the trade preferences. In the SADC EPA, they have been formulated in a way to make it easier for SADC EPA countries to benefit from reduced EU customs duty rates for their textiles products using imported fabric. This will benefit the

textile industry in countries such as South Africa or Lesotho. It is the first agreement eliminating the possibility for the EU to use agricultural export subsidies.

1.1 Mozambique and the EPA

Mozambique became a formal signatory of the Economic Partnership Agreement (EPA), between European Union (EU) member countries on September 16, 2016. The Republic of Mozambique was one of six Sub-Saharan African countries that were exclusively included in what represents a milestone trade deal between the EU and the Southern Africa Development Community (SADC). The signing of the September 2016 EPA Agreement is a culmination of deliberate negotiations, dating back to the ACP-EU Cotonou Agreement of 2000. At the time of writing this paper, four of the parties to this agreement, namely Namibia, Lesotho, Swaziland and South Africa had already signed the SADC EPA, while Mozambique together with Angola (which was added to the six) were still to sign.

This paper, therefore, is a response to this milestone development and sets out to explain the particularities of the Republic of Mozambique within this EPA context and the implications of the provisions set in this 2000+ page agreement. The research paper aims to give voice to some of the obscure underlying arguments, which if not unpacked, could give the impression that the agreement is a seamless progressive step towards development and modernity. The paper also locates its argument within a post-colonial context, with emphasis on the loaded skewed power dynamics between the agreement parties. Among these conjectures are the realities of EU representing an economic international power-block dating back to the Rome Agreement of 1957, juxtaposed with the Republic of Mozambique, a former Portuguese colony with a developing economy emerging from years of civil war, that comes to the table as a single entity.

The paper begins with an overview of Mozambique's current economic, social and political climate. This is threaded into the history of the Republic of Mozambique's involvement with the EU and the evolution of a relationship that culminated in the September 2016 outcome. This is followed by an analysis of articles of the agreement, particularly those that speak directly to Mozambique. We also discuss key concerns arising out of the projected execution of the deal by both parties. This section will explore best possible alternatives (if any) for Mozambique to the current 2016 signed EPA, with emphasis on the agreement's envisaged impact on the population's pervasive poverty status.

The final part of the paper is an analysis of existing institutions, particularly in Mozambique and their ability to foster an enabling environment. This will not only ensure that the European market is served, but also speak to issues of poverty alleviation, equity and equality – a cultivation and adoption of development processes that put Mozambican people first.

The paper concludes by turning to the existing Non-State Actors (NSA) at local, regional and international levels, including those from the other six countries that are party to the SADC EPA agreement, to ascertain their current role within the existing EPA, while also exploring further possibilities within this framework. Also included are the lessons that can be drawn from NSAs in other Regional Economic Communities (REC) within the EPA context.

2. Political Overview

Like many other African countries, following a 10-year war of independence from Portugal, the Mozambique Liberation Front, Frente de Libertação de Moçambique (FRELIMO), the liberation movement army, transitioned into a political governance party in 1975. To date (42 years later), Mozambique is still under the rule of this party and has had four FRELIMO leaders (Samora Machel, Joaquim Chissano, Armando Guebuza and Filipe Nyusi) at the helm of the country's government. The incumbent president, Filipe Nyusi, was elected in 2014 and although still new in his term, has had to oversee a Mozambique highly divided, along party lines.

Throughout its 40+ years' rule, FRELIMO has faced heavy opposition and war from the Mozambican National Resistance (Resistência Nacional Moçambicana – RENAMO). Founded on the back of a western anti-communist ideology and Rhodesian sponsorship in 1975, RENAMO's formation was received with arrogant dismissal by most African leaders and populations. However, by the end of the 80s, the international community started recognising RENAMO as a key player in Mozambique's peace and democracy project. This prominence is evidenced by how, as part of the peace negotiation process, over 13 Western nations including the EU, played a key role in the formation of what became known as the RENAMO Trust Fund - a US\$1 billion reserve set aside to transform RENAMO from a military entity into a political party system. This transformation was in line with the General Peace Accord (GPA) of 1992, which had ended 16 years of civil war and opened the door for democratic elections of 1993.

However, 12 years after signing the Peace Accord, the country's political stability balance has become delicate. In the last five years, RENAMO's challenge to FRELIMO's legitimacy as the nation's ruling party and particularly under the leadership of Guebuza and Nyusi, has gained traction. Previously FRELIMO's leadership and through the Rome GPA of 1992, had managed to contain RENAMO by showing intention towards meeting the suggested possibility of shared power through an integration of its former fighters into the country's army. In 2014, following an election dispute, RENAMO took to arms to set up a separatist state, having made demands to the government, among which included government's revision of its military order and its resource distribution model. Other policies challenged were the non-recognition of ethnic identity, a decision made by the FRELIMO leadership at the onset of independence, to maintain national cohesion. Instead, FRELIMO had constructed a notion of what is it to be Mozambican, which included the recognition of Portuguese as a unifying national language. (This was in contradiction with how many Mozambicans had experienced the hegemonic power of the language through its association with repressive relations by colonial administration and subjugation of the populations). Therefore, RENAMO's rhetoric of what it means to be Mozambican has evoked an emotional re-visitation of the national identity debate and in the process, has earned it popularity and relevance. Other issues raised by Renamo's political rhetoric include questions around resource allocation raised against a background of prolonged poverty and little improvement among the living standards of most the population. It is therefore no wonder that RENAMO's support has extended outside its headquarters of the Gorongosa National Park in the Sofala Province, to include the Manica Province in the east.

RENAMO remains vocal about the corruption among members of the FRELIMO ruling party and their families. One of its most popular demands is its insistence on checks and balances for the current government. This demand comes at a time when Mozambique has exhibited high levels of corruption within the public sector.

