BRIEFING NOTE:
Services trade and regional integration in sub-Saharan Africa: options for continental collaboration

March 2012

Key points

- Services affect growth and development through various pathways. They create incomes and employment, help the investment climate, contribute to consumer welfare and promote economic diversification. Services development and trade in services are being affected by a number of constraints, including capacity, regulatory and external.

- Although the examined five sub-Saharan African Regional Economic Communities all address regional integration in services, investment and migration to varying degrees, there are mixed results with respect to the actual implementation of agreed provisions. While unique in many ways, there are some elements of commonality in the challenges and constraints being faced.

- There is a case to be made for supporting a continent-wide approach to promoting service sector development, regional services integration and services liberalization in Africa. This could include providing the AUC with a mandate and resources to monitor and facilitate ongoing regional services integration efforts, with a view to establishing an African internal market for services. Interventions could be envisaged at the political and substantive levels.

This Briefing Note draws on a Background Brief prepared as part of ILEAP’s work programme on trade in services for the 29-30 March 2012 workshop: African Union/RECs Workshop On Trade in Services, in collaboration with ILEAP and the African Development Bank. It was drafted under ILEAP’s coordination by Christian Kingombe (ODI), with inputs and comments from David Primack, Sékou Falil Doumbouya, Lynette Gitonga, Dirk Willem te Velde and Yurendra Basnett. Please direct any comments to the ILEAP Secretariat (ileap@ileap-jeicp.org).

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The Background Brief examines how services affect growth; what are barriers to regional integration in trade in services and how they are being addressed within five regional economic communities (RECs).\(^1\) It explores to what extent the lack of implementation, coordination and harmonization of protocol provisions across the RECs could be improved through a supra-regional continental approach led by the African Union Commission (AUC).

Services are embedded in all parts and sectors of the economy and affect growth and development through four (direct and indirect) pathways (table 1):

1. Services **directly** provide *many jobs* and incomes for the poor (from distribution to tourism);
2. Services **directly** affect development through effects on range and quality of services;
3. **Indirectly** by forming the backbone of the economy
4. Finally, by offering an opportunity to diversify and enjoy comparative and competitive advantages (from temporary migration to call centres).

**Table 1 Four pathways through which Services affect Development**

<table>
<thead>
<tr>
<th>Pathways</th>
<th>Sectoral Examples</th>
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<tr>
<td><strong>Directly</strong></td>
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<td>1) Services have macro-economic effects through:</td>
<td>Services often constitute the majority or main source of incomes, even in LICs; e.g. tourism and retail distribution.</td>
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<td>* national incomes and employment.</td>
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<td>2) Services affect consumer welfare directly through:</td>
<td>Including social services, such as</td>
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<td>* the range and quality of services.</td>
<td>* health and</td>
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<td></td>
<td>* education.</td>
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<td><strong>Indirectly</strong></td>
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<td>3) Services affect the ‘investment climate’ at the micro level. Doing Business reports(^2) show that:</td>
<td>Including utility sectors such as</td>
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<td>* there are more obstacles to doing business in poorer countries, and</td>
<td>* transport systems,</td>
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<td>* barriers related to services play an important role in this.</td>
<td>* communication services,</td>
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<td></td>
<td>* energy services, etc.</td>
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<td>4) Services help to diversify the economy, stimulating new services and goods.</td>
<td>Good transport services might help non-traditional goods exports; communication services help ICT services exports.</td>
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Source: Author based on literature review.

*Trade openness, coupled with essential regulatory reforms, is a key channel for improving services performance.* Based on the available data, which are admittedly poor for services, many of the fast growing sectors are services such as telecommunications, software and finance. This suggests that services contribute relatively more to growth than other sectors, which is crucial for poverty reduction. Trade in services is an important export sector for some countries in SSA, such as Cape Verde (76%), Mauritius (75%) and the Seychelles (88%), where services exports made up more than two-third of GDP in 2009.

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\(^1\) ECOWAS/UEMOA, ECCAS, EAC, COMESA, SADC.
Identification of Constraints

Access to services is a business impediment in most countries in SSA, e.g. the poor state of the telecommunications infrastructure is a major constraint on the ability of banks to extend services to rural areas. The constraints on the development of the services sector could be associated with limited endowments of capital and skills and small market. A properly sequenced and complementary programme of enhanced openness and regulatory reform could alleviate these constraints. This is particularly the case for producer services, like telecommunications and finance, which are relatively capital and skill intensive and use increasingly sophisticated technology. Greater regional and global integration could, in principle, alleviate the constraints on the development of the services sector (Mattoo and Payton, 2007).

Despite a large number of outstanding challenges, some progress has been made in implementing the various trade and trade-related protocols related to trade in services within each of the five RECs under review (table 2).

