The Future of UK-East Africa Trade
The United Kingdom needs to reset its trade relationships around the world in time for its exit from the European Union and the end of the transition period. This paper analyses the options for future trade with the countries of the East African Community, in the hope that these ideas might also shed light on the UK’s post-Brexit role in trade and development in Africa and the developing world.

AUTHORS
IFT (London) & the Eastern Africa Policy Centre (Nairobi)
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>8</td>
</tr>
<tr>
<td>Current trade platforms</td>
<td>9</td>
</tr>
<tr>
<td>Current trade flows</td>
<td>11</td>
</tr>
<tr>
<td>Brexit impact</td>
<td>11</td>
</tr>
<tr>
<td>Beyond Brexit</td>
<td>13</td>
</tr>
<tr>
<td>Introduction</td>
<td>16</td>
</tr>
<tr>
<td>Trade and Africa</td>
<td>20</td>
</tr>
<tr>
<td>Trade and East Africa</td>
<td>24</td>
</tr>
<tr>
<td>Origins of the East African Community (EAC)</td>
<td>25</td>
</tr>
<tr>
<td>The EAC today</td>
<td>27</td>
</tr>
<tr>
<td>EAC in the region</td>
<td>28</td>
</tr>
<tr>
<td>Economic Partnership Agreement (EPA)</td>
<td>32</td>
</tr>
<tr>
<td>Background</td>
<td>33</td>
</tr>
<tr>
<td>Content</td>
<td>35</td>
</tr>
<tr>
<td>Impact</td>
<td>38</td>
</tr>
<tr>
<td>Current EU-EAC trade</td>
<td>40</td>
</tr>
<tr>
<td>Goods</td>
<td>41</td>
</tr>
<tr>
<td>Services</td>
<td>41</td>
</tr>
<tr>
<td>Agricultural subsidies</td>
<td>42</td>
</tr>
<tr>
<td>Regulatory environment</td>
<td>42</td>
</tr>
<tr>
<td>The effect of EU MRLs: Dimethoate and Kenyan beans</td>
<td>44</td>
</tr>
<tr>
<td>Genetically modified organisms</td>
<td>45</td>
</tr>
<tr>
<td>Current UK-EAC trade</td>
<td>48</td>
</tr>
<tr>
<td>Trade volumes</td>
<td>49</td>
</tr>
<tr>
<td>Products</td>
<td>49</td>
</tr>
<tr>
<td>Investment</td>
<td>51</td>
</tr>
<tr>
<td>Case study 1: Kenyan cut flower exports</td>
<td>54</td>
</tr>
<tr>
<td>Background</td>
<td>55</td>
</tr>
<tr>
<td>Challenges faced by cut flower exporters</td>
<td>56</td>
</tr>
<tr>
<td>Implications of Brexit on the cut flower industry</td>
<td>58</td>
</tr>
<tr>
<td>Potential expansion in Kenya-UK cut flower trade</td>
<td>60</td>
</tr>
<tr>
<td>Case study 2: Kenyan tea exports</td>
<td>62</td>
</tr>
<tr>
<td>Background</td>
<td>63</td>
</tr>
<tr>
<td>Challenges faced by tea exporters</td>
<td>63</td>
</tr>
<tr>
<td>Implications of Brexit on the tea industry</td>
<td>69</td>
</tr>
<tr>
<td>Potential expansion in Kenya-UK tea trade</td>
<td>70</td>
</tr>
<tr>
<td>UK-EAC trade after Brexit</td>
<td>74</td>
</tr>
<tr>
<td>Brexit Background</td>
<td>75</td>
</tr>
<tr>
<td>Transition period</td>
<td>76</td>
</tr>
<tr>
<td>Unilateral, non-reciprocal preferences</td>
<td>79</td>
</tr>
<tr>
<td>Reciprocal agreements</td>
<td>81</td>
</tr>
<tr>
<td>Agricultural policy</td>
<td>82</td>
</tr>
<tr>
<td>Bilateral aid and investment</td>
<td>83</td>
</tr>
<tr>
<td>TradeMark East Africa works</td>
<td>86</td>
</tr>
<tr>
<td>A UK-EAC trade agreement</td>
<td>88</td>
</tr>
<tr>
<td>Contextual challenges</td>
<td>89</td>
</tr>
<tr>
<td>Opportunities</td>
<td>90</td>
</tr>
<tr>
<td>Services trade</td>
<td>91</td>
</tr>
<tr>
<td>Investment</td>
<td>93</td>
</tr>
<tr>
<td>Regulatory environment</td>
<td>93</td>
</tr>
<tr>
<td>Rules of origin</td>
<td>96</td>
</tr>
<tr>
<td>Safeguards</td>
<td>97</td>
</tr>
<tr>
<td>Export taxes</td>
<td>98</td>
</tr>
<tr>
<td>Tariffs</td>
<td>99</td>
</tr>
<tr>
<td>The way forward</td>
<td>102</td>
</tr>
<tr>
<td>Recommendations for UK policymakers</td>
<td>103</td>
</tr>
<tr>
<td>ANNEX 1: Kenyan tariff liberalisation</td>
<td>108</td>
</tr>
<tr>
<td>ANNEX 2: Kenya “new market, new products” potential</td>
<td>113</td>
</tr>
<tr>
<td>References</td>
<td>115</td>
</tr>
<tr>
<td>Abbreviations</td>
<td>118</td>
</tr>
</tbody>
</table>
IFT is a private, not-for-profit, non-partisan research organisation making the intellectual and moral case for free trade. Launched in 2017, it is Britain’s only research organisation dedicated solely to trade policy. It aims to capitalise on the opportunity Brexit has afforded Britain to liberalise its trade policy, by convincing three key audiences that more open trade will benefit the country (and, indeed, our trading partners): policymakers and legislators; businesses; the general public. IFT’s research covers unilateral trade policy, bilateral, regional and multilateral trade relationships, and sectoral issues.

The Eastern Africa Policy Centre, based in Nairobi, was established in 2013 to promote social, economic and individual freedoms within Eastern Africa through in-depth policy research and analysis. EAPC aims to explore the relationship between individual liberty, the free market and sustainable socio-economic development within the region, seeking to link public policy with policy outcomes. Its programmes include the Centre for Economic Policy and Regulation Studies; the Centre for Freedom, Governance and Rule of Law Studies; and the Centre for Peace and Conflict Studies.

This paper comes at a critical time: both for the United Kingdom, as it processes its future after Brexit; and for East Africa, as it processes regional and global contentions over its trade arrangements.

After offering a comprehensive review of the EU’s existing policies relevant to the region – including its GSP, EPA and CAP policies – the report shares a number of proposals by which the UK can improve its trading relationship with EAC countries.

60% of Africa’s population is under the age of 24. This is not only significant economically, but also politically. According to UNDP, while Africa’s median age is 19.5, the average age of an African President is 62. This is the largest gap between governed and governor in the world.

At Students for Liberty, we are focused on equipping and empowering this rising demographic, with pro-liberty thought leadership on governance. This includes education on sound economic thinking, which recognises the power of competitive and open markets to deliver strong economic growth.

The authors present well researched arguments supported by useful references for those who wish to delve further, including case studies in key export markets such as tea and cut flowers, to examine the practicalities and importance of establishing efficient future arrangements.

From East Africa, we are looking on with eager anticipation at how the UK responds to Brexit. We hope to receive a refreshed, liberalising UK posture once she regains autonomy over her trade policy.

I am therefore delighted to commend to you the excellent analysis and recommendations made in this report.

- Linda Kavuka, African Programs Manager, Students for Liberty

“\"I am delighted that one of IFT\'s very first in-depth policy paper concerns Britain\'s trading relationship with East Africa, a dynamic, rapidly-growing region whose prosperity depends to a great extent on international trade. Even more pleasingly, we have made a lasting connection with the Eastern Africa Policy Centre, our exemplary partners in this project.\"”

- Daniel Hannan, IFT President

“I am grateful to IFT for facilitating us and giving us tremendous support throughout the period we were writing this paper. I would also like to thank all the Eastern Africa Policy Centre staff and research assistants for their hard work and participation in the data collection which supported this work.”

- Mike Rotich, EAPC Executive Director
The United Kingdom needs to reset its trade relationships around the world in time for its exit from the European Union and the end of the transition period, currently estimated to be 31 December 2020. This paper analyses the options for future trade with the countries of the East African Community, in the hope that these ideas might also shed light on the UK’s post-Brexit role in trade and development in Africa and the developing world. As well as highlighting how to ensure these current trade relationships do not suffer as a consequence of Brexit, we show that many improvements can be made to virtually all elements of these relationships, some of which could be implemented right away and some of which are only achievable when the UK is outside the EU.

CURRENT TRADE PLATFORMS

Firstly, we lay out the complex web of arrangements through which the UK and EAC currently trade: primarily the EU’s unilateral Generalised System of Preferences (GSP) and the European Partnership Agreement (EPA).

Generalised System of Preferences

The GSP is a tiered system which affords different tariff preferences to least developed countries (LDCs), which enjoy duty-free, quota-free (DFQF) access to the EU market through the “everything but arms” (EBA) pillar of the GSP, compared with other developing countries which enjoy “standard” GSP preferences. This differentiation has the following drawbacks:

• It splits up regions like the EAC along LDC/non-LDC lines, damaging regional integration, a key pillar of African development.

• It also disincentivises progression from LDC to non-LDC status as this involves losing DFQF access to the EU market.

• Finally, it creates an incentive for non-LDCs to sign trade agreements with the EU that are not optimal or desired, purely for the sake of gaining or regaining DFQF market access.

European Partnership Agreement

The EU-EAC EPA is one of seven EPAs at various stages of completeness with regional groupings within the Africa, Caribbean and Pacific (ACP) countries. They are trade agreements notified under GATT Article XXIV, and thus demand a certain degree of reciprocity in market access. They were considered necessary by the EU when the EU’s previous unilateral preference scheme vis-à-vis ACP countries was deemed incompatible with the WTO principles of non-discrimination and reciprocity. In these agreements the EU liberalises 100% of its tariff lines, thereby granting its trading partners DFQF market access (regardless of LDC/non-LDC status), and the trading partners liberalise around 80%. The EPAs commit the ACP parties to various other liberalisations too, in areas such as rules of origin, export duties and safeguards, though EU liberalisation in these areas also goes further. The EPAs are unpopular among many actors on both the EU and ACP sides, and the EU-EAC EPA is no different. Here are some of the causes for concern:

Provisions

• EAC countries felt the level of tariff liberalisation required of them was too high.

• Although rules of origin are more liberal and flexible than those under the GSP, inequalities around minimum value added requirement in certain sectors remain, and in the important area of agriculture the EU’s “flexible cumulation” approach does not apply.

• The EAC countries felt the requirements for imposing safeguards were too limited and burdensome.

• Limitations on export taxes are more stringent than WTO rules.

[1] The length of the transition period and its provisions are in flux as a matter for the UK-EU negotiations, but for the purposes of this paper we assume the transition period will finish at the end of 2020 and that the provisions will broadly match what appeared in March 2018’s Draft Withdrawal Agreement (which for trade-related matters were slated as having been agreed).
The “non-execution” clause leaves open the possibility that the EU could suspend the preferences available through the trade agreement where it deems an EAC state has not met certain governance criteria.

The “more favourable treatment” clause precludes the EAC from opening its market to other major economies to a greater extent than the EPA offers without offering the EU the same access.

The EPAs focus mainly on tariffs and rules of origin, and are light on services liberalisation, technical assistance frameworks and investment provisions.

Each EPA is different, meaning that the different regions to which they apply do not all enjoy exactly the same preferences, for instance on rules of origin. This hinders regional and continental integration by making it more difficult to develop inter-regional or continental supply chains.

Application

The EPAs have not all been signed. The EU-EAC EPA has only been signed and implemented by Kenya and Rwanda, while negotiations are ongoing with Uganda, Tanzania and Burundi. The latter countries continue to trade with the EU on the EBA platform. This undermines regional integration because the EAC member states are not setting a common external tariff (CET) vis-à-vis the EU, and because they are facing different rules of origin requirements selling into the EU market. This hinders the development of intra-regional supply chains.

Kenya felt pressured to sign the EPA at the end of 2016 because the interim EPA was about to expire and it feared losing DFQF access to the EU market, which would have had a huge impact on its cut flower, tea and vegetables exports to the EU.

The regional groups reflected in the EPAs do not necessarily reflect the facts on the ground when it comes to economic integration.

Countries that do not trade freely with each other are in the same group and therefore the same EPA, whereas countries with strong trade links might find themselves part of different EPAs. The EPAs can therefore erect barriers to trade between countries that are otherwise in a position to increase mutual trade and develop supply chains.

Subsidies and regulation

There are other aspects of current UK-EAC trade that are determined by the UK’s EU membership. Developing countries in general find the EU’s Common Agricultural Policy (CAP) to be a barrier to the success of their agricultural exports in the EU market. It is often cited in trade negotiations as a justification for their use of safeguards and other defensive measures, since they cannot afford to subsidise their own farmers to anything like the same extent as the EU. The UK’s openness to trade with the EAC is also affected by the EU regulatory environment, for instance its maximum residue levels (MRLs) for certain substances in certain produce, its general marketing standards (GMS), and its policy on genetically modified organisms (GMOs). The latter is particularly restrictive and has a profound effect on the development of the agriculture industry in poorer countries, which could benefit hugely from GM innovations to raise crop yields in harsh environments.

Bilateral trade

On a bilateral level, there are some notable success stories in UK investment in the EAC, including in garment manufacturing and mobile payments. These have delivered measurable economic benefits to the region and provide a model for future investment. One of the UK governments greatest success in the EAC has been TradeMark East Africa (TMEA), a DFID initiative now funded by eight foreign governments that has turned into the region’s outstanding “aid for trade” NGO. TMEA has facilitated hard and soft infrastructure projects that have smoothed trade between the EAC countries, empowered local farmers and promoted the role of women in trade. This kind of trade facilitation can do more than modest realignments in trade policy to boost UK-EAC trade and to contribute to regional economic development.

The EPAs have not all been signed. The EU-EAC EPA has only been signed and implemented by Kenya and Rwanda, while negotiations are ongoing with Uganda, Tanzania and Burundi. The latter countries continue to trade with the EU on the EBA platform. This undermines regional integration because the EAC member states are not setting a common external tariff (CET) vis-à-vis the EU, and because they are facing different rules of origin requirements selling into the EU market. This hinders the development of intra-regional supply chains.

The regional groups reflected in the EPAs do not necessarily reflect the facts on the ground when it comes to economic integration.

Countries that do not trade freely with each other are in the same group and therefore the same EPA, whereas countries with strong trade links might find themselves part of different EPAs. The EPAs can therefore erect barriers to trade between countries that are otherwise in a position to increase mutual trade and develop supply chains.

Subsidies and regulation

There are other aspects of current UK-EAC trade that are determined by the UK’s EU membership. Developing countries in general find the EU’s Common Agricultural Policy (CAP) to be a barrier to the success of their agricultural exports in the EU market. It is often cited in trade negotiations as a justification for their use of safeguards and other defensive measures, since they cannot afford to subsidise their own farmers to anything like the same extent as the EU. The UK’s openness to trade with the EAC is also affected by the EU regulatory environment, for instance its maximum residue levels (MRLs) for certain substances in certain produce, its general marketing standards (GMS), and its policy on genetically modified organisms (GMOs). The latter is particularly restrictive and has a profound effect on the development of the agriculture industry in poorer countries, which could benefit hugely from GM innovations to raise crop yields in harsh environments.

Bilateral trade

On a bilateral level, there are some notable success stories in UK investment in the EAC, including in garment manufacturing and mobile payments. These have delivered measurable economic benefits to the region and provide a model for future investment. One of the UK governments greatest success in the EAC has been TradeMark East Africa (TMEA), a DFID initiative now funded by eight foreign governments that has turned into the region’s outstanding “aid for trade” NGO. TMEA has facilitated hard and soft infrastructure projects that have smoothed trade between the EAC countries, empowered local farmers and promoted the role of women in trade. This kind of trade facilitation can do more than modest realignments in trade policy to boost UK-EAC trade and to contribute to regional economic development.

CURRENT TRADE FLOWS

Figures on UK-EAC goods and services trade show that the UK is an extremely important export partner for the EAC countries and particularly for Kenya. The UK is among the top five destinations for Kenyan exports, and 28.7% of all Kenyan exports to the EU go to the UK. In certain product areas this is more marked, for instance the UK is Kenya’s biggest export market for vegetable products, with Kenyan vegetables (particularly green beans and peas) accounting for 27% of the fresh produce in the UK market. Kenyan tea accounts for 56% of the black tea in the UK market, and 70% of cut roses on sale in the UK were grown in Kenya. Our case studies on Kenyan exports of cut flowers and tea to the UK show how important these industries are to the Kenyan economy, to Kenyan economic development and also to the UK importers and re-exporters involved in the supply chains.

In terms of UK exports to the EAC, these mostly take the form of motor vehicles, printed materials, machinery and chemical products. The UK exports far less agricultural produce to the EAC than the EU as a whole, and in this regard makes for a less complicated trading partner as there is a smaller domestic industry calling for protection from foreign competition, and less prospect of a flood of British agricultural products hitting the EAC market following any further opening up of EAC markets. However, the EAC is attempting to expand its manufacturing sector, particularly in the fields of vehicle assembly and apparel, and has taken steps to either ban or limit the import of second hand cars and clothes. UK exports of vehicles to the EAC might therefore be a focal point of EAC concerns about foreign competition.

BREXIT IMPACT

Case studies

Our case studies on the Kenyan tea and cut flower industries demonstrate how small changes to the supply chains and preferences enjoyed by these industries currently can cause disproportionately large damage to the industries and to the Kenyan economy as a whole. Many EAC products reach the UK market via the EU, and many EAC products are re-exported by UK firms to the EU. Increased friction in UK-EU trade could negatively affect these supply chains and cause new ones to arise, at some upfront cost. The UK must carefully balance the potential effect of this with the benefits of future divergence from EU standards and regulations that currently harm developing world producers, since divergence could cause increased friction in terms of time and cost to UK-EU trade. It is very difficult to estimate the potential damage of an unknown level of UK-EU trade friction to EAC exports.

It is easier, however, to estimate the damage to EAC exporters caused by the loss of DFQF market access because there is some precedent for this: for three months in 2014 Kenya exports to the EU reverted to standard GSP preferences from the DFQF access provided for by the interim EPA. This caused Kenyan flower exporters around £3m in absorbed costs. Depending on what unilateral preferences the UK has in place by the end of the Brexit transition period, it is quite possible that Kenyan exporters could once again face a loss of DFQF access to the UK market if a new trade agreement between the UK and the EAC has not been agreed and implemented by then.

Trade during transition

The UK and EU consider the provisions in the 2018 Draft Withdrawal Agreement regarding trade agreements with third countries to be sufficient to alleviate concerns among these trading partners regarding their trade with the UK during the Brexit transition period. The provisions entail the EU “notifying” the third countries that the UK should be treated as an EU member during this period, putting the ball in their court to question or contest this approach. Firstly, we argue that this might not be sufficient to alleviate the concerns of more vulnerable economies, since the Draft Withdrawal Agreement is subject to UK and EU parliamentary ratification and its provisions are part of a “nothing is agreed until everything is agreed strategy”. We recommend, therefore, a separate legal commitment from the UK and the EU on the trade provisions alone. Secondly, we point out that third countries could use the possibility of contesting the UK-EU transition approach to exert early leverage...
on the new post-transition trading relationships with both the UK and EU. The UK must therefore be ready to start talking about this now.

Trade after transition: unilateral

The Brexit timeline puts certain pressures on resetting the UK-EAC trade relationship. Our approach to the future UK-EAC trade relationship takes this into account by suggesting a way of ensuring that the EAC countries do not fall off a market access “cliff edge” when the Brexit transition period finishes. This would require the UK not just replicating the EU’s GSP scheme, but improving upon it straight away, in time for the end of the transition period. At the very least, a WTO waiver should be sought to give all developing countries that enjoy DFQF access to the UK market currently, whether through the EU’s GSP or EPAs, that same access under the UK’s new unilateral preferences. The UK could think about extending DFQF access to all African countries or all developing countries under its new scheme (rather than just LDCs), or could at least offer this as a future undertaking in order to justify the temporary waiver.

In any new unilateral preference scheme, the UK should enact a single rules of origin (RoO) regime that affords flexible cumulation among all beneficiaries and whatever other liberalisations it has time to give. Our full recommendations on RoO liberalisation include reduced value-added thresholds and reduced requirements on proving origin in the first place. Unilateral RoO should be harmonised with reciprocal RoO negotiated in trade agreements so that all African countries and regions face the same RoO when selling into the UK market, which will facilitate the development of continental supply chains.

Trade after transition: reciprocal

This backstop means that if the UK has not been able to negotiate new trade arrangements with the ACP countries in time for the end of the transition period, any non-LDC that falls out of an EPA arrangement with the UK does not lose its DFQF market access. The aim, of course, would be to have the new trade arrangements in place in time, since they will confer other benefits to both parties of the agreement. It seems the UK would currently like to just “roll over” the EPAs, replacing “EU” with “UK” and not much more. We argue that this will not be possible because of RoO technicalities, and also because the ACP partners will have demands for changes to exclusion lists and other provisions whose dynamics are changed by the big difference in UK market size and composition compared to the EU, and the possible changes in UK-EU market access. The UK should welcome this as an opportunity to improve on the EPAs with new bilateral FTAs which work better for all trading partners.

Some of our recommendations on improvements that can be made to the EU-EAC EPA model are extremely quick and simple, such as removing certain clauses (like “more favourable treatment” and “non-execution”) or making small changes to others (on export taxes and safeguards, for instance). Other recommendations would take longer, adding provisions on services liberalisation, technical cooperation and assistance, visa liberalisation, and further rules of origin liberalisation. It will be key to align all these African regional trade negotiations as much as possible, which will require the UK to create a common template and a platform for information and personnel sharing across different negotiations. This will ensure that the same provisions on things like rules of origin, safeguards and export duties, apply across all these agreements, encouraging the development of inter-regional and continental supply chains, and will make it easier to merge agreements together in the future (see below).

The two sides should be as ambitious as possible, since once a new agreement is signed it is unlikely that it will be revisited for some time. The fewer improvements are made to the EPA model, the less likely the countries that have been reticent to sign the EPA, like Tanzania, will be to sign the new agreement. The UK should be aiming for all EAC countries to sign a new agreement because EAC regional integration is damaged when different members implement different tariff preferences and rules of origin vis-à-vis the same trade partners.

Agriculture subsidies

Other consequences of Brexit that will affect UK-EAC trade are the UK’s exit from the EU’s CAP and changes to future UK involvement in the European Development Fund (EDF). The UK’s ambition to move away from the CAP-style direct farm payment scheme to an environmental land management scheme, announced by the Environment Secretary in early 2018, will be music to developing trade partners’ ears. The UK market for agricultural produce will become less distorted and friendlier to developing country produce, and will cease to be a bone of contention in trade negotiations as it is currently. The sooner the UK can show some concrete policy development in this area, through introducing a farm bill to Parliament for instance, the sooner it will become a trade policy advantage.

Aid programmes

When it comes to UK aid and its contributions to the EDF, it is not so clear what the government’s ambitions are. The UK is not only a significant financial contributor to the scheme, but also a significant source of expertise. Most agree it would be sorely missed if it phased out its involvement altogether. Either way, the UK government has a strong record in protecting its aid budget and developing countries should be in no doubt that Beijing will continue to support. The UN’s aid spending target of 0.7% of gross national income (GNI) no matter what its future is in the EDF. The UK should build on its Economic Development Strategy (2017) to give more detail on the kinds of projects it intends to support or implement in Africa, both through a centralised Africa Strategy and a more fleshed out “aid for trade” strategy.

BEYOND BREXIT

There are four key platforms through which the UK can enhance its trading relationship with the EAC once the dust has settled on Brexit and the above issues have been addressed – assuming a new trade agreement has been signed, ratified and implemented along the recommended lines. These four platforms will require long-term thinking, but we should have a broad idea of the direction of travel now, since they will inform some of the more short-term choices.

Aid and investment strategy

As mentioned above, the UK should develop an Africa Strategy across the development, trade and investment platforms, ideally led centrally by Number 10. This would include building on DFID’s Invest Africa Initiative, which is yet to be implemented (but includes planned investment in Kenyan manufacturing); planning to expand TMEA to more African regions; developing a more open, transparent and accessible platform for engagement with UK private sector investors; and incorporating a wider “aid for trade” programme.

Regulatory realignment

Once the UK-EU trade agreement is signed, the UK will need to reassess how and where it is worth diverging (if this is possible under the new agreement) from the EU regulatory environment in terms of potential benefits to developing economies. Of relevance to UK-EAC trade would be:

- Public standards: including a thorough review of areas like MRLs, food classification and GMO policy.
- Private standards: including careful monitoring of the development of private standards and their effect on developing economies. A strategy for engagement with large retailers should be established, which incentivises easier access for developing country produce.
- Regulatory cooperation: the benefits of mutual recognition of conformity assessments with African partners should be reviewed, including the potential impact of this on trade with other partners such as the EU. A review of how best to expand regulatory cooperation in services will also be necessary.

Trade preferences

The UK should conduct extensive consultations on the prospects for redrawing its platform for trade relations with the developing world, including an
Africa-specific review. These would fall into two main categories:

- Non-reciprocal, unilateral: research would need to focus on the effect of things like extending DFQF access to more countries (through a broadened and simplified GSP) or unilateral elimination of certain MFN tariffs on different types of developing economies and on specific sectors in those economies. The UK should take on a pro-multilateral role at the WTO, providing ideas on how to make the GSP platform more flexible and development friendly.

- Reciprocal: the UK’s African trade agreements should be realigned to better reflect regional integration, including merging agreements so the same number of countries are covered with fewer agreements. With a view to moving towards a UK-Africa trade agreement, a set of conditions should be drawn up regarding the extent of African continental integration required for negotiations to begin. The efficacy of trade agreements in delivering liberalisations for developing countries should constantly be assessed against WTO developments.

Immigration strategy

Freer movement of labour between developing countries and the UK will play a vital role in the UK’s future trade relations with the developing world. Whether that means making it easier for foreign businesspeople to get travel visas, offering more student visas, mutual recognition of professional qualifications or temporary, sector-specific migration agreements – the UK will not convince developing economies to liberalise their markets and to deepen trade relations without well-researched, coherent and genuine offers on these issues. This is especially relevant in the area of services liberalisation, where the biggest gains for the UK economy lie. Given the controversial and asymmetric nature of the issue, time will be needed to develop a strategy that engenders widespread public support.

Brexit has given the UK a unique opportunity to reassess and redraw its trade relationships with the countries of East Africa and with the wider developing world. If the UK merely replicates its current relationships in the post-Brexit period an enormous opportunity will be lost, both in terms of potential economic gains to the UK and its trading partners, and in geopolitical terms as the UK sets out its stall as an independent trading entity on the world stage. The UK should approach this opportunity with urgency, making it a trade policy priority. But it should also be approached with positivity – no one will be keener to improve upon the status quo than the developing country partners themselves, which include some of the fastest-growing economies in the world.
Aims

- To give a broad picture of current UK trade with the East African Community (EAC) countries, in its context of the EU’s Economic Partnership Agreement (EPA) with the region and the EU’s Generalised System of Preferences (GSP) scheme. We also give a brief overview of the current UK-EAC aid and investment relationship.

- To analyse the possible impact of Brexit on UK-EAC trade, suggesting, where necessary, ways of avoiding potential damage to current trade flows.

- To suggest ways that UK-EAC trade can be improved after Brexit, in terms of increasing the volume of trade and contributing to the economic development of the EAC countries. We identify changes that can be made across the following platforms: UK unilateral preference scheme; UK agricultural policy; UK regulatory environment; UK immigration strategy; UK-EAC investment cooperation; a bespoke UK-EAC trade agreement.

- To give a broader set of recommendations on post-Brexit UK trade policy vis-à-vis Africa and the developing world, based on observations drawn from the East African example.

Brexit context

Brexit makes it necessary for the UK to re-examine its current trade relationships, but this should not be about damage limitation, rather grasping the opportunity to reset its trade relationships for the better through an independent trade policy.

We start by presenting an overview of the current UK-EAC trade landscape, a complete understanding of which is vital for formulating future policy. We then put forward a strategy for the Brexit transition period that builds on the approach suggested in the draft EU-UK Withdrawal Agreement, and delivers the certainty demanded by the UK’s EAC partners. Then we move on to the new post-Brexit UK-EAC trade relationship. After it leaves the EU, the UK will cease to be a party to the EU-EAC EPA that currently governs UK-EAC trade. The UK Government has stated that it will try to ‘roll over’ the agreement, presumably for the sake of speed. But what does it mean to ‘roll over’ such an agreement? We argue that a negotiation will be on the cards no matter what, for both technical and tactical reasons.