During the last four years, (2013-2016) Mozambique has seen an escalation of hostilities between FRELIMO and RENAMO, with some episodes resembling an undeclared war, both sides experiencing casualties and kidnappings. The country has seen four occasions of resurgence of hostilities, and three ceasefire declarations. In May 2017, RENAMO announced an indefinite extension of its ceasefire. Such a development provides an atmosphere of optimism among those looking to do business in Mozambique.

Overall, the Parliament remains a stronghold of FRELIMO, accounting for 144 of the 250 seats, while RENAMO has 89 seats and their breakaway party, Democratic Movement of Mozambique (e: Movimento Democrático de Moçambique (MDM) holds 17 seats. With such an overwhelming majority of seats in Parliament held by the ruling party, it is currently impossible to experience productive healthy debate in this house, much to the frustration of the country's population.

With Municipal elections set for October 2018 and RENAMO having registered its interest to partake in the process, there is cause for optimism for those who want to see change in the country's political dispensation.

3. Economic Overview

Mozambique's economy is one of the Third World ironies, where the country has registered economic growth rates ranging from 7 to 8.4% in the last five years and over US\$3 billion in 2016 in Foreign Direct Investment (FDI), yet the country remains the poorest country in Africa.

This reality is not unique to Mozambique but presents the typical post-colonial contradictions emanating from the Economic Structural Adjustment Policy (ESAP) models. Like many countries in the region, Mozambique embraced the onslaught of liberal policies led by the World Bank and IMF. The opening of the market has been overrun by international companies of which local aspirers are no threat or competition. With a debt-based economy, this has made it impossible for government to balance debt servicing while simultaneously providing key social services such as health care and education to its population.

The failure to provide social services such as an efficient education system, has resulted in slow production of skilled workers to enter a growing industry at any other level other than unskilled. Mozambique has a literacy rate of between 55 and 60%, with women on the lower end of this rate. In the same context, the growth of the economy has benefitted many international mega industries who have justifiably brought and employed skilled labour from their own countries. Ironically in the face of the mega industrial projects that define Mozambique today, the average Mozambican lives on US\$0.60 a day, and most this population lives in the rural areas and survives on subsistence farming.

Interestingly, the Mozambican government has shown some restraint in opening certain aspects of the market and has tried to institute safety nets, as part of its responsibility. An example of this effort is the government's insistence on overseeing and controlling the prices of sugar and fuel. However commendable, it remains unclear how the government decides what is to be closed from liberalisation and what is not. This lack of set criteria in decision making has drawn criticism, particularly in the wake of provision of electricity debate, a necessary utility, which government has not found reason to oversee its provision or its prices.

3.1 Extractive Resources

When divorced from the people perspective dimension, Mozambique presents a favourable picture in terms of its extractive portfolio. Recently, through prospecting, the Multizonal Mine reserves were discovered in Tete province, consisting of the largest untapped coal reserve in the world. To date, Moatize is 80% owned by Vale, a Brazilian entity with operations in Australia and China, 15% by Mitsui, a Japanese entity, and 5% by the Mozambican government. Moatize is one of the country's many mega projects. Moatize mineral resources discovery were followed by the finding of the 100 trillion cubic feet of natural gas in Inhambane Province in 2013. These findings have attracted international key players in the extractive energy industry such as Exxon Mobil, Galp Energia SGPSA, and Korea Gas.

As recently as May 2017, the government of Mozambique signed a U\$7 billion agreement with Italian multinational gas and oil company Eni. S.p.A. Until now, Mozambique has not been able to obtain any monetary earning from this liquified natural gas resource. However, on signing the agreement with Eni.S.p.A., President Nyusi was quick to express the nation's eagerness to see this resource begin to make a positive impact on the country's economy.

Once operation begins at Inhambane, this natural gas mining project is likely to fall into the country's mega projects portfolio. Other lucrative natural resources in Mozambique include gold, rubies and tantalum. The latest discoveries undeniably position Mozambique as a resource rich country.

3.2 Agriculture

Because of the devastation from the war, Mozambique's agricultural sector remains limited. Of the 40 million hectares of arable land identified in the country, only 10% is being commercialised. Commercial farms have begun to crop up in areas of Tete Province, mainly due to the inflow of farmers from Zimbabwe, which FRELIMO has welcomed. These few farms are establishing commercial estates, growing vegetables, tobacco and cotton. In all these cases, erratic weather patterns and lack of technology are major drawbacks.

3.3 Fisheries

Mozambique boasts a 1 500-mile coastline, the longest in Africa. It is therefore no surprise that fisheries are part of Mozambique's export market. Over the years, as the country continued to grant fishing vessel rights to international companies as part of its portfolio of Bilateral Trade agreements, tension has built up between the local artisanal fishers that have sailed the Mozambican seas since the 17th century and those who harvest fish for the European market. Over 120 000 fishers in Mozambique make their livelihoods in artisanal fishing, harvesting more than 100 000 tonnes annually as small market fish merchants. Due to the local population's outcry, government was forced to take a multi-pronged approach to its fisheries. The country set up the Ministry of Fisheries and through various entities, worked at empowering local communities to manage this industry. The Ministry set its target at nationalizing the industry.

In 2012, the Mozambican Parliament passed a law that directs the government to prioritize rights-based management as a regulatory approach for small scale fisheries. In 2014, the government borrowed US\$850 million (through Switzerland based Credit Suisse and a Russian bank VTB) as a first step to nationalise the country's fishing industry. The deal, later to be the country's tuna company EMATUM, is today seen as one of the most flawed agreements by the government, associated with one of the country's biggest corruption scandals. The project which had projected earnings of US\$ 200 million profit per year, has been running at a loss since it came into operation and has unsustainably stretched the country's debt ceiling. To date, most of its fleet lies idle, rusting and unutilised.