Table 2: Selection of Implementation and Challenges

<table>
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<tr>
<th>REC Treaty / Protocol</th>
<th>Recent Progress / Implementation</th>
<th>Challenges / Bottlenecks</th>
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</table>
• Adoption of ECOWAS passport.  
• UEMOA Directives harmonising regulations in telecoms; maritime, road, and air transport services.  
• ECOWAS Supplementary Act harmonizing telecom regulations.  
• Intra-UEMOA liberalisation (modes 3 & 4) for dental, medical, accounting, legal and architectural services.  
• Implementation far from complete/effective in all services areas.  
• Introduced new regulatory framework to reduce historical monopolies. | • A variable-speed approach.  
• Multiplicity of the regional groupings with conflicting objectives.  
• Weak political support and poor coordination among ministries.  
• Heterogeneous community with rivalry along linguistic and legislative histories.  
• Poor funding by member states.  
• The non-ratification and (inability) non-implementation of protocols (e.g. UEMOA Directives/ECOWAS telecom regulation not necessarily reflected in national legislation).  
• Lapses that hinder free movement of people and economic operators.  
• Weak outreach and dissemination to stakeholders and operators. |
| ECCAS (1983) / Cooperation in Transport and Communications. | • Transport-Transit Facilitation Project for the CEMAC.  
• Two relatively successful bi-national railways concessions.  
• CEMAC has made good progress towards liberalisation of air transport.  
• AfDB/WB financing: Regional fibre-optic backbone project.  
• Undersea fibre-optic cable resulting in reduction of costs to ICT services in some countries. | • Surface transportation is slow and the most expensive in SSA due to cartelization and restrictive regulations.  
• Limited road connectivity between CEMAC & ECCAS members.  
• Long dwell times at two key ports.  
• Poor operational performance of railways.  
• Air transport market has dwindled.  
• Levels of air connectivity low.  
• ICT backbone in its early stages, use of new ICT still modest.  
• ICT access rates are low and prices in ECCAS the highest in Africa.  
• Roaming far less developed than other parts of Africa. |
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<td>ECCAS (1983) / Trade [CEMAC 1994 / 2008]</td>
<td>• CEMAC members are involved in EPA negotiations, including on trade in services • CEMAC developing services ‘Master Plan’ to promote sector development regionally and nationally.</td>
<td>• Cameroon’s balance of services is structurally negative e.g. due to the rise in transport costs.</td>
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<td>EAC (1999) / Common Market Protocol (CMP) ‘Free Movement of goods, persons and labour... services and capital’</td>
<td>• 20 Nov 2009 entered into Common Market. • Ratified by all Partner States (PS). • 1 July 2010 EAC Common Market launched. • Efforts to identify opportunities as well barriers that affect Partner States. • CMP Part F/Annex V (services) covers 7 initial sectors - Business and Professional; Communication; Distribution; Education; Financial; Tourism and travel-related; and Transport (5 additional sectors identified for future negotiations) • Abolished fees for work permits between Rwanda and Kenya. • Associations have developed MRAs in some sub-sectors to allow for the movement of professional services. • Efforts to harmonise regulatory measures in some services sectors (tourism, ICT, etc)</td>
<td>• Relevant CMP legislation and the institutional framework are not yet in place in all PS. • EAC Secretariat has been unable to do significant follow-up towards CMP implementation on services. • Lack of coordination between Secretariat and the PS on implementation of schedules. • Lack of adequate resources to build capacity for implementation. • No commitments in many sub-sectors within initial 7 sectors. • Need to address some important issues e.g.: (i) review of all domestic law and regulations related to TiS; (ii) coherence and/or harmonization with COMESA commitments. • Need to ensure that the commitments made are being implemented through the removal of existing barriers. • Differential ambitions amongst PS</td>
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<tr>
<td>EAC (1999) / Harmonization and Mutual Recognition</td>
<td>• Annex on Mutual Recognition of Academic (MRA) and Professional Qualifications was adopted.</td>
<td>• Tuition fees are yet to be harmonised. • Delayed conclusion of the Annex on MRA and professional qualification. • Expedite process of developing MRAs.</td>
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<td>COMESA (1994) / Free Movement of Persons, Labour, Services, Right of Establishment ..</td>
<td>• Adopted and entered into force. • 2000-2002: Gradual removal of visa requirements; • 2002-2006: Movement of skilled labour and services; • Members agreed to remove restrictions on the freedom to provide services by 2004. • 2006-2010: Right of establishment; • COMESA Yellow Card Scheme; • Relaxation of Visa Requirement; • 2014: Right of residence. • 2009: adopted Regulations on Trade in Services (framework for services liberalization) • Priority sectors - communication, financial, tourism and transport + business, construction &amp; energy • 7 Member States have submitted offers</td>
<td>• To be implemented in several stages. • As at the end of March 2010, only four member states had signed the Protocol: Those four were Kenya, Rwanda, Burundi and Zimbabwe. • Overlapping membership in RTAs • Technical capacity constraints • WTO accession processes (5 Members) • Divergent levels of development in COMESA • Lack of political will amongst some MS</td>
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### Draft SADC Trade in Services Protocol (as per Article 23 SADC Trade Protocol (1996))

- Negotiations started in 2001 as part of Trade Protocol; later shifted to standalone Services Protocol
- Draft Protocol on Trade in Services modelled almost exactly on the GATS
- 6 sectors identified for priority negotiation – finance, communication, transport, energy, construction, and tourism.
- Negotiations to be concluded 3 years after Protocol finalised and signed.
- Agreement that negotiations can begin in April 2012.