Issues like rules of origin mean that it cannot just be a process of replacing “EU” with “UK”. The dynamics of the ongoing EPA negotiations and the politics of the transition period mean that the UK’s negotiating partners will want to revisit certain elements of the EPA whether the UK wants to or not, for example the list of EAC product exemptions for tariff liberalisation. But this is a good thing. When the parties sit down to begin this negotiating process, it would be a wasted opportunity not do so on the basis of turning this into a bespoke trade agreement that suits the economies of all parties. The UK is, after all, a very different trading partner to the EU. Otherwise the parties will be stuck with this comparatively ill-fitting agreement for many years to come.

Inevitably, therefore, we explore areas where the UK and the EAC can improve upon the current EPA model, both by making the provisions more suitable to the partner states’ economies and trade flows, but also by ridding it of elements that have proved controversial, unpopular and restrictive. We also argue, however, that a more stable platform of UK unilateral preferences should be laid, upon which a trade agreement can then build further liberalisations. And we make several suggestions on ways to improve UK-EAC trade that could be implemented right now, regardless of Brexit.

African context

Some have suggested that the UK could, rather than seeking to renegotiate the EPAs or equivalent agreements with African countries, instead consider...
a continental approach for a comprehensive single trade agreement with all 54 African countries. This would be in line with Africa’s long-term plans for continental regional integration, and it would address criticisms that the EU’s patchwork of trade arrangements with the developing world (which will be discussed below) has restricted the development of intra-regional trade between these countries.

Although the UK should prepare itself for a future UK-Africa trade agreement, neither the UK nor the African continent is ready for this to be concluded within the necessary timescale - that is by the end of the Brexit transition period. But a continental approach could very well inform the UK’s more urgent trade negotiations with partners like the EAC, as we will discuss below.

UK trade with this region could move away from trade agreements in the future, depending on World Trade Organisation (WTO) developments and on the UK’s long-term plans for its unilateral preference schemes. We will discuss this below, arguing that for the foreseeable future there is an added value to trade agreements. Therefore, a combination of both the unilateral and reciprocal platforms would put future UK-EAC trade on the strongest footing. Thinking on the future of UK engagement with Africa or the developing world as a whole will need to draw on region-specific studies like this one, which clearly highlight the strengths and weaknesses of the current frameworks of trade engagement.

Analysis

For our theoretical and empirical analyses, we have picked out the most significant product areas in terms of current trade volume and potential economic gain to both sides. We have therefore included case studies on the EAC’s most valuable exports to the UK: tea and cut flowers. We also look at the possibility of expanding trade in other product areas, which could help the EAC countries diversify their exports and develop their manufacturing industries. We present an approach to calculating EAC tariff liberalisation in a UK-EAC FTA - potentially the most contentious (but not the most economically significant) element of the agreement - by simulating the effect of full liberalisation of Kenyan tariffs vis-a-vis the UK on UK imports to Kenya.

Our study has a Kenya emphasis for the following reasons: Kenya is the dominant EAC exporter; Kenyan exports are much more heavily reliant on the UK market; and Kenya is not a Least Developed Country (LDC). Kenya therefore has more to lose than the other EAC countries from the loss of preferential access to the UK market, and it does not have the unilateral basis for its tariff free access to the UK market, as the other EAC countries currently do, making it less secure. We hope that the paper nonetheless gives a useful overview of the kinds of challenges and opportunities posed to all sides.

[4] Although the EU’s Joint Africa-EU Strategy (JAES) talks about treating Africa as one continent, the EU is pushing ahead with regional EPA negotiation and ratification.
The importance of trade in national and global development cannot be over-emphasised. Indeed, we owe the global world we live in today to trade. In the last decade the value of world merchandise exports doubled from US$5.17 trillion in 1995 to US$11.98 trillion in 2006. In 2015, the value of global merchandise exports amounted to US$16 trillion, while the value in global trade of services stood at US$4.754 billion. In addition to creating jobs, raising average incomes and boosting GDP, global trade fosters peace and understanding among nations.

Africa has one fifth of the world’s population and one quarter of its under-18s. The World Bank predicts growth in sub-Saharan Africa will rise to 3.2% in 2018 and 3.5% in 2019, on the back of firming commodity prices and gradually strengthening domestic demand. However, although global trade has accelerated to unprecedented levels, the gains of international trade are not evenly distributed. Africa contributes a paltry 2.4% of global exports, with sub-Saharan Africa only contributing 1.7% of global trade.

Despite Africa’s meagre contribution to global commerce, trade plays a conspicuously significant role in the economies of African countries, 16 of which are landlocked. Foreign trade in terms of imports and exports of goods and services accounts for over 50% of most of sub-Saharan Africa’s GDP. African countries have a higher import dependency than other countries. For example, trade constitutes 96% of Mozambique’s GDP, while exports contribute only 26% of GDP. Between 1995 and 2015, trade between Africa and the rest of the world increased from US$197 billion to US$852 billion. Over the same period, Africa’s imports expanded by 500%.

Although the significance of trade to the African continent has increased, the basket of goods that Africa produces has remained the same; most African economies still rely heavily on the export of raw materials, while importing most of their manufactured goods. According to the United Nations Conference on Trade and Development (UNCTAD), medium and high technology manufactures account for 25% of intra-African trade, but only 14% of African countries’ exports to developed countries. Intra-African trade promotes economic development by helping African exports move up the value chain.

But a persistent feature of African international trade has been the low volumes of it across African borders. Over the period from 2007 to 2011, the average share of intra-African exports in total merchandise exports in Africa was 11% compared with 50% in developing Asia, 21% in Latin America and the Caribbean, and 70% in Europe. It is common for the supply chains of African products to leave the continent, with far off markets easier to access than some of those nearby. This is one of the driving forces behind moves to create an African Continental Free Trade Area, which would be the world’s largest free trade area by number of countries.

The apparent imbalance between the importance of trade to African economies and the rate of economic development within Africa shows that the benefits of trade are only realised to the extent that progress is made in certain accompanying areas such as those identified by Le Goff and Singh (2013): financial sector development, primary education levels and standards of governance. Any efforts at trade liberalisation in such countries should therefore acknowledge the need to make improvements in these accompanying areas too. It is well documented that improvements in infrastructure, especially transport, are necessary.

---

in order for African countries to trade more freely with each other, and for Africa as a whole to enjoy the full benefits of a more open trade environment. Africa’s trading partners should consider how public and private investment in these sectors can contribute to a better trading environment.

**Tariff and non-tariff barriers**

Trade deals do not necessarily mean free trade. Too often so-called “free trade agreements” end up establishing what might better be described as a permission-based trade platform. Rather than allowing producers in one country to sell to buyers in another, they create a regulatory framework so that producers can only export their goods if they are compliant with a set of standards often aimed at protecting domestic producers. This can be particularly damaging to the economies of countries relying heavily on exports of goods in highly regulated and highly protected sectors – as Africa does with agricultural exports to the developed world.

In this asymmetric relationship, a lot of attention is paid to developed countries eliminating their tariffs on imports from African countries, with a view to emphasising the increased access this gives African producers. Many African countries are LDCs and as such benefit from non-reciprocal preferential tariff schemes. The EU, for instance, has an “Everything but Arms” (EBA) scheme for LDCs - one pillar of its Generalised System of Preferences (GSP) programme - under which all LDC imports to the EU are duty-free and quota-free (DFQF), with the exception of armaments. The UK government has committed to implementing an EBA equivalent after Brexit.11

However, there are several sectors of importance to LDCs (for instance textiles, apparel and agricultural produce) where the tariffs set by some G20 countries restrict trade. The impact of providing LDCs with truly tariff-free market access to the G20 was quantified by Nicita and Seiermann (2016) as an increase of exports of almost US$10 billion.

Similarly, some developing countries not classified as LDCs, such as Kenya, enjoy preferential tariff rates with certain developed economies through unilateral preference schemes or trade agreements, like the EU’s Economic Partnership Agreements (EPAs). These agreements do not always provide the necessary certainty on developing country tariff preferences, as we will see below. In any case, not all lower- and lower-middle income countries have such agreements in place and the tariff regimes they sell into tend to be preferential for primary produce but not so for processed goods, holding back their industrialisation and export diversification. And tariffs are only part of the story.

Non-tariff barriers such as quotas, subsidies and standards regulations have a potentially greater restrictive effect on trade than tariffs. Nicita and Seiermann 2016:

“G20 countries’ regulatory frameworks and the corresponding non-tariff measures (NTMs) alter relative competitiveness to the advantage of exporters that are capable of efficient compliance with NTMs, therefore penalizing exports originating in LDCs.”

“... eliminating the distortionary trade effects of NTMs would increase LDC exports to G20 countries by about 23 billion US$.”

Taken alongside their estimated export increase for LDCs of extending preferential tariff schemes across all developed partners to cover 100% of products, LDC total exports would increase by almost 15%.

While moving to genuinely tariff-free market access for these countries should be relatively straightforward, and in line with the direction of travel, reducing the distortionary trade effects of non-tariff barriers is not so high on the agenda. To varying extents, developed countries help facilitate developing country compliance with their regulatory frameworks through technical assistance schemes. However, they seem less willing to consider reforming the regulatory frameworks themselves, or to address other trade barriers that disproportionally damage developing country exports like rules of origin and subsidy regimes.

East Africa is one of the fastest growing regions in the world. In the last decade, economic growth in the region averaged 6.2% annually. The African Development Bank projects growth in Eastern Africa to be well over 5% in 2018 and 2019, making it the fastest-growing region of the continent. Some countries like Kenya have a diversified economy with a well-developed services sector. Although the countries are still underserved by infrastructure, infrastructure investment averaged USD$27.1 billion in 2017. Projects such as the standard gauge railway in Kenya and similar initiatives in Uganda and Tanzania are expected to improve the region’s logistical competence.

ORIGINS OF THE EAST AFRICAN COMMUNITY (EAC)

Kenya, Tanzania and Uganda have enjoyed a long history of co-operation under successive regional integration arrangements. These arrangements have included:

- Customs Union between Kenya and Uganda in 1917, which the then Tanganyika later joined in 1927

**Figure 1 East African economies will lead growth in 2017-2021**

Source: Ecobank Research 2017

- East African economies will make up 6 of the Top 7 fastest growing economies in Africa in 2017-21.
- Over this period growth rates will be comparable to those in China & India.
- The largest economies will average growth rates in excess of 8% per annum.
- The widespread use of mobile phones & payments will underpin growth.
- So will the growing use of smartphones, Apps & online purchases.
The East African High Commission (1948-1961)


East African Community (1967-1977)


Following the dissolution of the former East African Community in 1977, the Member States negotiated a Mediation Agreement for the division of Assets and Liabilities, which they signed in 1984. However, as one of the provisions of the Mediation Agreement, the three Member States (Kenya, Tanzania and Uganda) agreed to explore areas of future co-operation and to make concrete arrangements for such co-operation.

Subsequent meetings of the three Heads of State led to the signing of the Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation on 30 November 1993. Full East African Co-operation operations started on 14 March 1996 when the Permanent Tripartite Commission was launched at the Headquarters of the EAC in Arusha, Tanzania.

The Treaty-making process, which involved negotiations among the Member States as well as wide participation from the public, was successfully concluded within three years. The Treaty for the Establishment of the East African Community was signed in Arusha on 30 November 1999. The Treaty entered into force on 7 July 2000 following the conclusion of the process of its ratification and deposit of the Instruments of Ratification with the Secretary-General by all the three partner states. Upon the entry into force of the Treaty, the East African Community came into being.

The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full Members of the Community with effect from 1 July 2007. The Republic of South Sudan acceded to the Treaty on 16 April 2016 and become a full Member on 5 September 2016.

The Treaty of 7 July 2000 established a customs union and a common market, which were operational in 2012. The common market will facilitate the free movement of goods, persons, labour, services and capital, and grant rights of establishment and residence to citizens of the six member states. A two-phase process was adopted to negotiate services trade liberalisation among the partner states using the General Agreement on Trade in Services (GATS) framework.

The EAC today

The six-member EAC is home to 150 million citizens, of which 22% is urban population. It has a land area of 1.82 million square kilometers and a combined GDP of US$146 billion (2016), with average growth rates of about 5% since 2009. The EAC has one of the fastest-growing populations in the world, around 3.9 million people are predicted to join the labour market each year from now until 2030. This leaves the EAC with the huge challenge of creating 7,000 jobs per day.

Four EAC member countries are landlocked, so rely heavily on ports in Tanzania and especially Kenya for the import and export of their largely agricultural products. Kenya is the largest economy in the EAC, and the only member country that is not an LDC.

The EAC became a customs union in 2010, when the member states eliminated internal tariffs and charges of equivalent effect on substantially all trade, and agreed a Common External Tariff (CET) with the three bands below:

- Raw materials, capital goods, agricultural inputs, pure-bred animals, medicines 0%
- Semi-finished goods 10%
- Finished final consumer goods 25%

The customs union is not yet in full effect. For instance, the EAC countries are currently not applying a CET to EU imports. This is because not all of the EAC countries have signed the EPA with the EU. We will discuss below the legal, political and economic implications of this.

EAC member states signed the protocol establishing the common market in 2009, though it became operational in 2012. The common market will facilitate the free movement of goods, persons, labour, services and capital, and grant rights of establishment and residence to citizens of the six member states. A two-phase process was adopted to negotiate services trade liberalisation among all of the 13 partners.

across national frontiers services, capital and labor are able to move freely and unified single economic space within which goods, achieve “a fully integrated, internationally competitive Community (SADC).” The member states aim to the EAC and the Southern African Development Community (SADC). The member states aim to achieve “a fully integrated, internationally competitive and unified single economic space within which goods, services, capital and labor are able to move freely across national frontiers.”

The COMESA free trade area grants full exemption from customs duties and any charges of equivalent effect to goods and products with COMESA certificates of origin. Member states have embarked on an extensive programme to liberalise trade in services and have completed schedules of commitments in 12 sectors. Progress has also been made on other important areas to facilitate freedom of movement, including visa relaxation. In 2015, intra-COMESA goods exports reached US$10.1bn and intra-services exports US$38bn. Beyond the regional groupings above, the EAC countries have signed the Tripartite Free Trade Agreement, aiming to liberalise trade among the 27 members of SADC, the EAC and COMESA. These efforts at regional integration are regarded as the building blocks of a future African Continental Free Trade Area (AfCFTA).

In 2015, the African Union summit launched negotiations for this continental free trade agreement, encompassing the 54 countries in Africa. Covering a market of 1.2 billion people, the AfCFTA would have a combined GDP of US$2.2 trillion. On 21 March 2018, 44 African countries signed the AfCFTA, which marks a large step forward for the AU’s 2063 project for closer African integration. 27 member states also signed a commitment for the free movement of persons. Countries that have not signed the AfCFTA include two of Africa’s largest economies, Nigeria and South Africa. Nigeria’s president, who did not even attend the Extraordinary Session, commented: “We will not agree to anything that will undermine local manufacturers and entrepreneurs, or that may lead to Nigeria becoming a dumping ground for finished goods.” All the EAC countries apart from Tanzania and Burundi signed the agreement, which will come into force after 22 countries have ratified it in their national parliaments.

In 2017, intra-African trade accounted for only around 15% of continental trade. The UN’s Economic Commission on Africa (UNECA) forecasts that if the largest African economies joined the free trade area, intra-African trade would grow 50% in the following five years. Reducing trade barriers on the continent will make it easier for African countries to develop regional supply chains and export more finished goods rather than raw materials, as is the case at present. This could be a significant spur to development in African nations.

It is this context in which trade partners in developed countries must consider their relations with African nations and regions. When different nations and regions enjoy different preferences exporting to other markets, it can undermine continental trade. Similarly, diverging preferences for imports hinders customs integration. For instance, the fact that some EAC countries have signed the EPA and others have not prevents them from applying the CET for EU imports. This is preventing the EAC Customs Union from delivering the economic benefits of streamlining customs procedures.

Another factor to consider is that the current RECs in Africa, on which the EPA framework is based, are imperfect. Firstly, they overlap creating a “spaghetti bowl effect” (see Figure 5). Within the EAC, for instance, Kenya and Uganda are members of COMESA, whereas Tanzania left COMESA and joined SADC in 2001. The RECs do not necessarily reflect the amount of trade conducted between African countries, the level of economic development, the importance of supply chains or even strong diplomatic relations.

Two EAC countries, Kenya and Tanzania, have a troubled relationship that has seen border restrictions spring up, damaging bilateral trade in recent years. Kenyan and Ethiopia, on the other hand, are forging ahead with building strong economic links even though Ethiopia is not an EAC member state and has historically been an

---

**Figure 3 EAC trade with the world over time**

Source: European Commission (2018)

**Figure 4 Top goods trading partners 2017**

Source: European Commission (2018)

**Figure 5 Regional Economic Communities in Africa**

Source: UNECA
isolated economic entity. A UK trade agreement with the EAC in itself would not necessarily facilitate this supply chain; the UK must consider its platform for UK-Ethiopia trade with this intra-regional trade in mind. This illustrates the importance of creating a simpler, more comprehensive platform for UK-Africa trade, which we will explore below.

The EPAs themselves, based mainly on these RECs, are therefore an imperfect platform for trade with African regions. The EU is currently negotiating an EPA with “Eastern and Southern Africa” (ESA), not a recognised REC, which includes Djibouti, Eritrea, Ethiopia and Sudan, Malawi, Zambia and Zimbabwe, Comoros, Mauritius, Madagascar and the Seychelles. These are essentially the COMESA countries that do not belong to any other RECs, and so are not party to any other EPA. Regardless of whether or not all of these countries “belong” together, the fact that a country like Ethiopia’s trade with the EU is not on a similar platform to Kenya’s trade with the EU does not help Ethiopia-Kenya trade links. Different rules of origin, for instance, would prevent cumulation in certain product areas, preventing any supply chains developing in that area.

UK trade policy vis-à-vis Africa must therefore take into account the imperfect nature of the current regional groupings, as well as Africa’s evolution towards a CFTA. A continental approach could be considered even while other schemes are put in place to ensure African economies do not suffer as a result of Brexit. A continental approach could, for instance, inform the negotiation of trade agreements based on the EU EPAs that are more harmonised in nature, and therefore easier to roll into larger agreements over time. And of course the UK’s new unilateral preferences could do more than the EU GSP to put all African countries on the same footing regarding tariffs and RoO.
A background to EPAs

Like other countries from the ACP (Africa Caribbean Pacific) group, trade between the EAC and the EU was governed under the successive Lomé Conventions from 1975-2000. The region benefitted from non-reciprocal access to the EU market, as well as the Sugar Protocol. By the end of the 1990s, it was found that these conventions did not promote trade competitiveness, diversification and growth as intended. They were also found to be in breach of the WTO’s principles, as they were not reciprocal in nature and established discrimination between developing countries (European Commission, 2014).

Alongside these arrangements, the EU established its GSP preferences - lower than MFN tariffs - for all developing countries (not just ACP) under the WTO’s Enabling Clause. The scheme has three non-overlapping pillars, as shown in Figure 6.

Only the EBA offers DFQF access to the EU market, while the GSP and GSP+ offer a sliding scale of preferences, all more generous than the EU’s MFN tariffs. In practice this means that a country which evolves from being an LDC economy to a low or lower-middle income country loses unilateral DFQF access to the EU market (though they might still enjoy it through an EPA). The LDC/non-LDC distinction is therefore quite a significant one, necessarily arbitrary, and splits economic regions that are trying to integrate into sub-groupings. Kenya has not outgrown LDC status by a huge margin, but its exclusion from the EBA has had a damaging effect on regional integration, as we will see below.

With the signing of the Cotonou Agreement between the EU and ACP countries in 2000, the EU began to develop its Economic Partnership Agreement scheme, to replace the previous non-reciprocal ACP preferences that were not WTO-compliant. The EPAs are classed as reciprocal, non-discriminatory trade agreements across seven regional groupings, of which the EAC is one.

In reality, the EPAs are not completely reciprocal - meaning the preferences do not apply completely equally to all of the signatories of the agreement - as the ACP countries are able to maintain limited protection of their most sensitive products. It is still not clear whether this is completely compatible with WTO rules on non-discrimination within regional trade agreements, which through Article V of the GATS provide for flexibility for developing countries in services trade liberalisation, but through Article XXIV of the General Agreement on Tariffs and Trade (GATT) do not mention any developing country flexibility for trade in goods. It is possible that Article XXIV of the GATT will be updated with such a clause, and until then the status quo will continue to be accepted by WTO members.

EU-EAC EPA background

With the expiry of Lomé, Kenya embarked on negotiating an EPA first as part of the 16-member Eastern and Southern Africa (ESA) group and later as part of the EAC. In 2007, EAC Member States

<table>
<thead>
<tr>
<th>WHO QUALIFIES?</th>
<th>HOW MANY COUNTRIES CURRENTLY COVERED</th>
<th>MARKET ACCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>GSP</td>
<td>Low and lower-middle income countries</td>
<td>17</td>
</tr>
<tr>
<td>GSP+</td>
<td>Vulnerable low and lower-middle income countries</td>
<td>9</td>
</tr>
<tr>
<td>EBA</td>
<td>Least Developed Countries (LDCs)</td>
<td>49</td>
</tr>
</tbody>
</table>

IF T | The future of UK - East Africa trade

@IFTtweets

https://ift.org

Figure 6 The EU’s tiered GSP scheme

Source: European Commission Trade Helpdesk
signed an interim EPA in anticipation of a final agreement further down the line. This triggered the EU Market Access Regulation (MAR 1528) allowing Kenya to benefit from the EBA scheme until October 2016. Under the interim EPA, the EAC had full access to the EU market for goods (with the exception of sugar and rice), while the EAC committed to liberalising 82.6% of trade over a 25-year period. This was one element of the asymmetry mentioned above.

When the UK voted to leave the EU in June 2016, the signing of the full EPA was less than a month away. Due ostensibly to the Brexit vote, Tanzania formally withdrew from the EPA leading to the postponement of its renewal to allow more time for consultations. looming EU sanctions on Burundi provided another road block. As the only non-LDC in the EAC, Kenya stood to lose DFQF market access to the EU in the absence of the EPA after 1 October 2016. This would have potentially exposed Kenya’s exports to tariffs of up to 12% at a cost of US$1 billion a week under GSP preferences.

The EPA was signed and ratified by the Kenyan parliament on 20 September 2016, and at the EAC Heads of State Summit in May 2017 it was agreed that Kenya should be allowed to pursue EPA implementation, thus preserving Kenya’s DFQF access to the EU market. Rwanda has also signed the EPA, as has the EU and its Member States. But to date Tanzania, Uganda and Burundi have not signed and discussions with the EU are ongoing. Burundi is withholding cooperation until EU sanctions are lifted; Tanzania is strongly ideologically opposed to trade and market liberalisations; and Uganda, as current EAC Chair, is trying to maintain regional unity and integration. Currently South Sudan is not part of the agreement since its EAC accession occurred after the main EPA negotiations.

At the EAC Heads of State Summit in February 2018, the following statement was released about the EPA:

“The Summit received a report on the European Economic Partnership (EU-EAC EPA) from H.E. Yoweri Kaguta Museveni and decided that the EAC continues to engage with the EU for satisfactory clarification of concerns of some partner states on the EPAs. The Chair of Summit was mandated to follow up on this matter and in the event that an acceptable way forward is not reached, the Community shall explore the use of variable geometry in the implementations of EPAs.”

The state of the EPA clearly has ramifications for a future UK-EAC trade agreement. For such an agreement to be ratified by all EAC member states it would need to directly address the concerns that have prevented Tanzania, Uganda and Burundi from signing the EPA. There are benefits to LDCs of being in trade agreements like the EPA rather than just relying on the EBA scheme, for instance the opportunity to open up their markets to more products, including cheaper inputs in manufacturing processes, and the possibility of negotiating more favourable rules of origin. If the UK offer in such areas can be more generous than the EU offer, there is a chance the EAC’s LDCs will be more content with a trade agreement.

If this “variable geometry of implementation” works for the EPA, it could also work for a UK-EAC agreement in the event of similar stumbling blocks. However, a variable geometry of application would not be a long-term solution, since it could undermine future EAC and African integration efforts. This is because it violates the East African Customs Union Protocol, which requires members to maintain a CET. While modifications to the CET can be made by unanimous decision under Article 37 of the Customs Union Protocol or through a treaty amendment, it would not send a good message about the viability of regional integration and cooperation.

The UK should therefore seek to conclude an agreement that is appealing to all EAC members, and would be signed, ratified and implemented by all of them. It could consider, for instance, differential provisions for LDCs and non-LDCs (i.e. Kenya) in certain aspects of the agreement that would not negatively affect EAC integration; the EPA does not do this. We will explore later various options for such differentiation. The challenges of negotiating such agreements with the African regions has given rise to suggestions that a return to unilateral preferences is the best approach for the moment for trade with Africa. We will discuss this below.

CONTENT

The EU-EAC EPA covers trade in goods; fisheries; agriculture; and economic and development cooperation. It also contains chapters setting out institutional provisions, dispute avoidance and settlement as well as a range of exceptions. The focus in negotiating the agreement was on drawing up exception lists for EAC tariff liberalisation in order to minimise losses in EAC government revenues, and on detailing product-specific rules of origin. Other controversial issues were the inclusion of a “more favourable treatment” clause, the “non-execution” clause, safeguard provisions, and export taxes. The EAC countries and the EU are still looking for solutions to some of these problems so that the EPA can be signed by the remaining EAC members.

Tariffs

Trade arrangements which include a developed country (as opposed to only developing countries) must be notified under Article XXIV of the GATT. Article XXIV requires all parties to liberalise (meaning reduce tariffs to zero) “substantially all the trade” between them. The EU interprets this requirement to mean that 90% of average total trade volumes of all FTA parties must be liberalised. Under the EAC EPA, the EU has liberalised 100% of its trade, and all EAC Partner States 82.6%. Other developed countries have interpreted Article XXIV differently (without legal complaint), negotiating different liberalisation ratios with their developing country partners.

The EPA therefore provides DFQF access to the EU market for all EAC goods apart from arms (Chapter 93 of the Harmonised System), which are subject to the EU’s MFN duty rate. On the other side, the EPA commits the EAC to liberalising 82.6% of trade over a 25-year period. The breakdown is as follows:

- **Liberalised immediately**: 64.4% of tariff lines
- **Liberalised over 10 years**: 15.3%

**Rules of Origin**

The EPA provides more flexible RoO for EAC exporters than can be found in the EBA scheme or the GSP, and RoO have been liberalised from the Cotonou Agreement. Generally, the EU has moved to a “substantial transformation” definition that allows for one-stage rather than two-stage processing for value addition. In this EPA, the EU has introduced “flexible cumulation”, whereby EAC producers can cumulate with materials supplied by any third country in the world provided that these materials benefit from duty free access to the EU market when exported directly from that third country. This caveat of course addresses the EU fear of trade deflection, since there is no added incentive for producers in a third country to try and get their product into the EU market via the EAC countries if that country already has duty free access. Agricultural products from countries with which the EU has an FTA, however, cannot be cumulated by EAC exporters.

**Liberalised over 25 years**: 2.9%

Products that are excluded from liberalisation are those identified by the EAC countries as sensitive, including: food and beverage products (meat, fish, dairy, vegetables, fruits, cereals, coffee, tea, juices, jams, canned fruit and vegetables, hams, cheese, wines and spirits), chemicals, plastics, cars and car parts, wood, textiles and clothing, and footwear.

Acknowledging that such tariff liberalisation will be politically challenging for the EAC members, Article 100 sets out “areas of cooperation” where the EU will help the EAC economies adjust to loss of tariff revenue and competitiveness in certain sectors. This includes “improving productive and professional capacities of the workforce of EAC Partner States including training of workers displaced with closure of firms or equipping them with new skills for new activities” and providing “financial resources to cover transitionally the agreed losses of government revenue arising from elimination and or substantial reduction in customs tariffs.”

- **Liberalised over 25 years**: 2.9%
- **Excluded - no liberalisation (MFN): 17.4%**

There are no strict timing requirements for liberalisation under GATT Article XXIV.
For certain products that are sensitive to the EAC economy but not so to the EU, the RoO in the EPA are asymmetric, meaning that EU producers actually face more stringent requirements than their EAC counterparts. However, EAC producers still cite RoO as a significant barrier to trade with the EU; value addition thresholds for many products are still high, which EAC producers find more difficult to meet than their EU equivalents. Another issue is that the EU does not grant duty free access to all African countries, so EAC countries can only cumulate with some of their African partners – those covered by EBA or EPA. And the exclusion of agricultural products from cumulation is clearly a hindrance to the development of higher-value processing industries.