In the face of such poor decision making exhibited in the EMATUM deal, the country seems to have shelved its objective to nationalise the fishing industry. More recently, the government made agreements which have added nine Chinese fishing boats and 50 from the EU onto its waters. To date, the fisheries sector represents only between 1- 3% of Mozambique's GDP. The main importers are the EU, Japan and South Africa, who continue to import prawn and other small shallow water fish.

4. Social Dimension

Any social dimension analysis of Mozambique reveals a paradox that continues to trouble all its stakeholders; where the country is economically dynamic with an outstanding growth rate as high as 8%, yet simultaneously remaining the poorest country in Africa. Currently 55% of Mozambique's population live on below US\$1 a day.

Mozambique has a population of just over 28 million with 80% of the population living in the rural areas. This is a population that has suffered devastation from post liberation war, implications of poor economic and political decisions and regular natural catastrophes in the form of floods and earthquakes. Irrespective of the above, the country is endowed with natural resources ranging from fields of coal to fisheries that can easily meet the demands of some of the world's richest markets, while ranking 181st out of 189 countries on the Human Development Index (HDI). This ranking is an

amplification of how the country's education, health care and quality of life remain low and unsatisfactory.

The country's health delivery continues to fail to meet society's expectations. Life expectancy is 55 years and the 10% HIV prevalence rate among the 15 - 49 years aged population is a contributory factor. In addition, preventable ailments such as Tuberculosis and Malaria, (as well as child birth) continue to contribute to the country's mortality rate. Malaria and Tuberculosis are responsible for 67 and 71 deaths in every thousand respectively. Adult literacy is 58%, one of the lowest in the region (in comparison to neighbouring Zimbabwe, Malawi, South Africa). The effect of this low literacy rate has impacted negatively on gender equality in the country, as there are glaring disparities in the access to education between Mozambican men and women. UN records show that 8% of the country's population have secondary education, of which 2.5% of the women account for the same qualification. In addition, the adult woman is spending an average 2.5 years in tertiary education, compared to the adult man who spends 4.6 years. Taking the above factors into consideration, it is not surprising the country's inequality rating stands at 0.80 on the Human Rights Index.

While Mozambique's economy has continued to grow exponentially, one of the country's challenges remain its inability to supply skilled labour to meet continued demand in a growing economy. Instead, as the industrial development pace increases, as in cases of Moatize coal mining, such progress has resulted in displacements. These displacements represent a strong rejection of the notion that all foreign-based investment co-operation is the panacea to the employment problems. In the case of Moatize, this mega project cannot absorb the community found in the mining areas. Currently, the Vale Mozambique based mining giant is involved in a resettlement initiative of over 2 000 households from the Moatize coal mine location. This resettlement project has caused tension among the population as many feel that their new resettlement areas have poor soils, have diminished their standard of living and increased their vulnerability to multi-dimensional poverty.

4.1 Social Analysis: Culture and Religion

Mozambique has a complicated social history with religion. During the colonial rule under the Portugal administration, the local population experienced a harsh segregatory government which ruled with the approval and assistance of the Roman Catholic church. As colonial Mozambique's indigenous subjects, the population viewed the Catholic Church as complicit in the repressive governance system unleashed upon them. It therefore is no surprise that when FRELIMO came to power, it had zero tolerance for any future role of the church in the running of the new nation state.

The challenges that the FRELIMO government faced, when it came to resource mobilization, forced the then President Samora Machel to rethink the government's anticlerical position. Previously, FRELIMO had declared itself a Marxist-Leninist vanguard party and disavowed religion for a policy of scientific socialism. This divorce from religion was inclusive of Moslem and traditional African religions, seen as some form of deception that could not be reconciled to scientific socialism.

in 1982, the government reversed its position and attitude towards the church, resuscitating the church's presence in the lives of Mozambican citizens. The Catholic Church immediately regained its dominance in Mozambique, not only in its ministering, but in providing the most vital socio-economic needs of the community, including the building of infrastructure including schools and hospitals.

Its work to date continues and is supplemented by the Protestant and Muslim institutions that have been instrumental in initiating ministering and education in local languages. Also, there has been an upsurge of the African-initiated Apostolic churches, particularly those known as the Zion churches, imported from South Africa by returning migrants.

Overall, renewed amicable relations between the government and the church have resulted in an explosive religion uptake by the Mozambican people. This development has meant that religious options have influenced the culture, level and nature of development indicators a community can access. So, while categories maintain their fluidity, most of the Mozambican elite can be traced to Roman Catholic roots, because of the wide spectrum socio-economic offerings. Traditional protestants and Muslim institutions have also maintained their influence as reputed education providers. In addition, religion has shaped the way reproductive health services have been accessed. Areas that are known to fall under Catholic influence show more uptake of these services and associated multiplier factors such as smaller families, better women longevity, and higher literacy rates and standards of living.

The explosive growth of African Zion churches is associated with a traditional practice which include rejection of clinical reproductive health services, coupled with child marriages, as well as low literacy levels. In retrospect, what is evident is that the Mozambican culture cannot be divorced from religion. The change in the government attitude towards religion not only opened the floodgates, but also ensured religion's pervasive relevance to Mozambican culture.

5. Mozambique EPA journey from IOME to SACU

On 16 September 2016, Mozambique became one of the six countries in the South African Customs Union (SACU) to be included in an Economic Partnership Agreement (EPA). The 2016 EPA is the latest milestone in a process that began with the Lome Convention of 1975, as a framework for shaping co-operation between the EU and African, Caribbean and Pacific (ACP) developing economies. Mozambique was a latecomer, only expressing its eagerness to partake in the EU-ACP negotiations in 1984. It is important to note that while the process has evolved from Lome 1 to Lome II, to Cotonou Agreement to the latest EPAs, EU has maintained leverage in all negotiations as a block, while ACP countries have continued to negotiate as individual entities.

