

## PMU FOR THE TRADECOM FACILITY PROGRAMME

**IMPROVING EAC PRIVATE SECTOR AWARENESS ON  
THE EPA AND INVOLVEMENT IN TRADE POLICY**

EAST AFRICAN BUSINESS COUNCIL (EABC)

AOR.86-P42

**Final Report**

May 2010

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>5</b>
<b>1. INTRODUCTION.....</b>	<b>10</b>
<b>2. BACKGROUND AND OBJECTIVES .....</b>	<b>11</b>
2.1. Overall Objective .....	11
2.2. Specific Objectives.....	11
2.3. Assumptions and Risks .....	12
<b>3. IMPLEMENTATION OF THE PROJECT .....</b>	<b>13</b>
3.1. Phase I: Inception Phase.....	13
3.1.1. <i>Establish collaboration and needs identification</i> .....	13
3.1.2. <i>Field Contacts and Networking by Team Leader</i> .....	14
3.2. Phase 2: The Technical Assistance – Launch and Development of project’s core activities .....	14
3.2.1. <i>Communication Strategy</i> .....	14
3.2.2. <i>Capacity Building Strategy</i> .....	16
3.2.3. <i>Strengthening Private Sector Participation in Trade Negotiations</i> .....	16
3.2.4. <i>First Private Sector EPA Regional Sensitization Workshop, Arusha 27-28 November 2009</i> .....	16
3.3. Phase 3: The Technical Assistance – Development of project’s core activities.....	18
3.3.1. <i>Communication Strategy</i> .....	18
3.3.2. <i>Capacity Building, In-House Training to EABC Staff</i> .....	19
3.3.3. <i>Strengthening Private Sector Participation in Trade Negotiations</i> .....	21
3.3.4. <i>Second EPA Sensitization Workshop, Arusha, 12-13 March 2010</i> .....	21
3.4. Phase 4: Project’s Closure.....	40
3.5. Deployment of the project’s experts.....	40
3.5.1. <i>International Experts</i> .....	40
3.5.2. <i>Local Experts</i> .....	40
3.6. Backstopping Support of AGORA’ 2000.....	41
<b>4. CONCLUSION.....</b>	<b>42</b>
4.1. Overall assessment of the project’s implementation and results .....	42
4.1.1. <i>Overall Assessment of the Project</i> .....	42
4.1.2. <i>Communication Strategy</i> .....	43
4.1.3. <i>Capacity Building, In-House Training to EABC Staff</i> .....	44
4.1.4. <i>Strengthening Private Sector Participation in Trade Negotiations</i> .....	44
4.1.5. <i>First EPA Sensitization Workshop, Arusha 27-28 November 2009</i> .....	44
4.1.6. <i>Second EPA Sensitization Workshop, Arusha, 12-13 March 2010</i> .....	45
4.2. Project’s Sustainability.....	46
4.3. Recommendations.....	46
4.4. Project’s outputs.....	47

## **ACRONYMS AND ABBREVIATIONS**

<b>ACP</b>	African, Caribbean and Pacific
<b>CEO</b>	Chief Executive Officer
<b>CARIFORUM</b>	Caribbean Forum
<b>CET</b>	Common External Tariff
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CTC</b>	Change of Tariff Classification
<b>CTI</b>	Confederation of Tanzanian Industries
<b>CU</b>	Customs Union
<b>DFID</b>	UK Department For International Development
<b>EA</b>	East Africa
<b>EABC</b>	East African Business Council
<b>EAC</b>	East African Community
<b>EAFF</b>	East African Farmers Federation
<b>EATUC</b>	East African Trade Union Congress
<b>EBA</b>	Everything But Arms
<b>EC</b>	European Commission
<b>ECOWAS</b>	Economic Community of West African States
<b>ED</b>	Executive Director
<b>EDF</b>	European Development Fund
<b>EEZ</b>	Economic Enterprise Zones
<b>EPA</b>	European Partnership Agreements
<b>ESA</b>	Eastern and Southern Africa
<b>EU</b>	European Union
<b>FAO</b>	Food and Agriculture Organisation
<b>FEPA</b>	Framework Economic Partnership Agreement
<b>FTA</b>	Free Trade Area
<b>GAP</b>	Good Agricultural Practices
<b>GATS</b>	General Agreement on Trade in Services
<b>GATT</b>	General Agreement on Tariffs and Trade
<b>IBRD</b>	International Bank for Reconstruction and Development
<b>ILEAP</b>	International Lawyers and Economists Against Poverty
<b>IMF</b>	International Monetary Fund
<b>IPPC</b>	International Plant Protection Convention
<b>IPRs</b>	Intellectual Property Rights
<b>KAM</b>	Kenya Association of Manufacturers
<b>KEPLOTRADE</b>	Kenya and European Union Programme for Lomé Trade
<b>LDCs</b>	Least Developed Countries
<b>MFN</b>	Most Favoured Nation
<b>PPD</b>	Public Private Dialogue
<b>PSF</b>	Private Sector Federation - Rwanda
<b>PSFU</b>	Private Sector Foundation of Uganda
<b>RPF</b>	Rwanda Private Sector Federation
<b>RSA</b>	Republic of South Africa
<b>SADC</b>	Southern African Development Community
<b>SMEs</b>	Small Medium Enterprises
<b>SPS</b>	Sanitary and Phyto-Sanitary Measures
<b>TA</b>	Technical Assistance
<b>TBT</b>	Technical Barriers to Trade
<b>TL</b>	Team Leader
<b>ToRs</b>	Terms of Reference

<b>TPSF</b>	Tanzania Private Sector Foundation
<b>TRALAC</b>	Trade Law Centre for Southern Africa
<b>TRIPS</b>	Trade-Related Aspects of Intellectual Property Rights
<b>UK</b>	United Kingdom
<b>UMA</b>	Uganda Manufacturers Association
<b>UPF</b>	Uganda Private Sector Foundation
<b>UPTOP</b>	Uganda Programme for Trade
<b>VA</b>	Value-Added
<b>WTO</b>	World Trade Organisation

## EXECUTIVE SUMMARY

---

The TradeCom project "*Improving EAC private sector awareness on the EPA and involvement in trade policy*" started in July 2009 and drew to a close in April 2010. The project was implemented by the firm AGORA' 2000, which deployed a Team of four international experts:

- Mr. Frederick Alipui – Team Leader
- Prof. Gerhard Erasmus – Sector Specialist
- Mr. James McLeod – Sector Specialist
- Mr. Peter Steele – Sector Specialist

In addition, two local experts were selected during the inception phase:

- Mr. Adrian Njau – Local Coordinator
- Mr. Godwin Muhwezi Bonge – Webmaster.

The project was structured in 4 phases: Phase 1, corresponding to the Inception Phase; Phases 2 and 3 during which the capacity building, communication and Public Private Dialogue (PPD) activities were carried out, including the two regional Workshops on the EPA (Arusha 27-28 November 2009 and Arusha, 12-13 March 2010) and Phase 4 corresponding to the closure of the project.

This project was designed to contribute to the improvement of the participation of the Private Sector in the EPA Negotiations between the East African Community (EAC) and the EU as well as in regional trade policy formulation and implementation in the East Africa region. To that end the project team implemented activities which sought to:

1. Inform the EAC private sector of the EPA negotiation in areas of interest to the region;
2. Reinforce the consultation mechanism between the Private Sector and negotiation teams at the national and regional levels;
3. Build competences in the Private Sector to follow, contribute to and support the negotiations between the EAC and the EU;
4. Support the EABC's core functions of providing advisory support to its members in technical areas related to the negotiations.

The Project Team successfully carried out specific activities, according to the ToRs and the Technical Offer, which translated the objectives and aims of the Project into operational and specific actions that have resulted in:

1. Raising awareness and disseminating information on the EPA negotiations for the benefit of the Private Sector of the EAC by making available a compendium of Position Papers/Briefs on key issues currently under negotiation within the context of the FEPA, on the one hand, and also the outstanding issues to be negotiated under the *Rendez-Vous* Clause within the context of the upcoming negotiations for a Comprehensive EPA between the East African Community and the EU, on the other. In doing so, the Project also created a Public Private Sector Dialogue (PPD) Platform where the negotiation issues were discussed within the Private Sector perspectives;

2. Pursuing an integrated communication strategy through the two Regional Sensitisation Workshops organized under the framework of the Project. A system of consultation has been successfully strengthened beyond the status quo, resulting in a mutually rewarding channel of communication that has been created during the Workshops, when the representatives of the Private Sector and the public officials openly dialogued on the issues of concern to them at the EPA negotiations. The project also afforded the Private Sector the opportunity for public officials to hear at first hand their views on how best they would like the public officials to consult them and the modalities for connecting the Private Sector and negotiators working at the national (within the EAC) at the Focal Ministries of Trade and regional (EAC-EU) levels;
3. Improving the capacity of the Private Sector through a series of lectures given at the two "Private Sector Regional Sensitisation Workshops on the EAC-EU EPA", with user-friendly Power Point presentations. Participants had the opportunity to benefit from the technical experience of the highly experienced Sector Specialists and the Team Leader, not only the knowledge base in respect of the thematic issues under the EPA negotiations but also the practical application of the techniques of International Trade Negotiations – which are novel to the Private Sector representatives at the Workshop: they were most appreciative;
4. In order to provide assistance to the EABC in advising its members, as far as negotiations are concerned the project also successfully implemented an In-House Training Programme for the benefit of the general membership of the EABC Secretariat on the fundamentals of International and Trade Regional Agreements and the EPA and their Private Sector implications. The Project Team, inter-alia, also provided technical advice ranging from identification of negotiation issues of national concern; how to carry out consultations among the stakeholders at the respective national levels in order to formulate their respective national positions and subsequently translate the same into regional negotiation positions and/or Requests and Offers Preparation.

### **Communication Strategy**

The communication strategy of this EABC-TradeCom project can be assessed as very successful because through it the EABC was able to network and disseminate EPA-related information to the national chapters, i.e. the Confederation of Tanzanian Industries (CTI); Kenya Association of Manufacturers (KAM); Private Sector Foundation Uganda (PSFU); the Private Sector Federation (Rwanda) and the Chamber of Commerce, Industry, Agriculture and Handicrafts (CCIB) of Burundi.