RoO are a well-known barrier to trade. The detailed and highly complex product-by-product criteria make them hard to meet, so exporters need to build up know-how to comply with the rules. As with standards regulations, different rules in different export destinations can limit exporters’ desire to enter multiple markets. Exporters also have to adjust their global supply chains in order to satisfy RoO, which distorts trade flows. The EU’s EPAs, for instance, differ in their RoO provisions even among the African EPAs, which damages the development of intra-regional and continental supply chains in Africa since some products will qualify for cumulation in some EPAs and not others.

According to Felbermayr et al. (2018), the compliance costs associated with meeting RoO range from 3-15% of final product prices, so the consumer suffers as well as the producer. In addition, RoO on final goods reduce imports of intermediate goods from third countries by around 30 percentage points. Multiple firm surveys show that RoO reduce the chances of exporters utilising FTA preferential tariff rates. Most strikingly, Felbermayr et al. (2018) show that fears of trade deflection – the main justification for applying RoO in the first place – are largely misplaced. This will be discussed in more detail below.

Safeguards

Articles 49 and 50 of the EPA provide for multilateral and bilateral (respectively) safeguards for protection against import surges. Safeguards allow for the temporary restriction of imports where injury to the domestic industry can be proven. No strict requirements under Article XXIV exist, as long as measures are temporary. Under article 49 the EU commits to excluding EAC imports from any multilateral safeguard measures it takes through the WTO.

Under article 50, the rules on bilateral safeguards are asymmetric; there are sunset clauses on any safeguard measures taken – two years for EU measures and four years for EAC measures, with the possibility of two- or four-year extensions respectively. There is an additional provision for the EAC to apply safeguard measures “where a product originating in the EU as a result of the reduction of duties is being imported into their territory in such increased quantities and under such conditions as to cause or threaten to cause disturbances to an infant industry producing like or directly competitive products.” There is a 10-year sunset clause on this provision, with the possibility of a five-year extension.

In order to apply safeguards under article 50 of the EPA, the party must establish a causal relationship between the surges and injury to the affected industry, which the EAC partner states believe is prohibitive. Similarly, the EAC countries believe the burden of investigation and evidence gathering is too high. Developing countries have historically not made much use of safeguard clauses at the WTO for these reasons, and many are encouraging the establishment of a special, user-friendly safeguard instrument for agriculture.

In addition to these provisions, there is a specific sugar safeguard clause in the EPA (Annex 1.3), through which the EU can impose duties “in situations where the European Community market price of white sugar falls during two consecutive months below 80 percent of the European Community market price for white sugar prevailing during the previous marketing year.” This safeguard replaces the preferential quotations afforded to ACP countries under the Sugar Protocol.

Export taxes

Taxes on exports produce revenue for the government and can be used to increase domestic supply by constraining exports, although this can, of course, constrain economic growth. The logic is that economies trying to industrialise need to encourage producers to move away from the export of raw materials and into value-added processing, hence encouraging diversification and the upgrading of production capacities. There are, of course, other ways of doing this that do not damage trade so directly. But a sign that export taxes are still considered an acceptable instrument for developing countries is that the WTO does not prohibit them, and there is flexibility under Article XXV to apply them to at least 20% of trade, especially if applied temporarily.

The provisions in Article 14 of the EPA are much stricter than WTO rules. Export taxes are prohibited, but can be imposed by the EAC, after notifying the EU, for up to 48 months in order to protect domestic industry, currency stability and food security. The EAC must not apply export taxes to products destined for the EU market while not applying the same taxes to comparable products destined for other major markets. As well as the diversion from WTO rules, the EAC countries object to article 14 because they see export taxes as a way of creating export surges for EU agricultural subsidies, which make EAC exports of primary agricultural produce less competitive in the EU market.

Non-execution clause

The non-execution clause gives the EU authority to take action under the Cotonou Agreement and suspend its trade commitments where it deems any of the partner countries have failed to respect human rights, democratic principles and the rule of law, even if such actions would not have contravened the EPA provisions. This clause essentially transplants articles 96 and 97 of the Cotonou Agreement into the EPA, which in effect extends the authority of the EU to suspend commitments in aid and development assistance (the status quo under the Cotonou Agreement) to the trade preferences and other provisions of the EPA. Action taken under this clause could affect regional trade and integration, especially given the reliance of smaller African states on their larger partners, and of landlocked countries on their neighbouring outlets.

Neither the EU nor the EAC countries denied the importance of human rights protection and good governance during the EPA negotiations, but the EAC countries (and indeed all regions negotiating EPAs with the EU) did not believe that this provision belonged in a trade agreement, which should be based on economic principles alone. The political and subjective nature of identifying failures to respect human rights, democratic principles and the rule of law is clearly at odds with the commercial nature of a trade agreement. The Cotonou Agreement, as well as the UN Charter, provide for the suspension of development assistance in the event of failures in the destination country to respect human rights and democratic principles.

The EAC countries argued that there should be explicit mention in the EPA that articles 96 and 97 of the Cotonou Agreement do not apply to the EPA, meaning that failures to respect human rights, democratic principles and the rule of law could not be used to justify “appropriate measures” being taken through the agreement. Without this clarification, an implicit link between the Cotonou provisions and the available measures under the EPA would remain. The EAC was not successful in inserting such a clause into the EPA.

Rendez-vous clause

Two provisions are worth underlining in the context of Brexit. The first is Article 3 (the “rendez-vous clause”), where the parties undertake to conclude negotiations in trade in services; trade related issues (including competition policy, investment and private sector development, intellectual property rights); and any other mutually agreed matters “within five years.” The EPA currently does not contain provisions on these issues, which has been a criticism of the agreement and indeed of EPAs in general since most do not include such provisions. This clause therefore grants a level of flexibility for the UK and the EAC to explore trading arrangements in these areas without concern for
any ramifications or restrictions stemming from the EPA. There is an opportunity to utilise the five-year review period to negotiate and lock in mutually agreed arrangements, and for the EAC address with the EU any issues or concerns that may arise out of these new arrangements with the UK.

More favourable treatment clause

The second provision with direct implications for UK-EAC trade post-Brexit is Article 15 (“More favorable treatment resulting from a free trade agreement”), which commits both parties to accord each other any more favorable treatment with respect to goods applicable as a result of the EAC or EU Member States becoming parties to a free trade agreement with any major trading economy. The EPA defines a major trading economy as:

“... any developed country, or any country accounting for a share of world merchandise exports above 1 percent in the year before the entry into force of the free trade Agreement... or any group of countries acting individually, collectively or through a free trade agreement accounting collectively for a share of world merchandise exports above 1.5 percent in the year before the entry into force of the free trade agreement...”

According to the WTO,[17] the UK’s merchandise exports in 2015 accounted for 2.79% of the world total, making the UK a major trading economy in this context. Assuming the UK’s export performance does not decline significantly post Brexit:

“... provided that the EU can demonstrate that it has been given less favourable treatment than that offered by the EAC Partner States to any other major trading economy, the Parties shall to the extent possible, consult and jointly decide on how best to implement the provisions of this paragraph on a case by case basis.”

It is worth noting that this clause was unpopular on the EAC side during the EPA negotiations, as it was felt that it would circumscribe the region’s external trade relations. For instance, the EAC countries and other African countries will soon start negotiating reciprocal trade agreements with the US following the expiration of the African Growth and Opportunity Act (AGOA) in 2025. The EAC countries also believe it to be contrary to the spirit of the WTO Enabling Clause that promotes special and differential treatment for developing countries and South-South cooperation.

The potential effect on EU-EAC trade arrangements is one of many factors that will inform negotiations on the future UK-EAC trading relationship. It might seem unlikely that the EAC countries would be interested in opening up their markets to UK products any more than they have committed to in the EPA, but the UK is a different trading partner: for instance, UK exports to the EAC countries are generally less competitive with sensitive domestic produce than EU exports. But any willingness among the EAC states to liberalise to a greater extent than they have through the EPA could be curtailed by the EPA commitment to offer the same terms to the EU. It is also unclear what the EU would deem to be “more favourable treatment” in the event that tariff schedules, for instance, were to change in composition but not overall percentage of liberalisation.

IMPACT

A European Commission report from 2014[18] estimated that the EAC tariff reductions in the EPA would improve the GDP of the EAC by 0.3%, and that EAC exports would rise by +0.15% (Uganda), +0.45% (Tanzania) and +0.86% (Kenya). The report also makes tentative estimates of the impact of the reduction of non-tariff barriers in the EPA, including a rise of 0.6% in EAC GDP. This chimes with the mountain of evidence that non-tariff barriers are much more damaging to trade and costly to economies than tariffs, and therefore that removing them brings greater gains.

A UNECA report from 2017[19] tells a different story, however. It predicts GDP losses of between -0.2% (Uganda) and -0.5% (Kenya) across the EAC countries, as well as a decline in intra-EAC imports of US$42 million (mainly in manufacturing). It says, “Beyond the direct impacts, questions have also been raised about the way the EPA could potentially constrain the development of EAC industrial policy”. The report has been a cause of political tension between Kenya and Rwanda, which have signed the EPA, and Tanzania and Uganda, which have not.[20] It has no doubt confirmed the fears that have prevented Tanzania from signing the EPA to date.

Loss of customs revenue from tariffs (estimated in the UNECA paper at US$169 million) and increased exposure to competition from cheaper EU products entering the market are the major remaining worries on the EAC side. The fear is that infant EAC sectors will be prevented from industrialising and moving towards higher value-added products if domestic demand is already being met with cheap EU alternatives. The counter-argument is that many of the EU products that will now be cheaper for EAC consumers to buy will be necessary inputs for the very businesses the EAC countries are trying to develop, whose costs will therefore be reduced.

[17] WTO country profile: United Kingdom
The spirit of the EU-EAC EPA is to increase trade through the tariff liberalisation that has been mentioned and even through removing some non-tariff barriers, for instance the more liberal RoO. Below we present basic data on EU-EAC trade in goods and services. We then assess the various distortionary practices that occur either through or in spite of the EPA, which negatively affect EU-EAC trade.

GOODS

The EU is the EAC’s foremost trading partner, with 25% of all EAC exports going to the EU. In certain sectors the EU market is extremely important, for instance 63% of EAC vegetable exports go to the EU. Trade between the EU and the EAC amounts to €8.8 billion (European Commission, 2017).

SERVICES

Although the EAC services sector as a whole is not fully developed, EAC commercial services exports have grown steadily since 2009, reaching just over US$6bn in 2014. Imports have been growing steadily since 2005 and peaked at nearly US$4.7bn in 2014. Kenya has by far the largest services sector in the EAC, accounting for around 67% of EAC exports.

Table 1: EU-EAC trade, key figures

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Unit</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imports</td>
<td>% Total</td>
<td>10.4</td>
<td>10.5</td>
</tr>
<tr>
<td>Exports</td>
<td>% Total</td>
<td>3.1</td>
<td>3.0</td>
</tr>
<tr>
<td>Trade balance</td>
<td>% Balance</td>
<td>17.4</td>
<td>17.5</td>
</tr>
</tbody>
</table>

Table 2: EU-EAC imports and exports 2017

<table>
<thead>
<tr>
<th>Product</th>
<th>Value (M€)</th>
<th>% Total</th>
<th>Value (M€)</th>
<th>% Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural products (WTO AoA)</td>
<td>344</td>
<td>24.4</td>
<td>10.3</td>
<td></td>
</tr>
<tr>
<td>Fishery products</td>
<td>3</td>
<td>0.2</td>
<td>0.1</td>
<td></td>
</tr>
<tr>
<td>Industrial products</td>
<td>1,419</td>
<td>18.0</td>
<td>3,586</td>
<td>53.6</td>
</tr>
<tr>
<td>Total</td>
<td>3,819</td>
<td>100.0</td>
<td>6,144</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Figure 7: Current EU-EAC trade, key figures

Figure 8: EU-EAC imports and exports 2017

For a more detailed breakdown of EU-EAC trade figures, see European Commission (2018).
Agricultural subsidies

The EU is the world’s largest agri-food importer and exporter. Its regime of agricultural subsidies, administered through the Common Agricultural Policy (CAP), has a huge effect on the international agri-food market, and is one of the major factors affecting trade between the EU and the developing world. Various studies show that even the reformed CAP regime damages developing economies, which rely heavily on agricultural exports, in the following ways: agricultural produce from developing countries cannot compete on price with equivalent EU produce in foreign markets; competitive EU products in developing country markets reduce demand for equivalent domestic products, negatively impacting industrial development. EU overproduction of milk, for instance, has led to the dumping of milk powder in African markets at prices too low for domestic dairy producers to compete with.

Developing countries do not have the resources to subsidise their agricultural industries, and subsidies do not come into trade agreements because they are seen as a non-preferential issue. While the WTO has banned export subsidies, it is a long way from taking similar action on other kinds of subsidies, which are prevalent across most developed economies. Developing countries have therefore advocated for the use of other instruments, both unilateral and through trade agreements, which can compensate for these subsidies.

The EAC member states have consistently brought up the issue of EU subsidies during EPA negotiations, arguing not that they be addressed directly through the EPA, but that they justify a more flexible approach to other aspects of the EPA such as EAC tariff liberalisation and provisions on export duties and RoO. Until developed countries do more to reduce agricultural subsidies, their developing partners will advocate for these forms of protection both at the WTO and in trade agreements.

Regulatory environment

The general finding of the non-tariff measure surveys in EAC countries has been that the most relevant non-tariff barriers to the EU and the US markets are their standards and technical regulations. In general, these measures take the form of certificates; inspections resulting in export licensing and permit requirements; fees and charges; and packaging and storage requirements. Regulations that must be met relating to quality standards, safety, production process and sanitary requirements must be complied with through conformity assessments, which entail the application of standard measures to determine whether a product or process complies with these requirements. In developing countries, it is especially difficult and expensive to meet these standards because of the technical know-how and time that is required to complete the conformity assessments.

In a 2006 paper, Chen et al. draw on the World Bank Agricultural Subsidies report and the United Nations Food and Agriculture Organization (FAO) to highlight the impact of EU agricultural subsidies. They find that “testing procedures and lengthy inspection procedures by importers reduce exports by 9% and 3%, respectively.” The fact that different countries have different standards also causes diseconomy of scale for firms and affects decisions about whether to enter export markets. The study finds that this reduces the likelihood of exporting to more than three markets by 7%. This is a far greater negative effect on exports than even quite extreme tariff rises would produce.

Kareem et al. (2015) show that the rejection of African products at EU borders increased by 250% between the year 2001 and 2011, and that agricultural products form the bulk of rejected items at EU borders. This chimes with figures on WTO complaints – “specific trade concerns” (STCs) – about agricultural non-tariff barriers (on items falling under HS Code-4 category). They indicate that as agricultural tariffs have fallen globally over time, food standards have been increasingly deployed as a protectionist measure. This, of course, has a disproportionate effect on developing countries, whose economies rely more on agricultural exports than those of developed countries.

[24] Fontagné et al. (2015) estimate that “a 10 percentage point increase in tariff leads to "only" 1.4% reduction in the value of export by firm.”

Figure 9 Snapshot of current EU-Kenya services trade

<table>
<thead>
<tr>
<th>Source: WTO statistics database</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
</tr>
<tr>
<td>TOTAL EXPORTS</td>
</tr>
<tr>
<td>% TO EU</td>
</tr>
<tr>
<td>% EU EXPORTS TO UK</td>
</tr>
<tr>
<td>TOTAL IMPORTS</td>
</tr>
<tr>
<td>% FROM EU</td>
</tr>
<tr>
<td>% EU IMPORTS FROM UK</td>
</tr>
</tbody>
</table>

and around 57% of imports. Kenya has had a positive trade balance in commercial services since 2006, and almost half of its services exports are in the transport sector.

The EU is an extremely important services trade partner for the EAC. On average, the EU accounted for 35% of Kenya’s services exports and about 50% of imports between 2010-2014, as shown in Figure 6.

The EU is the world’s largest agri-food importer and exporter, and its regime of agricultural subsidies, administered through the Common Agricultural Policy (CAP), has a huge effect on the international agri-food market, and is one of the major factors affecting trade between the EU and the developing world. Various studies show that even the reformed CAP regime damages developing economies, which rely heavily on agricultural exports, in the following ways: agricultural produce from developing countries cannot compete on price with equivalent EU produce in foreign markets; competitive EU products in developing country markets reduce demand for equivalent domestic products, negatively impacting industrial development. EU overproduction of milk, for instance, has led to the dumping of milk powder in African markets at prices too low for domestic dairy producers to compete with.

In a 2006 paper, Chen et al. draw on the World Bank Agricultural Subsidies report and the United Nations Food and Agriculture Organization (FAO) to highlight the impact of EU agricultural subsidies. They find that “testing procedures and lengthy inspection procedures by importers reduce exports by 9% and 3%, respectively.” The fact that different countries have different standards also causes diseconomy of scale for firms and affects decisions about whether to enter export markets. The study finds that this reduces the likelihood of exporting to more than three markets by 7%. This is a far greater negative effect on exports than even quite extreme tariff rises would produce.

Kareem et al. (2015) show that the rejection of African products at EU borders increased by 250% between the year 2001 and 2011, and that agricultural products form the bulk of rejected items at EU borders. This chimes with figures on WTO complaints – “specific trade concerns” (STCs) – about agricultural non-tariff barriers (on items falling under HS Code-4 category). They indicate that as agricultural tariffs have fallen globally over time, food standards have been increasingly deployed as a protectionist measure. This, of course, has a disproportionate effect on developing countries, whose economies rely more on agricultural exports than those of developed countries.
The effect of EU MRLs: Dimethoate and Kenyan beans

This is a classic example of standards being used as a non-tariff barrier to protect domestic producers. The EU has set maximum residue levels (MRLs) of dimethoate (an ingredient in many pesticides) for many agricultural products at levels much lower than what is found in the Codex Alimentarius and much lower than levels set by other countries. For instance, between 2008 and 2009 the EU decreased its dimethoate MRL for peas in their pods from 1.0mg/kg to 0.02mg/kg – a level so low it in effect meant a ban on the use of dimethoate – while the Codex Alimentarius MRL is 1.0 mg/kg.

EU producers generally do not rely on pesticides to the same extent as producers in more humid climates, and they have advanced agri-tech solutions to crop yield issues. On the other hand, Kenyan producers were generally reliant on the use of pesticides containing dimethoate. They had built up the capacity to meet the previous dimethoate MRLs required of them, selling fruit and vegetables into the EU market, the destination for 80% of Kenya’s fruit and vegetable exports. However, they would have to switch to pesticides containing no dimethoate in order to produce in accordance with this effective EU ban on dimethoate residues. The Kenyan government banned the use of dimethoate in order to try and protect its producers from potential rejection, but no alternative to the pesticides the farmers had been using that contained the chemical was so many continued to use them.

From January 2013, Kenyan beans and peas were listed by the EU for increased safety checks on residue levels. Consequently, from January 2013 to July 2015 these exports consistently fell foul of the de facto EU ban on dimethoate and other chemicals used in pesticides. The value of Kenyan bean and pea exports to the EU fell by US$56 million over this period according to the Kenyan Plant Health Inspectorate Service (KEPHIS). In January 2015, for instance, one fifth of Kenya’s vegetable exports to the European market were rejected as they were found to contain traces of dimethoate over the MRL. Several companies and farmers were delisted.

As well as this loss of export income, the conversion to other pesticides was costly, as was the increased certification burden for Kenyan farmers. During this time, the EU began to source more of its produce from new markets like Morocco and Guatemala. For context, the EU began its negotiations for a Deep and Comprehensive Free Trade Area (DCFTA) with Morocco in March 2013, and its Association Agreement with Guatemala became active in December 2013.

This was not the first time that Kenyan beans were rejected in the EU market. In 2011 and 2012, some bean varieties got stuck in European supermarkets for not being strong enough. In a typical Kenyan packhouse, around one quarter of beans are rejected for export on grounds of not meeting the standards of their export market. In 2009, the EU relaxed some of its own regulations on fresh fruit and vegetable standards across 26 product types, replacing specific marketing standards for all but 10 products (including apples, citrus fruit, strawberries and tomatoes) with general marketing standards (GMS). For the products where the GMS applies, exporters are invited to meet the UNECE standard. These standards are often as strict as the EU’s original specific standards. Contrary to many media reports, these standards do not prevent fruit and vegetables with unusual shapes, sizes and colours from being exported to EU markets. They do require exporters to label their product according to which “class” requirements they fulfill according to the specifications laid out: “Extra class”, “Class I” or “Class II”. Class II products are allowed various defects in shape and colour.

Whether or not foreign producers can export these kinds of products into EU markets depends on whether EU buyers want them. EU supermarkets traditionally do not want Class II products because it perceives that customers do not want them. Waitrose in the UK has at various times offered Class II products at discounted rates in a public effort to reduce food waste. Intermarché in France has also tried something similar. But these are exceptions. Producers who have been trained in meeting the Extra or Class I standards required by their buyers in EU markets are not always interested in selling their Class II products in EU markets in order to avoid waste, since they might make a loss on them when the lower price is balanced with the usual storage and transport costs, plus the additional costs of sorting their produce into two different classes.

Producers exporting into the EU therefore face three levels of standards: mandatory and voluntary EU rules; national requirements that can be set in areas not covered by EU law (e.g. animal welfare) or under the condition that they do not negatively impact the EU internal trade; and private voluntary standards (PVS) set by firms like supermarkets. EU legislation represents the minimum requirements for market access, while national requirements can sometimes go further, for instance the French ban on all cherries produced in countries where the use of dimethoate in production is legal. PVS can then be even stricter, requiring suppliers to meet the cost of compliance through certification, regardless of the size of the supplier. African smallholders face difficulties in meeting these costs and fees because the standards were originally developed for large farms in Europe.

GENETICALLY MODIFIED ORGANISMS

Pest control is one of the key issues for farmers in East Africa, whose crops are more affected by pests than northern hemisphere equivalents thanks to the local climate. This is why MRLs are such a key barrier to export into the EU market, since they restrict the use of pesticides which reduces crop yields, making producers less competitive with their European counterparts. An alternative to pesticide application would be the use of genetically modified (GM) crops that are intrinsically resistant to pests. However, the EU policy on genetically modified organisms (GMOs) is highly precautionary in nature so just as restrictive on African development.

Various studies have shown the substantial benefits of GM technology to African producers, including: reduction in pesticide use; increased crop yields; reduced production costs; increased food quality; increase in income. Researchers agree that commercial GM crops do not cause major adverse

[27] Codex Alimentarius pesticides database: dimethoate
[29] Kenya is the second largest exporter of beans and peas to the EU.
[31] United Nations Economic Commission for Europe, Fresh Fruit and Vegetables - Standards
[33] European Commission, DG Health and Food Safety (2017)
[34] Eg. Karembu et al. (2009); Gouse (2013); Hrorna et al. (2013); James (2014).
effects to humans, animals or to the environment, at least not any more than other farming methods (EASAC 2013). But sub-Saharan Africa has been slower than some other regions of the world in taking up this technology.

African R&D in this field is seriously curtailed by the fear that GM produce will not be allowed to enter the EU market (EASAC 2013) – by far East Africa’s largest market for agricultural produce. Even where EU countries do allow GMO imports, the EU’s strict GM labelling and traceability requirements are difficult and costly to meet, which reduces exports. There is evidence of decreasing EU technical assistance for the purposes of agricultural R&D in sub-Saharan Africa (Paarlberg 2014). In fact, the EU institutions and some member state governments have even funded anti-GMO activism in developing countries (EASAC 2013), and have encouraged them to develop European-style regulatory systems for agricultural GMOs. This has stoked health and safety concerns among African consumers, with better educated consumers more likely to be opposed to biotechnology (Kikulwe et al. 2011). This domestic scepticism and the difficulty of separating GMO from non-GMO production negatively affects investment in the sector even for the purposes of intra-African trade.
TRADE VOLUMES

Within the EU-EAC EPA framework, the EAC countries have substantial trade with the UK. In 2016, approximately 17% of total EAC-EU exports (€0.4 billion) were destined for the UK, out of which 93% originated from Kenya alone. In 2016 the UK had a trade surplus with the EAC of US$207 million, and with Kenya of US$50 million. 28.7% of all Kenyan exports to the EU go to the UK, and in 2013 the UK was Kenya’s second most important export destination after Uganda. Kenya relies more on the UK market than any of the other EAC countries, with 213 product lines whose sole export destination is the UK.

PRODUCTS

As Figure 12 shows, the EAC countries’ main exports to the UK include tea, coffee, tobacco, fruit and vegetables, and cut flowers. Kenya, for instance, mainly exports vegetables, tea and cut flowers, with the country accounting for 27% of the fresh produce and 56% of the black tea market in the UK. 70% of cut roses on sale in the UK were grown in Kenya. The UK is Kenya’s biggest export market for vegetable products in general (HS 1988/92), so trade in these products is especially important to the Kenyan economy.

Figure 10 Breakdown of EAC members’ exports to UK, 2016
Source: The Observatory of Economic Complexity; World Integrated Trade Solution

<table>
<thead>
<tr>
<th></th>
<th>UK EXPORTS AS % OF TOTAL EXPORTS</th>
<th>RELATIVE SIZE OF UK IN TOTAL EXPORT MARKET</th>
<th>TOTAL EXPORTS TO UK (US$ MILLION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>KENYA</td>
<td>8.0</td>
<td>4th (2015)</td>
<td>369</td>
</tr>
<tr>
<td>UGANDA</td>
<td>1.1</td>
<td>13th (2015)</td>
<td>31.9</td>
</tr>
<tr>
<td>TANZANIA</td>
<td>0.48</td>
<td>20th</td>
<td>22.8</td>
</tr>
<tr>
<td>RWANDA</td>
<td>0.99</td>
<td>11th</td>
<td>6.15</td>
</tr>
<tr>
<td>BURUNDI</td>
<td>0.56</td>
<td>19th (2015)</td>
<td>1.43</td>
</tr>
<tr>
<td>TOTAL EAC</td>
<td>-</td>
<td>-</td>
<td>431</td>
</tr>
</tbody>
</table>

Figure 11 Breakdown of UK’s exports to EAC members, 2016
Source: The Observatory of Economic Complexity; World Integrated Trade Solution

<table>
<thead>
<tr>
<th></th>
<th>EAC EXPORTS AS % OF TOTAL EXPORTS</th>
<th>RELATIVE SIZE OF EAC IN AFRICAN EXPORT MARKET</th>
<th>TOTAL EXPORTS TO EAC (US$ MILLION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>KENYA</td>
<td>0.1</td>
<td>8th</td>
<td>419</td>
</tr>
<tr>
<td>UGANDA</td>
<td>0.04</td>
<td>20th</td>
<td>63.5</td>
</tr>
<tr>
<td>TANZANIA</td>
<td>0.01</td>
<td>14th</td>
<td>143</td>
</tr>
<tr>
<td>RWANDA</td>
<td>0.002</td>
<td>37th</td>
<td>9.86</td>
</tr>
<tr>
<td>BURUNDI</td>
<td>0.0006</td>
<td>42nd</td>
<td>2.76</td>
</tr>
<tr>
<td>TOTAL</td>
<td>-</td>
<td>-</td>
<td>638</td>
</tr>
</tbody>
</table>
In terms of UK exports to the EAC, as shown in Figure 13 these mostly take the form of motor vehicles, printed materials, machinery and chemicals. It is clear from the export percentages of the top five products that the UK has a much more diverse range of exports than the EAC economies, which rely more heavily on a limited range of products for their exports to the UK market, and in fact globally. Small changes to the export environment for these products in the EAC and to the import environment for these products in the destination market can therefore have disproportionately large effects on the EAC economies.

In general, the UK exports far less agricultural produce to the EAC than the EU as a whole, and in this regard makes for a less complicated trading partner as there is a smaller domestic industry calling for protection from foreign competition, and less prospect of a flood of British agricultural products hitting the EAC market following any further trade liberalisation. Concerns about the dumping of surplus agricultural produce like milk on African markets is not relevant to bilateral UK-EAC trade as it has been with EU trade.

However, the EAC is attempting to expand its manufacturing sector, particularly in the fields of vehicle assembly and apparel, and has taken steps to either ban or limit the import of second hand cars and clothes. The UK is affected by this as the second largest exporter of second hand clothes and apparel, and the second largest exporter of second hand cars. The UK might therefore be a focal point of EAC calls for protection from foreign competition, particularly in the automotive sector, so EAC imports of vehicles from the UK might therefore be a focal point of EAC concerns about foreign competition in the future, if trade is liberalised through an FTA or other means.

