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LDC Services: Geneva practitioners' seminar series on making sense of the GATS and applying good practices in services negotiations

Seminar 5: “Services in bilateral, regional and plurilateral negotiations: implications for the GATS and for LDCs”

Session 1: Services in FTAs : Evolving Structures, new directions

EABC Success Story on Free Movement of People in EAC (Services Suppliers)

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Presentation Outline

- Introduction and background
- Liberalisation of Trade in Services in EAC
- Challenges on Implementation of CMP-Mode 4-
Movement of Natural Person (Services Suppliers)
- EABC Success Story
- Conclusion





Introduction

- Objectives of EAC, *Art 5 of EAC Treaty* - to develop policies and programmes aimed at widening and deepening cooperation among Partner States
- EAC Partner States agreed to ‘establish among themselves



- One of the fundamental pillars of the EAC is -Cooperation in trade liberalization & development





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Liberalisation of Trade in Services in EAC

- The EAC CMP was signed in 2009 and operationalized started from 1 July 2010
- Overall objective, Art 4 CMP-widen and deepen cooperation among the PS in economic and social fields for the benefit of the Partner States
- CM entails a legal and binding commitment to a deeper integration by Partner States providing:
 - Free movements of **Goods; Persons, Labour; Services and Capital**
 - Right of **Establishment and Residence**
- PS guarantee the free movement of services supplied by nationals of PS and the free movement of services suppliers who are nationals of PS within the Community





Liberalisation of Trade in Services in EAC

•The free movement of services shall cover the supply of services: (four modes of supply)

➤ From territory of a PS into the territory of another PS –**Cross Border Supply= Mode 1**

➤ In the territory of a PS to services consumers from another PS-**Consumption Abroad = Mode 2**

➤ By a services supplier of a PS, through commercial presences of the service supplier in the territory of another PS –**Commercial Presences = Mode 3**

➤ By presence of a service supplier , who is a citizen of a PS, in the territory of another Partner States- **Temporary Movement of Natural Persons (Services Suppliers) =Mode 4**





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Liberalisation of Trade in Services in EAC

- During initial negotiations Partner States agreed to negotiate 7 services sectors out of 12 sectors:

1. Business services; 2. Communication services; 3. Distribution services; 4. Education Services; 5. Financial services; 6. Tourism & Travel related services; 7. Transport services

- The Partner States agreed that liberalization will be progressive and in accordance with the schedule on the Progressive liberalisation of Services, Specifies in Annex V of the CM Protocol

- The Partner States agreed to make additional commitments on the elimination of restrictions on the service sectors and sub sectors that are not specified in Annex V of the CM Protocol, after entry into force of the Protocol





Liberalisation of Trade in Services in EAC

•The 5 remaining sectors which are not specified in Annex V of CMP - are:

1. Construction and related; 2.Environmental; 3.Health related and Social; 4. Recreational, culture and sporting services; and 5. other services not included elsewhere



•Initially offers were exchanged on the 5 remaining services sectors and other sub-sectors in the initial 7 sectors

•Progress were stalled due to the impasse on the linking/ delinking of the Annex on Free Movement of Services-(Mode 4) and the Annex on Free Movement of Workers





Challenges in Implementation CMP

- Movement of EAC Services Suppliers is stifled by unclear regulation on temporary movement of services and working permit . *No regulation on movement of services but there are on movement of persons, workers, right of establishment and residence*
- Linking of Services Suppliers with Schedule on Movement of Workers
- Partial liberalisation of the negotiated seven sectors has constrained free movement of services . *PS took very caution in liberalisation of services. Out of 136 sub sectors: Burundi commit 73, Kenya 61; Rwanda 104, Tanzania 61 and Uganda 99*
- Lack of progress on the liberalisation of the 5 remaining sectors
- Slow alignment of the domestic law to comply with Common Market Protocol  



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EABC Success Story

- On 2011 EABC through a support from ITC started the campaign for delinking of Mode 4- *Temporary Movement of Services Suppliers and Schedule on Movement of Workers*
- EABC lobbied for the need of the EAC Partner States to develop Regulations on Trade in Services, Make Commitment on Mode 4, Make additional commitments on the remaining five services sectors and Rectify Technical Errors on the Services Commitments.
- On 2014 EAC Partner States agreed to make amendments on EAC CMP to address implementation challenges on Trade in Services
- The amendments which are in progress include : Development of the Regulation on Trade in Services, Agreed on the definition of the Services Suppliers to be included in the amendment of the EAC CMP





EABC Success Story

- EAC Partners agreed on the Categories of Services Suppliers :
Contractual Services Supplier & Independent Services Supplier (are yet to agree on Business Visitors, Intra-Corporate Transferees & Graduate Trainees)
- Directed Partner States to make commitment on Mode 4-
Temporary Movement of Services Suppliers
- Directed Partner States to make additional commitment on the sub sectors of the liberalised 7 services sectors
- Directed Partner States who are ready to exchange offers on the remaining 5 sectors .
- Through ITC support EAC Secretariat and EABC Secretariat are organizing National Public-Private Consultation Workshops whereby Partner States are making commitments on mode 4, rectifying errors in their services commitments and making additional commitment on the 7 services sectors.





Conclusion

- EAC Businesses need seamless movement of skills in the region in order to be competitive, meet demand of clients and stay innovative
- EAC Businesses need to operate in situation of legal certainty and predictability (clear regulation on services)
- Temporary movement of natural persons (services suppliers) in EAC is critical in addressing disparities of skills and training in the region.
- For movement of professionals EAC Partner States should facilitate other professionals bodies to negotiate respective MRAs . **Only three professionals have signed MRAs; Accountants, Architects and Engineers**
- Private sector involvement in the services liberalisation is key in order to make sure private sector interests are taken on board