The project developed a series of EPA information pages on the EABC website and uploaded successfully all the Position Papers and Briefs as well as the power point presentations on the key issues under the EPA negotiations. The website's structure, designed, constructed and devoted to EPA negotiations, has been defined in accordance with the existing EABC's available web portal. The website can be accessed at <http://eabc.info/epa/>. The website is a user-friendly instrument and it meets the requirements of the beneficiary of the Project.

**Bi-Monthly Newsletter**

Three issues of a bi-monthly EPA Newsletter were produced under the Project, in accordance with the ToRs, to be circulated and be widely disseminated accessed from the webpage of the EABC website cited above. The first issue was produced in electronic and hard copies and distributed during the 2<sup>nd</sup> Workshop.

**Preparation of the Position Papers by the Sector Specialists**

As required by the ToRs, a number of Position Papers were drafted by the Sector Specialists for the benefit of the EABC Secretariat to assist the private sector. These Position Papers have been formulated and compiled into a Handbook for use by the EABC Private Sector as a reference material in their participation in the on-going FEPA negotiation and the upcoming negotiations for a Comprehensive EPA. This Training Tool will contribute to their capacity to formulate their national and regional positions in the two negotiations.

It is proposed that they are incorporated as an “Addendum to the EABC Private Sector Common Position Manual/Handbook on the EPA Negotiations” to serve as a Reference Material for the negotiations.

**Capacity Building, In-House Training to EABC Staff**

In accordance with the ToRs and the Technical Offer presented by AGORA' 2000, an In-House Training session was held for internal EABC staff by the Team Leader and by the Sector Specialist Prof. Erasmus. The training was prepared building on the results of the two EPA Sensitization Workshops, and on the needs identified with the beneficiary and also following the consultation among the Team of Experts. The training was divided into three sessions covering: General Orientation and Introduction to International Trade and EPA; Introduction to Thematic Issues; Trade Negotiations Techniques.

The lectures of the first session successfully improved and enhanced the understanding of the EABC staff on fundamental issues of contemporary international trade relations, running from the creation of the World Trade Organization (WTO) and the ongoing Doha Development Round to considering how the same has compelled the EAC Partner States to negotiate the EPA, namely because the trade regime of Cotonou Agreement is incompatible with their commitments in the WTO which is based on the principle of non-discrimination.

**Strengthening Private Sector Participation in Trade Negotiations**

The project created a Regional Platform that enabled the Private Sector in the EAC, under the banner of the EABC and TradeCom, to be sensitized about the key issues under the EPA negotiations. The project provided them the opportunity to understand the business implications of the upcoming EPA once it is adopted and ratified. The Project has made available to the Private Sector a “user-friendly” Handbook of Briefs and Position Papers as well as power point slides which all provide a critical knowledge-base for the EAC Private Sector. The Project also enabled the Private Sector to have direct contact with officials from the Ministries of Trade, which are the focal Ministries negotiating on behalf of the Partner States. With the professional contacts created and the inter-personal relations developed during the two Regional Workshops the necessary “trust and confidence” have been created between the Private Sector and the Public Sector officials which, inter alia, should contribute positively to the Private Sector’s participation in trade negotiations at both national, regional and international levels.

**First Private Sector Regional EPA Sensitization Workshop, Arusha 27-28 November 2009**

The First Regional EPA Sensitization Workshop was very successful. It was attended by 12 participants from both the private and the public sectors of the 5 Partner States, plus the 5 speakers. It was preceded by the preparation of the draft Concept Note and the Draft Agenda/Programme for the Workshop which were circulated in time to enable timely responses to facilitate the necessary logistic arrangements. Sensitization materials were made available under the project on thematic issues which included the "State of Play in the EPA Negotiations"; "Contentious Issues under EAC-EC EPA Configuration"; "EAC-EC Market Access Offers on Trade in Goods" ; "Customs & Trade Facilitation"; "Technical Barriers to Trade (TBT) and Sanitary & Phytosanitary Measures"; "Rules of Origin"; "State of Play on Trade in Services" ; "Sector of Interests to EAC"; "Priority areas of Private sector in EAC"; "Agriculture"; "Trade, Environment and Sustainable Development"; "Intellectual Property Rights"; "Economic & Development Cooperation".

During the sessions on Questions and Answers, the trainee/participants exchanged views extensively on the various issues/themes dealt with and the Team Leader, the Rules of Origin Expert and the Local Coordinator provided technical advisory services by explaining the intricacies and complexities of issues to the former within the Private Sector Perspectives. The success registered at the Workshop was captured in the form of a number of recommendations that were issued as the "Way Forward Action", which positively contributed to laying the foundation for the successful preparation and organisation of the second Sensitization Workshop organized by the Project Team.

**Second Private Sector Regional EPA Sensitization Workshop, Arusha, 12-13 March 2010**

The 2<sup>nd</sup> Regional Workshop was also very successful and it built upon the achievements of the 1<sup>st</sup> one. It was attended by 15 participants from both the public and the private sectors of the five Partner States of the EAC, as well as from the EAC Secretariat. In addition, the three Sector Specialists, Prof. Gerhard Erasmus, Mr. James McLeod and Mr. Peter Steele together with the Team Leader Mr. Frederick Alipui, the Local Coordinator and AGORA' 2000's representative Ms Valentina Gentile and Logistics Coordinator Ms Ambra Giorgi attended the workshop.

During this Workshop sensitization/training lectures were given by the Team Leader, the Sector Specialists and the Local Coordinator. The topics and themes ranged from the rationale for negotiating the EPA as derived from the Cotonou Agreement; issues under the "Rendez-Vous Clause", including Rules of Origin; Sanitary and Phytosanitary measures (SPS) and Technical Barriers to Trade (TBT); outstanding Contentious Issues; Export Taxes and the Economic and Development issues and the on-going dialogue on market access and the need for financial support for the EPA Development Matrix; Institutional and Legal issues; Singapore Issues and Trade Negotiations Techniques; and Preparation of Offers and Requests. The workshop reviewed the EAC-EABC Private Sector Negotiations Position for the EPA Negotiations. At the end of the Workshop, the participants decided that since very few comments had been received on the Handbook, it would be preferable that the EABC should keep the Handbook and use it for the Private Sector as a reference material in their work rather than as "Common Position Handbook" – Volume I. The thematic issues presented during the 2<sup>nd</sup> Workshop are compiled into "Addendum to the EABC Private Sector Common Position Manual/Handbook on the EPA Negotiations"- Volume II.

The 2<sup>nd</sup> Workshop also sensitized the participants on the need for EAC Private Sector to get involved and participate in their Partner States' "Post-Negotiations Action Plan" which should ensure the successful and productive implementation, Monitoring and Evaluation Plan at the National level and the domestication in their countries of their international trade commitments.

## **Recommendations**

In order to sustain the positive results of the project we recommend that, as requested by the "floor members" of the EABC Apex Bodies during the Inception Mission of the Team Leader, the EABC Secretariat should seek technical assistance to develop another Technical Assistance (TA) project which will, inter-alia, respond to the said request, namely:

- Organise national sensitization Workshops on the EPA issues:
  - CEO EPA Breakfast Meeting/Workshop (one hour);
  - Media Sensitization Workshop;
  - Local Stakeholders Workshops targeting farmers and other economic agents operating outside the capital cities of the 5 Partner States.
- Develop an EPA Implementation Phase Project, including mechanisms for Monitoring and Evaluation and also sensitization and capacity building projects/programmes targeting beneficiaries which need to understand the key business generating provisions of the EPA in order to use them to maximum advantage. To that end, it is further proposed that such a Project should be designed as an EABC-EC Regional Project to be funded under the 10<sup>th</sup> European Development Fund (EDF).
- The EAC-EABC Private Sector EPA Negotiation Handbook should be further circulated to the national Chapters of EABC for further comments with a view to improving upon the draft Position Papers – a Private Sector Trade Negotiations Resource.

The EABC Secretariat may wish to explore the possibility of developing technical relationships with the Embassies of the 5 Partner States in Brussels in order to arrange for some training and attachment courses for private sector agents both in Brussels and/or in Geneva at the WTO through the Office of the ACP Secretariat in Geneva.

Technical assistance should be designed to assist Partner State private sector to negotiate Trade in Services and investment and other issues and areas mentioned in the Rendezvous Clause of the EAC FEPA. To that end, TA should be sought to prepare the private sector.

## **1. INTRODUCTION**

---

The present document is the Final Report of the TradeCom project *"Improving EAC private sector awareness on the EPA and involvement in trade policy"*. The project, which started in July 2009 and was concluded in April 2010, has been implemented by the firm AGORA' 2000, which deployed a Team of four international Experts:

- Mr. Frederick Alipui –Team Leader
- Prof. Gerhard Erasmus – Sector Specialist
- Mr. James McLeod – Sector Specialist
- Mr. Peter Steele – Sector Specialist

In addition, two local experts were selected during the inception phase:

- Mr. Adrian Njau – Local Coordinator
- Mr. Godwin Muhwezi Bonge – Webmaster.

The project's implementation was divided into four phases: Phase 1, corresponding to the Inception Phase; Phases 2 and 3 during which the capacity building, communication and PPD activities were carried out, including the two regional Workshops on the EPA; and Phase 4 corresponding to the closure of the project.

In accordance with the ToRs, this Final Report is the third report produced in the framework of the project, following an Inception and a Mid-Term Report. This Final Report summarises the main activities implemented, presenting an overview of the main objectives, achievements and results.

This Report is divided into four parts, corresponding to the four phases of the project. Part 1

## **2. BACKGROUND AND OBJECTIVES**

---

### **2.1. Overall Objective**

The overall objective of this project was to improve the participation of the Private Sector in the EPA Negotiations between the EAC and the EU as well as in regional trade policy formulation and implementation in the East Africa region.

### **2.2. Specific Objectives**

The specific objectives of the project were the following:

1. Inform the EAC private sector of the EPA negotiation in areas of interest to the region;
2. Reinforce the consultation mechanism between the Private Sector and negotiation teams at the national and regional levels;
3. Build competences in the Private Sector to follow, contribute to and support the negotiations between the EAC and the EU;
4. Support the EABC's core functions of providing advisory support to its members in technical areas related to the negotiations.