This section looks at the evolution of the relationship between the EU and Mozambique. It assesses the provisions of the EPA agreement as of 16 September 2016 and their implications, and explores alternatives where available for Mozambique.

5.1 The Relationship: 1975 – Present

On attaining its independence from Portugal in 1975, Mozambique made the decision to maintain its relationship with the EU (then known as the European Economic Community). On entry, Mozambique was grouped together with Sao Tome and Principe, Angola, Guinea Bissau and Cape Verde, under the Portuguese African Speaking Countries regional economic group, PALOP. In 1982, this group joined the African Caribbean countries within the ACP-EU framework.

Mozambique first expressed its desire to partake in the outcome of the Lome Convention process in 1984. This decision came as no surprise as the Mozambique of 1984 had been devastated by storm Domina, which claimed the lives of 109 people, left 500 000 homeless, displaced 300 000 others, damaging crops and destroying more than 50 dams. In the days following the storm, Maputo, capital city of Mozambique, went without water for more than seven days.

But natural disasters were not the only thing that was devastating Mozambique; to the east in Tete and Gorongosa areas, the government was waging a civil war against the Apartheid South Africa-sponsored RENAMO rebels, a situation which exacerbated the suffering and vulnerability of a population that was now victim to Storm Domina conditions. Combined with this situation was the realization that material and military assistance from the other regional neighbouring countries was never going to become a reality. In 1984, with the insurmountable challenges continuing to influence how the country's population viewed Samora Machel's FRELIMO government, there was a motivation for a reflective moment for the President and his government. Almost 10 years after

liberation and attainment of independence, Mozambique started rethinking and revising some of the radical positions it had taken following its attainment of power.

Also influencing this decision was the way regional partners, namely SADC and African Union (AU), had not responded gainfully to Maputo's continued call for help to fight the rebel group RENAMO. Therefore, it is no wonder that Mozambique, after the regional snub, looked further afield to the West for help, particularly to aid its population which was faced with a multi-faceted crisis emanating from civil war and the effects of natural disaster. Mozambique also looked to Europe to amend government relations with the church, which had been severed after the government's adoption of a Marxist-Leninist platform in 1977. Countries such as Portugal and Italy were keen to assist the Mozambican government. EU was keen to engage with Mozambique, as the community was keen to see an end to the civil war.

Although the country's President, Samora Machel, died two years into the process of becoming a part of the ACP-EU process, his successor, Joaquim Chissano, dutifully followed his goals, continuing where he left off. Mozambique was to go through another seven years (from 1984) of diplomatic negotiations before it signed an ACP-EU linked funding agreement.

In 1992, the EU signed its first regional cooperation agreement with PALOP countries and Mozambique was one of the targeted six countries to receive Euro 25 million. The money was aimed at improving democratic, social and political governance. It is important to note this was the same year that the FRELIMO government of Mozambique together with RENAMO rebels, signed the General Peace Accord in Rome (GPA). The GPA marked the official end of Mozambique's civil war.

Following this agreement, there was pressure from the EU and the Western world for Mozambique to reform its institutions and embrace liberal democracy. It is in this context that this first Euro 25 million tranche of European Development Funding (EDF) was availed to the country and conditionalities set. The funding did not seek to address any economic challenges.

However, under the 10th EDF (2007-2013), no specific Respective Indicative Programme (RIP) was signed. The PALOP-TL programme was financed by 4% from Respective National Indicative Programmes. In 2000, Mozambique's then President Joaquim Chissano among 76 others, signed the ACP-EU Cotonou Agreement, thus setting a legal basis for the EPA negotiations. Since January 2006, Mozambique has been successively the 'Regional Authorizing Officer' (RAO) under the RIP and then Coordinating Regional Officer (CAO) under the ongoing 10th EDF PALOP-TL Cooperation programme.

The 10th EDF Country Strategy Paper was signed in Luanda, in May 2008, together with a Memorandum of Understanding (MoU) between the PALOP-TL countries. Currently, each PALOP-TL country's National Authorizing Officers (NAO) are appointed as 'chef de file', responsible for the project(s) and/or programme (s) implemented and acting as a delegated authorizing officer.

The NAO of Mozambique heads the overall coordination of the Programme. The PALOP-TL and the EU hold regular coordination meetings including ministerial meetings between the PALOP-TL countries, NAOs and the EU once a year, to give orientations to the programme and ensure its efficient implementation.

Although the Cotonou Agreement was set to conclude with the EPAs in 2007, the next binding step towards this missed deadline was undertaken in 2009. It is important to note that although the Cotonou Agreement was a legally binding document, it fell short of the optimistic expectations. To date, only one of the seven regional economic communities, CARIFORUM has signed a full EPA with EU.

In terms of the SADC REC of which Mozambique is a signatory with Angola as an observer:

Both these countries have not fully ratified the agreement. Having signed the interim EPA in 2009, Mozambique has been able to export its aluminium, Coke and prawns to Europe without encountering tariff barriers, or having to meet WTO reciprocity obligations. In 2014, the country's deputy minister of Foreign Affairs and Cooperation, Nyeleti Mondlane, together with the EU representative, signed the National Indicative Programme Agreement to cover the period 2014 to 2020. This agreement makes a provision for Aid to be used for strengthening political, social and democratic institutions.