As mentioned above, the UK is an extremely important services trade partner for the EAC. On average, the UK accounted for 10% of Kenya's services exports to the EU and about 17% of imports from the EU between 2010-2014. In general, services are central to the UK economy: services account for almost 80% of UK economic output and 45% of total UK exports. Future UK-EAC trade should therefore harness this and focus more on services liberalisation, especially in the area of regulatory cooperation and assistance, than current EU-EAC arrangements. We will discuss this further below.

**INVESTMENT**

The US and UK are the leading investors in sub-Saharan Africa. As one of the fastest-growing regions in the world, Eastern Africa is one of the most attractive investment destinations in Sub-Saharan Africa: Nigeria, Kenya and South Africa account for over 40% of total foreign direct investment (FDI) projects in this region. Between 2007 and 2013, FDI projects into Kenya increased at a Compound Annual Growth Rate (CAGR) of more than 40%. In 2013, Kenya attracted the second highest number of FDI projects (25.9%) behind South Africa.

The World Investment Report (2016) records that FDI flows to Kenya reached $1.4bn in 2015, driven not only by the country's young, skilled population, improving infrastructure and prospects in oil and gas, but also by Kenya's position as the gateway to Eastern, Central and parts of Southern Africa. The key growth sectors include technology, media and telecommunications (TMT), retail and consumer products, diversified industrial products, business services and automotive.

Business links between the UK and Kenya are particularly strong, facilitated by daily flights between the UK and Kenya, a shared official language, and a free flow of trade and private foreign investment. Barriers faced by UK companies (35) Overproduction of milk has been prevalent in the EU for some years, and much of the surplus is sold in developing world markets at very low prices, which domestic dairy producers cannot compete with. See Barbière (2018).

(36) Ligami (2015)

(37) BBC (2016)

(38) EY (2014)
They are valued at more than £2.0 billion. De La Rue, Finlays, G4S, Tullow Oil and BG Group. Chartered bank, Diageo, GlaxoSmithKline, Unilever, Barclays bank, British Airways, BAT, Standard British companies based in Kenya, including industrial sector. Currently, there are about 100 into Kenya, and the largest investor in Kenya’s The UK is the largest European contributor of FDI Kenya’s industrial sector. Currently, there are about 100 British companies based in Kenya, including Barclays bank, British Airways, BAT, Standard Chartered bank, Diageo, GlaxoSmithKline, Unilever, De La Rue, Finlays, G4S, Tullow Oil and BG Group. They are valued at more than £2.0 billion.

M-Pesa

An example of successful UK investment in Kenya’s fintech sector is the world-leading mobile payments platform M-Pesa. Initial development began in 2004 when British telecommunications company Vodafone commissioned research into mobile payments. It was further developed by British tech company Sagentia in a Cambridge lab, partly funded by the UK Department for International Development (DFID). In 2007, Vodafone launched M-Pesa in Kenya through Safaricom, its mobile operator in Kenya. Today, over 50% of adults in Kenya own an M-Pesa account and the transaction volume on the system is roughly equivalent to 50% of Kenya’s GDP. There are 30 million users in 10 countries and a range of services are offered including international transfers, loans and health provision.

Suri and Jack (2016) estimate that access to M-Pesa has increased per capita consumption levels and lifted 194,000 households, or 2% of Kenyan households, out of poverty. They found the impact more pronounced for female-headed households. These kinds of results potentially dwarf the effects of trade policy instruments like tariff liberalisation and subsidy elimination, and they are not confined to chosen markets – the success of M-Pesa has brought the benefits to other countries like Tanzania and Mozambique. This puts into perspective the importance of further developing the business environment in developing markets, and the power of encouraging investment.

Hela Clothing

One such British company with a Kenyan subsidiary is Hela Clothing, whose factory opened in 2017 in an Export Processing Zone near Nairobi. It is broadly considered to be a success story in development-oriented manufacturing investment. In its first year it exported about $40 million worth of garments (around 10% of all Kenya’s garment exports) and created 4000 jobs. Next year this is likely to rise to $50 million and 8000 respectively. It has secured buyers in the US such as PVH, which includes the brands Tommy Hilfiger, Calvin Klein and Speedo. Labour productivity is higher than in the firm’s other subsidiaries in Sri Lanka and Ethiopia, and the factory offers meals for its workers, a crèche for young children of the workers and a development programme for local managers. 99% of its staff is Kenyan.

References:


[40] “Pesa” means “money” in Swahili.
BACKGROUND

The EAC economy largely relies on the agriculture sector. The horticulture sub-sector is one of the top foreign exchange earners for the region, generating approximately US$1 billion annually for Kenya alone. Kenya accounts for well over half of these exports. In 2016, the horticulture sub-sector contributed about 1.6% to Kenya’s national GDP, of which 1.1% was from the flower industry. A quick look at the total exports of horticultural products from the EAC to the EU (Figure 14) reveals that tea/coffee and cut flowers account for over two thirds of the exports. This means that any trade restrictions on any of these products have a disproportionate effect on the economies of the region.

Kenya is by far the region’s largest exporter of cut flowers, including to the EU market, as shown in Figure 15.

Kenya’s cut flower industry has recorded growth in volume and value of cut flowers exported every year from 10,946 tons in 1988 to 136,601 tons in 2014, with a slight dip in 2016 as shown in Figure 16.

Kenya is now the world’s third largest exporter of cut stems, with Kenyan flowers sold in more than 60 countries. According to the Horticultural Crop Directorate (HCD), the floriculture industry earned 70.8 billion Kenyan Shillings (approximately US$0.7 billion) in 2016.

CASE STUDY 1
KENYAN CUT FLOWER EXPORTS
It is estimated that in Kenya over 500,000 people, including over 100,000 flower farm employees, depend on the floriculture industry, impacting over 3.2 million livelihoods. According to Kenyan NGO Workers Rights Watch, over 70% of workers in the industry are women, often single mothers.

The main production areas are around Lake Naivasha, Mt. Kenya, Nairobi, Thika, Kiambu, Athi River, Kitale, Nakuru, Kericho, Nyandarua, Trans Nzoia, Uasin Gishu and Eastern Kenya. The main cut flowers grown in Kenya are roses, carnations, and alstromeria.

The industry continues to attract investors due to solid infrastructure, favorable climate, Kenya’s global positioning and a productive workforce. It comprises large, medium and small-scale producers who have attained high management standards and have invested heavily in value-addition through adoption of modern technology in production, precision farming and marketing.

The farmers utilise technologies including: drip irrigation; fertigation systems; greenhouse ventilation systems; net shading; pre-cooling; cold storage; grading; bouqueting; fertiliser recycling; wetlands for waste water treatment; artificial lighting to increase day length; packaging sheds; and refrigerated trucks.

On the global front, a growth of 5% is anticipated in the industry every year over the next five years. Kenya is therefore continuing to invest in and expand the sector.

CHALLENGES FACED BY CUT FLOWER EXPORTERS

Flowers imported into the EU must be accompanied by an official “phytosanitary certificate” guaranteeing compliance with the relevant EU regulations on plant health. The current Plant Health directive will be replaced in 2019 by more stringent legislation. Many European buyers also demand compliance with environmental and labour standards through various certification schemes. Buyers’ private standards on cold chain management are also growing, with more and more demands being made on producers to enhance their cold chain protocols in order to deliver longer vase life of flowers. EU packing requirements also apply to flower imports.

As a way of gaining back some control over the proliferation of private standards imposed by buyers, the Kenya Flower Council developed its own “Kenya Flower Council Standard” – a certification scheme designed by producers to assure buyers that Kenyan flower producers are meeting or exceeding current regulations and buyer expectations. It is a way of developing national origin into a selling point and to an extent precluding the need for private standards to be altered or upgraded.

In general, however, cut flower exporters face fewer non-tariff barriers selling into the EU than EAC exporters in other sectors. Kenya’s cut flower industry is less impacted by standards regulations because this sector is owned largely by industries from the countries that impose these measures. This means that production processes in the industry have developed alongside developments in standards requirements and exporters are better trained and prepared for compliance. Kenyan producers attest that standards and technical regulations do not preclude them from exporting cut flowers to any developed country market. But this does not mean that exporting is without challenges.

One of the largest concerns for Kenyan cut flower exporters selling into the EU market is the reliability of the supply chain. In 2010, for instance, when flights across the EU were cancelled due to the ash cloud caused by a volcano eruption in Iceland, flowers began to pile up at Nairobi airport. The head of the Kenya Flower Council estimated that it was costing growers between US$1.5m and US$2m a day. Given the nature of the product, any delays in transportation translate to loss of revenue because buyers pay less for a less fresh product, and will not accept anything below a certain freshness threshold. This is why possible supply chain disruption due to Brexit is a particular concern for Kenyan flower exporters, as we will discuss below.

The other major concern for Kenyan cut flower exporters is maintaining its tariff preferences in key markets like the UK. For three months between October and Christmas Day 2014, Kenya lost its DFQF access to the EU market as the interim EPA expired and the new EPA had not yet come into force. During this short period the EU applied GSP import duties of up to 8.5% on all Kenyan goods coming into the EU, and the Kenya Flower Council estimates that as a result its exporters absorbed costs of about €3m. This illustrates the dangers of negotiating developing country preferences through trade agreements; the EU expected the new EPA to be signed and ratified before the interim EPA had expired, and for implementation to occur once the interim EPA had expired, but the EAC countries were not ready to sign en bloc because various issues had still not been resolved. The other EAC members continued, as LDCs, to benefit from DFQF access to the EU market through the EBA scheme, so there was no particular urgency on their part to sign an imperfect agreement. Kenya, on the other hand, was rushed into signing the new interim EPA (which it did towards the end of 2014) in order to maintain the DFQF access to the EU market it had been enjoying.

The management of the Brexit process will therefore have very real effects on the economies of Kenya and countries like Kenya whose current market access depends on the details of controversial trade agreements.

IMPLICATIONS OF BREXIT ON THE CUT FLOWER INDUSTRY

Kenya is the lead exporter of rose cut flowers to the EU with a market share of 38%, which rises to 70% in the UK market. Approximately 50% of Kenyan flowers exported to the EU are sold through the Dutch auctions, the world’s largest flower auction complex. This means that a large proportion of these exports to the Netherlands – over 70% of all EAC cut flower exports (as shown in Figure 19) – actually end up in other EU countries like the UK. Direct sales to EU countries (i.e. not through the Dutch auctions) are growing. In the UK, supermarkets are the main outlets. Over 25% of exported flowers are delivered directly to these outlets, providing an opportunity for value addition at source through sleeving, labelling and bouquet production.

Kenya has more to lose from Brexit-related trade disruption than any other major flower-exporting country. Kenya is far more exposed to the UK and EU markets than the other major developing-country growers – Colombia and Ecuador – whose main markets are the US and Russia. The Netherlands is a flower-exporting powerhouse, but its economy and its flower export markets are more diversified than Kenya’s, so the comparative hit from trade disruption in this sector would be much smaller.

Supply chain

The importance of the cut flower market to the EAC economy has already been stated, so it is clear that whatever happens in the Brexit negotiations, the UK must aim to give Kenyan exporters the same market access they enjoy currently, with no interim drop-off. This does, of course, include maintaining the smooth supply route through the Netherlands; even if increasing direct sales is an aim for future UK-EAC trade, this will take time and producers need certainty of the supply chain in the meantime.

Assuming the UK and EU continue to trade with each other tariff free – hopefully not an unrealistic assumption – it is essential that the UK tries to minimise other potential cross-border frictions that could disrupt the supply chain from the Netherlands to the UK. Additional non-tariff barriers such as more paperwork or increased clearance times could have a number of detrimental effects on Kenyan cut flower exports.

Firstly, in the event of significant delays, flowers imported by British buyers from the Netherlands would lose their freshness and either be rejected or fetch a lower-than-usual price. This could cause a reduction in UK imports from the Netherlands, meaning a general decrease in demand in the Netherlands that could hit Kenyan producers. Secondly, in the event of increased compliance or transport costs but an unaffected product, the price

Figure 19 EAC cut flower markets, 2017
Source: Eastern Africa Policy Centre research 2018
of flowers imported from the Netherlands in the UK could increase as these costs are passed on to the consumer. UK consumers might then turn away from Kenyan-origin flowers to cheaper alternatives, again leading to a reduction in UK imports from the Netherlands, and again a decrease in general demand in the Netherlands that could hit Kenyan producers. The effect of this on the Kenyan cut flower industry could be significant.

It is worth noting that cut flowers are not the only product exported by the EAC countries to the UK via the Netherlands, this is also the case for some fruit and vegetable items. The same issues of disruption to the supply chain therefore apply in other key EAC industries.

**Tariffs**

Although the UK’s aim will be to avoid a cliff-edge and maintain DFQF access for Kenyan goods throughout the Brexit transition period and beyond, even a short interim period in which current arrangements were lost could have a large effect on the Kenyan cut flower industry, as we can see from the above example.

Clearly the UK must avoid a repeat of this kind of situation. The provision of DFQF access to the UK market for Kenyan exports must continue uninterrupted. As we suggest below, after the Brexit transition period the basis of this access should be the UK’s own unilateral preference scheme, which would prevent any future cliff edges and ensure that Kenya does not feel compelled to sign a trade agreement purely through fear of losing DFQF market access. A UK-EAC trade agreement would then provide the platform for EAC tariff liberalisation and for the removal of NTBs. There is not much time to negotiate and implement these arrangements, and Kenya will need to see evidence of the legal basis in place for these arrangements, whether that be notifying the WTO of a preference scheme or a framework for UK-EAC trade negotiations.

The UK government has committed to replicating the EBA scheme after Brexit,[42] but it is not clear whether the government was actually referring to the entire EU GSP scheme or just the EBA pillar of it. In a scenario where the UK has only managed to replicate an EBA equivalent for LDCs by 01 January 2021, with no trade agreements in place and no further unilateral preference arrangements (like standard GSP), Kenya would face MFN tariffs on exports to the UK for however long this drop from the cliff-edge lasted. In all likelihood the UK will aim to rectify its WTO tariffs to mirror the EU’s as closely as possible, after Brexit, and the difference between the average MFN tariff on agricultural produce – around 20% - and zero spells potentially significant losses to developing economies. This would be far worse than what Kenya experienced at the end of 2014 with the expiry of the interim EPA.

Even if the UK does “replicate” the EU’s entire GSP as its own unilateral preferences by the end of the transition period, we have seen the damage that reverting to GSP preferences for just three months did to Kenyan flower exporters in 2014. This is why we suggest below that the UK’s new unilateral preference scheme should afford DFQF market access to at least all the countries that currently enjoy it, whether through reciprocal or non-reciprocal arrangements.

**Potential Expansion in Kenya–UK Cut Flower Trade**

If Kenyan exporters are to gain from a more favourable UK market after Brexit, for instance through the removal of certain regulatory requirements, this can only happen through direct sales to the UK market. Exports to the Netherlands will still have to comply with EU standards. Direct sales would also reduce the burden on the UK-EU leg of the supply chain, which could be subject to potential frictions and glitches after Brexit. Such frictions may, however, arise from these very kinds of regulatory differences between the UK and the EU brought about by removal of NTBs with third countries. For instance, if the UK imports products from third countries that are produced to different standards than those accepted by the EU, the EU may see a need for border checks to ensure such goods do not enter the EU.

There is therefore a careful balance to strike between maintaining the current trade flows between Kenya, the Netherlands and the UK, which will necessitate smooth UK-EU customs arrangements after Brexit, but also providing a more open market to Kenyan flower exporters.

As such a significant part of the Kenyan economy, maintaining the status quo would seem important, but a less distorting UK regulatory environment could facilitate future Kenyan export diversification and the development of other industries.

Since Kenyan flower exporters are currently producing to EU standards, and even after Brexit the EU market will be a larger one than the UK market, it remains to be seen whether Kenyan producers will see much benefit in producing to different standards for the UK market, even if direct sales grow significantly. We must therefore be realistic about the scale of the gains from removing the NTBs. This demonstrates how the more significant potential gains to Kenyan exporters will perhaps fall in new industries, where barriers to trade with the EU are currently preventing an export industry from developing, but where the UK could offer a market worth expanding for after Brexit.

It will be important to identify these industries in order to work out which NTBs are worth addressing, possibly at the expense of seamless UK-EU trade. Annex II shows how this could work, using the example of textiles.

---

BACKGROUND

Kenya is the third leading producer of black tea in the world behind China and India, which are first and second respectively. Kenya accounts for 10% of total world tea production and is the largest exporter of tea in the world, accounting for 22% of total world tea exports. 10% of the Kenyan population depends on tea and tea contributes 4% of the country's GDP and 26% of the country's export earnings. The UK is the third largest importer of Kenyan tea (see Figure 24), importing on average 53,000 tonnes annually. Kenyan tea accounts for 56% of the UK black tea market.

Tea is a somewhat different commodity from coffee; it is processed at source and comparatively little value addition happens out of the country. Unlike in India and Sri Lanka, where tea is seasonal, production in Kenya is all year round. The industry has grown tremendously from Kenya’s independence in 1963, when the total hectarage under tea production was just over 20,000 and total production was 18 million kgs, to over 75,000 hectares and 400 million kgs in 2015 (see Figures 25a and b).

The success story of tea is a product of three main developments. Firstly, Kenyan government policy after independence was to integrate small-scale growers into mainstream tea growing. Currently, small-scale growers under the umbrella of the Kenya Tea Development Agency (KTDA) account for 60% of total tea production, while the multinational sector and large-scale growers account for the remaining 40%. The establishment of an efficient estate sector under the British tea companies has also introduced revolutionary improvements in estate and factory management, with a resulting five-fold increase in output. The selection of high yielding varieties, mainly by the Tea Research Foundation of Kenya (TRFK), and the selective application of herbicides and improved planting and cultivation methods, have had a dramatic effect on yield. The tea industry has contributed significantly to rural development in the country. That said, the industry is facing increasing challenges.

CHALLENGES FACED BY TEA EXPORTERS

World price

Several adverse forces presently threaten the tea industry. The first threat comes from the weak trend in the export price of tea. This export price problem is a consequence of worldwide tea export increases which have occurred more rapidly than world consumption. Over the last ten years, there has been a consistent surplus of tea supply into the world market, and this has depressed auction prices. The dollar price released for Kenyan tea is the same as it was 10 years ago.

This problem can be solved by a number of measures, some more long-term than others. Regulating the supply of tea into the world market has been suggested. This method was tried out in the 1930’s, but since World War II Kenya has resolutely opposed export regulation in the interest of its expanding production. However, as a mature
producer now, there are signs that attitudes to export regulation may be changing. The imbalance between world supply and demand is in the order 1-2% and it is possible that if, say, four of the largest producers who together account for 60% of world export could agree to withhold a portion of their exports through the formation of a body analogous to OPEC (DTEC) and bring in some others, there would be a positive impact on prices. With only a small domestic market of around 1000-2000 tons, it will not be easy for Kenya to absorb 2% of its exports (5,000 tonnes), but the elimination of Value Added Tax (VAT) would certainly help to stimulate consumption. A reduction in local authority levies would be another way to help growers.

The government of Kenya also supports cottage industries that produce specialty teas, for instance green, white and purple varieties, to be sold into selected markets at higher prices. Purple tea is a varietal developed by the TRFK, grown exclusively in Kenya. It is beginning to penetrate health-conscious markets in developed countries, selling at much higher prices than Kenyan black tea, but it is yet to become as well-known and ubiquitous as varieties of green tea.

The majority of Kenyan tea is exported through the Mombasa Tea Auction, which has historically been a process that reduces the revenues of small-scale growers because of how the prices are determined, which lacks transparency, and the associated travel and paperwork. Many growers are trying to sell directly into their destination markets, bypassing the tea auction, in order to try and secure more profit. However, this comes with its own difficulties as they cannot generally sell this way to large buyers, whose supply chains revolve around the Tea Auction and the associated tea prices. This limits them to niche buyers and therefore niche markets. Even where small-scale growers find a buyer in the destination market to help them sell in large retail outlets, as we explain below, various barriers make the process extremely difficult.

We interviewed for this paper one such niche buyer, UK-based Oni Oviri who started Tropics of Tea, a UK company that buys tea directly from small-scale growers in sub-Saharan Africa for retail in the UK market.

"I decided to start up Tropics of Tea after visiting the World Tea Expo in California in 2014. While I noticed a Kenyan farmer manning an exhibition stand of a Canadian company and I was intrigued to hear his story. The farmer explained that while most of the black variety of tea is plucked from small, single estate family farms, the lion's share is sent to large-scale processors, generally owned by large multinational companies that process the tea into dust fannings, for the lower-quality tea we find in our teabags.

The Kenyan farmer mentioned that being a small-scale farmer is difficult. He could not leverage supplier power as his farm was small and he was not earning a decent income from plucking the tea leaves and dropping them off at the factories which would send them on to the tea auctions in Mombasa. He explained that most of the farmers in his area of Nandi Hills, Kenya, were struggling to make a profit since prices are driven down by the larger global organisations.

My business was borne from this point. I decided I would buy tea directly from the farmers, cutting out intermediaries, including tea auctions, therefore ensuring a premium price was paid to the farmers for their produce but also ensuring that I was buying the best quality tea from source and not the dust fannings left over after processing."

In acknowledgement of the need to reform the auction system, the EATTA signed a financing agreement in 2016 with TMEA that would enable automation of the Mombasa Tea Auction. Once fully implemented, the platform will ensure that stakeholders of the tea auction - including farmers, buyers and sellers - receive real-time information on what is happening at the auction, which will boost confidence in the process. Further, the automation will reduce delays and paperwork, and eliminate the need for travel to Mombasa, saving time and money for producers.

**Cost of production**

As well as cancelling out the small profits made from selling the tea at auction, rising production costs make further developments in the sector very difficult to implement. This applies most forcibly to the estate sector, where labour accounts for some two thirds of production costs ex-factory. The main cause of rising production costs is the pattern of wage awards imposed on the industry. Since 1990, the basic wage rate has risen 10 times; in fact, since 1998 it has gone up by more than 50%. Kericho labor costs are twice those in Uganda. The danger signs are evident: small producers have been resigning from the industry body in order to escape the statutory basic wage award. Daily rates paid by
smallholder growers in rural areas are half those offered in estates. Already, some areas of small-scale production are seriously loss-making, and it will only be a matter of time before they are taken out of production. In other words, there could be a loss of output as well as employment.

Origin labelling

One of the key issues faced by Kenyan tea growers identified by Oni is recognition for their product. Tea is exported from Kenya as a commodity in a quality standard form known as the Cut-Tear-Curl (CTC) method, which you find in the majority of teabags. International buyers, buying tea from the Mombasa Tea Auction, blend the tea abroad and brand it with their company names. In the UK there is generally a preference for tea that tastes stronger than the varieties produced by Kenyan single estates, so the bigger brands such as PG Tips blend Kenyan tea with tea from other small growers in places like Rwanda and even China. There is little knowledge of this supply chain among consumers, since the biggest tea companies have no particular incentive to spend money publicising it. This is true even for the country of origin of the leaves.

EU RoO classify the origin of a product this way: “Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in an important stage of manufacture”. Article 24 of Council Regulation No 2913/92 (CC).

This means that PG Tips tea is British, and there is no obligation for the company to print the source of the CTC(s) on the packaging. Many British tea brands do print the origin of the tea on their packaging, some more prominently than others, while others, like PG Tips, do not. Consequently, most British consumers do not know where their tea comes from, and they would be very surprised to know that 56% of it comes from Kenya. There is, in fact, a clause in Regulation (EU) No 1169/2011 that states: “The indication of the country of origin or of the place of provenance of a food should be provided whenever its absence is likely to mislead consumers as to the true country of origin or place of provenance of that product.”

In the spirit of this clause, a strong case could be made that British teas should not only have the origin of the component tea(s) on the packaging, but that the text should be of an appropriate size and location on the packaging that it will be noticed. Take Yorkshire Tea, for instance. There is a small mention of Kenya in the context of a tree-planting project on the bottom of the package (therefore only visible if you tip the box upside down), and the package is decorated with images of the Yorkshire countryside. Does this “mislead” consumers as to the tea’s “provenance”?

It is very important to the Kenyan tea industry that there is consumer recognition in the UK and the EU for Kenyan products, especially since the restraints on blending and packaging in-country are partly down to the stricter EU regulations. This lack of recognition restricts the farmers’ potential to penetrate niche markets in the UK and EU, and therefore to add value through own branding. Oni also argues that an increased awareness of the predominance of Kenyan tea in countries like the UK “can be important in boosting understanding of the country and how trade works:” African countries are losing out to their Chinese, Indian and Sri Lankan counterparts in potential foreign investment and tourism opportunities related to the tea industry.

Adding value

Blending, packaging and branding are the value-added elements of tea production that small-scale growers do not take part in, as explained above. The lack of capacity for African producers to move up the value chain is a well-known and documented problem. In the tea industry, the negative consequences are evident in the imbalance between rising labour costs and stagnant product value, which is making it more and more difficult for small-scale growers – which account for 60% of Kenyan tea production – to be profitable.

Oni says: “My initial concept behind Tropics of Tea was to ensure that farmers could pluck the tea and process it right on their farms, then package it with locally-made materials, ready for export – the majority of the supply chain being in-country. My added value would then be showcasing the farmers’ story, creating and promoting a transparent and shortened supply chain, and achieving third party accreditation.”

But it has not worked out that way. Besides the cost of labour and other domestic challenges to expanding an estate’s production capacities, there are of course barriers in the destination market. If a Kenyan grower wanted to package their own tea to be sold in the EU market, they would need to comply with 27 different EU directives and regulations on various aspects of the product. Unlike with regulations relating to food and environmental standards, they would have no in-house know-how on how to comply with those related to packaging. The same would be true for complying with standards associated with the blending process. For a small operation, the costs of compliance would just be too high.

Organisations like TMEA do a good job of helping East African producers to comply with standards on primary exports, and this endeavour has been successful in the tea and cut flower industries, where compliance is not a barrier to exporting the (unfinished) product. It is clear that in order to help developing economies diversify and industrialise, this kind of knowledge sharing and training for compliance with standards on value-added production processes must be developed further.

Branching out into the production of specialty teas, which can fetch a higher price and be sold directly to buyers (since they don’t need blending), is certainly one way forward, and many small-scale growers are doing exactly this with varieties like Kenyan green tea and purple leaf tea. There is
evidence that the market for these kinds of teas in the UK is growing, and success here could then spread to other markets.

Certifications

A large barrier to the development of more direct supply chains that bypass the tea auction and the large brands is the complex web of certifications a seller must acquire. Once all the paperwork has been done to prove the origin and standards compliance of the produce, there are additional private standards imposed by large buyers on sustainability certification. A UK supermarket, for instance, will demand accreditation with the Rainforest Alliance and other bodies like the Soil Association.

According to Oni, who aimed to gain Rainforest Alliance accreditation in order to sell her growers’ products more widely in the UK, “The costs of achieving accreditation and the complexities around it are prohibitive, particularly as a start-up.” Her Kenyan growers had even achieved Rainforest Alliance accreditation through a Canadian supplier they were partnered with, “but this accreditation, although under the same body, is not recognised in Europe despite the same compliance checks needing to be undertaken”, says Oni.

Barriers to gaining “Fairtrade” or “organic” status can be even more prohibitive, outweighing the added value (not guaranteed) that the label might bring. Oni’s farmers produce organically, not using any pesticides for example, but their product cannot benefit from the “organic” label or be sold in a UK supermarket because, through Oni, “it would need to pass other third-party certification with organisational standards for each retail platform”. To market tea as “organic” in the EU, the product must be grown using production methods laid down in EU legislation, and growing and processing sites must be audited by an accredited certifier. This is clearly not feasible for small-scale growers or even for their partners, like Oni, running small businesses in the destination markets.

Intra-African trade

A final point to note about restrictions to Kenyan tea exports is the surprisingly low volume exported within Africa. The farmer Oni met in California at the Tea Expo told her that “for many years he had never tasted the tea that he produced. It was only in the last year that he was provided with a sample to try.”

In the Nigerian market, for instance, there are no local brands or companies operating at all, even though tea is a popular drink. Oni says, “The fact that one of the best-selling teas in Nigeria is Lipton showcases the breakdown in intra-African trade.” Lipton[47] has a packaging plant in Nigeria, but thanks to the lack of origin labelling and supply chain transparency, Nigerian consumers do not realise that this Lipton tea is actually from Kenya (or other African countries) – it is merely seen as a global brand. Oni thinks that clearer labelling and supply chain mapping could help build this much-needed awareness. She also believes that “large multinational retail/hospitality organisations, particularly hotels that operate in sub-Saharan Africa, should be encouraged to source and supply locally-processed and branded teas from small scale farmers, helping to promote teas from within the continent.”