In light of the above objectives, the project aimed at:

1. Strengthening the prospects for making available to the "floor members", through their umbrella organisations, basic information on the EPA issues currently under negotiation. The project also sought to interpret for these beneficiaries the business dimension of the issues in the negotiations; and to assist them to formulate negotiating positions in response to the perceived challenges and opportunities;
2. Strengthening and fostering Private Public Sector Dialogue (PPD) in formulating private sector-friendly regional trade policies and regulations in anticipation of the evolution of the EAC into an EAC Common Market.

In this regard, the Project Team endeavoured to translate the above objectives and aims into the following operational and specific actions:

1. An awareness raising and information dissemination campaign on the EPA negotiations aimed at the Private Sector of the EAC; enhancement of the role of the Private Sector in the EPA negotiations between the East African Community and the EU;
2. Strengthening of the system of consultation, connecting the Private Sector and negotiators working at the national (within the EAC) and regional (EAC-EU) levels;
3. Capacity building of the Private Sector, aimed at enabling it to better understand and participate in EPA negotiations;
4. Provide assistance to the EABC in advising its members, as far as negotiations are concerned.

### **2.3. Assumptions and Risks**

The project was designed on the assumption that the EAC Public Sector would continue to acknowledge the concerns of the Private Sector while conducting the negotiations and that they would cooperate with the project team to organise the series of the PPD events planned. Other basic assumptions included: that the Private sector's interest in the negotiations would be stimulated, in spite of the late hour of introducing them to the EPA negotiations; and that the EAC Secretariat would continue to maintain good working relations with the EABC so that the outcome of the Regional Workshops emanating from the needs of the national stakeholders could be fed into the EAC Regional Negotiations Position as an agreed EAC Private Sector position.

In terms of foreseeable risks, it was envisaged that the EAC Partner States could decide not to continue the EPA negotiations with the EU; that the negotiation timetable would not be kept, resulting in difficulties with the WTO and shifting priorities within the Partner States involved; that EAC-EABC cooperation might not provide the expected results and that regional policies could be hampered; and that individual Partner States might propose alternative procedures that limit the collective role of the EAC. Finally, that increased awareness and knowledge could result in a negative change in attitude towards the EAC-EPA trade negotiations. Also it was expected that the FEPA would be expeditiously signed and the negotiators could concentrate on the negotiations for the comprehensive EPA.

### **3. IMPLEMENTATION OF THE PROJECT**

---

#### **3.1. Phase I: Inception Phase**

The Inception Phase of the project started with the arrival of Mr. Alipui, the Team Leader, in Arusha-Tanzania on 3<sup>rd</sup> August 2009. At the premises of the East Africa Business Council (EABC), a “kick-off meeting” was held with the then EABC’s Executive Director (ED), Mr. Charles Mbogori and the staff.

##### **3.1.1. Establish collaboration and needs identification**

The Team Leader immediately embarked on the implementation of the project by conducting networking activities through discussions/interviews with the relevant staff of the EABC and the EAC Secretariat.

A number of meetings were scheduled to enable the Team Leader to introduce the project to the counterparts and to build the networking that the project would require. Trade consultants of the EABC worked directly with the Team Leader and left no stone unturned in introducing him to all the relevant professional staff and the representatives of national delegations responsible not only for EPA negotiations but also for the Customs Union and Common Market processes in EAC statutory meetings. The Team Leader was provided with documents – research materials, past studies and conference reports (technical and Ministerial and Summit) for the successful execution of the project.

Shortly after the first week, the Team Leader realised that for the project to be able to identify the needs of the target beneficiaries, he would have to pay working visits to the 5 capital cities of the Partner States to talk to the stakeholders, especially the national Chapters of the EABC, the Focal Ministries, and where possible with private company “floor members” of the EABC national Chapters. This led a successful two week-long mission in August 2009.

Before commencing the mission the Team Leader developed a Concept Note/Questionnaire which he used during the course of the mission. Because of the nature of the meetings, in most cases these documents were left as a way of providing a written record of the brief provided by him in respect of the objectives of the project and expected results to be achieved.

Three levels of meetings were held, namely with:

1. Local Chapters of EABC, including companies involved in the production of goods and services for export to the EU and EAC regional markets;
2. National Ministries of Trade – the mandated and Focal Ministries for EPA negotiations;
3. The EU-EC Delegation offices – Trade and Regional Integration Advisors.

In developing the project’s Work Plan, the Team Leader consulted the current Work Plans of the EABC Secretariat and the EAC as well the EPA regional and bilateral schedule of meetings.

### **3.1.2. Field Contacts and Networking by Team Leader**

On networking, the Team Leader took advantage of statutory conferences he attended to exchange business cards and engaged in dialogue with key officials of the EAC and the EABC on involvement and/or participation of the private sector in the EPA negotiations. Consequently, the ground was duly prepared for fruitful collaboration to take place between the project and its stakeholders in Arusha, where the EABC headquarters are located. Secondly, on networking, the Team Leader expanded upon the initial contacts provided him in the five capital cities of the EAC Partners States namely Dar es Salaam-Tanzania, Nairobi-Kenya, Kampala-Uganda, Kigali-Rwanda and Bujumbura-Burundi. Thirdly, contacts were established at the level of a number of private companies and/or their umbrella/apex bodies to enable the future training offerings to reach the "floor-members" of those private sector institutions which hitherto had been left out in the on-going "awareness campaigns" organized by the Focal Ministries of Trade.

The Inception Phase also rolled out into Month 2 of the project during which the Local Coordinator and the Webmaster were recruited: Mr Adrian Njau and Mr Godwin Muhwezi Bonge, as described in detail in the Inception Report.

## **3.2. Phase 2: The Technical Assistance – Launch and Development of project's core activities**

This phase was characterised by the launch of the full implementation of the technical assistance activities as identified in the ToRs and Technical Offer and fine-tuned in the Inception Report. These activities have been described in detail in the Mid-Term Report, and here a summary is presented. According to these documents, actions have been organised around the following main components:

- Communication strategy (Website, Newsletters, Position/Brief Papers, EPA Campaigns);
- Capacity building;
- Organisation of the first Private Sector EPA Regional Sensitisation Workshop;
- Strengthening Private Sector Participation in Trade Negotiations.

A summary of the main activities is presented below.

### **3.2.1. Communication Strategy**

During the period under review, the project implemented the Communication Strategy in accordance with the TORS and the Technical Offer. Accordingly, the following activities were executed:

#### **❖ Development of EPA information pages on EABC website**

In carrying out this task the Webmaster designed the structure of the website which was launched during the 1<sup>st</sup> Workshop and was devoted to the EPA negotiations as part of the existing EABC web portal. It can be reached on: [www.eabc.info/epa](http://www.eabc.info/epa). This output was achieved

as a result of collaboration between the Webmaster and the Local Coordinator as well as with input from EABC personnel and representatives. The website has been populated with contents generated from the EPA negotiations and includes links to relevant trade negotiations websites; they were updated monthly.

## ❖ **Bi-Monthly Newsletter**

During this phase the first issue (November – December 2010) of the bi-monthly Newsletter was produced and uploaded on the website, beside being printed and circulated among stakeholders

## ❖ **Position and Briefing Papers and Draft Negotiations Handbook**

During this Phase the first set of Position Papers was produced, circulated and tabled as well as being discussed during the 1<sup>st</sup> Regional Workshop in Arusha. This resulted in the production of the EAC-EABC Private Sector EPA Negotiations Handbook – Draft Common Position – Volume I, which is annexed to this Final Report. This was formulated as the Private Sector input to the ongoing negotiations and was intended to be improved with comments and further inputs to be generated by stakeholders, especially from the national level of the 5 Partner States. This draft version of the Handbook, entitled, “EAC-EABC Private Sector EPA Negotiations Handbook – Draft Common Position” contained the following Briefing and Position Papers:

- The State of EPA Negotiations – Brief Paper;
- Technical Barriers to Trade and Sanitary and Phytosanitary measures – Brief Paper;
- Customs and Trade Facilitation under EPA – Brief Paper;
- Market Access Issues & Rules of Origin under EPA – Position Paper
- Agriculture under the EPA – Position Paper
- Trade In Services under the EPA negotiations – Position paper
- Economic and Development Cooperation under EPA - Position Paper
- Trade Related issues under EPAs – Position Paper

This draft version of the Handbook was then discussed with the stakeholders during Phase 3, as described below. In addition to these Brief/Position Papers, a more comprehensive Paper was developed by the Sector Specialist Mr Peter Steele on the topic of Rules of Origin. This Paper, together with those prepared by the other Sector Specialists during Phase 3 has been revised in light of the outcome of the second regional Workshop, as described below.

## ❖ **Assistance in the organisation of EPA campaigns:**

During the launching of the Website, and in order to ensure the exchange of views among the participants contained in the “Way Forward - Action Plan” issued by the 1<sup>st</sup> Workshop and presented in the Mid-Term Report, the representatives of the national apex bodies undertook to replicate the EABC communications strategy by posting their comments and suggested contributions to the improvement of the Position Papers in the EABC-EAC Common Position Manual on their respective national websites.

### **3.2.2. Capacity Building Strategy**

During this phase a series of capacity building activities, mainly in the form of training, took place alongside the organization of the 1<sup>st</sup> EABC-TradeCom Regional Sensitization Workshop. Training materials were provided in the form of the draft briefing papers and the draft negotiating position papers and these were provided to the trainees in workshop folders. Topics covered included outstanding contentious issues and those from the “Rendez-Vous” clause of the FEPA, as described above.

### **3.2.3. Strengthening Private Sector Participation in Trade Negotiations**

The project began at a very critical stage in the EPA negotiations. During the first mission, private sector agents and institutions consulted were most appreciative of the inception of the EABC-TradeCom project. They expressed their gratitude for the initiative taken. The project gave a window of opportunity to encourage and develop the interest and awareness of the EAC private sector in the EPA negotiations. They were very eager to be trained. The preparations for the workshop coincided with the launch of the EAC Common Market. The Private Sector was of the view that, while the regional integration process within the EAC was important, they considered the EPA negotiations process to be equally important and urged the speedy conclusion of the negotiations in order for the EPA to contribute to the deepening of the regional integration process in East Africa.