5.2 The Status of the Mozambique EPA

Mozambique made up the ultimate seven countries (including Angola) that were included in the SADC EPA. Of these seven, the other five participating countries (South Africa, Namibia, Lesotho, Swaziland and Botswana) have already signed the agreement. The ambivalence exhibited by Mozambique to fully ratify the agreement does not come as a surprise, because as has been a challenge with most of the Cotonou Agreement RECs, the SADC /SACU members barely exhibit any similarities. For instance, there is a vast difference between the economies of South Africa and Mozambique in terms of level of development and needs to the extent that it is almost impossible to couch an agreement that will address both their needs in one document. Overall, the most obvious difference is that South Africa as an already developed economy, seeks to find a market for its manufactured goods, while what Mozambique really needs is to develop its manufacturing industry for its goods to compete fairly on the European market.

Although the country has seen an exponential growth rate and injection of investment in its mega projects, it continues to solicit the European market for unprocessed products ranging from prawns to Coke. The Mozambican government must make all attempts to try and find ways to ensure that its entry into signing of the EPA is not merely going to reproduce a colonial arrangement, where the country remains the source of raw material for a European market, which then gets to add value to the product and resell it back to Africa. In addition, as indicated earlier, the country continues to fail to provide social services to its population and must explore further how best to enter into this agreement and direct the outcome towards this gap in its social services requirements.

It is important for Mozambique to realise that the EU does offer negotiation opportunities, and the country can make more demands if need be. EU has previously exhibited flexibility when dealing with ACP members.

6. Challenges

This section highlights the challenges that the Cotonou Agreement has evoked, in the context of SADC-AU EPAs, as well as how Non-State Actors (NSAs) came into the fray as the voice of the populations of ACP countries.

In discussing the signing of the Cotonou Agreement of 2000, which was celebrated as the transformational way of joining the developed world's way of doing trade while simultaneously addressing poverty alleviation and sustainable development, it is important to note that this hailed process also became the centre for interrogating manifestations of power relations between the powerful West and its former colonies.

6.1 Defining Non-State Actors

According to the United Nations, civil society refers to:

"...The associations of citizens (outside their families, friends and businesses) entered voluntarily to advance their interest, ideas and ideologies. The Term does not include profit making activity, or the Private sector, or governing (the Public sector). Of relevance to the United Nations are mass

organizations (such as organizations of peasants, women or retired people), trade unions, associations, social movements, indigenous organizations, religious and spiritual organisations academe and public benefit non-governmental organisations.”

The above UN Definition can however be juxtaposed with that used by the EU in the Cotonou Agreement with reference to the ACP countries. The differences are illuminated in its definition of civil society as:

“... Constitutes one out of three groups that are recognized as non-state actors. Trade Union organisations are subsumed as “economic and social partners” (and are thus not part of civil society), while the private sector forms the third sub-group of non-state actors. In retrospect, it is therefore the above delineation that explains EU’s decision to insist on the use of the term ‘Non-State Actors’ over civil society suggesting an engagement that might draw an elaborate constituency that might not fit in the traditional definition of civil society. To this is the inclusion of trade unions and members of the private sector.”

The 2000 Cotonou Agreement attracted the attention of a diverse group of critics. Although worded with phrases encapsulating hope, fairness and a better world, colonial historical residue manifested in pervasive scepticism and suspicion among ACP populations.

In the years that followed 2000 and stretching over 17 years, a sustained critique of the Cotonou Agreement’s pursuit of an EPA has centred on the following issues:

6.1.1 Regional Integration

As part of its configuration, the Cotonou Agreement created seven Regional Economic Communities among the African Caribbean and Pacific countries namely:

South African Development Community (SADC), Pacific ACP group, the Caribbean Forum (CARIFORUM), Central African Economic and Monetary Community (CEMAC), East African Community and Eastern and Southern Africa (ESA) and Economic Community of West African States (ECOWAS).

These new configurations, although not contested at the signing of the Cotonou Agreement, were however in contestation with the existing regional trade communities organically conceived by the ACP countries. This was the case with reference to the existing 15-member SADC conceptualised in 1980 and consolidated in 1992. The original members of SADC found themselves now split into the ACP-EU, SADC, the EAC, and the ESA. Mozambique remained a part of the ‘new’ SADC which included Lesotho, Swaziland, Botswana, Angola, Namibia and was later joined by South Africa. The focus of many critiques has been the way the EU disavowed years of work put into the SADC formation as a potential economic powerhouse and instead conceived its own SADC that would work for it, ultimately forcing SADC to revise its configuration or face an EU covert destabilization of the African conceived SADC, while claiming to nurture regionalism. Many have called out the EU’s hypocrisy with reference to this development, while citing it as one of the reasons to remain suspicious of the EU’s motive in the EU-ACP agreement. Mozambique, although it remained in SADC, has been grouped with economies that have little in common with its own, that is still in its infancy and still wading through basic modernity requirements such as its population’s literacy and skill development among its own people.

6.1.2 Skewed Power Play

Once the Cotonou Agreement was signed on June 23, 2000 many activists became suspicious of the ulterior motives of the EU. These suspicions were not unfounded, particularly with reference to SADC where the colonial histories are marred with stories of unfair negotiations, with Europe always dictating the terms of the deal. In this case it seemed the process was reminiscent of a recolonization process with the EU as a powerful block negotiator, while expecting ACP countries to negotiate as single nation state entities. In this regard, Mozambique exhibited a ‘double bind,’

where its colonial history with Europe defines its position of lesser power and then on another layer falling under the Least Developed Countries (LDC) category. These two attributes set Mozambique apart from the other countries of which the SADC EPA is couched.