### Challenges / Bottlenecks

- Doubts as to whether the protocol will be presented to the SADC Summit for signature in August 2012.
- Backloading of negotiations on the schedules of commitments until after adoption of SADC protocol has slowed down progress
- Capacity constraints to manage negotiations and underlying policy process
- Diverging positions on when to start negotiating the specific schedules of commitment.
- Limited funding for the negotiations activities.
- Weak coordination and involvement of regulators & private sector in services negotiations.
- Limited political will in moving forward.
- Risk SADC FTA overtaken by EPA negotiations; impetus for change to come from an agreement driven by EU interests.
- Difficulty to ensure consistency between liberalisation of services and the various protocols in specific services sectors.
- Questionable whether first round of negotiations on six priority sectors (with objective to have "better-than-Gats-commitments" for each sector) will result in substantial sectoral coverage.

### SADC (1992) / Transport, communications... (TCM) (1996)

- Entered into force 6 July 1998

### Challenges / Bottlenecks

- The scope of this Protocol comprises the entirety of the transport, communications and meteorology sectors and contains a mandate for market liberalization in road transport.


- Entered into force 31 July 2000

### Challenges / Bottlenecks

- To progressively achieve the equivalence, harmonisation and standardization of the education and training systems in SADC.


- Entered into force on 26 November 2002.
- "Regional Tourism Organization of Southern Africa" (RETOSA) was established in 1998.
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<td>SADC (1992) / Facilitation of the Movement of Persons</td>
<td>To facilitate: Entry, for a lawful purpose and without a visa, into the territory of another State Party for a maximum period of 90 days per year for bona fide visit. Establishment of oneself and working in the territory of another State Party. Not in force due to lack of sufficient ratifications</td>
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</table>

Source: Various.

**Policy suggestions**

In the current economic environment, enhancing intra-African trade has been put high on the global agenda. Noting their fundamental importance to the functioning of a modern economy, services must also feature prominently (and coherently) in this debate. At present however, due to the standstill at the WTO, the multilateral services fora holds limited relevance for most of SSA. Similarly the on-going ACP-EU EPA services negotiations have advanced little beyond the exploratory stage in most regions (Central Africa notwithstanding).

In contrast, as summarised in table 2 (and covered in more detail in the accompanying Background Brief), the five SSA RECs examined appear committed to continue to strive towards a further deepening of their regional integration in services, investment and migration. Progress towards implementation has in practise been patchy however, plagued by a range of both unique and common challenges and constraints. In light of this, there is a compelling case to be made for supporting a continent-wide approach to promoting service sector development, regional services integration and services liberalization in Africa. Such an approach could positively reinforce individual REC efforts to remove barriers to services trade, as well as streamline the coordination process towards the longer-term goal of achieving a Continental Free Trade Area (CFTA) and broader African Economic Community (AEC).

As the ‘gatekeeper’ of the CFTA/AEC, the AUC could be provided with a clear mandate and resources to monitor and facilitate the on-going process of regional trade in services integration, with a view to establishing an African internal market for services. An overarching process spearheaded by the AUC could help to promote coherence and convergence amongst the RECs, leveraging resources and knowledge, with interventions conceivable at various levels – including political and substantive.

Politically, the explicit recognition of service sector development as a cornerstone to the CFTA/AEC, as well as the inclusion of services as a standing agenda item in AU deliberations, can send significant signals – to RECs, member governments and donor partners. It could, for example, integrate a services mandate within the scope of its ‘Minimum Integration Program’ (MIP), to be endorsed by the Conference of African Ministers in Charge of Regional Integration. In doing so, relatively simple interventions can be envisaged – such as calling on RECs (and member states) to establish dedicated desks with adequately trained staff to manage the knowledge-intensive services portfolio. Such desks can also serve to strengthen inter-agency/department communication (an endemic obstacle to holistic thinking and progress on services issues).
On substance and process, the AUC could play a coordinating role to promote the harmonization of regulatory policies for appropriate service sectors; the harmonization of regimes applicable to service providers as well as organizing the overall framework for cooperation among the regulatory authorities at the REC and/or national level. Their inclusion in efforts by specialized international institutions (e.g. World Tourism Organization, ITU, etc) could also assist in mitigating coordination failures that otherwise might result in fragmentation across regions. Supporting efforts for information and experience sharing, including best practise in regulatory issues and ‘model legislation’ could also be considered, as well as the commissioning of regulatory case studies with supra-REC implications. Another possible role vis-à-vis monitoring regional services integration could be the setting up of a monitoring mechanism to assist in the identification of services barriers (either at the AUC or devolved to individual RECs based on a common approach).

The range of possible interventions – large and small, could also more generally help to raise awareness of the importance of the services sector to growth, development and poverty alleviation amongst various stakeholders – including at the highest political office and in large and small corporate boardrooms. The bolstering of political will alone to advance with service sector development – understanding the role of integration and negotiations towards that aim, would constitute a significant contribution to the longer-term prosperity of the African continent.