### **3.2.4. First Private Sector EPA Regional Sensitization Workshop, Arusha 27-28 November 2009**

During Phase 2 the Team Leader and the Local Coordinator provided technical assistance for the organization of the First Regional EPA Sensitization Workshop held in Arusha, on 27<sup>th</sup> and 28<sup>th</sup> November 2009, which was attended by 12 participants from both the private and the public sectors of the 5 Partner States, plus the 5 speakers, as detailed out in the Mid-Term Report. For this purpose, the Local Coordinator had the responsibility of preparing the draft Concept Note and the Draft Agenda/Programme for the Workshop. These were circulated in time to enable timely responses to facilitate the necessary logistic arrangements to be implemented by AGORA' 2000, which provided backstopping support from its head office in Italy as well as on site. Details of the organisation and logistics of the first Workshop were presented in the Mid-Term Report. Below a summary of the main proceedings and conclusions of the Workshop are presented.

#### **❖ Summary of proceedings of the 1<sup>st</sup> Regional EPA Sensitization Workshop**

The 1<sup>st</sup> Regional Sensitization Workshop on the EAC – EU EPA negotiations was held at the East Africa Hotel in Arusha-Tanzania from 27<sup>th</sup> to 28<sup>th</sup> November 2009. The opening session of the Workshop was addressed by Agatha Nderitu, on behalf of the Mr. Charles Mbogori, Executive Director (EABC). In her remarks she recalled that the FEPA, which had been initialled, was yet to be formally signed, while concurrently the EAC and the EU continued negotiations for a comprehensive EPA. She also pointed out that part of the challenges facing the Private Sector in the EAC region was its limited involvement hitherto in the EPA consultation processes and in the actual negotiations. She therefore called for private sector participation in the EPA negotiations and drew attention to the related challenge concerning the on-going EAC regional integration process, which had reached the stage of a fully-fledged Customs Union and a Common Market,

all expected to be achieved in 2010. She therefore suggested that the EPA negotiations were expected to support and strengthen the EAC integration objectives. Accordingly, she proposed that the main emphasis in the negotiations should be on consolidating the gains of the EAC Customs Union and those envisaged in the EAC Common Market. A statement was delivered on behalf of Mr. Peter Kiguta, Director General of the Trade and Customs Department of the EAC by Mr. Geoffrey Ajumbo. The presentations made at the 1<sup>st</sup> Workshop according to the Agenda were:

1. "State of Play in the EPA Negotiations": *Mr. Adrian NJAU, Local Coordinator*
2. "Contentious Issues under EAC-EC EPA Configuration": *Mr. Adrian NJAU*
3. "EAC-EC Market Access Offers on Trade in Goods" : *Mr. Adrian NJAU*
4. "Customs & Trade Facilitation" : *Mr. Adrian NJAU*
5. "Technical Barriers to Trade (TBT) and Sanitary & Phytosanitary Measures": *Fredrick ALIPUI, Team Leader*
6. "Rules of Origin": *Mr. Peter STEELE, Rules of Origin Expert*
7. "State of Play on Trade in Services" : *Charles YEGELLA, EABC-ILEAP Services Fellow*
8. "Sector of Interests to EAC": *Charles YEGELLA*
9. "Priority areas of Private sector in EAC": *Charles YEGELLA*
10. "Agriculture": *Frederick ALIPUI*
11. "Trade, Environment and Sustainable Development": *Beatrice CHAYTOR, Programme Officer, ILEAP*
12. "Intellectual Property Rights": *Beatrice CHAYTOR*
13. "Economic & Development Cooperation": *Frederick ALIPUI*

Due to organisational issues and to the prolonged debate on some sections, three presentations to be carried out by the Team Leader have been postponed to the 2<sup>nd</sup> Workshop:

14. "Competition Policy" : *Frederick ALIPUI, Team Leader*
15. "Investment and Private Sector Development" : *Frederick ALIPUI, Team Leader*
16. "Transparency in Public Procurement": *Frederick ALIPUI, Team Leader*

## ❖ **Conclusions of the Workshop and Way Forward**

At the end of the deliberations, which were moderated by the Team Leader, Mr. F. Alipui, the trainee/participants exchanged views extensively on the various issues/themes dealt with during the two days. The Workshop participants made a number of recommendations which were issued as the Way Forward – Action Plan. This was used to guide the Team in its preparation of the 2<sup>nd</sup> Regional Workshop.

### **3.3. Phase 3: The Technical Assistance – Development of project’s core activities**

#### **3.3.1. Communication Strategy**

##### **❖ Development of EPA information pages on the EABC website**

The website can be accessed at <http://eabc.info/epa/>. The website is a user-friendly instrument which has been created under the TradeCom project and which meets the requirements of the beneficiary, being a subsection of the larger EABC website. The development of EPA information pages on the EABC website continued during this phase. Under the supervision of the Team Leader and the AGORA' 2000 backstopping team, the content was formulated by the Team Leader and by the Local Coordinator, while the structure, design and periodic uploading and updating of the information was undertaken with the support of a local Webmaster. Updating was carried out on a monthly basis. The website’s structure, which is designed, constructed and devoted to EPA negotiations, was defined in accordance with the existing EABC web portal. The site has been populated with data from the Webmaster, the Local Coordinator and EABC’s personnel. Moreover, all the outputs from the two Workshops, including the presentations given by all the Experts, were uploaded on to the website. Finally the Negotiations Handbook, the Position Papers developed and the three issues of the Newsletter were uploaded.

##### **❖ Bi-Monthly Newsletter**

The production of a bi-monthly Newsletter took place in accordance with the ToRs. The first issue (November – December 2009) was circulated in connection with the 2<sup>nd</sup> Regional Workshop and also uploaded onto the Website. During the course of the project, most of the information has been shared with the EABC local chapters (apex bodies). Articles were contributed by the Local Coordinator and the Team Leader in the 2<sup>nd</sup> and 3<sup>rd</sup> issues. The technical aspects, in terms of design and layout, were undertaken by the Webmaster with support from the AGORA' 2000 resident team.

##### **❖ Preparation of the Position Papers by the Sector Specialists**

As required by the ToRs and the Technical Offer, a second set of Position Papers was to be drafted by the Sector Specialists for the benefit of the EABC Secretariat to assist the private sector. In this connection, the following position papers were drafted and are attached to this Report as Annexes:

- 1) “Dispute settlement in the Agreement establishing a Framework for an Economic Partnership Agreement between the European Community and the East African Community Partner States” - Prof. Gerhard Erasmus;
- 2) “Transparency in Government Procurement” - Mr. James McLeod;
- 3) “Intellectual Property Rights” - Mr James McLeod.
- 4) “Proposals for an EABC Policy Position on Rules of Origin Regime of the projected EC/EAC EPA” - Mr. Peter Steele.

It is proposed that they be incorporated as an “Addendum to the EABC Private Sector Common Position Manual/Handbook on the EPA Negotiations” to serve as a Reference Material for the negotiations.

### **3.3.2. Capacity Building, In-House Training to EABC Staff**

In accordance with the ToRs and the Technical Offer presented by AGORA' 2000, an In-House Training session was held for the internal EABC staff by the Team Leader and by the Sector Specialist Prof. Erasmus. This training session, which followed immediately on the conclusion of the second Workshop, was prepared building on the results of the two EPA Sensitization Workshops and on the needs identified with the beneficiary, as well as following consultations among the Team of Experts. The training was divided into three sessions and was held as follows:

- **Session I** – 18 March 2010: General Orientation and Introduction to International Trade and EPA – Prof. G. Erasmus;
- **Session II** – 19 March 2010: Introduction to Thematic Issues – Prof. G. Erasmus;
- **Session III** – 26 March 2010: Trade Negotiations Techniques – Mr. Frederick Alipui.

#### **❖ Session I: General Orientation and Introduction to International Trade and EPA**

The training was attended by the following members of EABC staff:

- Ms Agatha Nderitu – Executive Director;
- Skyam Agarwal – Trade Promotion Adviser;
- Gideon Nzuki – Trade;
- Adrian Njau – Local Coordinator, TradeCom-AGORA' 2000;
- Godwin Muhwezi – Webmaster;
- Charles Yegella – Services Trade Fellow (attended Session 3)
- Sandra Uwbra – Liaison Officer;
- Lilian Awinja AIDS Advisor;
- Gloria Mtei – Accounts Assistant.

The first session focused on fundamental issues, such as: why do nations trade?; how do nations trade? Prof. Erasmus then described the genesis of contemporary international trade relations emerging from the post World War II situations from the emergence and application of the General Agreement on Tariffs and Trade (GATT) by the Contracting Parties, following the non-ratification of the Havana Charter which aimed at establishing global trade institutions similar to the ones created by the Bretton Woods Agreements such as the International Bank for Reconstruction and Development (IBRD) and the International Monetary Fund (IMF).

In addition, this session dealt with the circumstances leading to the creation of the World Trade Organization (WTO). Relevant issues touched upon included the sovereignty of the State and the emergence of trade barriers to trade (Tariffs and Non-Tariff Barriers); and the emergence of international trade laws which are not self-executive but which are designed to address the challenge of lowering the tariffs and barriers at the borders and also to become predictable.

Prof. Erasmus also stressed that the essence of international trade laws is that when they are violated there must be Trade remedies; hence international trade has to be a “Rules-based System”. He also dealt with international trade principles and fundamental concepts such as Most-Favoured Nation Treatment (MFN) and the issue of quotas and tariff bindings, and stated that Regional Trade Agreements are also based on the principle of non-discrimination.

Prof. Erasmus also talked of the Preferential Treatment accorded to developing countries, in particular Article XXIV of GATT which grants special status to “Customs Union and Free Trade Areas” and of which EAC is taking advantage. He dealt with the Enabling Clause contained in Part IV of GATT and the latter generation of a similar provision known as Special and Differential Treatment in the WTO Agreement. He then talked of the Doha Development Round, and the challenges the negotiations were facing; the Dispute Settlement Mechanism of the WTO; Trade Remedies and the technical difficulties that it would entail to use “anti-Dumping and Countervailing Measures”; and Safeguards Measures.