6.1.3 EU's Refusal to invest resources into liberalisation of ACP economies at outset

For the proposed EPAs to become a reality and to benefit the ACP countries as articulated in the Cotonou Agreement, there was need for the ACP economies to transform into full liberalisation which could then grant and receive market access. The ACP countries and particularly those in SADC EPA, are at different levels of development and in the case of Mozambique, the economy is still in its infancy level and would benefit from an injection of resources to transition into a full liberal economy. The EU, although at an advanced level of EPA negotiations with Mozambique, has continued to hold off any direct funding for economy transitioning. Instead the EU has opted to sink money into civil society work, as donations, particularly around governance training. The government has had to go it alone to become a valid liberal economy. It has faced challenges in this and particularly in the fisheries with the Credit Suisse deal, which saw it blow its credit limit glass ceiling, as a direct proof of how EU should and must consider nurturing ACP countries through economy transitions. Activists have argued that the unwillingness of the EU to invest in this necessity, suggests a hypocritical stance, with a goal to set ACP countries up for failure.

6.2 The Demand for Alternatives to EPA

Over the years, academics have centred EPA work around exploring Best Alternatives To A Negotiated Agreement (BATNA). With the realisation of the way negotiations around EPA have failed to meet any of the set and extended deadlines, many researchers argue that this being an EU deal, the failure to close it within 17 years gives ACP countries leverage to negotiate alternatives and concessions within the EPA. While Mozambique's signing the EPA in its 2000 form would make it difficult for the country and its population to benefit from the deal, activists are looking at alternatives, which in some cases have been granted to other RECs. In this regard, ECOWAS makes a key case study for Mozambique because within its 16-member group, all but two (Ghana and Côte d'Ivoire) have managed to negotiate alternative agreements to EPA. Of the 16 countries in the group, 12 opted to sign the Everything but Arms (EBAs) trading scheme. This scheme is open to Least Developed Countries (such as Mozambique) to export everything except arms into the EU market fully duty free, quota free. Twelve of the ECOWAS countries signed onto EBAs. Two countries, Ghana and Nigeria, signed onto the Generalised System Preferences (GSP) which makes it easier to export their products to the EU by eliminating or reducing tariffs up to 66% of the traded goods as described by European Union. Cape Verde could opt for an even more favourable arrangement, by negotiating for GSP+ which was available to it because the country had previously gained the GSP status because it had ratified and implemented international conventions such as human rights, labour rights sustainable governance and good governance. The outcome of the GSP+ means that Cape Verde pays zero tariffs on 66% of its goods traded with EU.

In looking at the above available alternatives, activists are pushing for ACP members such as Mozambique to 'stay' the signing and ratification of EPA and instead opt for alternative agreements, which will be advantageous to the country.

7. The State of NSA with the EPA Mozambique and Region

The presence of NSAs within the EU-ACP EPA negotiation table remains a thorny issue in discussing the inclusivity of this process. The process has over time provided challenges for the local and regional NSAs because of the way there is a requirement for a specialised expertise in legal and trade issues, which has been limited among the SADC region.

EU's insistence on the engagement with CSOs in an undefined way was received with scepticism and evoked the pervasive suspicion between the Western governments and developing countries. In addition, the Cotonou Agreement states that civil society/NSA will have to be invited to participate in the AU-ACP Processes, and invitation would be extended to NSAs if compliant. Such provisions in the agreement are also a source of contention as they again blatantly display asymmetric configurations of power.

In analysing the presence of NSA within the SADC-EU EPA in the context of Mozambique and their role, it is important to highlight that a negotiation such as this does not attract input from all sorts of NGOs, but instead has tended to gain traction with Trade Unions, International NGOs such as ActionAid and Oxfam and the Research organisations/ Specialised groups.

7.1 Trade Unions

Trade Unions have found visibility in the SADC EU-EPA, thanks to the existence of the Southern African Trade Union Coordination Council (SATUCC) - which was established in 1983 to serve as the regional umbrella union for 12 national federations out of the 14 SADC countries. SATUCC's presence in the EPA negotiation was visible and made its voice heard in pushing for a delayed deadline. Although EU was satisfied with having SATUCC occupy the CSO/ NSA place, it was the Council that continued to call for more CSOs in the SADC EPA process. But EU's positive reception of Trade Unions comes at a time when trade unions are in retreat the world over, due to new job configurations and this SATUCC is no exception.

A receding Trade Union worldwide, coupled with a weak national federation of trade unions still in its infancy in Mozambique, has diminished any expectations of critical contributions coming from these NSAs. In addition, the existing Mozambique trade union federation has a history of siding with the FRELIMO government position making it a co-opted entity. On the other hand, while SATUCC remains close to negotiation processes, enough to provide a critical insight to the government, its lack of powerful mandate from the country's worker constituency, as well as its lack of resources to undertake key research, has dissipated its credibility as a productive NSA.

7.2 Research Institutions/ Think Tanks

Specialised knowledge and capacity remain a key requirement if organisations are to engage with the EU EPA process. With the increased complexity of World Trade Organisation (WTO) Rules of Trade and a changing trade policy environment during economic reforms, adequate expertise to be able to negotiate strategically has become an even more crucial element, and the EPAs have further added the coordination of national and regional trade policy as well as with Geneva to the already challenging negotiation process.

These specialised knowledge institutions have come in the form of research academia, think tanks and specialised institutions. With reference to the SADC-EU EPA, two institutions based in South Africa have stood the test of time, namely the South African Institute of International Affairs (SAIIA) and Trade Law Centre (TRALAC). SAIIA's positionality within the SADC-EU EPA is informed by a polarised historiography, marred by unfulfilled promises. It is from this standpoint that SAIIA has carried out empirical research and used findings to advocate several policy positions. Unlike the Stop EPA Campaign, SAIIA does not call for the abandonment of the EPAs, but instead argues for a more comprehensive regionalisation. Although SAIIA is South African based, it has published policy briefs inclusive of Mozambique.