The lack of capacity to add value through blending, packaging and branding has clearly prevented the industry even from capitalising on the regional and continental markets that would most benefit from a cheaper alternative to UK-imported or global branded tea. Without the incentive of selling a packaged product into the EU market, it is clearly not worth small-scale growers adding this capacity just for the African market. Transport costs and times across Africa are also notoriously high, another factor that can limit intra-African trade. Again, this shows the importance of transport infrastructure investment in trade facilitation.

Reduced demand for re-exports

In 2014 the UK re-exported 17% of the tea it imported to countries like Ireland, Germany, Poland and France. A 2017 industry performance report by the Kenyan Tea Directorate noted that volumes of tea purchased by the UK fell from 5.4 to 3.1 million kgs from March 2016 to March 2017. The Directorate assigns this change to Brexit and a move by EU nations to import tea directly from Kenya rather than via the UK. The Directorate notes that volumes of tea exported to Poland and Germany grew by 39% and 12% respectively in the period under review.[48]

If this indeed is a phenomenon related to EU importers’ fears of post-Brexit UK-EU trade friction, Kenyan exporters might feel the need to dedicate resources to opening up direct supply chains with the affected EU countries, which seems to be happening already. Theoretically, the overall income of Kenyan exporters should rebalance, since demand for the product will have remained the same. In fact, it is hard to predict the outcome of a redirection of supply chains without knowing more about exactly which products are being re-exported and what kind of tea is in demand in the European markets. Presumably, however, the product imported directly from Kenya would be cheaper in these European markets than the version imported from the UK. This could even spur demand in these EU countries, which would be good news for the Kenyan tea industry. It might, however, come with an upfront cost in setting up the supply chain, and of course it is a worry for the UK re-exporters of Kenyan tea to EU countries.

Whether or not this trend will continue will depend upon the eventual outcome of the Brexit negotiations, but also on how much the respective sides have been able to reassure UK and EU businesses that there will be no significant changes to trade arrangements after Brexit. However, once the direct supply chains are opened, Kenyan exporters might keep using them even after a UK-EU trade deal has been agreed which promises...
minimal trade friction. It should be noted that tea is not the only EAC import that is re-exported by UK firms, so this is worth looking into further in order to estimate the potential losses to EAC producers and UK exporters of losing this part of the supply chain. Similarly, the UK re-exports some EAC products to EU manufacturing bases for intermediate processing; any friction in these cross-border supply chains could have an effect on EAC producers.

Product diversification

If UK re-exporters of Kenyan tea are losing their EU market to direct sales, they may perhaps look to import more products that can be sold in the UK market. Recent market research suggests that the UK market for specialty teas is growing, especially among younger consumers. If Kenyan producers diversify into these tea varieties, as the government is encouraging through its promotion of cottage industries, they might be able to sustain similar export levels to the UK (in revenue if not volume, since specialty teas will have a higher retail value), while increasing direct exports to EU countries, resulting in an overall increase in revenue from tea exports.

POTENTIAL EXPANSION IN KENYA-UK TEA TRADE

Origin labelling

Tea is an unusual product since the importance of origin to the identity and quality of the product is large compared to the value addition that happens outside the country of origin. It is therefore a kind of loophole that allows UK and international brands to sell tea without displaying clearly where it comes from. There is no reason that British consumers should have this information withheld, especially when it is to the detriment of farmers in developing countries.

Origin labelling could add a burden to the production processes of the large brands, since they often change their blends according to changes in prices and supply, so the composition (by country and ratio) of their tea bags is not fixed. Labelling each box correctly might entail changing the way the tea bags are processed and stored. In time, however, more and more will voluntarily advertise the countries of origin of their produce as well as their supply chain, as they will see it as a way to gain an advantage over their competitors.

The UK consumer is perceived to be becoming more aware of provenance and ethical issues in the produce they buy, so the market for products that appeal to these sensibilities is growing all the time. At the moment it is mostly supermarkets such as Waitrose and M&S offering own-branded single estate teas with names like “Kenya tea” (Figures 28a and b), while one or two of the bigger brands have begun listing the countries of origin in small writing on the side or bottom of their boxes. The trend is therefore positive, and with some additional incentives it could start to change public perceptions of the tea industry and of African produce.

Such incentives might include the creation of a ready-made, voluntary labelling scheme that brands could adopt in acknowledgement of consumer trends, the goal being for consumers to become more informed about the provenance of their tea. The UK Government could develop this in consultation with the industry in order to ensure the easy and widespread take-up of the scheme. The same goes for incentivising advertising of the large brands’ supply chains; the government could develop a standard model to be used on organisations’ websites or packaging. If the visual aspect was well designed, resulting in a distinctive and recognisable appearance, customers would soon pick up on which products had applied the scheme or not. An origin label that used a highlighted map of the world or relevant continents to show provenance might be especially effective.

The UK should also consider granting Kenyan tea (and teas from other African countries) a trademark in the UK. The primary purpose would not be to prevent counterfeit products from being sold as Kenyan, since this is not an issue currently faced by Kenyan growers, but rather to afford Kenyan tea a symbolic status that would affect consumer perceptions of the product. On a global level, there is no reason why teas should not be granted protection as Geographical Indications, since the product is just as linked to its “terroir” as wine and other protected products. Again, the benefit would mainly be in recognising the importance of the product’s origin as an intrinsic value that would hopefully change perceptions of tea, trade and Africa.

Value addition

If the UK wants to make it easier for small-scale growers to add value to their products in-country, there is not much it can do from a regulatory perspective. Even if the UK streamlined its requirements on packaging in comparison to the EU, for instance, this may not be enough to encourage small-scale growers to invest in packaging capacity due to all the other difficulties they would face in doing so, many of which stem from domestic regulations.

Instead, the UK Government should encourage UK businesses to set up in-country subsidiaries or joint ventures with Kenyan tea farmers, which invest in the tools, machinery and training necessary to set up this value-added production. These ventures would employ local staff, meaning both formal and informal knowledge spillovers that enable future Kenya-driven enterprise. The example of Hela

Certification

Kenyan farmers exporting directly into the UK market would benefit from a simpler certification system. At the moment many farmers do not gain the sustainability certification they need in order to sell their product in UK supermarkets, for instance.

If a small-scale grower has received certification from an internationally-recognised certification body like the Rainforest Alliance, regardless of the country in which it was awarded, this should be recognised in the UK. This would mean that the...
UK equivalent body would be obliged to bestow certification for the purpose of products meeting supermarkets’ private standards. The Government should also consider what restrictions it might place on such retailers from demanding multiple sustainability certifications on products like tea. There is no benefit to consumers in shutting smaller producers out of the market at the expense of the large multinationals, it merely serves to reduce consumer choice.

This simplification of certification requirements would also encourage more partnerships like those between Oni’s company and the farmers she works with, since the in-market organisation has more value to offer the growers by attaining the certification needed in order to reach more consumers and – in the case of organic and Fairtrade certifications – in order to attain a higher price for their product.

Tourism

Big tea-exporting countries like India, Sri Lanka and China have developed a tea tourism industry, which brings in direct revenue from visitors and indirect revenue thanks to the increased awareness and popularity of these products in the tourists’ home markets. Sustainable tourism, ecotourism and responsible travel are becoming hugely popular among Brits who want to engage with the people and cultures in developing countries when they visit them, rather than just staying in a resort and gazing from a distance. Kenya and the other EAC countries could benefit enormously from this, since the British love their tea and tea is a Kenyan success story. These kinds of tourists tend to be willing to spend a little more money in order to gain an “authentic” experience, and they tend to be vigilant in promoting their experiences back home. In order to build a greater market for tea tourism in Kenya, issues such as origin labelling should be addressed as already discussed.

The UK Government advises its citizens against all but essential travel to areas within 60km of the Kenya-Somali border, as well as a couple of counties that border this zone. The tea-growing counties (Kisii, Nandi and Kericho) are nowhere near these areas, meaning the usual Government advice applies, which includes general warnings about terrorism, political instability, and violent crime. The Kenyan High Commission in London is unhappy with this travel advice, but it is unlikely to secure any changes to it. This might not preclude DFID from supporting Kenya-led tourism projects of this kind, which would have important development objectives. UK partners would need to work closely with the KTOA, but also directly with growers and estates to develop appropriate programmes (such as tours and tastings) and infrastructure (such as transport links, catering facilities and accommodation).

As well as promoting such commercialised tea tourism, the Kenyan Government could consider making it even easier for British tourists to visit Kenya. UK tourists must currently either navigate an online visa application system that has been plagued with expensive scam replicas, attend the Kenyan High Commission in person, or queue up at the airport on arrival in Kenya. If any or all of these processes could be made more efficient (starting with cracking down on the scams), perhaps through a visa waiver scheme, potential UK visitors would have an impression of a country that is truly open and welcoming. This might be another avenue through which Kenya could broach the UK’s visa policy for EAC businesspeople, migrant workers and students, which we will discuss below.
Theresa May’s recent visit to Kenya saw a reaffirmation of the UK’s commitment to investing in, and trading with, East Africa. In her speech on the 30th August, the Prime Minister stated: “The UK is already the largest foreign investor in Kenya and I have set out this week our ambition to be the G7’s number one investor in Africa by 2022.”

This was the first visit made by a British Prime Minister to the region since Margaret Thatcher in 1988 - an important demonstration of political and economic commitment to the region - particularly at a time dominated by the Brexit negotiations.

Through the progress of the Trade Bill, the Government has shown its commitment to “grandfathering” current trade arrangements. Nonetheless, a number of significant questions remain as to how this will be achieved, and what other impacts Brexit might have on current trading patterns.

BREXIT BACKGROUND

The UK electorate voted to leave the EU on 23 June 2016. In line with the guidelines of Article 50 of the Lisbon Treaty, the UK and the EU have embarked on negotiations regarding the UK’s exit. EU treaties will cease to apply in the UK “...from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification”. In early October 2016, the UK Prime Minister announced that formal negotiations to exit the EU would begin by the end of March 2017. This implies that Brexit will become a reality from April 2019, unless the European Council and the UK Government unanimously decide otherwise.

The immediate fall in the value of the pound against the dollar after the “leave” vote caused problems for some developing economies. Firstly, the weaker pound reduced the competitiveness of African exports, especially in horticulture, against UK domestic production. Secondly, the fall in the value of the pound reduced the value of remittances, on which some developing economies rely heavily. The loss is estimated to be equivalent to US$370 million in both Nigeria and India, based on World Bank data on the value of bilateral remittances. There is therefore a fear in some low- and middle-income countries that the contribution of remittances to the livelihoods of people in places like Jamaica, Uganda and India will be reduced if there are further disruptions to the UK economy caused by Brexit, such as job losses.

Politically, while fears of a Brexit contagion in the EU have been unfounded in the short term, the uncertainty injected into the EU project could affect the ambitions for deeper regional integration currently at play in Africa and other parts of the world.

The Brexit vote has ushered in a period of uncertainty about the future of the UK’s trade relations not only with the EU, but also with the rest of the world. While the Government, parliament and judiciary continue to work towards interpreting the practicalities of Brexit, a number of countries including Australia, India and China have moved quickly to signal interest in signing trade deals with the UK. However, a 2015 poll by Ernst and Young indicated that access to the EU’s single market was a key factor in the UK’s attractiveness for investment, and large UK investors like Japanese car manufacturers have been seeking assurances that this access will not be significantly reduced after Brexit.

A wide range of low- and middle-income countries that negotiated and signed EPAs with the EU did so assuming that this would provide access to the UK market. The exact implications of Brexit on the future of the EPAs, including the EU-EAC EPA, remain unclear at the moment. However, the countries that signed EPAs with the EU might want to return to the negotiating table now that the liberalisations they offered are not going to be matched by the same scope of market access on offer when they signed. This is one reason why the EU will want to facilitate a continuation of the UK’s participation in the EPAs for as long as possible (ie. during the transition period), which we will discuss below.

The UK alone imports around 5% of all LDC exports. Many small and vulnerable states that depend on the UK market for a large proportion of their
exports are wondering what will happen to their preferences after Brexit. Will the UK replicate the EU’s GSP regime? Will it seek to negotiate new trade agreements and how similar will they be to the EPAs? Will the UK copy over the EU’s MFN tariff schedules or will it liberalise in some areas? The sooner the UK can decide on these matters and communicate clearly what it’s aiming for, the better for these developing countries.

After months of speculation, the Brexit White Paper was presented to the UK parliament in February 2017. The key underlying objective appears to be achieving continuity and minimising disruption to trade. Sections 8 and 9 of the White Paper set out the Government’s objectives with respect to partnerships with the EU; trade and investment relationships with third countries, including those covered by existing EU free trade agreements or EU preferential arrangements; as well as the UK’s stance on the multilateral stage.

Regarding the EU, the overarching aim of the UK Government will be to secure “the freest and most frictionless trade possible in goods and services through an ambitious and comprehensive Free Trade Agreement and a new customs agreement.” This is important for goods and services from the EAC and other third countries, which are vital inputs to regional and global chains as we have seen from the Kenyan cut flower and tea case studies. Section 9.2 of the White Paper emphasises the UK’s continued support for the EU’s trade agenda pre-Brexit, and its aim to significantly increase trade with “the fastest growing and most dynamic export markets in the world.” It is interesting to note that neither Kenya nor any other African country features on the list of the 20 fastest growing UK export destinations for goods and services between 2005-2014.

Nonetheless, in section 9.11 the Government says it is “...seeking to achieve continuity in our trade and investment relationships with third countries, including those covered by existing EU free trade agreements or EU preferential arrangements.” It is not clear how far the Government would like this period of continuity to extend. Clearly it is a necessity for the transition period, but “continuity” after the transition period will entail, as we have mentioned, a renegotiation of sorts when it comes to trade agreements and a resetting of unilateral preference arrangements. All of this will take time and energy and must therefore be embarked upon as soon as possible.

At the multilateral level, the UK Government aims to establish its schedules in a way that “…replicates as far as possible our current position as an EU Member State, thus creating a mutually beneficial, simple and inclusive outcome, so that the interests of the UK and other WTO members are protected.” (Section 9.18). It is not clear how long-term this aim is, and at what point the UK Government might want to revisit its MFN tariff schedules, having initially rectified them to mirror those of the EU.

The White Paper also states that the UK will continue to pursue a pro-trade and pro-development stance in the relevant international institutions and organizations, such as the G7 and G20, the UN and the OECD, with enhanced vigour (Sec 9.19).

TRANSITION PERIOD

Generalised System of Preferences

First, we address the status of non-reciprocal unilateral preferences during the transition period, meaning the UK’s participation in the GSP scheme. This is what gives low and lower-middle income countries preferential access to the UK market (through GSP and GSP+), and what gives LDCs, including those in the EAC that haven’t signed the EPA, DFQF access to the UK market (through EBA). It seems the UK Government has accepted the idea of remaining in a customs union with the EU during the transition period, meaning that it will apply the EU’s CET, thereby continuing the preferential access to its market described above.

The legal basis for this arrangement would be the Withdrawal Agreement the UK and EU sign, which contains provisions on all elements of UK withdrawal from the EU, including the most contentious issues like the Irish border. This must pass through votes in both the UK and European Parliaments. Developing countries will be asking themselves what will happen if the Agreement is not passed, and this uncertainty will remain until the Agreement is signed.

It might seem simple for the UK Government to promise to keep tariff levels the same during the transition period regardless of the state of UK-EU relations at that time, through a public pledge to mirror the CET. But the UK should understand the wariness of vulnerable states about a pledge that has no legal basis and is entirely unilateral and subject to change on a whim. If it is at all possible to separate trade-related issues from the rest of the Withdrawal Agreement, purely for the purposes of reassuring its trading partners, the UK and EU should do so and sign this separate document without delay. The UK and EU share common goals in this area and have essentially already reached a consensus, but of course a separate agreement on trade with third countries would contradict the “nothing is agreed until everything is agreed” maxim of the UK-EU negotiations.

Third country agreements

Similar issues plague the status of UK trade with entities that have a trade agreement with the EU. Article 124.1 of the Draft Withdrawal Agreement released on 19 March 2018 covers EU trade agreements with third countries during the transition period, and has been agreed at negotiator level. It says:

“...during the transition period, the United Kingdom shall be bound by the obligations stemming from the international agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly as referred to in Article 2(a)(iv).”

And a crucial footnote adds that “The Union will notify the other parties to these agreements that during the transition period, the United Kingdom is to be treated as a Member State for the purposes of these agreements.” This is a very important reassurance to all countries with a trade relationship with the UK which is governed by an EU agreement that trade can continue on exactly the same terms as currently until 31 December 2020 (Article 212). It is worth noting that the use of “notify” (rather than “ask” or “consult”) puts the burden onto these other parties to explain why they would not like the UK to be treated as an EU member state for these purposes.

While such commitments may be helpful in reassuring the EAC countries (and others) of the short-term security of trade arrangements, they may not be enough to allay fears of trade disruption both during and after the transition period. Countries that trade with the UK through EPAs will be asking the same question mentioned above: what if neither of the parliaments do not pass the Withdrawal Agreement? The danger in including these trade arrangements in the wider Agreement, and in persisting with a “nothing is agreed until everything is agreed” approach, is that no one can be sure of commitments that are made in that context.

As above, it would be far more reassuring to the trading partners of the UK and EU if Article 124.1 of the Withdrawal Agreement was removed and signed as a separate legal document – ideally including the customs union CET commitment – ratified by the Parliaments if necessary. This could be settled much more quickly and would give countries like Kenya the certainty they are looking for. The EU could then “notify” the relevant trading partners with this document, which it could ask them to sign. It would then become clear at a much earlier stage that trading partners might require more engagement than others.

The UK Government should not leave this to the EU, though. It should start engaging bilaterally, very quickly with these partners on the future trading relationship, regardless both the transition period and what will replace it after 31 December 2020. This could be done with a combination of high-level, face-to-face meetings and the creation of a working group on future trade relations (which would become formal negotiations in April 2019). Some trading partners may, indeed, insist on discussing the new trade relationship as a prerequisite for assenting to the UK-EU transition approach. Article 124.4 of the Draft Withdrawal Agreement says:

“At any point within the transition period, the United Kingdom may negotiate, sign and ratify international
agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided those agreements do not enter into force or apply during the transition period, unless so authorised by the Union."

There are around 40 trade agreements\(^{[51]}\) that the UK enjoys with third countries by virtue of its EU membership, which account for over 15% of UK exports. The government has made it clear that it wants these arrangements to continue after the end of the transition period, and on EPAs specifically, the Department for International Trade (DIT) Trade White Paper (2018) says:

"We have taken into account our partners' wishes for continuity and will seek to replicate the effects of these agreements as the UK leaves the EU."

It is not clear, however, whether the government has accepted that all 40 agreements will not be ready by the end of the transition period. The Trade White Paper says:

"This is a technical exercise to replicate the effects of current trading rather than an opportunity to renegotiate terms."

However, "replicating" an EU trade agreement like the EU-EAC EPA, as well as a wasted opportunity, would hardly be a simple matter of a few meetings to sort out one or two small legal matters. The "effects of current trading" are actually impossible to "replicate", and attempting to mirror them as closely as possible is far from just a "technical exercise".\(^{[52]}\)

Potentially extensive discussions would be needed on RoO, since under EPA rules many UK products would, post-Brexit, not qualify for the agreement’s preferential tariff rates. This could even require EU involvement if the UK wanted EU inputs to be treated as UK ones for the purposes of the new agreement. The EAC countries would surely treat this as an opportunity to revisit the EPA’s RoO provisions in general (not a bad thing, in our view). They might also want to reconsider their list of sensitive products given the significant change in the profile of imported products from the UK compared to the EU. It should be remembered that none of the EAC countries, including those that have signed the EPA, were particularly happy with these provisions in the first place. There will be other matters that cannot just be copied over, and the EAC countries will not take the UK’s intention of improving UK-EAC trade seriously if it leaves this negotiation to the last minute.

It is possible that the EAC member states could withhold their consent to the EU-UK transition approach (treating the UK as an EU member) in order to extract concessions on elements of a future UK-EAC version of the EPA, meaning a renegotiation of the EPA would be on the cards whether the UK wanted it or not. If the EAC states see a strong, legal commitment that the UK will continue to apply the EU’s CET during transition, they might consider letting the UK drop out of the EPA on the basis that during transition their goods will enter the UK under the same tariff regime as they do now (DFQF), but those EAC states applying the EPA’s liberalised tariff regime (Kenya and Rwanda) would no longer be obliged to do so vis-à-vis the UK, and could revert to MFN tariffs. Of course, they would lose out on other benefits of the EPA applied to UK trade like more favourable RoO, and they would not want to sour future trade relations. But the UK should be mindful that the cooperation of third parties during the Brexit transition period must not be taken for granted and could be contingent on renegotiating rather than replicating.

With these kinds of complexities applying potentially to all 40 agreements, it seems obvious that they will not all be in place by the end of the transition period. Some experts giving advice to Government have recommended prioritising the agreements with the highest commercial value to the UK, namely those with Switzerland, Norway, the European countries, South Korea, Japan, Singapore, South Africa, Canada and Turkey.\(^{[53]}\) We argue that the EPAs should gain more urgent attention owing to the asymmetrical nature of the trading relationship; developing country economies rely more on trade than most developed country economies, and they stand to lose much more than developed countries should an agreement not be reached in time. Kenyan exporters will not remember fondly the uncertainty around Kenya’s preferential tariffs when the interim EPA was expiring. This does also depend on what the UK plans for its new GSP scheme in terms of coverage and implementation timeline. Our recommendations on this follow.

It should be pointed out that some of the changes we recommend making to the EPA to turn it into a UK-EAC agreement could be very simple and quick to make, for instance removing the more favourable treatment and non-execution clauses, and amendments to the bilateral safeguards and export taxes provisions. But they would have a disproportionately large positive effect on the atmosphere of the negotiations, and would make the inevitable discussions on tariffs and RoO smoother.

**UNILATERAL, NON-RECIPROCAL PREFERENCES**

After the Brexit transition period, the UK will embark on its new trading relationships. It must be ready at that point to offer developing economies the same level of market access they have now, in order to avoid the kind of economic damage we have outlined in our case studies. This cannot be done only through trade agreements, for reasons explained above: not all vulnerable economies are currently covered by trade agreements and not all trade agreements will be secured in time. The UK will therefore need to set up its own GSP scheme, notified at the WTO, in time for 01 January 2021. DIT’s 2018 Trade White Paper does not hint at a planned approach to this.

In general, tariff preferences for developing countries are best provided for unilaterally through the WTO Enabling Clause because they do not run out or rely on negotiations, therefore providing more certainty and putting less pressure on developing countries to sign imperfect trade agreements. Trade agreements can then add value to the relationship by providing a platform for some tariff liberalisation by the developing countries and for eliminating non-tariff barriers. So even for countries like Kenya, where the UK would be aiming to secure a trade agreement (based more or less loosely on the EPA) by 01 January 2021, the basis for DFQF access should be the UK’s unilateral preference scheme, not the trade agreement. This could also apply to RoO, which would form part of the GSP scheme.

The UK must decide, therefore, how to implement an improved GSP scheme by 01 January 2021. The current EU GSP is not adequate for providing DFQF access to all those countries that currently enjoy it, since the EBA only applies to LDCs. In order to deliver the goals outlined above, DFQF access provisions in the GSP must be extended to some degree. The question is how far and on what timescale.

**Duty-free, quota-free access for all developing countries**

This is sometimes mooted as a welcome simplification of the complex patchwork of schemes developed countries have for trading with the developing world, for instance the EU’s web of EBA, GSP, GSP+ and EPAs. Two things to consider would be the non-geographical application (it would apply to all developing countries in the world), and the effect on LDCs. Preference erosion would occur for LDCs, since they would lose their tariff preferences over the other developing countries that currently do not enjoy DFQF access to those markets. In the EU framework, for instance, these are countries that benefit from the GSP and GSP+ preferential tariff schemes (in 2016 there were 31 countries in this category), but not from EBA (in 2016 there were 49 countries covered by EBA) or from a preferential trade agreement like an EPA (there are currently 45 countries covered across 7 regional EU EPAs).

How severe could the effects be on LDCs? How much does the UK want to craft different trade arrangements for different continents and regions of the world? These are questions that require a good deal of research and thinking, and it is not realistic that this can be done in time for the end of the transition period. However, it is worth looking into these questions as soon as possible.

\(^{[51]}\) Including Free Trade Agreements, Association Agreements, Stabilisation Agreements and Economic Partnership Agreements.

\(^{[52]}\) For a more extensive discussion on the difficulties, see Ungphakorn (2018).

\(^{[53]}\) Eg. Professor Dur. Q60 UK International Trade Committee (2017).
Africa-only duty-free, quota-free access

The WTO distinguishes between LDCs and non-LDCs, and preferential arrangements can be distinguished along these lines but not along geographical lines (thanks to the non-discrimination commitment). However, there are precedents for waivers when arrangements are considered transitional. The US’s African Growth and Opportunity Act (AGOA), the scheme of unilateral preferences governing US-Africa trade, has not been challenged at the WTO in over 15 years, despite always being intended as a temporary arrangement. The UK could employ a waiver to implement a GSP scheme that was more bespoke than the current EU GSP. This would at least buy time until a final decision is made on the long-term future of UK unilateral preferences.

Since WTO arrangements have an unstated level of flexibility, depending essentially upon what other members will accept, it is not entirely clear what kind of arrangements could be challenged. It is therefore perhaps safer to copy an existing model that has not been challenged. A GSP scheme that provided DFQF access to all African countries (as well as all LDCs of course) might be the simplest and least controversial of these. Some African LDCs currently enjoying preferential access to the UK market (and their large African neighbours) might still worry about preference erosion, but the potential economic damage would be negligible. The benefits, of course, would not only be to put all African exports on the same footing regarding tariffs, but RoO too. This could hugely benefit continental integration.

We discuss below an approach to RoO that the UK should consider for its reciprocal trade agreements, including flexible cumulation, lower value-added thresholds and reduced requirements to prove origin in the first place. But ideally these liberalised RoO should apply first and foremost to the UK’s new GSP scheme. The problem may be drawing up a new RoO regime for its GSP scheme in time for the end of the Brexit transition period; the temptation will be to “replicate” the EU GSP RoO to save time. Liberalising RoO as soon as possible is desirable in itself, but ensuring that the same RoO apply to all African trade partners is important to encourage the development of continental supply chains. Once the new GSP RoO are set, the same model could be used in future trade agreements, therefore saving time in the long term. At the very least a new unilateral RoO regime should include flexible cumulation among all beneficiaries. If necessary the UK could copy the remaining elements of the EU GSP’s RoO scheme, and then revisit it later to update requirements for proof of origin and value addition with the recommended liberalisations.

Status quo duty-free quota-free access

There are potentially other ways of extending non-reciprocal DFQF access to the UK market, for instance by doing so solely for the sub-set of countries that enjoy it currently but are not LDCs. This would apply to countries like Kenya, which are party to an EPA, and to some non-African countries, but not all African countries would be covered. As part of a waiver scheme, this could pass muster with WTO members as being a transitional arrangement to ensure continuity of AGOA access. The UK could then take into account the possibility of not having trade agreements in place from 01 January 2021. It would be a very Brexit-specific arrangement, and WTO members might even prefer it to an Africa-wide waiver, since it more accurately reflects the UK’s current trade preferences, both reciprocal and non-reciprocal. The UK could perhaps incorporate future plans for a simpler and broader UK GSP scheme (for instance one that offers DFQF access to all developing countries) in order to build support for any short-term waivers of this kind. RoO in this scheme would, however, not apply across the whole African continent since some African non-LDCs do not currently have DFQF access to the UK market through an EPA.

Whichever the UK’s chosen approach, implementing a new unilateral preference scheme would need to come first in the sequencing, followed by negotiating the new trade agreements or new versions of the EPAs. This would save all countries from the potential “knife-edge” loss of preference in one go, rather than agreement by agreement. It would provide a DFQF backstop if the agreements cannot be negotiated in time, which would eliminate the pressure on non-LDCs like Kenya to sign an imperfect agreement no matter what, for fear of losing DFQF market access.

MFN tariff reductions

After Brexit the UK will be able to alter its newly-rectified WTO schedules. As mentioned above, the UK is currently working on rectifying its WTO schedules in a way that replicates EU schedules as far as possible (amendments must be made to tariff rate quotas, for example), in time for the end of the transition period. Following this, some have suggested unilateral tariff eliminations on goods. Developing countries (especially those with DFQF access to the UK market) would, in this case, suffer preference erosion to the rest of the world in those products. The UK government must therefore consider the effect on developing economies of any MFN tariff reductions it is contemplating. The severity would depend on the extent of the reductions and the extent of developing country production in the lines that were liberalised.