## ❖ **Session II: Introduction to Thematic Issues**

During Session II Prof. Erasmus lectured, inter-alia, on the EPA and provided an overview of the FEPA, explaining that to date it is a legally binding document but that in the future, if any provisions were to conflict with the comprehensive EPA the latter would prevail. He described in detail the architecture of the EAC-EC FEPA and the built-in institutional arrangements that would enable it to function. He explained that although FEPA was already legally enforceable, until it is formally signed there was no legal basis for it to be notified to the WTO.

During the Question and Answer sessions the staff of the EABC actively participated and raised issues such as: key issues to address on Standstill; why negotiate an EPA if Partners States, except Kenya, could trade under the Everything But Arms (EBA) concession of the EU?; how to deal with Non-Tariff Barriers?; National treatment and the issue of “infant industries”; and, how will an EPA impact on the EAC regional integration process?

Prof. Erasmus recommended that:

- The EAC should set up an EAC Trade/Tariff Board to protect the interests of EAC Private Sector business;
- EAC should push for implementation assistance project(s).

The full text of the two lectures (slides) is attached to this Report as Annex.

## **Session III: Trade Negotiations Techniques**

The third session of the In-House EABC Staff training took place on 26<sup>th</sup> March 2010 at the EABC Secretariat. It was attended by the staff of the EABC Secretariat. Mr. Alipui, the Team Leader made a presentation on the topic of “Trade Negotiations Techniques”. This first presentation was intended for the majority of the staff members who had not had the chance to attend the 2<sup>nd</sup> Regional Workshop which earlier took place at the East Africa Hotel. A “Mock Negotiations” was requested by a member of the staff, but it did not secure the consensus of the Group. Therefore, in lieu of that, Mr. Alipui organised a second presentation which was titled, “Networking the Negotiations”. It was intended to help the staff focus their reflection on the practical approach to developing the skill of negotiations within the EABC-EAC context. In this

regard the discussion was organised around the "Identification of National/Regional Interests" with the following key questions:

1. What are the Issues/Areas proposed on the Draft Agenda and or Working documents for the Negotiations;
2. Who are the other Interested Parties involved in the Negotiations?
3. Is it a Bilateral; Plurilateral or Multilateral Negotiations?
4. Issues/Areas of Interest in the Negotiations (e.g. EPA);
5. What are the Issues/Areas of Interest to negotiating Partners?
6. What are the Issues/Areas of Concern to the opposing Parties in the negotiations?
7. What do we want to achieve in the Negotiations?
8. What do they want to achieve in the Negotiations?

Regarding the concept of "Networking the Negotiations", Mr. Alipui sought to explain to EABC staff how they should use the extensive institutional network within the East African Community both at the level of the EAC Secretariat and at the level of the various apex bodies and institutional members that constitute the EABC, likewise at the level of the Representations of the EAC Partner States in Brussels and Geneva, where negotiations are regularly held. He stressed the need to "deliberately" source information on every aspect of the EPA and on the WTO negotiations, since they are inter-related. In that connection, he urged them to monitor trade-related decisions that are taken within the Bretton Woods institutions of the World Bank and the IMF in Washington DC, as they all have major implications for the positions that Partner States of the EAC should adopt in their EPA negotiations and their likely impact on the interests and concerns of the EAC private sector. The Power Point presentation on "Networking the Negotiations" is attached to this Report as Annex.

### **3.3.3. Strengthening Private Sector Participation in Trade Negotiations**

The project contributed to the creation of a Regional Platform which enabled the Private Sector in the EAC, under the banner of EABC and TradeCom, to be sensitized regarding the key issues in the EPA negotiations. The project provided them with the opportunity to understand the business implications of an EPA once it is adopted and ratified. The Project has made available to the Private Sector a "user-friendly" Handbook of Briefing and Position Papers as well as Power Point slides, all of which provide a critical knowledge base for the EAC Private Sector. The Project also enabled the Private Sector to have direct contact with officials from the Ministries of Trade, which are the focal Ministries negotiating on behalf of the Partner States. With the professional contacts created and the inter-personal relations developed during the two Regional Workshops, the necessary trust and confidence have been created between the Private Sector and Public Sector officials which, inter alia, should contribute positively to the Private Sector's participation in trade negotiations at both national, regional and international levels.

### **3.3.4. Second EPA Sensitization Workshop, Arusha, 12-13 March 2010**

Phase 3 of the project was a continuation of Phase 2 and was essentially a modulation of the activities carried out in the previous phase. In accordance with the ToRs and the Technical Offer, the 2<sup>nd</sup> Regional Workshop of the project was organised in Arusha on 12<sup>th</sup> and 13<sup>th</sup> March 2010.

The Workshop was attended by 15 participants from both the public and the private sectors of the five Partner States of the EAC, as well as from the EAC Secretariat. In addition, the three Sector Specialists, Prof. Gerhard Erasmus, Mr. James McLeod and Mr. Peter Steele together with the Team Leader Mr. Frederick Alipui, the Local Coordinator and AGORA' 2000's representative Ms Valentina Gentile and Logistics Coordinator Ms Ambra Giorgi attended the workshop<sup>1</sup>.

The workshop was opened by Mr. Charles Yegella on behalf of the Acting Executive Director of the EABC, Ms. Agatha Nderitu. In his opening remarks, he drew attention to the ongoing trade integration process between the EAC and the EU which is expected to create a Free Trade Area (FTA), but he also noted that the FEPA was not yet signed and that full EPA negotiations were yet to start. He went on to note that, at a meeting between EAC and EC experts which recently ended in Brussels, a Roadmap for the next phase of the negotiations had been adopted. He informed participants that, at the Brussels meeting, it had been decided that the FEPA should be signed by the end of March 2010 and that the Full EPA negotiations should also be concluded by the end of March 2010.

After a round of self-introductions, the meeting proceeded with the presentations according to the Agenda of the Workshop, annexed to this Report. The Workshop's main discussion followed the structure presented below<sup>2</sup>.

## ❖ **Session I: Exchange of Views on the Status on EAC-EC EPA Negotiations**

During this session Mr. Adrian Njau, Local Coordinator of the project, explained the origin of the obligations undertaken by the EAC Partner States in the Cotonou Agreement to negotiate an EPA, namely that the existing trade regime between the EAC and the EU was incompatible with the provisions of the WTO. He further explained the genesis of the EAC configuration which, he said, emerged due to the lobbying by the EAC private sector in order to protect and safeguard the gains achieved under EAC Customs Union. He went on to outline the objectives of the EAC-EPA.

Mr. Njau then discussed the key provisions in the FEPA, which included the market access offer for trade in goods: 64% of imports from the EU in 2010 were to be subject to a 0% duty on capital goods such as machinery. On sensitive goods he drew attention to the "Rendez-vous clause" emphasising the need to negotiate on Sanitary and Phytosanitary measures (SPS) and Technical Barriers to Trade (TBT), and he outlined the business implications of the upcoming negotiations. He stressed that FEPA was better than Everything but Arms (EBA) regime.

On the status of the EPA negotiations Ms Marie Angelique Umulisa, Trade Policy and Development Expert of the EAC Secretariat spoke about the Contentious Issues. She pointed out the issues under Export Taxes and the Economic and Development issues. She informed participants that currently the EAC negotiators were working on the Development Text and the Development Matrix. She also drew attention to the ongoing dialogue on market access and the need for financial support for the EPA Development Matrix.

During the exchange of views that ensued, participants emphasized the need for the principle of asymmetry to be applied under the Rules of Origin and agreed that the "acquis of Cotonou had

---

<sup>1</sup> The full list of participants can be found in Annex to this Report.

<sup>2</sup> All the presentations delivered during the workshop are annexed to this Report. They have also been uploaded on the dedicated page of the website.

to be respected as provided for in the Cotonou Agreement, which provides that “the parties agreed that the EPA should not make their countries worse off”. She regretted that, under the FEPA rules of origin, cumulation was not permitted and as such the EAC partner States could not cumulate in their production processes on products or components imported from SADC or ESA Member States. Hence, companies could not benefit from an EPA in exporting products to the EU where components or raw materials had been imported from SADC or ESA. It was also pointed out that, even within the FEPA, in future any countries which would not sign the FEPA would not be able to cumulate.

❖ **Session II: Introduction to the Draft EABC Private Sector EPA Negotiations Manual**

This presentation was given by the Team Leader. He pointed out that the purpose of the EABC EPA Negotiations Handbook was to provide a compendium of draft Position Papers to be used by EAC Private Sector Stakeholders as a negotiation tool in EPA negotiations. Its aim was to serve as a source of reference material for private sector negotiators and others.

He explained that the Handbook was intended to be an evolving document to be updated at the end of the Workshop, by including an appendix/addendum of the second set of Position Papers written by Sector Specialists. In that context, Mr. Alipui recalled that, during the 1<sup>st</sup> Regional Workshop, participants had agreed that the position papers should be developed into an EABC-EAC Private Sector EPA Trade Negotiations Handbook, which would be a compendium of Position Papers. He went on to note that the Draft Negotiations Handbook had been circulated to all private sector apex bodies constituting the EABC for review and improvement. He therefore called on the participants, who had promised to make their inputs to do so in order to enable the finalisation and adoption the Draft Handbook by the 2<sup>nd</sup> Regional Workshop as a Common EAC-EABC Private Sector Negotiations Position for the EPA Negotiations. This, he stated, would enable the adopted Negotiations Handbook to be formally forwarded by the EABC, on behalf of the private sector of the EAC, to the Secretary General of the EAC through the Director General of Trade and Customs of the EAC Secretariat. (It should be noted however that, at the end of the 2<sup>nd</sup> Regional Workshop, the participants decided that, since not enough comments had been received on the Handbook, it would be preferable that the EABC should keep the Handbook and use it for the Private Sector as a reference material in their work rather than as “Common Position Handbook”).

Mr Alipui also explained that the Handbook is divided into two parts. Part I contains a set of Position/Briefing Papers produced under the project and used as awareness and capacity building material for the benefit of the private sector apex bodies and the public sector officials who attended the 1<sup>st</sup> Workshop in November 2009. Part II contains a List of Basic Reference Materials and website links to be used as sources of relevant trade information. The Handbook/Manual is annexed to this Report.