Also contributing specialised knowledge to the SADC EU EPA is TRALAC, a South African organisation focusing on trade law that has been equally active in providing publications and offering workshops to both state and non-state actors, to develop trade law intellectual capital with a focus on Eastern and Southern Africa. Since its establishment in 2002, it emphasises an interdisciplinary approach to

contextualise trade law within the trade policy process that is hampered by the lack of depth in analytical capacity among SADC stakeholders. TRALAC has provided Mozambique with legal and policy analysis to assist the country to navigate EPAs. As recent as May 2017 as Mozambique prepared to ratify the SADC EPA, TRALAC produced Trade policy review for the country.

7.3 International NGOs

The most prominent NSAs in the SADC-EU EPA have been the international NGOs Oxfam and ActionAid, who have combined their specialised knowledge, the position they occupy as resource providers in the region and country, and their credibility within the EU, to be able to get closer to the negotiations, while also having access to realities of the process on the ground. With their capacity, these NGOs have on many occasions been the voice of the marginalised populations. A case in point has been the International NGOs' mobilisation around fisheries policies in Mozambique. International NGOs such as the Department for International Development (DFID) and the World Wide Fund for Nature (WWF), among others, have been instrumental in ensuring that Mozambique adopts a structured fisheries management, which allows a co-existence of artisanal fishers alongside international industrial fishing trawls. In addition, it is the international NGOs that were at the forefront of the Stop EPA campaign.

As a country where a shortage of skills and capacity are acknowledged it is not surprising that only one local NGO has been visible in engaging with the EPA process in Mozambique. The organisation, Coligacao para Justica Economic, (Economic Justice Coalition) is renowned for the messaging of policies and positions ideal for EPA negotiations. However, in recent research, a deeper analysis of the conceptualisation of the EPA focused messages and strategies were done in Europe and handed over as full complete packages to the Economic Justice Coalition. This was obviously a practical way of circumventing the issue of lack of capacity within the local organisation, which in turn provoked questions of representation.

Overall, although this account of NSAs engaged in the SADC-EU EPA is not exhaustive, it does give a comprehensive picture of the trends and form that they have occupied. What is evident is that although the evolution of NSA engagement has been incremental, there remains room for improvement, in terms of capacity efficacy and coordination.

8. Rethinking the future NSA engagement of SADC-EU EPA

As 2017 comes to an end, the ACP-EU agreement moves closer to scoring a second victory by concluding full ratification by all member countries of the SADC-EU Economic Partnership Agreement. The SADC-EU EPA is on its way to being in second place, following the CARIFORUM whose 17 members were fully ratified by 2008.

This milestone presents a reflective moment for the multifaceted civil society organisations who have been against the EPA process, to review on what victories were realised, as well as losses suffered. With multi-tiered transnational organising evident, particularly during the 'Stop EPA Campaign', the pulling back of this campaign certainly presents learning moments.

As highlighted in the previous section of this paper, the NSAs have been visible within the EPAs discourse at local, national, regional and international levels. And yet, what is also evident is that the presence of NSAs articulating 'something' about EPAs has not necessarily meant that this is a neat linear arrangement of organisations feeding into each other's structures exponentially. Although there are many researches conveying the challenges faced by South-based NSAs in engaging ACP-EU EPAs drive, this section focuses on the ways of rethinking these institutions, drawing from lessons learnt in the last 17 years, with the aim of making the sector more effective, influential and having a voice in future in SADC-EU EPAs' deployment.

The focus on the five layers of NSAs: local (grassroots), national, regional and international and trade unions, that currently exist and make suggestions, which will not only speak to Mozambique but to all members of the SADC-EU EPA, namely Botswana, South Africa, Lesotho, Namibia, Angola, and Swaziland. Because the EPAs are conceived within a regional framework, the solutions explored must maintain utility outside single nation location.

8.1 International Organisations

There is no doubt that international NGOs such as Oxfam, ActionAid, the 'Association pour la Taxation des Transactions financière et l'Aide aux Citoyens' (Association for the Taxation of Financial Transactions and Aid to Citizens) (ATTAC), TRAIDCRAFT and others' contribution to the EPAs discourse input has been critical. These organisations have for more than a decade provided resources and maintained an ongoing surveillance on the process, as well as on the WTO. Using their resources, these INGOs engaged consultants, experts and academics in setting research objectives and obtaining empirical evidence that is productive in couching campaign messages and direction. While this work is appreciated, it also evokes questions of representation and ownership. On occasion, these international organisations have partnered with local NGOs and this has inadvertently illuminated the unequal power dynamics, as the local partners tend to be poorly resourced and have remained lacking in capacity. Such a phenomenon has resulted in communities within the REC such as SADC, disengaging with the EPAs as it was often perceived a European 'thing'. A case in point is the 'Stop EPAs Campaign' which despite its highly covered success in the media, was experienced by many developing countries (and Governments) as a Europe-centred campaign.

In rethinking the international NGOs' engagement with EPAs, an important aspect is the redistribution of power, to relocate the EPA campaign's pivot. INGOs need to engage with their reflectivity, which is relooking at their own positionalities, histories: lived and assumed, and the power distribution between them and their partners in the developing economies. Such an audit can be productive in motivating addressing of disparities and ultimately influence and strengthen the relationship, resulting in real capacity building of South NGOs. The capacity building outlook must move away from short-term activity-centred strategies such as occasional workshops, to more deliberate long-term approaches such as funding research studies at graduate and organisational levels as a way to begin to create a South based critical mass on EPA issues.