Clearly the effect could be much larger than just extending DFQF access from LDCs to all developing countries, as mentioned above. But that is not to say it would necessarily spell disaster for developing countries. For example, a European Trade Study Group paper modelled the effect on the Ugandan economy of the complete eradication of EU agricultural tariffs, but concluded that all countries no matter how developed had tariff-free access to the EU market. The results showed that the negative effects on Uganda’s agricultural exports would be small and unevenly distributed (some products’ exports would rise), and that they would to an extent be offset by rises in manufacturing and services exports. This is obviously a highly complex and country-specific issue, and it will require time to work out the potential effects and balance them with other trade policy priorities.

It must always be remembered that tariffs are not the greatest barriers to trade, which is why tariff eliminations - on their own - are not a magic bullet and preference erosion might not mean huge losses. Whatever losses there might be could be easily offset by the removal of NTBs and increases in assistance and investment across a number of reciprocal and non-reciprocal platforms, as we will discuss below.

RECIPROCAL AGREEMENTS

For the long-term, the UK must carefully weigh the benefits of non-reciprocal vs reciprocal trade arrangements with developing countries; how important are trade agreements, which must be more or less reciprocal, compared to a scheme of non-reciprocal preferences?

This will depend, to a certain extent, on the evolution of WTO platforms. At the moment, they are not adequate for the kinds of bespoke liberalisations countries want to achieve in their trade relations. There is a reason that AGOA is a temporary arrangement and that the parties are looking to replace it when it expires in 2025 to ensure that the US keeps to the generous terms of the limitations of a purely non-reciprocal relationship, and indeed the weak footing this leaves the developing partners on when it comes to disputes.

There have been two major disputes in recent US-Africa trade, regarding imports of second-hand clothes to the EAC and poultry to South Africa. Both were brought up unilaterally and out-of-cycle by the US since there is no dispute mechanism in the AGOA scheme. When the EAC countries raised their tariffs on second-hand clothes (with a view to an eventual ban), the US, as the main exporter of second-hand clothes to the region, threatened to remove the preferential market access the EAC countries enjoy through AGOA. Kenya, Uganda and Tanzania changed their policies, but Rwanda has indicated that it will keep the tariffs in place. Consequently, it looks like duty-free access to the US market for Rwandan apparel exports will be suspended. This could not happen if the US had a trade agreement with its African partners because the
agreement would include an appropriate dispute mechanism negotiated by both sides. It would also contain certain provisions to address the protection of key African industries (like apparel), and tariff preferences would be negotiated and agreed by both parties. Tariff liberalisation among developing country partners is a controversial subject, but to the extent that this is beneficial to developing economies, this benefit is not achievable without a trade agreement. When it comes to removing NTBs – a greater barrier to trade than tariffs – without a trade agreement, the non-reciprocal options are also currently limited by WTO platforms.

The direction of travel has certainly been away from the cumbersome WTO negotiation process and towards bilateral and regional trade agreements. There are no signs of this reversing. The UK should certainly work to unblock some of the important decision-making processes at the WTO, for instance in services liberalisation, and advocate a return to the multilateral platform.

How should the UK improve its network of agreements across Africa in order to better promote regional integration? After the UK emerges from the Brexit transition period it will have replicated, to some degree, the coverage of the EU’s EPAs. This might be satisfactory in the short to medium term, thanks to the time constraints imposed by the Brexit process, but we have seen the limitations of this model due to the lack of logical REC coverage, and from the lack of genuine integration in some of the RECs and other groupings.

There is no doubt that when Africa has begun full implementation of the CFTA, the UK should consider an Africa-wide trade agreement. This will not work until continental integration has reached a certain level; the UK should consider making a set of conditions in this regard that need to be met in order for discussions on a continental FTA to begin, for instance implementation of the CFTA by a minimum number of countries (or minimum threshold of African GDP). The more coherent current UK trade arrangements are across the continent, the easier and quicker this trade agreement will be to achieve.

Rather than waiting for the AECFTA to come to fruition, which could take decades, the UK could consider realigning its African trade agreements to better reflect current regional integration. This would essentially mean assessing the current RECs on the basis of how well integrated they are, and drawing up new agreements with the more integrated, larger regions. The UK could, for example, develop a trade agreement with COMESA and a mirroring one with SADC (with the full membership of SADC, not just the six countries included in the EU-SADC EPA). All EAC members would be covered so the UK-EAC agreement would be redundant. A trade agreement with the Tripartite Free Trade Area could easily follow, as it would involve rolling these two regional agreements with COMESA and SADC into one. Again, the more harmonised these agreements are to begin with, the easier this future streamlining will be. The route to a UK-Africa trade agreement begins to emerge from the streamlining of the network of agreements to a smaller number of larger regions, following the progress of integration in these regions.

**AGRICULTURAL POLICY**

Whatever the final UK-EU trade relationship ends up being, the UK will be leaving the EU’s Common Agricultural Policy (CAP). The CAP’s regime of subsidies for EU farmers is widely considered to be harmful to their African counterparts by keeping EU market prices higher than world market levels. It was cited by EAC partners during the EPA negotiations as a significant barrier to EU-EAC trade, detrimental to EAC farmers and a cause of EAC reticence in opening up its market. The UK Environment Secretary has already outlined plans to reform the UK’s agriculture policy by replacing the CAP’s Basic Payment Scheme with an environmental land management system linking payments to the protection of public goods.[58] This would probably not come into force until 2024.

If the UK implements a payment scheme that moves gradually away from keeping agricultural producers in business and towards paying them for providing a public service, the UK economy would benefit from a more competitive agricultural sector as producers would be pushed to become more efficient. These changes would afford the UK more freedom in setting its new independent trade policy because it would be relatively free of the burden of protecting agriculture – one of the biggest obstacles when negotiating trade agreements and setting unilateral preferences. In particular, it will become easier to negotiate trade agreements with developing economies, which do not subsidise their own agricultural industries and therefore try to protect their producers with instruments like tariffs.

Full elimination of agricultural subsidies, as implemented by New Zealand in the 1980s for instance, is clearly not on the cards for the UK. But the already-mooted cuts to the UK’s regime could have a positive economic impact on EAC and other developing-country producers by making their exports more competitive in the UK market. The potential gains to farmers in the developing world should not be exaggerated though. The UK is an agricultural minnow compared to the EU, so the potential gains to these producers could potentially be dwarfed by year-on-year volatility in world food markets.

However, it will certainly please the EAC governments that the UK is moving away from the CAP’s subsidy scheme, and the UK should bear in mind the impact on developing countries when forming the detail of its new agriculture policy. To a certain extent, the mere fact that the UK is a much less agrarian economy than the EU is seen as a less threatening trading partner for developing economies. But more the UK seems like a reasonable trading partner in this area, the easier it will find negotiating trade agreements. This is a good reason to get the detail of the policy locked in with a legislative bill as soon as possible. When developing countries see a legal basis for the UK’s future system which looks very different from the CAP, they will take this into account when considering their future trade relations with the UK.

The direction of travel has certainly been away from the cumbersome WTO negotiation process and towards bilateral and regional trade agreements. There are no signs of this reversing. The UK should certainly work to unblock some of the important decision-making processes at the WTO, for instance in services liberalisation, and advocate a return to the multilateral platform.

How should the UK improve its network of agreements across Africa in order to better promote regional integration? After the UK emerges from the Brexit transition period it will have replicated, to some degree, the coverage of the EU’s EPAs. This might be satisfactory in the short to medium term, thanks to the time constraints imposed by the Brexit process, but we have seen the limitations of this model due to the lack of logical REC coverage, and from the lack of genuine integration in some of the RECs and other groupings.

There is no doubt that when Africa has begun full implementation of the CFTA, the UK should consider an Africa-wide trade agreement. This will not work until continental integration has reached a certain level; the UK should consider making a set of conditions in this regard that need to be met in order for discussions on a continental FTA to begin, for instance implementation of the CFTA by a minimum number of countries (or minimum threshold of African GDP). The more coherent current UK trade arrangements are across the continent, the easier and quicker this trade agreement will be to achieve.

Rather than waiting for the AECFTA to come to fruition, which could take decades, the UK could consider realigning its African trade agreements to better reflect current regional integration. This would essentially mean assessing the current RECs on the basis of how well integrated they are, and drawing up new agreements with the more integrated, larger regions. The UK could, for example, develop a trade agreement with COMESA and a mirroring one with SADC (with the full membership of SADC, not just the six countries included in the EU-SADC EPA). All EAC members would be covered so the UK-EAC agreement would be redundant. A trade agreement with the Tripartite Free Trade Area could easily follow, as it would involve rolling these two regional agreements with COMESA and SADC into one. Again, the more harmonised these agreements are to begin with, the easier this future streamlining will be. The route to a UK-Africa trade agreement begins to emerge from the streamlining of the network of agreements to a smaller number of larger regions, following the progress of integration in these regions.

**AGRICULTURAL POLICY**

Whatever the final UK-EU trade relationship ends up being, the UK will be leaving the EU’s Common Agricultural Policy (CAP). The CAP’s regime of subsidies for EU farmers is widely considered to be harmful to their African counterparts by keeping EU market prices higher than world market levels. It was cited by EAC partners during the EPA negotiations as a significant barrier to EU-EAC trade, detrimental to EAC farmers and a cause of EAC reticence in opening up its market. The UK Environment Secretary has already outlined plans to reform the UK’s agriculture policy by replacing the CAP’s Basic Payment Scheme with an environmental land management system linking payments to the protection of public goods.[58] This would probably not come into force until 2024.

If the UK implements a payment scheme that moves gradually away from keeping agricultural producers in business and towards paying them for providing a public service, the UK economy would benefit from a more competitive agricultural sector as producers would be pushed to become more efficient. These changes would afford the UK more freedom in setting its new independent trade policy because it would be relatively free of the burden of protecting agriculture – one of the biggest obstacles when negotiating trade agreements and setting unilateral preferences. In particular, it will become easier to negotiate trade agreements with developing economies, which do not subsidise their own agricultural industries and therefore try to protect their producers with instruments like tariffs.

Full elimination of agricultural subsidies, as implemented by New Zealand in the 1980s for instance, is clearly not on the cards for the UK. But the already-mooted cuts to the UK’s regime could have a positive economic impact on EAC and other developing-country producers by making their exports more competitive in the UK market. The potential gains to farmers in the developing world should not be exaggerated though. The UK is an agricultural minnow compared to the EU, so the potential gains to these producers could potentially be dwarfed by year-on-year volatility in world food markets.

However, it will certainly please the EAC governments that the UK is moving away from the CAP’s subsidy scheme, and the UK should bear in mind the impact on developing countries when forming the detail of its new agriculture policy. To a certain extent, the mere fact that the UK is a much less agrarian economy than the EU is seen as a less threatening trading partner for developing economies. But more the UK seems like a reasonable trading partner in this area, the easier it will find negotiating trade agreements. This is a good reason to get the detail of the policy locked in with a legislative bill as soon as possible. When developing countries see a legal basis for the UK’s future system which looks very different from the CAP, they will take this into account when considering their future trade relations with the UK.

Further, in the event of a Brexit scenario which results in contraction to UK GNI, the availability of funds for aid could be effected. This scenario could increase political pressure for the UK to look inwards, allocating more resources to improve livelihoods in the UK rather than abroad. However, the UK has historically ‘ringfenced’ its foreign aid budget from cuts during difficult economic times, and there is no reason to believe this policy will change.

Second, although the UK has committed to participate in the European Development Fund (EDF) and EU external financing instruments for development until 2020,[56] what happens after that will be subject to the ongoing Brexit negotiations. At nearly 15%, the UK is the third largest contributor of resources to the EDF after Germany and France. Therefore, withdrawal of the UK from the EDF after 2020 may result in a contraction in the availability of EDF resources, and may endanger some projects whose ongoing funding may be affected.

If the UK were to withdraw from the EDF it would need to be through a slow and careful process whereby some collaboration was maintained for as long as needed to complete the delivery of projects. Any eventual reduction in UK contributions to the EDF budget should be balanced out with a redirection to bilateral funds or other international

---

[56] BBC (Jan 2018)
[57] Lightfoot (2017)
projects, meaning that overall UK aid to developing countries need not be reduced. It is unclear where the major benefits of such redirection would be, since the UK has a large influence over EU policymaking in this sphere (much more, some would argue, than in other spheres) thanks to its status as a large contributor to the EDF and its strong reputation globally in this field. This leads to the third main potential impact of Brexit on development aid. Some analysts argue that Britain’s exit from the EU will negatively impact the quality of EU development spending. The UK has a progressive impact on European policies, for instance by promoting a more open, liberalised trading system; opposing extensive agricultural subsidies; and pushing for generous, effective, poverty-focused foreign aid. EU development assistance could well become less pro-poor and perhaps less well coordinated due to the loss of UK expertise.

For example, a major development in EU development policy over recent years, has been in the area of improving security to property rights in developing countries - an approach initiated and championed in the European Parliament, by British MEP Nirj Deva. UK strategy

Regarding the UK’s emerging position post-Brexit, the Secretary of State for International Development has signaled the intention to use UK aid spending to strengthen UK trade ties. The recently-published DFID Economic Development Strategy (2017) provides important indicators on the future of UK overseas development assistance, including:

• Focusing on trade as an engine for poverty reduction. Building on the potential for developing countries to trade more with the UK and the rest of the world and integrate into global value chains; using the WTO platform to argue for better and fairer trading rules for developing countries and strengthening the approach to ‘aid for trade’.

• Supporting countries to mobilise their own domestic resources, improve their enabling environment for business and reduce reliance on aid.

• Focusing on sectors that can unlock growth including energy, infrastructure, urban planning, manufacturing, commercial agriculture and financial services.

• Making it easier for companies – including from the UK – to enter and invest in markets of the future, working collaboratively with businesses to understand the barriers to accessing these markets and work to make it easier for them to do business that reduces poverty.

• Supporting partner countries to harness new technologies for growth and look to emerging and innovative economic sectors, such as e-commerce and peer-to-peer business and finance.

Further development and detail on the aid for trade aspects of the Strategy would be welcome. Of particular interest is its interaction with aid and investment platforms in other departments – namely the Foreign and Commonwealth Office (FCO) and DIT. Could more of the UK’s Official Development Assistance be targeted at aid for trade initiatives, for instance?

The new UK government has not yet developed an Africa Strategy. This clearly needs to be addressed in order to bring together the current and future development, trade and investment platforms. A Strategy led by Number 10, as was David Cameron’s successful Africa Free Trade Initiative, would be the best way forward.

In terms of specific commitments that have been made in East Africa, according to the DFID Operational Plan for Kenya 2011-15, the UK has committed about £751m towards development assistance in Kenya between 2013/14-2018/19. Nearly 45% of this is allocated to health and disaster management. In addition, the UK recently announced an increased focus of its African aid budget on economic and trade-related projects with the aim of boosting prosperity. New support includes:

• Launching a new Invest Africa programme to encourage at least £400 million of FDI into the most productive sectors – such as manufacturing – to create 90,000 direct and indirect jobs in African countries over the next decade.

• Providing £95 million over the next four years to increase Kenya’s trade by £1.3bn, building on the success of TradeMark East Africa – founded by UK aid – in breaking down the barriers to trade expected to create hundreds of thousands of new jobs, stimulating further growth and generating additional revenue for the Kenyan authorities.

Invest Africa recognises the potential of FDI in manufacturing to catalyse industrialisation. It has not got off the ground yet, but it aims to provide “political and investor engagement as well as flexible packages of technical support… initially in S-9 African countries – initially involving strategic partnerships in Kenya, Ethiopia, Mozambique, Uganda, Rwanda, and Zambia with scoping and possible later engagement in Tanzania, Nigeria, and Ghana – in key manufacturing sectors – while building and coordinating a locally driven approach to attract FDI to Africa.”

The following investment sectors are identified for Kenya: textiles; food and beverages; building and construction and automotive; agricultural machinery. Promoting manufacturing activity is one of the pillars of Kenya’s recently-launched “four-pillar” growth plan, so UK commitments in this area are important.

There are some success stories that can inform government-supported manufacturing investment, such as Hela Clothing, mentioned above. Hela has been working with the Kenyan government on trade, infrastructure and finance policy development, with help from UK and donor-funded agencies. This kind of engagement should be explored further with other firms and in other growth industries. Further investment could also support clustering within Export Processing Zones or Special Economic Zones; the goods and services inputs currently imported by Hela could be generated within the same zone as the factory, increasing economic efficiency and creating more jobs. Access to finance is a key barrier to successful investment; commercial African banks do not have much experience in financing the garment industry for instance. This is where development finance institutions such as the UK’s CDC can make a big difference.

The UK Government relies on private sector insight into these success stories and must deepen its engagement with potential investors and those facilitating private investment in the region, such as the Eastern Africa Association. Such organisations, and of course the big investors themselves, can be extremely helpful in determining where government resources can be put to the best use in terms of ideas for new projects; financing existing projects; organising trade missions; optimising in-country representation. An openness to backing private investment projects is what helped to get the hugely successful M-Pesa scheme, whose development was partially funded by DFID, off the ground. The UK businesses would like to see this kind of openness replicated, with a more transparent and accessible system for pitching projects.

In terms of “aid for trade” funding, it is good news that the UK Development Secretary announced in January 2018 a new package of support for TradeMark East Africa (TMEA) worth £211 billion.

[53] Barder (2016)
[55] UK International Development Act 2002
[56] APPG Trade out of Poverty (2016)
[60] DFID (2016)
TMEA is an NGO, funded by the development agencies of key donor countries, that works to grow prosperity in East Africa through trade. Established in 2010 as an initiative of DFID, TMEA is currently funded by the governments of Belgium, Canada, Denmark, Finland, the Netherlands, Norway, the UK and the US.

Almost half of TMEA’s budget is allocated to improving physical access to markets by increasing the capacity of transport infrastructure in the region. For instance, TMEA provided funding and implementation support worth US$20 million to expand the Port Reitz Road in Mombasa, Kenya, by 6.4 km, with the aim of improving access to the Kipevu West container terminal at the port. TMEA also works to enhance business competitiveness through projects which aim to improve the following: investment environment, business regulations, access to finance, export capability and trade logistics services. Finally, TMEA works with EAC and national institutions to improve the trade policy environment on issues such as the customs union and common market.

TMEA’s one-stop border posts (OSBPs) have been a notable success. The OSBPs between Kenya and Uganda, for instance, have tripled custom collections and cut clearance time from three days to just under one hour according to the Kenya Revenue Authority (KRA). All customs procedures at the border now happen under one roof, with a visit to two desks usually taking about 10 minutes as traders only need to deal with the border agency of the destination country. The faster, simpler OSBP clearance process has attracted traders into the cross-border business and decreased smuggling as traders no longer have an incentive to use quicker, cheaper illegal channels. Less time spent at the border also means an increase in trade volumes, and so an increase in not only customs but business revenue.

Examples of other successful TMEA projects include the international accreditation of national standards boards; cargo handling developments at Mombasa Port; introduction of electronic certificates of origin; the Electronic Single Window system; Infotrade portal and various women trader initiatives. TMEA has already had a deep, long-term positive impact on the East African trading environment and will continue to do so. Without these kinds of initiatives, future UK-EAC trade liberalisation through policy channels like tariff or RoO liberalisation would be far less effective. The UK government should do more than just continue its current support for TMEA, it should be thinking of how to scale it up and roll it out over different African regions.

The UK Government is no doubt aware of the effects of China’s enormous investment in Africa, which is dramatically increasing Chinese diplomatic and cultural influence over the continent. In Kenya, the Chinese have funded and built the country’s largest infrastructure project in more than 50 years, the standard gauge railway from Nairobi to Mombasa. But this so-called “debt-trap diplomacy” has had some negative effects on countries whose debt for similar projects has spiraled out of control. The leverage China has over these African debtors is therefore considerable. One such country is Djibouti, whose government has reportedly seized control of its Doraleh port container terminal from operator DP World, possibly illegally, in order to give it as a “gift” to China. An increase in this phenomenon is just one of the potential costs of the UK not developing a comprehensive investment strategy for Africa.

There is nothing holding the UK back from enhancing its engagement in all of these areas right now, regardless of Brexit and outside the remit of a UK-EAC FTA.

The UK can learn to some extent from the EU-EAC EPA negotiations in terms of the potential challenges facing the negotiation of its own agreement with the EAC. There will also be concerns raised specific to the UK-EAC relationship, however, including the implications of Brexit on EU market access, liberalisation concerns for certain infant EAC manufacturing sectors like vehicles and apparel, UK consumer concerns on food and environmental standards, and UK public concerns about movement of persons. We highlight some of the potential contextual challenges below, before going on to look at how a trade agreement could address them.

**CONTEXTUAL CHALLENGES**

**Regional relationships**

As discussed above, the EAC’s role within Africa must be viewed in the context of aspirations for inter-regional and eventually continental trade liberalisation. The UK should be mindful of a continental approach even when negotiating a trade agreement with the EAC. Other parallel negotiations will presumably be going on with other ACP partners, which will similarly be based on the EU’s EPA framework. There should be some effort to craft a common approach to these negotiations, with common goals in mind and a shared framework for achieving them, especially for the African agreements. One example would be that the RoO provisions should be the same across all these agreements, as explained above.

This will require a high level of coordination between the teams involved in the negotiations as well as a shared strategy from the outset. It might even be worth sharing personnel across the different negotiations, as far as this is practical. This approach will also improve the transparency with which the UK comes to the various negotiating tables.

**Third country relationships**

The problems posed by Article 15 of the EU-EAC EPA, the “more favourable treatment” clause, have been discussed above. One of the principle concerns of the EAC countries that have not signed the EPA is the extent to which their markets would be exposed to EU competition through the tariff liberalisation schedule. The UK will not get a sceptical country like Tanzania to agree to a trade deal that might extend this liberalisation even further, even if Tanzania was more agreeable to tariff liberalisation vis-à-vis the UK. We discuss a potential UK approach on tariffs below. The UK should not include a “more favourable treatment” clause in its trade agreement with the EAC, since it would undermine any efforts to support regional and continental integration.

If tariffs on certain products were liberalised through a UK-EAC FTA that are currently excluded from liberalisation in the EPA, there may also be diplomatic considerations for the EAC countries considering the potential trade diversion or correction that could occur. For example, Japan, India and the UAE have been long-term import partners of Kenya in machinery, vehicles and transportation equipment, all products the UK exports to Kenya. A rise in Kenyan imports of these products from the UK thanks to liberalisation through an FTA would divert some trade from these other partners, as we show below. Even if this was economically efficient, there could be interest groups lobbying to maintain the status quo in the EAC market. The extent to which the EAC would be happy to accept this trade diversion resulting from liberalisation depends on a number of factors, including how attractive the agreement is in other aspects.

**Post-Brexit market access**

It is well recognised that the UK is the gateway to Europe for many ACP exporters, including those in the EAC. The UK would cease to be such an attractive export destination if it fails to negotiate a close enough trade agreement with the EU. While it is generally accepted that a zero-tariff agreement will be easy enough to negotiate, it is issues such as alignment with single market regulations and RoO that could hinder post-Brexit UK-EU trade. The UK Government’s stated aim is to minimise potential trade friction with the EU while sticking to the general principles of leaving the EU Customs Union and Single Market.
It is somewhat counterintuitive that the loser the UK’s trade ties are with the EU, the more freedom it will have to open its market to EAC exporters in some sectors. As we have seen, Kenyan cut flower exporters are just one group that stand to lose out from hindered UK-EU trade. These potential losses will be more immediate and more quantifiable than the gains they would enjoy in this particular sector from the removal of regulatory barriers. However, this will not be the case for all sectors, as we discuss below.

The UK’s freedom to diverge from EU regulations and to set its own tariffs after Brexit is a consideration well beyond the scope of UK-EA trade, but it must be considered as a potential part of the UK’s development policy arsenal. This should be one of the factors taken into account when the UK decides what direction to take, as well as the opportunities available in the world’s larger, developed markets, and of course the potential increases in UK-EU trade friction. As the UK-EU trade deal is hashed out, the parameters of UK trade with the rest of the world become clearer. However, the UK-EU negotiations must not happen in a vacuum – studies like this will hopefully help the UK side to understand its objectives more clearly.

As mentioned above, the EU becomes a smaller market and a smaller trading partner after Brexit, especially for certain products that are major exports of the EAC countries. They might, therefore, want to factor this in to their ongoing negotiations with the EU and into a renegotiation of the terms of liberalisation in the EPA, for instance, which were entered into under the belief that the EU market included the UK.

Standards concerns

There may be some EAC sectors that could benefit from the UK accepting products that do not comply with EU standards, for instance on MRLs. On the UK side, opening up the domestic market to products that don’t conform to EU regulations could pose political problems as the public voices its concerns over issues like food safety. It might not be enough just to point out that the UK is conforming to the Codex Alimentarius or other global standards, or that the UK legal system protects consumers from unsafe products, or that certain EU standards are in place for reasons other than public health protection.

As we have already seen from media coverage of a potential UK-US trade deal, there is a vocal minority of the British public that will probably oppose any shift in what produce (or the composition of that produce) the UK imports. One might expect this to be a little less extreme when it comes to EAC produce compared to US produce, since many of the people who campaign actively against US standards or a UK-US trade deal are the very same people who campaign against poverty and in favour of fairer trade with the developing world.

Services liberalisation, which we discuss below, could precipitate similar domestic concerns, especially if this is accompanied by new visa arrangements and increased migration from the trade partner countries. Below we discuss the options for more freedom of movement between the UK and EAC countries, especially Kenya, in the context of British public opinion on immigration issues. There are ways of alleviating such concerns, however, and a strong public case must be made for the mutual and visible economic benefits of more liberal trading arrangements. Vocal minorities must be taken for what they are.

OPPORTUNITIES

Inevitably a good starting point for thinking about how to approach a UK-EAC trade agreement is to look at the strengths and weaknesses of the EU-EAC EPA. Various criticisms have been made about the agreement, some of which are contradictory. These concern mostly the tariff elimination commitments of the EAC countries, the RoO provisions, the ban on export taxes, the “more favourable treatment” clause, the “non-execution clause”, and the lack of focus on services and investment. Clearly as a smaller, more open economy with less reliance on agriculture, the UK presents a more flexible potential trading partner than the EU for the EAC countries. Below are the various areas where there are opportunities for improvement on the EPA model, which the UK should consider for its trade agreement with the EAC.

SERVICES TRADE

One of the most obvious omissions from the EPA compared to a modern trade agreement between developed countries is liberalisation of the services sector. As one of the areas outlined in the EPA’s rendez-vous clause, there is a possibility for the UK and EAC to freely explore more open services trade during the five-year review period.

The UK accounts for one fifth of all EU services exports. Services account for almost 80% of UK economic output, and 45% of total UK exports. There is therefore great scope to utilise the UK’s comparative advantage in services to the benefit of both UK exporters and EAC industries and consumers. The services sector provides an especially rich array of opportunities for UK trade with the EAC, including financial services, telecommunications, tourism, education, business process outsourcing and wholesale merchandise.

On the EAC side, its own integration agenda is moving more towards services. An open services sector is required to attract more FDI – investment that is sorely needed to help the EAC economies compete in goods markets. Opening up to services imports and FDI can also be an effective mechanism to increase competition and efficiency in the provision of services in the domestic economy. Services exports are particularly important for land-locked countries, where high transport costs can stifle diversification into the export of manufactured goods. Over the past 10 years, services exports from land-locked African countries (except those which export oil) have increased at over three times the rate of their goods exports.

Balistreri et al. (2008) and Jensen et al. (2008) have estimated the welfare effects of services liberalisation in Kenya and in Tanzania respectively. Opening the market attracts FDI, which lowers the cost of production because the variety of intermediate goods available increases, and the cost of services fall. They estimate the gains from reducing barriers in services to be many times the gains from eliminating tariff protection. For Tanzania they estimate gains from across-the-board services liberalisation of 4.5% of GDP in the medium term and 14.1% in the long term. For Kenya, they estimated the potential gains of services liberalisation with the EU alone, which would be 0.3% of consumption, compared to only 0.1% for services liberalisation with the entire African continent.

Melo and Regolo (2014) point out, however, the lack of developed-developing country reciprocity in this area, which limits agreements to a rather mercantilist “exchange of market access for goods” approach:

“In the EU, sectors such as finance, telecommunications and information technology are already open to all service suppliers, including those from Africa. On the other hand, the EU is very restrictive and not prepared to make offers in the area of greatest potential benefit for Africa — the temporary movement of unskilled workers.”