**Trade Negotiations Techniques**

Mr. Alipui made a second presentation on Trade Negotiation Techniques. He suggested that preparations for international trade negotiations should similar to those of national football teams preparing for the World Cup. In the case of trade negotiations, the private sector in each Partner State should have an understanding of the issues at stake in trade negotiations and they should prepare thoroughly in order to win their objectives and goals. He explained that

"Negotiation" is defined as a social process that exhibits elements of cooperation and conflict and that it is a process designed to improve upon the status quo. There are various types of Trade Negotiations: Bilateral, Plurilateral, and Multilateral Trade Negotiations. The ongoing EPA negotiations between the EC and the EAC are a typical example of bilateral negotiations even though on the EAC side from time to time in the FEPA text, under certain circumstances, individual Partner States are referred to as a single "Party".

Mr. Alipui then explained that there are various levels in the process of the negotiations. First, there are the Technical levels, where the initial reflections and drafting of issues papers take place and are later shaped into draft briefing and/or position papers. During the course of the negotiations, it sometimes becomes necessary to constitute Informal groups, Contact Groups and "Friends of the chair" – all in the bid to facilitate the process of reaching a negotiated settlement.

Other levels of the negotiations include Senior Officials Meetings and/or Ministerial meetings at the next higher levels. In preparation for some Trade Negotiations, such as Ministerial Conferences of the World Trade Organization, it can be observed that sometimes various "Interest Groups" or Regional Groups organize "Mini-Ministerial" conferences in a bid to lobby and to build consensus prior to the wider/multilateral sessions of the Trade Negotiations Conference. Some trade negotiations are concluded at the level of the Conference of Heads of State and Government.

Other dimensions of trade negotiations are "substantive" and "intrinsic". During the negotiations the negotiator can resort to "Positional" or "Distributive Bargaining". A Negotiator must have both an "Offensive" and a "Defensive" position as well as a "Fall-Back" position. There is also the issue of "The Negotiators' Dilemma": at the beginning of the negotiations, the Negotiator is usually torn between whether he/she should cooperate or compete with his/her opponent negotiator. He/she wonders when to reveal the real position of his/her country. If so, to what extent? What should be the opening offer? At what rate make concessions be made?

Mr. Alipui strongly recommended that the private sector should ensure that the Negotiator first identifies its national interest(s); identifies the issues/areas of interest in the Negotiations; and identifies the corresponding issues/areas of interest of the opponents.

He further recommended, that when preparing to negotiate, a National Trade Negotiations Committee should be established to lead the preparation process at the national level, including appointing the Chief Negotiator/Leader of Delegation to lead the negotiations and be the "official spokesperson" of the national Delegation during the negotiations process. To that end the Committee should first commission a "Diagnostic Study" of the issues of interest in order to scientifically or empirically analyse and justify why the Negotiator should recommend a particular position for his/her Government. Then the Negotiator should translate the identified national concerns and/or Issues of Interest into a Briefing Paper and later into a National Position. The national Committee should also constitute a National Trade Negotiations Team – including a Chief Negotiator/Leader of Delegation.

The Team Leader also suggested that the Post-Negotiations Action Plan should include an Implementation, Monitoring and Evaluation Plan at the National level, including the ratification process and the translation of international trade commitments into domestic/national laws, which must be gazetted to become enforceable national laws that must be complied with.

**EAC- EC Market Access Offers on Trade in Goods**

This presentation was made by Mr. Adrian Njau, Local Coordinator. The focus of his presentation was on the outstanding issues not yet concluded in the FEPA.

**FEPA Rules of Origin regime**

In his presentation, Mr. Peter Steele, the Rules of Origin Expert, explained that the main purpose of the EPA Rules of Origin regime should be to promote economic activity in the EAC partner states by encouraging the production in those countries of goods for export to EU markets under the preferential access provisions of the Agreement. For the purpose of the Rules of Origin regime, the creation of employment should be the principal means of determining whether export production involves significant economic activity or not. To that end, Mr. Steele stated that the EABC should argue for the adoption of the policy position, including a fall back position. He recommended also, inter alia, that the EABC should argue for the adoption of the following policy positions by the EAC negotiators:

- **CTC (Change of Tariff Classification) as the single generic criterion of origin:** In the case of goods produced using materials and/or components imported from third countries, “originating status” should be based on whether or not “**substantial transformation**” of the imported content takes place in the exporting country. The criterion for determining whether or not “substantial transformation” has taken place should be whether or not the processes involve bringing about a change in the 4-digit tariff classification of the goods concerned or a change in tariff heading, i.e. the “CTC”. Mr. Steele underscored the need for CTC to be the generic default criterion of origin for all goods not wholly-obtained and other criteria should only be agreed in specific instances where it is considered that either:
  - The processes by which transformation is achieved do not involve significant economic activity in the exporting country. To this end the list of processes contained in the present FEPA protocol (Annex II Art. 5 – *Insufficient Working or Processing Operations*) should be incorporated in the final EPA.; or that
  - The production processes do not bring about CTC, but nevertheless, do create significant economic activity in the exporting country;
  
- **Joint mechanism for determining exceptions to CTC criterion: Mr. Steele further recommended that** the EABC should argue for the establishment of a joint EC/EAC body to make exceptions in specific instances in the case of operations that appear to fall under the categories listed in Annex II, Art. 5, but which do, in fact, involve significant economic activity in the exporting country.
  
- **CTC to be criterion for clothing and fish product exports:** The EABC should be particularly insistent that CTC be the sole criterion of origin for clothing and fish products and that a Value-Added (VA) criterion should not be agreed. In the case of fish products the need to identify individual fish species may require that there be a change of 6- as opposed to 4-digit classification.
  
- **No change in the present FEPA rules for wholly-obtained fish:** The EABC should argue against any attempt to reintroduce the more rigorous criteria of the Cotonou

Agreement for determining the originating status of fresh fish – especially those rules relating to the crew-composition of sea-fishing vessels. In other words, at the very least the provisions of the present FEPA should be retained.

- **Economic Enterprise Zones (EEZ) to be considered as territorial waters:** The EABC should urge the adoption of the ACP proposal that fish taken in EAC member-state EEZs should be deemed to be taken in territorial waters for the purposes of determining its originating status.
- **Cumulation - the status of Republic of South Africa (RSA) goods:** Goods originating in the RSA should be accorded the same status as those originating in ACP member-states for the purposes of cumulation.
- **Administrative provisions of FEPA to be retained:** The EABC should argue for the retention of the present arrangements for certifying the origin of goods exported under the EPA. In other words the EUR1 Movement Certificate validated by national customs authorities should continue to be principle proof of originating status and self-certification by exporters should be available only as a voluntary option.

Regarding the need to have a “fall-back” position, Mr. Steele urged that the EABC should be the continuation of the arrangements prevailing under the present FEPA. That, he said, was most likely to be accepted by the EC and would secure for the EABC the substance of many of the objectives outlined above.

### **Trade Facilitation**

The Sector Specialist Mr. P.J.B. Steele gave a presentation on the trade facilitation aspects of the FEPA. He indicated that that the main heads of this particular issue had already been agreed with respect to the state agencies which would be required to implement the new regulatory

He explained that in the GATS, the general rule is that countries should not discriminate between service products and providers of different countries and that in putting the rules into force, transitional periods of up to 10 years were possible: members must ensure transparency in regulations applicable to service industries and activities. He pointed out that the GATS Agreement aims at ensuring greater participation of developing countries in service trade.

Mr. McLeod went on to stress the importance of Trade in Services, which he said accounted for over 20% of world trade and is continuously growing. He went on to identify 12 WTO sectors, namely: Business and professional services including IT; Communications; Construction and engineering; Distribution; Educational services; Environmental services; Financial services including insurance; Health services; Tourism and travel; Recreational, cultural and sporting; Transport; and Others.

He went on to mention that the above sectors were further sub-divided into 155 sub-sectors. Regarding the modes, he pointed out that there are four Modes of Supply:

Mode 1: Cross-border:

- Supply across border independent of supplier or consumer;
- Example: Consultancy, distance learning, market research.

Mode 2: Consumption abroad:

- Consumer crosses border to receive the service;
- Examples: incoming tourism, training courses for non-residents, sending a ship for repair.

Mode 3: Commercial presence:

- Supplier moves across border to provide services through a local affiliate, subsidiary or representative;
- Supplier may employ local personnel;
- Example: Kenyan firm establishes branch in UK.

Mode 4: Movement of natural persons:

- Supplier (individual) moves across border to provide service on temporary (non-resident) basis;
- Example: Ugandan nurses go to UK to work in hospitals.

Mr. McLeod went on to discuss what the EABC should aim at in the EPA negotiations.

On the extension of Most Favoured Nation (MFN) treatment, he recommended that the aim should be reciprocity for suppliers and services. However exemptions were possible for 10 years. On the mutual recognition of qualifications, he pointed out that the aim was that countries should enter into arrangements for mutual recognition of qualifications. Nevertheless, on monopolies and exclusive arrangements, he said that countries must ensure that monopolists or exclusive suppliers did not abuse their positions.

Regarding the status of the EAC being composed of developing countries, Mr. McLeod was of the view that GATS recognises the scope for greater participation of developing countries in

Trade in Services and the situation of asymmetry between developed and developing countries. To assist developing countries, the GATS suggests three sets of measures:

- Developed countries should give priority to liberalisation of access in modes of supply and services sectors of interest to developing countries;
- Recognition that developing countries need higher levels of protection, therefore they should have flexibility in opening their own services sectors to import competition;
- Developing countries may impose conditions, for example requiring foreign competitors to invest locally or establish a commercial presence.

Regarding the status of the EAC-EC EPA Negotiations, it was explained that the Framework Economic Partnership Agreement (FEPA), initialled in November 2007, leaves Trade in Services (and other areas of trade) for later negotiation (Article 37, under the so-called "Rendez-Vous Clause".

It was noted that the EAC Partner States have held several sessions on Trade in Services but no agreement has been reached yet between the EAC and the EU.

Mr. McLeod dwelt at length on the definition of Mode 4 and drew lessons from the CARIFORUM-EU EPA. On Mode 4, he spoke about the need to allow for inter-corporate transfer and the need to allow business visitors to engage in direct services thereby allowing contractual services suppliers and independent professionals to function.

Regarding the state of evolution of the sector it was noted that there was a proposal for the formation of a Coalition of Services Industries being developed by the EABC Secretariat.