International NGOs must in future, encourage the finding of specialized NGOs whose work is to focus on EPAs only. In Mozambique, while the Economic Justice Coalition is viewed as an expert, its capacity is limited in comparison to Oxfam and ActionAid and other INGOs. If it is to be transformed into a specialised NGO, that would mean messaging and advocacy work will be nuanced for consumption and appreciation by the Mozambique population.

While advancing this critique, cognisance is taken of organisations such as Oxfam which have dared to hire leaders from the South (a good example being Winnie Byanyima, the current Oxfam Director from the South,) who have gone on to shape the politics of the organisation to reflect the politics and sensibilities of the South. While this is applauded, it remains an isolated development that other INGOs have not followed.

In conclusion, this calls for International NGOs to re-configure their positioning in the current matrix, and be willing to sacrifice their public visibility for a more nurturing role, that will allow for weaning of local NGOs such as the Economic Justice Coalition in future, to stand on their own and produce a credible critique of EPAs.

8.2 Trade Unions

In analysing 21st century developments, it is important to accept that the Trade Unions, the world over, are receding. While it is important to ensure that workers' interests are considered, it is

important to accept this reality when locating and investing in NSAs in relation to future multilateral investment agreements. This uncertainty is evidently reproduced and amplified in the Federation of Mozambique Trade Unions' failure in the past to extricate itself from FRELIMO interests. This knowledge suggests that a different approach is needed to keep the trade unions in the fray, particularly with reference to Mozambique. Because Mozambique has undertaken the big projects which themselves are centres of EPAs, trade unions should be capacitated as centres of knowledge gathering, focusing on data collection on projects workers /community's conditions and lifestyle / standards impact. Such empirical evidence will provide tools for reviewing impact in real time.

8.3 Regional Level

Regional level NSAs' advocacy and lobbying work around EPAs has taken place through think tanks and regional trade union federations, as well as regional entities of existing national NGOs. One of the biggest challenges facing these NSAs is the way they were configured to service the original SADC and are now expected to rethink the new SADC as conceived by the EU for the EPAs. Compounded with this, is the issue of resource-scarcity which continues to threaten the sustainability of these entities. Without guaranteed funding, no one regional entity has been established to solely focus and develop capacities on the SADC-EU ACP. Instead, the visible regional NGOs have had short-lived victories with EPAs as they juggle between issues.

It will be in the interest of the signatories of the SADC-EU EPA to establish an organisation that works full-time on EPAs, including the country specific engagement analysis. A centre such as this would encourage an accumulation of different facets of the EPA, ranging from legal, political, economic and social issues, as well as the WTO. Ideally, the SADC governments within the EPA would fund this centre as they stand to gain. However, developing countries, especially those of Africa, have a history of failure to honour well-intended regional organisations (African Minerals Development Centre (AMDC) and the SADC Regional Poverty Observatory (RPO) are good examples of this phenomenon). Again, the EU as well as the INGOs are positioned to provide the pressure needed for the governments' commitment. With such an entity in place, Mozambique would benefit from a productive critique about its EPA path as well as opportunity to engage with comparative information from the region.

8.4 National NGO's

The NGO sector is a growing one in the Southern Africa region. All the countries in the SADC-EU EPA have seen a proliferation of NGOs, with most focusing on Human Rights issues. Because of the scarcity of funding available in this region, many local NGOs are multi-issue focused, and have adopted this strategy as a survival mechanism to ensure that resources continue to pour in when some donor fund-based issue becomes less attractive and does not draw in money. Although there are many NGOs who work on EPAs, whose capacities are differentiated, the region still does not have a solely specialised EPA entity at national level. This type of configuration has made it difficult for these national NGOs to sustainably build EPA couched capacities, especially since this also requires an in-depth geopolitics Knowledge which includes the WTO provisions as well as other existing multilateral agreements such as the Trans Pacific Partnership Agreement (TPPA).

In this regard, it is important for NSAs to realise the magnitude of the EPA, particularly how it inevitably will influence their countries' politics. This implication makes imperative the formation and securing of an EPA-specialised entity within the nation, in this case being Mozambique. The entity must maintain its independence while simultaneously securing the trust of the government to ultimately work its way in gaining access to every NPA negotiation platform. Of course, in Mozambique this could be the transformation that the Economic Justice Coalition needs, or it could start by building onto the existing coalition's capacities.

The envisaged future here is no easy fit, nor is it proposed naively, without recognising the current mistrust between the governments and civil society. In this regard, religious organisations in

Mozambique might be a possible solution. This is because the church in Mozambique has maintained a presence in the country's political discourse as interlocutors, thus gaining the trust of government and other EU-based organisations. Thus, an EPA-focused national entity housed within the religious groups' organisations is conceivable. However, this mistrust could be overcome if the potential benefits to the people and the government are articulated clearly. In addition, NSAs working in Mozambique could use the continued contestation between the FRELIMO government and the RENAMO opposition, to leverage their demands.

8.5 Local (CBOs and Grassroots)

These entities are often located in the NSAs' matrix as the least powerful and least resourced. They are also the most overlooked when it comes to decision making. Yet these small groups provide the human face of many neoliberal policies. Therefore, there is need to use these local organisations as conduits for popular messaging around EPAs. They are also a resource in terms of providing an ideal research accessible site, should it be required by the more specialised platforms. The CBOs can also be the humanizing agent between EPA provisions and what they translate to when played out in real life. The members must be trained in narration of stories, as they will bear witness to the EPA and its harsh realities emanating from an aggressive neoliberal approach.

Overall, for all or even half of the suggestions to come to fruition, NSAs in the region must succumb to an urgently needed capacity audit of organisations, not just in Mozambique but spreading it to all members of the SADC-EU EPAs. An audit of capacities at all five levels of NSAs provides an ideal starting point. SADC-EU EPA countries, including Mozambique, must fight the EPA on their own terms and from their own backyards.

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