While the problems identified above regarding (perceived) British attitudes towards immigration might prevent the UK from making a truly open offer in this area, it can surely be a more flexible partner than the EU when it comes to Mode 4 Services (“movement of natural persons”). There may be specific sectors, for instance, where there is already a high level of cooperation or shared practice – this would apply particularly in Kenya – in which the UK would be willing to open up its labour market to EAC workers.

The UK could consider moving towards a framework of mutual recognition of professional qualifications in areas where UK training and certification practices already apply, for instance in the Kenyan accounting and architecture professions. A roadmap that detailed this, as well as ways of expanding UK-style training and certification into more Kenyan and EAC professions, would show the UK is serious about expanding trade. A UK-EAC FTA might not be the best platform for this at first; the UK could begin with a separate bilateral agreement with Kenya and then expand if successful.

High-skilled immigration is not viewed particularly poorly in the UK, so this should not be too controversial. When it comes to other types of migration, post-Brexit there are certain sectors across the economy that predict labour losses due
to a projected reduction in EU immigration, and Brits have consistently supported migration aimed at filling jobs. Polling[64] also shows that British people value speaking English and a commitment to the British “way of life” as important migrant criteria, which is where many potential migrants from Commonwealth countries have an advantage. And polls[65] have also shown that students are the least negatively viewed group of migrants in the UK, so an offer on student visas could also help to build a more reciprocal base for services liberalisation.

Finally, common complaints from businesses both in the EAC and the UK are that short-term visas for business travel for EAC nationals are frequently refused or take a long time to process. This hampers business cooperation and creates a poor impression of the UK’s willingness to do business with the region. The UK should at least commit to making this process faster and smoother, perhaps as a prelude to future liberalisations. There is no need to wait for negotiations on a trade agreement to do this, and it is something that can be addressed before Brexit.[66]

It is worth noting that alongside any services liberalisation agreed in an FTA, there should be efforts to address deficiencies in technical capacity among the EAC countries, which makes services liberalisation difficult. Brenton et al. (2010) explain that, “the complexity arises from the necessity for many services sectors to be regulated in order to ensure that they operate efficiently in the face of market failures. Opening up to services trade in the absence of appropriate regulations may not necessarily increase trade and generate greater efficiency in the provision of services.”

They mention the limited services provisions in the CARIFORUM EPA as a potential model for engagement with the African regions on services liberalisation. These include frameworks for the regulation of a number of services sectors; cooperation between competition authorities, with specific commitments in tourism; and expanding the temporary employment of skilled professionals. Technical assistance can and should form part of the UK’s overall development approach in Africa, for instance through cooperation between competition authorities.

Given the limited capacity of African countries to implement widespread services liberalisation, Brenton et al. recommend trade agreements to “focus on priority services sectors from a development perspective (in most countries these are likely to include transportation, telecommunications, electricity, finance, and business services)” rather than “a broad but shallow preferential trade agreement that involves negotiations across all sectors and modes of supply.” These priority sectors still provide good opportunities for UK exporters, since the UK leads the way in some of these sectors. While it would be helpful to enshrine this in the UK’s trade agreements with developing countries, it must not be limited to those countries that have signed an agreement, and more can and should be done to develop regulatory cooperation outside of trade agreements.

INVESTMENT

Investment and private sector development are also part of the EPA’s rendez-vous clause, so as yet this is an underdeveloped aspect of EU-EAC trade, and an area where the UK has a comparative advantage. The UK has already seen great success in some of its public and private investment in the region, for instance TMEA’s work in breaking down trade barriers; Hela Clothing’s development-oriented investment in manufacturing; and the poverty reduction effects of the world-leading M-Pesa mobile payments system. As mentioned above, these kinds of projects and innovations do not require a trade agreement and should not in any way depend on the status of a future UK-EAC FTA.

There are some benefits, however, to including an investment chapter in a trade agreement. It can provide a legal platform that gives greater reassurance to potential investors and recipients alike. The UK Government has announced an “Invest Africa” initiative as part of its aid spending, which it hopes will result in between £400 million to £1bn of new FDI in African manufacturing (including agro-processing and high value services). The chances are well with EAC ambitions in raising the contribution of manufacturing to their economies. Promoting manufacturing activity is one pillar of President Kenyatta’s “four pillar” plan for Kenya over the next five years.

One pillar of DFID’s Economic Development Strategy 2017 is: “Making it easier for companies – including from the UK – to enter and invest in markets of the future, working collaboratively with businesses to understand the barriers to accessing these markets and work to make it easier for them to do business that reduces poverty.”

It would be odd, therefore, not to enshrine this in an FTA with the EAC, with some detail on how the initiative will impact the EAC members specifically. As well as giving these countries certainty that they will see some of the fruits of the Invest Africa initiative, it would provide them with an opportunity to share the details of the scheme. Specific sectors of importance for the development of the EAC economies could be mutually identified for a particular focus for FTA commitments. Applying the same approach to its negotiations with other African partners could help the UK to develop an even more cohesive and consistent African investment strategy.

On the EAC side, there should be commitments to opening up the private investment environment by reducing some of the cost of doing business for investing companies. These commitments could be made in the areas identified as priority sectors for the EAC economies, for instance in certain manufacturing sectors, transport, energy and finance. Working together to overcome barriers in adding value to products, whether in manufacturing or elsewhere, we have seen from the Hela Clothing example and the needs of the tea industry that one of the most practical solutions is joint ventures, through which local know-how is built alongside value added capacity. The EAC Governments should consider ways of smoothing entry into the market for such business ventures, while the UK Government should commit to advertising these new opportunities for joint ventures in key sectors to its business communities.

REGULATORY ENVIRONMENT

Technical assistance

Melo and Regolo (2014) conclude that the EPA should have focused more on technical assistance in helping EAC firms address regulatory divergence and RoO:

“The experience of the EAC and the results of this paper suggest that the negotiations which have focused on a ‘shallow’ exchange of market access in goods markets will have negligible effects. Negotiations should have rather focused on providing the aid-for-trade benefits, and technical assistance learned from other experiences with integration in services sectors, in order to ensure that the appropriate supportive regulatory framework in the EAC is adopted sector by sector.”

Articles 93-97 of the EPA address SPS measures and technical barriers to trade. The EU commits to providing technical assistance in areas like inspection; certification; supervision and control; use of international standards; risk analysis; harmonization; compliance; testing; residue monitoring; traceability and accreditation. Apart from one or two specifics like “upgrading or setting up of laboratories and other equipment”, the agreement does not say how, when or where this assistance will be given, through what agencies (existing or new) or in what particular production sectors.

A UK-EAC trade agreement must address more clearly how difficult it is for EAC exporters to comply with UK standards regulations, regardless of whether these change after Brexit. To that end this agreement can go much further than the EPA in setting up a technical assistance framework, to which it must allocate appropriate funds. Relevant

[69] See Box 1 in UK Parliament Select Committee on International Development Written Evidence (2005) for an interesting outline of an “ACP Business Travel Card”.

IFT | The future of UK - East Africa trade
Public standards

Beyond technical assistance, how can the UK ease the regulatory burden on EAC exporters? The limitations of removing regulatory burdens in sectors that currently export to the EU must be accepted. Where a production line has been established to meet EU standards, there might not be a benefit in producing to different standards for a smaller market. This would apply to exports like tea, coffee, and cut flowers. However, there may be some exports that would benefit from a different UK regulatory environment:

- Products whose only current export destination is the UK (Kenya exports 213 product lines to the UK only). An examination of these product lines should be undertaken in order to identify current trade frictions and opportunities for removal.

- Products with limited or no exports to the EU or UK but good potential in the UK market. Annex II identifies “new product” opportunities that could help the EAC countries prioritise their main asks in terms of NTB removal.

- Products for which the UK is currently a disproportionately large market compared to the EU.

Categories one and two clearly do not cover much current trade, but increased trade in such products in the future would help to diversify EAC exports and could aid industrialisation if some of the products fell in infant manufacturing sectors such as textiles (see Annex II). Once these target sectors or products have been identified, the UK can assess how to ease the regulatory burden on them to make exporting more attractive. The UK could extend its technical assistance commitments to a consultation process with infant industries, whereby the UK not only helps EAC industries to develop the relevant compliance capacities, but also takes the production capacities of the industries themselves into account when setting or adjusting its own regulations.

The third category is worth considering further. Take Kenyan beans and peas, for instance, where the UK accounts for over half of Kenyan exports. If the UK were to raise its dimethoate MRL to the Codex Alimentarius level of 1.0mg/kg, would the Kenyan Government lift its ban on the chemical? Would farmers begin using pesticides containing dimethoate again after all the time and energy they have spent finding alternatives? If they did, they would need to separate their crops so there was no contamination of produce destined for the EU at all stages – growing, sorting and packing. This might expose producers to increased compliance requirements and in-market safety checks, as EU importers realise that production using dimethoate for the UK market may be occurring alongside production for the EU market. Exporters would still be vulnerable to arbitrary bans by EU member states fearing contamination, such as France’s ban on all cherries imported from countries where use of dimethoate is legal. And they might worry that the UK government could reduce the level again at any time. Resetting MRLs for chemicals used in areas where there is already production for export to the EU market will probably not make life easier for EAC farmers.

What about marketing standards? Can the UK allow greater volumes of bendy Kenyan beans into its market? The UK could reset its marketing standards, deviating from the EU and UNECE fruit and vegetable classification framework, in order to allow a wider range of produce into the higher class bands. Bendy beans, for instance, could be allowed into Class I. It could even do away with the class bands altogether. This would essentially mean passing on all standards-setting competence to private UK buyers and retailers like supermarkets.

Private voluntary standards

UK supermarkets would still want to set standards for the produce they put on the shelves according to their perception of customer tastes and in accordance with their strict liability under UK food safety laws. If this means demanding, in order to be sold at full price, that all beans in a pack are the same, normative length, colour and shape, this is what they will do. In practice, therefore, Kenyan beans producers would be facing the same demands they always have, even if the framework of public standards is more relaxed.

There is some evidence of UK supermarkets changing their PVS in response to their perception of a better-educated and more open-minded customer. In 2016, Tesco relaxed its requirements on size range for Kenyan green beans, and sold them for the first time – at full price – without their strings trimmed. The UK Government could encourage such behaviour through a more relaxed public standards framework, but it could go further. It could, for instance, as EU importers realise that production using dimethoate for the UK market may be occurring alongside production for the EU market, encourage such behaviour through a more relaxed standards setting approach (similar to the proposal for tea origins labelling) that can be an incentive for supermarkets to offer more and of this kind of product. In general, the UK Government should carefully monitor the evolution of PVS and their effect on developing country producers. A general strategy for engagement with large retailers should be established, which incentivises easier access for developing country produce. This should be carefully thought through, with extensive engagement with the farmers themselves. For instance, which kinds of producers would benefit from which kinds of relaxed standards (like not having to cut off their beans’ strings)? Some small-scale producers selling to a smaller number of buyers might not have the capacity to separate their production into different classifications. Some larger producers might not see the benefit in doing so if they already have good business selling to large retailers. It will be important to find out what the farmers themselves want.

Genetically modified organisms

EAC producers might not be in a position to take advantage of a more open UK policy on GMOs. Lifting import restrictions on GM products would currently benefit producers from countries with advanced commercial GM sectors like the US, Brazil and Argentina. In the long-term, African producers could potentially benefit in areas where there is no production for EU markets, or other markets with heavy GMO restrictions. But first the technology must be developed, and African producers and consumers must be convinced of the benefits of GMOs in the first place. This is where the UK can deliver benefits to African agriculture; as a world leader in agri-tech, the UK should develop a plan for investing more in African-led GMO research and in related information campaigns aimed at a local audience.

Liberalisation platforms

Finally, the UK should consider the non-discriminatory nature of removing or adjusting regulations. Changes in GMO policy or MRL levels, for instance, might not benefit the EAC or African producers any more than those in other parts of the world. It would depend on who their competitors were in the UK market in the affected product areas, and how easily those competitors were meeting the current standards. Indeed, in the case of lifting restrictions on GMO imports, other countries would benefit much more. UK consumers would benefit, however, from the growth in competition and the increased choice and lower prices that come with it.

One way of focusing some of the potential benefits on African producers would be to limit certain regulatory liberalisations to its trade agreements with African regions. In this case, negotiators would need to work up a list of EAC products in categories 1 and 2 (above) which could potentially benefit from the removal of regulatory barriers in the UK market. The trade agreement could commit the UK to recognising achievable EAC standards for these products (that would not meet EU standards) as acceptable for import into the UK. This approach makes trade agreements more complex and

(70) See Henson and Humphrey (2006) for more on the effect of buyer/retailer liability laws on the proliferation of private standards.

IFT | The future of UK - East Africa trade
potentially denies the benefits of more open regulation to a wider group of countries (including other developing countries).

Development objectives must therefore be balanced with domestic economic objectives in deciding how to go about any regulatory reform. Similarly, development objectives must be balanced with the views of interest groups in the UK that would oppose letting in produce not compliant with EU standards. And finally, development objectives must be balanced with any losses caused by increased trade friction with the EU that could result from the UK altering its regulatory environment after Brexit. At all points the UK government should be clear on the benefits of these policies to developing economies, so that it can disseminate the right information to UK stakeholders and the general public.

RULES OF ORIGIN

The UK could substantially loosen the RoO requirements for EAC exporters in its trade deal with the EAC, compared to the RoO provisions in the EPA.

As mentioned above, a recent study (Felbermayr et al., 2018) shows that fears of trade deflection – the main justification for imposing RoO – are largely misplaced. It finds that “in 78% of all country-pair-product combinations, trade deflection is not profitable” for two reasons: either the country through which third countries could potentially cross-haul sets a higher tariff than the destination country, making trade deflection unprofitable, or the additionally arising transportation costs from cross-hauling turn out to outweigh the tariff savings. The study recommends a new approach to the use of RoO in FTAs:

“... one could substantially relax the requirements to prove the origin of goods in many FTAs without risking any trade deflection. More specifically, we suggest that, in new FTAs, negotiators do agree on a full set of RoO for all products, but that the requirement to prove origin is activated only if external tariffs of FTA members differ by some minimum amount. This threshold could be product-specific in order to reflect different transportation costs and actual tariffs should be periodically evaluated against it, since applied tariffs may change over time.”

In the case of a UK-EAC FTA, it is likely that in the vast majority of product areas, the UK external (MFN) tariff will be lower than or equal to the EAC tariff. For all these product areas, there would be no RoO requirements on EAC producers at all. For products where this is not the case, there might still be no need to activate RoO for EAC producers if the tariff difference is small enough that estimated transport costs would render trade deflection unprofitable.

Where origin did need to be proved by EAC exporters, the UK could ease the burden in a couple of ways. Firstly, it could reduce the minimum in-country value-added requirement for originating status on key products where it is currently high, responding to specific demands of the EAC countries themselves. Annex II shows how the EAC might want to identify key sectors for RoO liberalisation. Secondly, cumulation should be more flexible among all African countries, as well as countries with which the UK has zero-tariff arrangements – with no product or sectoral exceptions. In the EPA RoO, cumulation is only flexible between countries with zero-tariff arrangements with the EU (ie. not all African countries) and not for agricultural produce.

The UK market would immediately become a more attractive destination for a wide range of EAC producers. The benefits to EAC exporters and the UK consumers who would enjoy more of their produce are obvious. There is no doubt the UK would benefit more broadly from pioneering such an approach to RoO, which have proved to be one of the most damaging non-tariff barriers to trade and a particular burden on the developing world. The UK should aim eventually to apply the same RoO approach across the board in its trade policy, with a view to minimising the supply chain distortions caused by varying RoO.

This applies more urgently to ensuring that the same RoO are included in all the trade agreements the UK negotiates across Africa, and also in its new GSP scheme. As described above, a GSP scheme that provided special preferences to African countries through a WTO waiver would provide both DFQO access to all African countries, as well as a common RoO scheme. This would mean that all African countries would be covered by the same, liberalised RoO, which not only followed the Felbermayr et al process of only applying RoO in certain limited circumstances, but also allowed cross-continental cumulation when origin did need to be proved. This would help to facilitate the development of intra-African supply chains, and perhaps even provide a positive example for other developed countries to follow in their trade engagement with developing economies.

Regarding the RoO applying to UK exporters, the UK faces the same problem across the board in its trade relationships: many UK products will cease to qualify for preferential tariffs when EU inputs are automatically no longer considered “originating content” after Brexit. The UK has two choices for how to ensure its exporters don’t need to alter their supply chains after Brexit: firstly, when negotiating trade agreements, make sure that the RoO clause stipulates that EU inputs can be treated as “originating material” for the purposes of UK products qualifying for the agreement’s preferential tariffs. Secondly, the UK could negotiate a lower minimum requirement for in-country value addition for the specific products or sectors for which this is a problem, for instance automotive. If value added thresholds are being dropped for EAC producers in certain product areas, the UK could argue for reciprocity there.

Cars, tractors and delivery trucks make up a large proportion of UK exports to the EAC – over 20% of UK exports to Kenya and a similar proportion to the EAC as a whole. As most trade agreements, the EPA stipulates that for EU vehicles to gain originating status, 50% of the value of the product must be added in the EU. For UK car manufacturers to add 50% of the value of the product in country will be difficult to achieve when EU value-added can no longer be counted; estimates from the Society of Motor Manufacturers and Traders is that a maximum of 40% of the value is currently added in the UK. It is difficult to estimate the potential losses to UK car exporters of losing tariff preferences without delving further into the details of exactly what is exported and in what proportions, since the EPA does not liberalise EAC tariffs for all vehicle types anyway.[71] The impact would certainly be less severe compared to loss of auto sector preferences in other markets.

Both the first and the second options the UK could ask for would be considered hefty concessions for the partner country to make. Regarding the first option, the EU would surely demand similar treatment from the EAC for the cumulation of its products using UK inputs, which would require an update of the EPA. This could result in what is known as diagonal cumulation across all three trading partners, but the benefits would still be felt largely by the UK and EU exporters, who manage more complex and valuable international supply chains than their EAC counterparts.

Liberalising RoO for EAC producers has a strong development rationale and is a very good idea in its own right. To the extent that trade deflection can be ruled out, UK exporters would also benefit from this new approach advocated by Felbermayr et al., but EAC exporters would certainly be the main beneficiaries. This, of course, has the added benefit of giving the UK more negotiating leverage with the EAC over RoO for its own exporters, which, as explained above, will require some concessions from the EAC countries.

SAFEGUARDS

As discussed above, there are elements of the safeguard provisions in the EPA that the EAC countries are unhappy with, and this is an area where the UK can afford to be more accommodating to EAC interests with a view to achieving agreement on other aspects of a trade agreement. Firstly, the UK would not need a special safeguard for sugar as the EU has. Secondly, the UK could consider committing not to impose any bilateral safeguards on the EAC countries at all. This would be a major sign of good will and would
carry hardly any economic risks. UK negotiators should ask themselves how likely import surges from EAC countries will be, considering the EAC countries have had DFQF access to the UK market for some time, and considering the comparative competitiveness of EAC produce in relevant sectors.

Equally important will be to make it easier for the EAC to utilise the bilateral safeguard mechanisms provided for in the agreement. Again, UK negotiators should consider the likelihood of the EAC countries experiencing import surges from the UK in the EAC’s sensitive sectors, even if the EAC was to expand its current level of tariff liberalisation. It is important for the EAC countries to feel the safeguard option is truly open to them regardless of how likely they are to invoke it. In order to do this the UK could eliminate the requirement to prove causation and reduce the evidence-gathering burden on EAC entities. Other changes the UK could make to the EPA’s safeguard provisions include removing the sunset clauses on EAC safeguard measures. Again, this would be largely symbolic, as the likelihood of any safeguard measures being implemented by the EAC for that long without a mutual resolution is negligible.

Another option, if the UK wants to acknowledge the different stages of development of the EAC countries, would be to apply these provisions asymmetrically across the EAC countries. A no-safeguard commitment by the UK could apply to all EAC countries apart from Kenya, for example. The burden on Kenya to gather evidence and prove causation between import surge and damage to industry could be slightly higher than that placed on the other EAC countries. The sunset clauses could remain in place in Kenya. In general, however, where there is minimal risk of economic damage to the UK, there is no reason not to treat all the EAC countries the same. Differential treatment could be saved for areas of greater concern to the UK or for issues with more bearing on the outcome of the negotiations.

One of the benefits of strengthening the bilateral safeguard measures available to the EAC countries is that it can compensate for worries about negative effects of tariff liberalisation on certain infant industries and sensitive sectors. Knowing that they can take action if disruption occurs due to increased UK imports in certain areas, the EAC countries should be more comfortable with tariff liberalisation.

**EXPORT TAXES**

The provisions of Article 14 of the EPA are unpopular among the EAC countries since they prohibit export taxes except by notification to the EU in certain special, time-limited circumstances. The EAC states have argued that this stems from the EU’s desire to secure continued access to cheap imports of primary products from the developing world, enshrined in the Raw Materials Initiative.291

On principle the UK might not want to encourage developing countries to use export taxes to achieve their industrialisation goals, since the harm they cause in terms of limiting economic activity is immediate while the long-term supposed gain of stimulating higher levels of GDP is speculative. The UK is likely to reject any proposals to implement export taxes on products destined for export to the UK would negatively affect EAC-UK trade flows; UK industries using inputs normally imported from the EAC and the UK consumer could suffer if these products were to become more expensive or stop being exported altogether.

However, the importance of these provisions in gaining support for a trade agreement among the EAC LDCs, especially Tanzania, makes concessions worth thinking about. If the UK could offer slightly more flexibility than what is currently in the EPA, it could build more support for the trade agreement as a whole, while not exposing UK industries or the consumer to a significantly higher risk of damage from import disruption. The UK could, for instance, extend the time limit on the application of export duties beyond 48 months, and it could get rid of the “more favourable treatment” clause that prohibits duties being put on products destined for the UK if they are not also put on similar products destined for other major economies. If the UK proves itself a more flexible and open trading partner than the EU in terms of agricultural subsidies, rules of origin, technical assistance and other aspects, it is unlikely that EAC member states would want to apply export duties that would disproportionately affect the UK compared to other comparable economies.

Finally, this might be an area where the UK could consider differential treatment between Kenya and the other EAC member states, as a way of promoting the move away from export duties in a more developed economy. The UK could suggest an arrangement similar to the EPA status quo for Kenya, with the modifications mentioned above applying only to the other EPA member states.

**TARIFFS**

The UK can do no more to liberalise its tariff regime compared to the EPA provisions: DFQF access to its market for EAC countries. As discussed above, the basis for this access should be the UK’s unilateral non-reciprocal preference scheme, which would put Kenya on an equal footing in negotiations with the other EAC countries when it comes to the UK’s EAC trade agreement. As things stand, Kenya is in a much weaker negotiating position compared to the other EAC countries because it is the only one that does not enjoy DFQF access to the EU market through unilateral preferences, being covered by the standard GSP rather than EBA.

The most difficult element of the UK-EAC trade relationship to be settled will be tariff liberalisation on the EAC side. It is clear that none of the EAC partners were happy with the extent of tariff liberalisation in the EPA, even those countries that signed it. This is difficult for the UK, which is trying to promote the principles of open trade as a route out of poverty for the developing world. Numerous studies294 have shown that developing countries which eliminate their tariffs grow more quickly than those which don’t. There are, however, visible and immediate economic losses from tariff reductions, namely loss of government revenue, and the spectre of a flood of cheaper imports from the more developed trading partner that would hit certain sectors harder than others. The economic gains are more long-term and disbursed widely among consumers and import-using industries.

In the context of the EPA, Melo and Regolo (2014) estimated the effect of full (ie. 100%) EAC tariff liberalisation on EAC border levies revenue in Uganda and Rwanda, and found a loss of 2.5% and 3.3% respectively. They also estimated impacts on welfare and efficiency to be negligible across the EAC members. This contradicts other research on the estimated impact of the EPA, which clearly soured the EAC countries’ view of the effect of the EPA’s liberalisation on their economies.296 The UK should certainly make a similar commitment to the one made by the EU to the EAC countries in the EPA, to provide “financial resources to cover transitionally the agreed losses of government revenue arising from elimination and or substantial reduction in customs tariffs.”

It should be remembered, though, that non-tariff barriers are generally speaking more damaging to trade than tariffs, so fixing on tariff liberalisation would not be a good use of negotiating time. That is an important lesson to be learnt from the EPA negotiations. There are many barriers to UK exports to the EAC countries that are far more significant than tariffs, including issues like infrastructure, licences, corruption and the cost of energy which are not directly linked to trade policy. Within the trade agreement, RoO liberalisation or services liberalisation would have a much larger positive effect on trade than tariff liberalisation (Melo and Regolo 2014).

In terms of potential gains or damage to UK exporters, Melo and Regolo (2014) note that low-income countries often do not apply the statutory tariff rate on imported goods, and this is more common in the higher tariff bands. For Rwanda and Uganda, for instance, the simple average applied tariff in the CET’s 25% tariff band is 17%. This means that the actual tariff being charged on products

---


[294] Measuring tariffs: VAT and excise taxes

excluded from liberalisation would not necessarily be as high as the statutory rate suggests. For all the reasons discussed, the tariff barriers faced by UK exporters should therefore not be a primary concern in these negotiations.

However, in order for the trade agreement to be WTO-compatible (with the “substantially all trade” provision of Article XXIV), a certain level of tariff liberalisation must be achieved on the EAC side. The UK does not necessarily need to stick to the level of EAC tariff liberalisation in the EPA (82.6%); other trade agreements between developed and developing countries have provided for less developing economy liberalisation without being challenged at the WTO. Securing less EAC liberalisation than the level in the EPA would also preclude the “more favourable treatment” clause from coming into play, whereby the EU would demand further EAC liberalisation in the EPA if the level of tariff liberalisation exceeded 82.6% in a UK-EAC FTA.

The negotiating partners should also discuss a simplified implementation schedule for the agreed liberalisations. In most FTAs, tariff reductions are spread over a period of less than 10 years, whereas the EPA gives the EAC countries 25 years to implement the third wave of liberalisation. Ideally a UK-EAC trade agreement would remove the 25-year implementation band. Tariff lines could then perhaps be more evenly distributed between an immediate implementation band and a 10-year band. If this proves difficult, this could be an area to explore differential treatment for Kenya, which could liberalise on an accelerated pathway compared to the other EAC members.

As Kenya is a significantly larger economy than its fellow EAC member states, there could be an argument for treating Kenya differently. Annex 1 shows the immediate effects on Kenyan imports from the UK of 100% tariff liberalisation. It could be worth modelling the effects of 100% tariff liberalisation on the Kenyan economy, even if just as an economic exercise, to allay existing liberalisation fears among developing country partners. Coming to this kind of agreement with Kenya would certainly allow for more lee-way in the extent of liberalisation vis-à-vis the other countries, which could help secure EAC-wide approval of the agreement. However, allowing for different levels of tariff liberalisation among the EAC states undermines their Customs Union since they cannot properly implement the CET. An accelerated implementation pathway for Kenya would mean a limited time period in which some of the EAC tariffs were not aligned for UK imports, but it would at least be for the short term.

It is worth mentioning again the “more favourable treatment” clause of the EPA. If the EU feels that the EAC tariff regime negotiated in this agreement is “more favourable” than the one in the EPA, it will ask the EAC to reopen discussions on the extent of EAC liberalisation in the EPA. The EU might calculate this by the percentage of EAC tariff lines liberalised, but they might also want to take into account other factors like the speed of implementation.

See Hadji (2009) for an explanation of why 60% would be a legally acceptable level of liberalisation for a developing country when its developed partner liberalises 100%.
Brexit presents both challenges and opportunities for UK trade with the developing world. One of the most significant challenges is the time restrictions imposed by the Brexit timeline, with deadlines for both withdrawal and the end of the transition period not too far away. Similarly, EU membership has left the UK with a lack of experience and personnel in trade policy and negotiations relative to similar-sized economies outside the EU. There is a great deal to decide and to implement in a short time.

For this reason, we have split our recommendations for UK policymakers into three categories: short-term (meaning urgent); medium-term (meaning implementation from 01 January 2021); and long-term.

The continental approach we advocate means that many of our recommendations go beyond just what works for UK-EAC trade, but can be applied across the African continent. Similarly, we support an approach that puts more weight on the unilateral preference scheme and less on trade agreements as the basis for preferences than is currently the case (with an important role remaining for trade agreements, at least in the medium term), meaning some of our recommendations are relevant to the UK’s policy towards the entire developing world.

RECOMMENDATIONS FOR UK POLICYMAKERS

Short-term

1: Transition commitments: lock transition arrangements for continued participation in EU GSP and third country agreements into a legally binding UK-EU agreement that can be signed and ratified more quickly than the Withdrawal Agreement.