In his contribution, Mr. Yegella further explained the efforts made by the EABC Secretariat to create this Coalition of Services Industries, with the objective of empowering the stakeholders in the sector in order for them to lobby and sensitize about the challenges facing the EAC private sector in respect of Trade in Services. He outlined some of them, such as limited supply capacity, absence of national trade service policy, lack of representation, internal and external roles etc.

### **Institutional Arrangements and Dispute Settlement Mechanism**

In his presentation Prof. Gerhard Erasmus outlined the historical background to international trade agreements and the institutional arrangements that underpin them. In this regard he urged participants to keep in mind their own Regional Integration arrangements. He focused his presentation on the use of Institutional Arrangements to promote the implementation of trade agreements and to enforce the implementation of the rules and regulations contained therein. In this connection, he pointed out that the EAC-EC FEPA provides for the setting up of two new institutions which would play important roles with regard to the future implementation of the (F)EPA. These are the EPA Council and the Special Committee on Customs Cooperation. He pointed out that Article 47 says that "the Parties hereby establish an EPA Council which shall be responsible for the administration of all matters under this Agreement and the fulfilment of any

(being responsible for the administration of all matters under the Agreement) and specific tasks involving certain articles in the Agreement.

The other institution mentioned is the Special Committee on Customs Cooperation, provided for in Article 48. This is composed of the representatives of the Parties and shall meet on a date and with an agenda as agreed in advance by the Parties. The office of chairperson shall be held alternately by each of the Parties. The Special Committee on Customs Cooperation shall report to the EPA Council.

Prof. Erasmus went on to point out that the functions of the Special Committee shall, inter alia, be as follows:

- (a) Monitoring the implementation and administration of the Protocol concerning the definition of the concept of "originating products" and methods of administrative cooperation;
- (b) Providing a forum to consult and discuss on all issues concerning customs, including rules of origin, general customs procedures, customs valuation, tariff classification and mutual administrative assistance in customs matters;
- (c) Enhancing cooperation on the development, application and enforcement of rules of origin and related customs procedures, general customs procedures and mutual administrative assistance in customs matters;
- (d) Any other issues agreed by the Parties.

This would obviously be an institution with powers over matters (including customs issues) of direct concern to the business community. However, he pointed out that its procedures are not discussed in any detail. It is not yet known how the private sector would be involved in its operations and how it would be ensured that their interests would be taken into account in the future. It was also pointed out that the decision making process is not yet defined and that it is also not yet known whether the decisions would be binding or not.

On Dispute Settlement Mechanism, Prof. Erasmus stated that it is typical of rules-based trade arrangements to provide for formal mechanisms for settling disputes between the parties. In the case of the EAC-EC FEPA the parties are the member states of the EU and of the EAC. [The European Community is also a party; as a consequence of its powers over the common trade policies of the EC states]. The FEPA provides for a chapter on dispute avoidance and dispute settlement. The applicable provisions are found in Articles 38 and 39 of the present text.

Article 38 states that "the Parties shall endeavour to resolve any dispute concerning the interpretation and application of this Agreement by entering into consultations in good faith and for reaching an agreed solution". Certain formal procedures apply, such as the fact that consultations will be started by means of a written request to the other Party and an identification of the measures that are said to be in violation of the obligations provided for in the Agreement. Consultations shall take place under the auspices of the EPA Council and shall be held within 40 days of the date of the submission of the request for consultations. On matters of urgency, including those regarding perishable goods, the consultations shall be held within 15 days and should be concluded within 30 days. Prof. Erasmus, however, pointed out that it is not quite clear whether there is an absolute obligation on the Parties to agree to negotiations in terms of Article 38. However, Article 39 goes on to say that "if consultations do not succeed in settling the dispute in question, either Party may request settlement of the

dispute by way of arbitration. The process commences by notifying the other Party and the EPA Council. Arbitration shall take place in terms of the procedure provided for in this provision; which starts with a formal request, the identifying of the measures at issue and noting the provisions in the Agreement which the complaining Party considers to have been violated”.

It was noted that the arbitration procedure is rather standard. Each party shall appoint an arbitrator within 30 days of the request for the arbitration. If the defending Party fails to appoint its own arbitrator, the Secretary-General of the Permanent Court of Arbitration in The Hague shall appoint the second arbitrator. The Arbitration Tribunal must consist of 3 arbitrators and the third one is appointed by the two arbitrators nominated by the Parties to the dispute. In the event of failure to appoint a third arbitrator the Secretary-General of the Permanent Court of Arbitration shall appoint the third arbitrator.

The procedure to be applied will be as provided for in the Optional Arbitration Regulation of the Permanent Court of Arbitration for International Organizations and States. The EAC FEPA therefore incorporates provisions which are rather standard.

In light of the foregoing, Prof. Erasmus outlined a number of recommendations. He called for a study to be conducted on the implementation challenges around the (F)EPA and to that end he recommended technical assistance to be sought for the implementation phase of the FEPA. He went on to recommend the necessary training and capacity building programmes for the purpose. Other recommendations made were:

- Make an assessment of the needs of the private sector regarding future dispute settlement arrangements and trade remedies;
  - Lobby national Governments and the EAC for the establishment of local institutions to investigate anti dumping and countervailing complaints and to provide for safeguards;
  - Make inputs into the further negotiations regarding a final dispute settlement mechanism for inter-state disputes;
  - Study the provisions in the FEPA on institutional arrangements. Develop and implement plans to be represented on the envisaged bodies; these should be equipped with the powers to protect the interests of the EAC business community;
  - The EAC business community should become involved in the future activities of the EPA Council and the Special Committee on Customs Cooperation. Draw up a list of all the special functions allocated to these bodies and develop strategies around participation and utilization;
  - Become constructively involved in all (F)EPA negotiations.
- ❖ **Session IV: Introduction to the Agriculture and Economic & Development Cooperation under EPA**

### **Technical Barriers to Trade and Sanitary and Phyto-Sanitary Measures**

This presentation was made by Mr. Frederick Alipui, the Team Leader. He defined the SPS Agreement as a set of rules, principles and benchmarks for WTO members to ensure, among other things, that Sanitary and Phytosanitary (SPS) Measures are justified and do not constitute disguised restrictions on international trade.

He explained that SPS measures are any cross-border rules applied by countries:

- To protect human, animal and plant life from risks arising from additives, toxins or disease-causing organisms in foods, beverages or foodstuffs;
- To protect human life or health from risks arising from diseases carried by animals, plants or products thereof, or from entry, establishment of pests;
- To protect animal/plant life or health from risks arising from the entry, establishment or spreads of pests, diseases, disease-carrying organisms or disease causing organisms;
- To prevent or limit other damage from the entry, establishment or spread of pests.

He pointed out some of the main features of the SPS Agreement. For example, the Agreement encourages the use of such standards as the Codex Alimentarius for foodstuffs; the International Animal Health Organization (Office International des Epizooties) for Animals; and the FAO Secretariat for the International Plant Protection Convention (IPPC) for plant health. He stated that the Agreement was flexible, as it allows countries to use different standards and methods of inspecting products, as long as the regulations are based on analysis and assessment of objective and accurate scientific data.

Regarding private sector concerns, Mr. Alipui pointed out the Private Sector's lack of capacity to conform to the EU's Technical Barriers to Trade (TBT) and SPS Measures. Some limited understanding and interpretation of TBT and SPS measures' technical cooperation between EAC Partner States and the EU does exist but new developments are always occurring. Yet authorities are lagging behind.

On the practical issues regarding market access, he drew attention to the challenges posed to the exporters of the EAC by the use of EUREP – GAP by European retailers who impose private sets of standards, formulated by the Euro-Retailer Produce Working Group (EUREP) and the Good Agricultural Practices (GAP) (EUREP-GAP) Protocols on Fruits and vegetable and Flower and ornaments respectively.

Mr. Alipui went on to recommend that there should be a comprehensive inventory of the SPS and TBT measures that EAC exporters face in the EU and other markets; and that there should be an enhancement of the technical capacities and business contacts of East African producers, so as to keep up with the evolution of TBT and SPS measures.

He further recommended that EAC Partner States should achieve a common regional standard for goods and that the EU should provide technical assistance to EAC Partner States in areas relating especially to capacity building in the fields of standardisation, metrology, accreditation, conformity assessment, upgrading and setting of laboratories and of other relevant institutions. The EU and EAC Partner States should encourage the participation of the private sector in international standard setting bodies.

On proposals for private sector position for the EAC, Mr. Alipui outlined the following recommendations:

- Upgrading and setting up of laboratories and of other relevant institutions;
- The EU and EAC Partner States should encourage the participation of the private sector in international standard setting bodies;

- EAC may call on the EU to cooperate in the various areas of standards, technical regulations and conformity assessment such as:
  - Promoting greater use of international standards in technical regulations and
  - conformity assessment, including sector-specific measures, in the Parties' territories;
  - Supporting EAC's capacity building initiatives in the fields of standardisation, conformity assessment and metrology;
  - Quality management and assurance in selected sectors;
  - Promoting and enabling full participation in international standards setting bodies of EAC standards and other technical regulatory bodies. Reinforcing the role of international standards as a basis for technical regulations;
  - Promoting efforts by EAC conformity assessment bodies to obtain international Accreditation;
  - The EAC should call for technical assistance for SPS capacity building with Financing and Implementation Timelines;
  - The EAC should call for structural or institutional agreements to facilitate the use of existing WTO SPS instruments equivalence.

### **Economic and Development Cooperation (Private Sector Priorities)**

The Participants were informed about the ongoing process to formulate the EAC EPA Development Programme and Matrix. The Team Leader also informed participants about the process which was adopted in the ECOWAS (Economic Community of West African States) region. In particular, he explained at length the country study conducted for Sierra Leone where he was on a TradeCom project lately. He shared the available information with the participants.

Prof. Erasmus strongly recommended that regarding the wording of the text, the EAC should borrow extensively from the existing Economic and Development Cooperation text of ESA.

### **Agriculture and Trade Remedies (Trade Remedies and Private Sector)**

In his presentation, Prof. Erasmus explained that the basis of the Trade Remedies was founded on the WTO Rules of Anti-Dumping and Countervailing Measures as well as Multilateral Safeguards. At the domestic level he outlined:

- Anti-dumping investigation;
- Serious injury has to be demonstrated and proved;
- Causality must be demonstrated by the State in accordance with WTO rules.