2: Bilateral contact: create a platform as soon as possible for regular, coordinated bilateral contact with the EPA regions, like trade working groups, to discuss transition (including the signed UK-EU agreement mentioned above) and the future relationship. This might include making early agreements on issues outside the FTA remit like visa facilitation/liberalisation or investment commitments, which would build a positive atmosphere for future talks.

3: Non-reciprocal unilateral preferences: urgently formulate a new GSP scheme through a WTO waiver. It should contain at the very minimum DFQF access to the UK market for all LDCs and all other developing countries that currently enjoy it through EU trade agreements. The UK could also consider a slightly broader waiver to include all African countries in its DFQF market access provisions. GSP RoO should be liberalised as per the recommendations (eg. full flexible cumulation) and harmonised with all African trade agreements. The new GSP scheme must be notified at the WTO and be ready to take effect on 01 January 2021.

Medium-term

4: Agriculture subsidies: more detail on the UK’s new agriculture policy, expanding on the idea of replacing the CAP Basic Payment Scheme with an environmental land management system, should be released. An impact assessment of new policy options on developing countries’ agricultural exports should be undertaken as soon as possible. If a legal framework can be locked in before 01 January 2021, it could play positively into the UK’s negotiations with the EPA regions.

5: FTA negotiations: in the regional working group discussions, once broad agreement is reached on the transition approach, begin negotiating new agreements with the EPA regions that should ideally take effect on 01 January 2021. The EPAs should form the model, since time is of the essence, but improvements can and should be negotiated from the outset – see our table of recommendations below.

6: Harmonising FTAs: The provisions in the new trade agreements negotiated with the African regions should be aligned and consistent with a continental approach. This will require building a solid platform across the different negotiating teams for sharing strategy, information and personnel. Priorities would include liberalised RoO, rules on safeguards and export duties, and the method of calculating tariff liberalisation.
Figure 30 Summary table of recommendations for a UK-EAC trade agreement

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>CURRENT STATUS (EPA)</th>
<th>RECOMMENDED CHANGES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MORE FAVOURABLE TREATMENT</strong></td>
<td>The UK-EAC trade deal is up to six months old. The UK-EAC trade agreement is not included in a UK-EAC trade arrangement as it underestimates East Africa's ability to freely pursue its own interests in reducing the regional and continental integration the UK should be trying to support.</td>
<td>This type of clause should not be included in a UK-EAC trade arrangement. It undermines East Africa's ability to freely pursue its own interests. Failure to include the regional and continental integration the UK should be trying to support.</td>
</tr>
<tr>
<td><strong>NON-EXECUTION CLAUSE</strong></td>
<td>Another non-execution clause in the EPA that gives the EU the authority to suspend the provisions of the EPA where it deems any of the partner countries have failed to respect human rights, democratic principles and the rule of law.</td>
<td>A UK-EAC trade agreement should not make its provisions contingent upon perceived good governance in the EAC member states as there are other avenues through which to address governance issues (e.g. Cotonou Agreement and UN Charter). Trade agreements should be based on economic principles alone. If necessary, for the avoidance of doubt, a specific clause should be included that makes it clear that the relevant Cotonou articles (96 and 97) do not apply to the trade agreement, regardless of the UK's status vis-a-vis Cotonou.</td>
</tr>
<tr>
<td><strong>SERVICES LIBERALISATION</strong></td>
<td>There are no provisions in the EPA on services; it is one of the areas outlined in the EPA's rendez-vous clause, to be addressed during the five-year review period. A major criticism of the EPA was its shallow focus on tariff liberalisation and lack of focus on services and investment.</td>
<td>There should be a services chapter in a UK-EAC FTA. It should focus on priority services sectors for development like transportation, telecommunications and finance, rather than &quot;broad but shallow&quot; commitments across all sectors. Negotiators would need to work up a list of EAC products for EAC exporters, and the FTA provides a limited platform for these kinds of liberalisations, but it would be the only way of targeting them at EAC exporters specifically. Negotiations would need to work up a list of EAC products which could potentially benefit from the removal of regulatory barriers in the UK market. The trade agreement could commit the UK to recognising achievable EU standards for these products (that would not meet EU standards) as acceptable for import into the UK. Other ways of improving the regulatory environment for EAC producers might include voluntary commitments that encourage UK buyers of EAC product to improve product labelling on origin (for tea, for instance).</td>
</tr>
<tr>
<td><strong>INVESTMENT</strong></td>
<td>As with services, there are no investment provisions in the EPA as the issue falls under the rendez-vous clause.</td>
<td>There should be some commitments on investment in a UK-EAC FTA, including detail on EPA-specific elements of the UK's 'Invest Africa' initiative, developed in consultation with EAC partners. The FTA should commit to minimising the cost of doing business for investing companies in certain key sectors, focusing especially on smoothing market entry for joint ventures. The UK could commit to a publicity campaign or similar, aimed at the UK business community, on these specific joint venture opportunities.</td>
</tr>
<tr>
<td><strong>REGULATORY ENVIRONMENT</strong></td>
<td>There are some short chapters in the EPA on mutual aims in reducing technical barriers to trade and in achieving SPS goals. The EU makes general commitments to providing technical assistance to the EAC members in a manner that might include inspection, certification, testing, risk analysis and traceability. However, these chapters are short on detail and most likely fall short of the necessary platform for technical assistance required in a trade agreement between a developed and developing economies.</td>
<td>A UK-EAC trade agreement must include a more expanded, flexible framework for technical assistance, appropriately founded and addressing the key requirements and sectors in which EAC partners identify gaps in capacity. As the UK, in detail, in the most crucial areas will be more important than broad commitments across all aspects of compliance across all sectors. In terms of improving the UK regulatory environment for EAC exporters, an FTA provides a limited platform for these kinds of liberalisations, but it would be the only way of targeting them at EAC exporters specifically. Negotiations would need to work up a list of EAC products which could potentially benefit from the removal of regulatory barriers in the UK market. The trade agreement could commit the UK to recognising achievable EU standards for these products (that would not meet EU standards) as acceptable for import into the UK. Other ways of improving the regulatory environment for EAC producers might include voluntary commitments that encourage UK buyers of EAC production to improve product labelling on origin (for tea, for instance).</td>
</tr>
</tbody>
</table>

**RULES OF ORIGIN** | The RoO provisions in the EPA are very flexible; only 7% of trade is subject to RoO. There are insufficient RoO restrictions, particularly those that are necessary to protect EU producers. There is virtually no safeguard clause for safeguarding EU producers. | The UK-EAC FTA should make provision for strict rules of origin thresholds in order to protect UK producers. There is virtually no safeguard clause for safeguarding EU producers. There is virtually no safeguard clause for safeguarding EU producers. |

**SAFEGUARDS** | The bilateral safeguard provisions in the EPA are too complex and unworkable. They could make it difficult to gain access to the EU market. | The UK can remove the safeguard clause. The UK should commit not to apply bilateral safeguards on EAC products. The sunset clauses and the requirement to prove causation should be removed, and the evidence-gathering burden on EAC entities should be reduced. Different provisions for Kenya could be considered. |

**EXPORT DUTIES** | The provisions of Article 14 of the EPA are broad but shallow and non-binding. | The time limit on the application of export duties should be extended beyond 48 months. The "more favourable treatment" clause that prohibits duties being put on EU-bound products if they are not also placed on similar products destined for other major economies should be removed. Differential treatment could be considered for Kenya, for instance, retaining the sunset clause. |

**TARIFFS** | The EPA provides DPFQ market access for all EAC products into EU market. EAC committed to liberalise 82.6% of trade, with 64.4% of tariff lines liberalised immediately, 15.3% in 10 years and 2.9% in 20 years. Sensitive products exempt from liberalisation make up 17.4% of tariff lines, including agricultural produce, chemicals, plastics, cars and car parts, wood, textiles and clothing, and footwear. | The UK-EAC FTA should liberalise trade in a more timely manner, with 82.6% of trade liberalised immediately, 15.3% in 10 years and 2.9% in 20 years. All sensitive products should be liberalised immediately. The UK-EAC FTA should negotiate a more ambitious liberalisation schedule, with 82.6% of trade liberalised immediately, 15.3% in 10 years and 2.9% in 20 years. All sensitive products should be liberalised immediately. |

**EXPORT DUTIES** | The provisions of Article 14 of the EPA are broad but shallow and non-binding. | The time limit on the application of export duties should be extended beyond 48 months. The "more favourable treatment" clause that prohibits duties being put on EU-bound products if they are not also placed on similar products destined for other major economies should be removed. Differential treatment could be considered for Kenya, for instance, retaining the sunset clause. |

**TARIFFS** | The EPA provides DPFQ market access for all EAC products into EU market. EAC committed to liberalise 82.6% of trade, with 64.4% of tariff lines liberalised immediately, 15.3% in 10 years and 2.9% in 20 years. Sensitive products exempt from liberalisation make up 17.4% of tariff lines, including agricultural produce, chemicals, plastics, cars and car parts, wood, textiles and clothing, and footwear. | The UK-EAC FTA should liberalise trade in a more timely manner, with 82.6% of trade liberalised immediately, 15.3% in 10 years and 2.9% in 20 years. All sensitive products should be liberalised immediately. The UK-EAC FTA should negotiate a more ambitious liberalisation schedule, with 82.6% of trade liberalised immediately, 15.3% in 10 years and 2.9% in 20 years. All sensitive products should be liberalised immediately. |

**SAFEGUARDS** | The bilateral safeguard provisions in the EPA are too complex and unworkable. They could make it difficult to gain access to the EU market. | The UK can remove the safeguard clause. The UK should commit not to apply bilateral safeguards on EAC products. The sunset clauses and the requirement to prove causation should be removed, and the evidence-gathering burden on EAC entities should be reduced. Different provisions for Kenya could be considered. |

**EXPORT DUTIES** | The provisions of Article 14 of the EPA are broad but shallow and non-binding. | The time limit on the application of export duties should be extended beyond 48 months. The "more favourable treatment" clause that prohibits duties being put on EU-bound products if they are not also placed on similar products destined for other major economies should be removed. Differential treatment could be considered for Kenya, for instance, retaining the sunset clause. |
Long-term

7: Aid and investment strategy. The UK should develop an Africa Strategy across the development, trade and investment platforms, ideally led centrally by Number 10. This would include: building on the Invest Africa initiative; a more open, transparent and accessible platform for engagement with UK private sector investors; plans to expand TMEA to more African regions; a plan for future EDF participation; incorporating a wider “aid for trade” programme.

8: Review of the UK’s regulatory environment. The benefits to developing countries and to non-EU trade from diverging from the EU regulatory environment in certain areas should be one of the factors considered as the UK negotiates a trade agreement with the EU. However, once the UK-EU trade agreement is signed, the UK will need to reassess how and where it is worth diverging (if this is possible under the new agreement). Of relevance to UK-Africa trade would be:

- Public standards: including a thorough review of areas like MRLs, food classification and GMO policy.
- Private standards: the Government should carefully monitor the development of private standards and their effect on developing economies. A strategy for engagement with large retailers should be established, which incentivises easier access for developing country produce.
- Regulatory cooperation: the benefits of mutual recognition of conformity assessments with African partners should be reviewed, including the potential impact of this on trade with other partners such as the EU. A review of how best to expand regulatory cooperation in services will also be necessary.

9: Review of trade platforms with the developing world. Begin extensive consultations on the prospects for redrawing the platform for the UK’s relations with the developing world, including an Africa-specific review. These would fall into two main categories:

- Non-reciprocal, unilateral: research on extending DFQF-market access to more countries, for instance all developing countries, through a broadened and simplified GSP; and the unilateral elimination of certain MFN tariffs. Research should focus on the effect of these kinds of liberalisations on different types of developing economies and on specific sectors in those economies. The UK should take on a pro-multilateral role at the WTO, providing ideas on how to make the GSP platform more flexible and development friendly.
- Reciprocal: realigning the UK’s African trade agreements to better reflect regional integration, including merging agreements so the same number of countries are covered with fewer agreements. With a view to moving towards a UK-Africa trade agreement, a set of conditions should be drawn up regarding the extent of African continental integration required for negotiations to begin. The efficacy of trade agreements in delivering liberalisations for developing countries should constantly be assessed against WTO developments.

10: Immigration strategy. Freer movement of labour between developing countries and the UK will play a vital role in the UK’s future trade relations with the developing world. Whether that means making it easier for foreign businesspeople to get travel visas, offering more student visas, mutual recognition of professional qualifications or temporary, sector-specific migration agreements – the UK will not convince developing economies to liberalise their markets and to deepen trade relations without well-researched, coherent and genuine offers on these issues. This is especially relevant in the area of services liberalisation, where the biggest gains for the UK economy lie. Given the controversial and asymmetric nature of the issue, time will be needed to develop a strategy that engenders widespread public support.

Some of our thinking behind the recommendations for short- and medium-term action has clearly been informed by ideas regarding the direction we should take on the long-term issues, for instance our preference for a continental approach to Africa; less protection of UK industries from African competition (through subsidies, rules of origin, safeguards and other NTBs); and more open regulatory and migratory environments. It is therefore important to consider the long-term issues right away, so that short-term actions set us off on the right path. We must have an idea of the destination in order to decide how best to get there.

Brexit has given the UK a unique opportunity to reassess and redraw its trade relationships with the countries of East Africa and with the wider developing world. It can improve on trade volumes and deliver greater economic gains to its developing country partners by being a more flexible, open and development-oriented trading partner than it was able to as an EU member. If the UK merely replicates its current relationships in the post-Brexit period an enormous opportunity will be lost, both in terms of potential economic gains to the UK and its trading partners, and in geopolitical terms as the UK sets out its stall as an independent trading entity on the world stage.

Given the asymmetric nature of the UK’s relationship with developing economies and the vulnerability of some of the countries in question, the UK should approach this opportunity with urgency, making it a trade policy priority. But it should also be approached with positivity – no one will be keener to improve upon the status quo than the developing country partners themselves, which include some of the fastest-growing economies in the world.
The realities of negotiating EAC tariff liberalisation have been discussed above. We have argued that spending a great deal of negotiating time and energy on tariff liberalisation exemptions would be disproportionate to the economic impact of tariff liberalisation, especially compared to the impact of removing NTBs and other elements of trade agreements. However, a certain amount of EAC tariff liberalisation is a must to make an FTA WTO-compliant, and it will be necessary to ensure the EAC members are content with the liberalisation provisions in order to move on to the other important aspects of the agreement that we have highlighted.

We identify the UK products whose import into Kenya would rise the most as a result of 100% tariff liberalisation by Kenya vis-à-vis the UK. We do this through product examination at HS six-digit-code level as well as through analysis of applied tariffs on EU products and the EPA exclusion list.

It should be remembered that there is only actually trade diversion if the product imported is produced less efficiently by the UK than the partner from which it was imported before. Similarly, if the partner from which trade was diverted previously enjoyed a more preferable tariff rate exporting into Kenya than the UK, this is trade “correction” rather than “diversion”.

**Methodology**

To estimate the likely changes in UK-Kenya trade following Kenyan tariff liberalisation, we use simulations that are specific, measurable, assignable, realistic and time-related (SMART). SMART estimations are made to assess the impact of tariff cuts on exports and imports as well as excluded countries. One of the advantages of the SMART approach is that it is possible to estimate tariff reduction at a highly disaggregated product level. Such disaggregated product level estimations of tariff liberalisation are not possible in any other model. The model not only estimates the extent of imports that may come from the tariff liberalisation, but also provides results at the product level on trade diversion, including from which country the imports would be diverted.

**Estimated rise in Kenya’s imports from the UK**

The results of full tariff liberalisation show that Kenya’s imports from the UK are estimated to increase from US$516 million to US$614 million, i.e. around a 19% rise per annum. The total increase is of around US$98.04 million, of which US$60.78 million (62%) is trade creation – new imports from the UK – while the remaining 38% would come from trade diversion – imports would be diverted from other countries and imported from the UK. Of the total trade diversion of around US$ 29 million, 30% would be from Japan (mainly in vehicles and electrical machinery) and around 24% from India (mainly in paper and paper boards, articles of iron and steel and ceramic products).

We have identified the products whose imports will rise by a value greater than US$500,000 after full tariff liberalisation. This figure represents a large proportion of the value of many of the UK products imported into Kenya in 2015 which would rise after tariff liberalisation, meaning the import surge in these products could be significant. They are listed below (Figure 31), arranged according to their HS six-digit codes. The largest increase in imports would take place in chapter 87 (motor vehicles) of around US$30 million, followed by chapter 84 (machinery and mechanical appliances) and 85 (electrical machinery, equipment and parts) with a rise of US$4 million each. In these three categories in 2015, the total value of Kenyan imports from the UK was US$185 million.

For all the products on this list whose 2015 imports were worth more than US$1 million, the average rise in imports from the UK would be 47% on 2015 values, a reasonably significant surge. One outlier can be identified: although the rise in imports of road tractors for semi-trailers (870120) would be high after tariff liberalisation – US$5.4 million – this represents a rise of only 9% on the value of 2015 imports. While Kenya is targeting vehicle assembly and the automotive industry in general as a key growth area for the economy, how important is this particular product to that effort?

On the other hand, products 12, 13 and 17 on this list would experience import surges of 360%, 574%...
and 272% respectively. In addition, products 12 and 13 could be inputs in other domestic manufacturing processes, and those industries might gain from access to more UK imports. Kenya has high tariffs vis-à-vis the EU in products where the UK lacks the competitiveness to export to Kenya. Analysis in terms of EAC tariffs applied to EU products shows that in products with an applied tariff above 60% (mainly dairy products), if these were brought down to zero the total increase in imports from the UK would be worth US$711,000; for products with tariffs between 50%-60% (mainly cotton articles and maize) the rise in imports from the UK would be only US$178,000; and for products with tariffs between 35%-50% (mainly woven fabrics) the rise in imports from the UK would be around US$102,000.

Figure 31

<table>
<thead>
<tr>
<th>HS 6-DIGIT CODE</th>
<th>DESCRIPTION</th>
<th>APPLIED DUTY RATE 2015</th>
<th>IMPORTS FROM THE UK 2015 (1000 US$)</th>
<th>TRADE CREATION EFFECT (1000 US$)</th>
<th>TRADE DIVERSION EFFECT (1000 US$)</th>
<th>TRADE TOTAL EFFECT (1000 US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 870332</td>
<td>Motor cars of a cylinder capacity exceeding 1,500 cc but not exceeding 2,500 cc</td>
<td>12.5</td>
<td>13,972</td>
<td>9,681</td>
<td>270</td>
<td>9,951</td>
</tr>
<tr>
<td>2 870120</td>
<td>- Road tractors for semi-trailers</td>
<td>5</td>
<td>59,314</td>
<td>3,185</td>
<td>2,246</td>
<td>5,431</td>
</tr>
<tr>
<td>3 870422</td>
<td>Motor vehicles g.v.w. exceeding 5 tonnes but not exceeding 20 tonnes</td>
<td>12.5</td>
<td>14,798</td>
<td>3,615</td>
<td>2,393</td>
<td>6,008</td>
</tr>
<tr>
<td>4 870333</td>
<td>Motor cars of a cylinder capacity exceeding 2,500 cc</td>
<td>12.5</td>
<td>19,519</td>
<td>3,408</td>
<td>1,861</td>
<td>5,269</td>
</tr>
<tr>
<td>5 870323</td>
<td>Motor cars of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc</td>
<td>12.5</td>
<td>14,154</td>
<td>2,613</td>
<td>2,444</td>
<td>5,057</td>
</tr>
<tr>
<td>6 870324</td>
<td>Motor cars of a cylinder capacity exceeding 3,000 cc</td>
<td>12.5</td>
<td>8,292</td>
<td>1,982</td>
<td>1,236</td>
<td>3,218</td>
</tr>
<tr>
<td>7 271019</td>
<td>-- Other</td>
<td>5.5</td>
<td>5,291</td>
<td>1,872</td>
<td>726</td>
<td>2,598</td>
</tr>
<tr>
<td>8 220830</td>
<td>Whiskies</td>
<td>25</td>
<td>6,145</td>
<td>3,681</td>
<td>736</td>
<td>4,417</td>
</tr>
<tr>
<td>9 190410</td>
<td>Prepared foods obtained by the swelling or roasting of cereals or cereal products</td>
<td>25</td>
<td>1,969</td>
<td>2,134</td>
<td>647</td>
<td>2,781</td>
</tr>
<tr>
<td>10 732620</td>
<td>Articles of iron or steel wire</td>
<td>25</td>
<td>5,486</td>
<td>1,187</td>
<td>191</td>
<td>1,378</td>
</tr>
<tr>
<td>11 480257</td>
<td>Uncoated paper and paperboard, Other, weighing 40 g/m² or more but not more than 150 g/m²</td>
<td>10</td>
<td>8,897</td>
<td>1064</td>
<td>360</td>
<td>1,424</td>
</tr>
<tr>
<td>12 854370</td>
<td>Other machines and apparatus</td>
<td>10</td>
<td>573</td>
<td>2001</td>
<td>62</td>
<td>2,063</td>
</tr>
<tr>
<td>13 350691</td>
<td>Adhesives based on polymers of headings 39.01 to 39.13 or on rubber</td>
<td>25</td>
<td>239</td>
<td>1308</td>
<td>65</td>
<td>1,373</td>
</tr>
<tr>
<td>14 870899</td>
<td>Parts and accessories of the motor vehicles</td>
<td>10</td>
<td>5,989</td>
<td>1,209</td>
<td>568</td>
<td>1,777</td>
</tr>
<tr>
<td>15 848180</td>
<td>Taps, cocks, valves and Other appliances</td>
<td>10</td>
<td>3,597</td>
<td>495</td>
<td>345</td>
<td>840</td>
</tr>
<tr>
<td>16 940360</td>
<td>Other wooden furniture</td>
<td>25</td>
<td>3,031</td>
<td>487</td>
<td>665</td>
<td>1,152</td>
</tr>
<tr>
<td>17 950639</td>
<td>Articles and equipment for general physical gymnastics, athletics, other sports exercise</td>
<td>25</td>
<td>298</td>
<td>804</td>
<td>8</td>
<td>812</td>
</tr>
<tr>
<td>18 482320</td>
<td>Filter paper and paperboard</td>
<td>25</td>
<td>2,013</td>
<td>616</td>
<td>52</td>
<td>668</td>
</tr>
<tr>
<td>19 870331</td>
<td>Motor cars and other motor vehicles - Of a cylinder capacity not exceeding 1,500 cc</td>
<td>12.5</td>
<td>1,480</td>
<td>1107</td>
<td>197</td>
<td>1,304</td>
</tr>
<tr>
<td>20 870332</td>
<td>Motor cars and other motor vehicles - of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc</td>
<td>12.5</td>
<td>2,032</td>
<td>991</td>
<td>367</td>
<td>1,358</td>
</tr>
<tr>
<td>21 871690</td>
<td>Trailers and semitrailers and Parts</td>
<td>10</td>
<td>3,242</td>
<td>869</td>
<td>240</td>
<td>1,109</td>
</tr>
<tr>
<td>22 730721</td>
<td>-- Pipe or pipe fittings Flanges</td>
<td>25</td>
<td>1,406</td>
<td>1504</td>
<td>27</td>
<td>1,531</td>
</tr>
<tr>
<td>23 491199</td>
<td>Other printed matter</td>
<td>8.3</td>
<td>5,434</td>
<td>874</td>
<td>45</td>
<td>919</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td>46,687</td>
<td>15,751</td>
<td>62,438</td>
<td></td>
</tr>
<tr>
<td><strong>OTHERS</strong></td>
<td></td>
<td></td>
<td>22,248</td>
<td>13,328</td>
<td>35,576</td>
<td></td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td></td>
<td></td>
<td>515,903</td>
<td>68,935</td>
<td>29,079</td>
<td>98,014</td>
</tr>
</tbody>
</table>

Figure 32: Expected rise in Kenyan imports from UK of high tariff band products following full tariff liberalisation

Kenya has high tariffs vis-à-vis the EU in products where the UK lacks the competitiveness to export to Kenya. Analysis in terms of EAC tariffs applied to EU products shows that in products with an applied tariff above 60% (mainly dairy products), if these were brought down to zero the total increase in imports from the UK would be worth US$711,000; for products with tariffs between 50%-60% (mainly cotton articles and maize) the rise in imports from the UK would be only US$178,000; and for products with tariffs between 35%-50% (mainly woven fabrics) the rise in imports from the UK would be around US$102,000.
ANNEX 2
KENYA “NEW MARKET, NEW PRODUCTS” POTENTIAL

Here we have highlighted for Kenya “new products” with high export potential into the UK market. We have identified products that Kenya exports to the world, but for which Kenya is not currently among the top five exporters to the UK. This could inform Kenyan trade policy vis-à-vis negotiating the elimination of NTBs in a UK-EAC trade agreement.

For instance, if Kenya sees an export opportunity in certain textile products such as the garments listed 1-3 in Figure 33, there could be an opportunity in negotiating more favourable RoO in the area of textiles; value added requirements and processes are strict for textile products in the EPA’s RoO chapter, and the UK should be open to relaxing them. Kenya could also pressure the UK to move away from some of the EU’s regulatory requirements for textile imports, for instance on chemicals (REACH) or industrial emissions (IED). Efforts to promote the textile manufacturing sector of the EAC economies has been supported by the UK, for instance through the investment of companies like Hela Clothing. This plays into the Kenyan focus on manufacturing as one of its four growth pillars and on the UK focus on African manufacturing in DFID’s Economic Development Strategy 2017 and the new Invest Africa initiative.

The EAC countries have prioritised the garment manufacturing sector as an area to protect in their trade policy, attempting a phased-in ban of second-hand clothes imports, for instance. Trying to remove barriers on exports of products from this sector could be a way of pushing forward this agenda through positive, pro-trade improvements to the UK-EAC trade relationship, which would benefit both sides.

Figure 33 Kenyan products with high export potential to the UK market

<table>
<thead>
<tr>
<th>NO</th>
<th>DESCRIPTION</th>
<th>KENYA’S EXPORTS TO WORLD 2015 (1000 US$)</th>
<th>UK’S IMPORTS FROM WORLD 2015 (1000 US$)</th>
<th>KENYA’S EXPORT TO UK 2015 (1000 US$)</th>
<th>POTENTIAL OPPORTUNITY AT 25% OF COMPETITORS’ MARKET SHARE (1000 US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Women’s or girls’ suits, ensembles, jackets, blazers, dresses, skirts, etc.</td>
<td>41,990</td>
<td>1,362,116</td>
<td>116</td>
<td>348,529.00</td>
</tr>
<tr>
<td>2</td>
<td>Men’s or boys’ suits, ensembles, jackets, blazers, trousers, etc.</td>
<td>33,528</td>
<td>1,335,975</td>
<td>12</td>
<td>333,993.75</td>
</tr>
<tr>
<td>3</td>
<td>T-shirts, singlets and other vests, knitted or of other materials.</td>
<td>12,858</td>
<td>982,027</td>
<td>126</td>
<td>245,506.75</td>
</tr>
<tr>
<td>4</td>
<td>Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets.</td>
<td>8,279</td>
<td>1,342,977</td>
<td>3</td>
<td>335,744.25</td>
</tr>
<tr>
<td>5</td>
<td>Tableware, kitchenware, other household articles and hygiene or toilet articles, of plastics.</td>
<td>8,155</td>
<td>231,609</td>
<td>200</td>
<td>57,902.25</td>
</tr>
<tr>
<td>6</td>
<td>Cartons, boxes, cases, bags and other packing containers, etc.</td>
<td>6,637</td>
<td>273,967</td>
<td>1</td>
<td>68,491.75</td>
</tr>
<tr>
<td>7</td>
<td>Other plates, sheets, films, foil and strip, of plastics, non-cellular and not reinforced, etc.</td>
<td>1,806</td>
<td>250,032</td>
<td>8</td>
<td>62,508.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td>113,193</td>
<td>5,778,703</td>
<td>466</td>
<td>1,444,676</td>
<td></td>
</tr>
</tbody>
</table>

[77] EC 1907/2006
[78] 2010/75/EU
The IFT launched in September 2017 at the UK Foreign & Commonwealth Office, with speeches by Foreign Secretary Boris Johnson and Trade Secretary Liam Fox.

IFT is a private, not-for-profit, non-partisan research organisation making the intellectual and moral case for free trade. It is Britain’s only research organisation dedicated solely to trade policy. It aims to capitalise on the opportunity Brexit has afforded Britain to liberalise its trade policy, by convincing three key audiences that more open trade will benefit the country (and, indeed our trading partners): policymakers and legislators; businesses; the general public.

Its research covers unilateral trade policy, bilateral, regional and multilateral trade relationships, and sectoral issues.