He informed the workshop that in South Africa they had an "Internal Trade Administration" Department that monitors the implementation and impact of WTO regulations as well as the incorporation of WTO rules into domestic laws. It has the responsibility to investigate dumping in terms of national laws – that must be reviewed by the domestic court before it can be taken up to the Constitution Court.

**Safeguards**

Regarding Safeguards, he indicated that these are exceptional situations when there is a sudden upsurge in the market causing injury. In this case, the WTO may allow for a limited period of time within which a country must justify "sui generis" discipline. An activating body is to be established at the EAC Secretariat to take up the case of and on behalf of a Partner State. For the time being those mechanisms for the protection of private sector do not exist but must be established, staffed and trained.

❖ **Section V: Introduction to the negotiations on Trade Related Issues**

**Intellectual Property Rights**

In his presentation, Mr. McLeod explained that apart from the Market Access offer, the FEPA provides a mechanism for the continuation of the negotiations towards a comprehensive EPA. Article 37 of the FEPA (the "rendez-vous clause") provides that the parties will continue negotiations in a number of areas where an agreement has not been reached. These include a number of trade related issues, one of which is Intellectual Property Rights (IPRs).

The paper presented reviews the current (March 2010) state of negotiations on IPRs; examines its WTO context; highlights its importance to the private sector in East Africa; examines how other EPA configurations have dealt with it; and recommends a strategy for the East African private sector to follow in its intercession with EAC negotiators.

**Current state of negotiations**

Mr. McLeod reported that as of March 2010 Intellectual Property Rights (IPRs) had not been the subject of any detailed negotiations between the EAC and EC parties. They are not mentioned in the conclusions of the Eighth Negotiation Session of EAC and EC technical officials that took place in Brussels in February 2010.

It was understood that the EC has offered the EAC a draft text on IPRs as the basis of negotiation of an IPRs section in the final EPA. However, this text has not been seen by representatives of the private sector and therefore they have not been in a position to comment on it or to develop a strategy in response to it. Nevertheless it was understood that the general strategy of the EAC partner states was to confine EPA negotiations on IPRs to commitments of these states under the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, with the overall objective of obtaining assistance to enable the Partner States to improve their capacity to comply with the provisions of this agreement. The view of the partner states is that, even if individual states have acceded to TRIPS, this is not the time to enter into a separate and possibly more rigorous "TRIPS Plus" agreement with the EC. This is because, regardless of the EPA negotiations, partner states are facing difficulty in meeting their existing obligations to implement elements of TRIPS. In other words, partner states need to give priority to their TRIPS obligations.

Mr. McLeod went on to explain that the legal basis for an international agreement on Intellectual Property Rights is the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which forms Annex 1C to the Final Act ("the Marrakesh Agreement") of 1994 establishing the WTO. He explained further that the agreement covers the following types of intellectual property:

- Copyright and related rights;
- Trademarks, including service marks;
- Geographical indicators;
- Industrial designs;
- Patents;
- Layout designs of integrated circuits;
- Undisclosed information, including trade secrets.

He stated also that the agreement, inter alia, sought to give adequate protection to IPRs and to provide mechanisms for the settlement of disputes on IPRs between WTO members. He went on to state that the TRIPS Agreement took effect in January 1995, although Least Developed Countries (LDCs), including Tanzania, Rwanda, Burundi and Uganda, were given time to ensure that their own laws and regulations conformed to the Agreement. In this regard he stated that the original deadline was 2006, but that this had been extended to 2013 (2016 for pharmaceuticals and undisclosed information).

Mr. McLeod underscored the importance of IPRs to the private sector; in particular in respect of the prospect of industrial production being based on research and development, whereby industrial products contain more high-tech input and many more products are manufactured using inputs from several countries and involving international joint ventures. It is indeed becoming cheaper to produce imitation and counterfeit goods, with the related risks to consumer safety and health as well as to the reputations of the legitimate manufacturers of goods which are imitated.

He also drew attention to a contentious area in the case of many developing countries: "traditional knowledge" and the related topic of biodiversity and genetic knowledge. He pointed out instances where traditional plant varieties, such as strains of rice, which are in widespread use, have been patented by multinational companies, leading to the imposition of charges such as royalties for their continued use.

He cited IPRs in the CARIFORUM EPA Agreement and pointed out lessons that could be drawn from it by the EAC private sector. Mr. McLeod made a number of recommendations for the private sector.

### **Transparency in Public Procurement**

In his presentation of the theme, Mr. McLeod pointed out that as of March 2010, government (public) procurement had not been the subject of any detailed negotiations between the EAC and EC parties. It was not mentioned in the conclusions of the Eighth Negotiation Sessions of EAC and EC technical officials that took place in Brussels in February 2010.

Government procurement was one of the so-called "Singapore issues". These are fields where the WTO, following the 1996 Singapore Ministerial meeting, set up working groups to consider ways of simplifying and liberalising trade procedures. They were included in the Doha Development Agenda; however at Cancún in 2003 they were dropped from the agenda in the face of resistance from many WTO members. The African Union has consistently resisted their inclusion in EPA negotiations arguing that, since government procurement is not included in the Cotonou Convention, there is no justification for introducing it as a negotiating point in the EPA

context. Nevertheless, the EC continues to push for liberalisation and greater transparency in this field. It is reported that the EC has offered the EAC a draft text on government procurement, but this has not been provided to private sector stakeholders for their comments or to enable them to develop any strategy in response to it.

Mr. McLeod noted that only 13 WTO members, plus the member states of the EC, have to-date acceded to the WTO agreement on government procurement, none of them developing or least developed countries. Other countries have an observer status or are negotiating accession. He went on to point out the importance of public procurement to the private sector; in this regard he singled out two issues as being of interest in the EPA context. First is the perception, difficult to verify or quantify, that governments of the region may discriminate in favour of domestic suppliers. The other is the widespread feeling among SMEs and micro-enterprises that they are marginalised in public procurement. If this were indeed so, it suggests the need for affirmative action measures, such as technical assistance in meeting quality standards and improved information on contract opportunities. He cited the provisions in the CARIFORUM EPA agreement on government procurement and pointed out lessons that could be drawn from it by the EAC private sector. Finally, Mr. McLeod made a number of recommendations for the private sector.

## ❖ **Way Forward and Recommendations:**

### ***Communication Strategy***

Mr. Alipui, the Team Leader, introduced this item by stating that in order to improve EABC's communication strategy the project envisaged the following activities to be carried out some of which had already been done while others were in the stage of being far advance and/or about to be concluded.

Output 1 - Regarding the development of EPA information pages on the EABC website, Mr. Alipui reported that this had been done with the support of a local Webmaster. The website's structure, designed, constructed and devoted to EPA negotiations, had been defined in accordance with the existing EABC web portal. The site has been populated with data from the Webmaster, the Local Coordinator and EABC personnel. The website can be accessed at <http://eabc.info/epa/>. He confirmed that the website is a user-friendly instrument that has been created and that it meets the requirements of the beneficiary. Regarding the contents, Mr. Alipui reported that the content on the site was being updated monthly.

Output 2 of the Communication Strategy is the production of a bi-monthly Newsletter. This Mr. Alipui reported had been produced. The first issue (November – December 2009) was circulated in connection with the 2<sup>nd</sup> Regional Workshop and also uploaded onto the website. [The second and third issues of the Newsletter are included in Annex to this report]. During the course of the project, most of the information has been shared with the EABC, therefore the long-term sustainability of project's results can be guaranteed, since there is in-house capacity for the provision of the management of the EPA website contents after termination of the project's activity.

Regarding Output 3, Mr. Alipui reported that under his coordination the required Position Papers to be drafted by Sector Specialists were under preparation as the technical contribution to the formulation of the negotiating positions to be adopted by the private sector. [These have now been prepared and are appended to this Report]

As regards Output 4, i.e. the “EAC-EABC Private Sector EPA Negotiations Handbook – Draft Common Position” , as mentioned, during the second Workshop Mr. Alipui informed the audience that it would be labelled as Volume I and that it was intended that it should be used by the private sector as a reference material in the ongoing negotiations process. He expressed the hope that it would be formally transmitted to the Secretary General of the EAC for use by the Chief Negotiators. Mr. Alipui further explained that he expected that that project would produce a Volume II of the EAC-EABC Private Sector EPA Negotiations Handbook – Draft Common Position. This he said would be a compendium of power point presentations made at the 1<sup>st</sup> and 2<sup>nd</sup> Regional Workshops held in November 2009 and March 2010 respectively

Regarding assistance in the organisation of EPA campaigns and in order to improve the stakeholders’ knowledge of EPA issues, the project was expected to provide assistance to the EABC for the realisation of a communication strategy that can be replicated in each country of the EAC region. In pursuance of this specific objective the representatives of the national apex bodies, stakeholders participating in the two regional workshops, have undertaken to replicate the EABC communications strategy by posting their comments and contributions on to their respective national websites and that of the EABC with a view to contributing to the improvement of the Positions in the Handbook/Common Positions.

### **Preparation of Offers and Demands (Supplementary to the Trade Negotiations Techniques)**

Mr. Alipui, the Team Leader, made a presentation on “Preparation of Requests and Offers” as a supplement to his presentation on “Trade Negotiations Techniques”. He explained that, after having developed a national position, the next crucial stage in Trade negotiations is the preparation of “Requests and Offers”.

He pointed out that Trade Agreements were commonly composed of legal texts providing the overall framework of the agreement and of annexes covering sectoral rules (which can also be included in the text), plus a ‘schedule of specific commitments’ for each party. The latter schedule outlines specifically what treatment each party guarantees to provide other parties in terms of tariff phase-down or granting of trade preferences/concessions or incentives. These schedules are usually the outcome of what is known as a “request-offer” process, whereby parties exchange ‘request’ for certain concessions in their export market(s) and ‘offer’ concessions domestically in return.

The process of preparing for negotiations thus requires governments preparing to participate in any trade negotiation to develop both a “Request” and an “Offer”, which are in effect technical documents that translate national and regional interests into specific negotiating positions. In that respect, both should ideally be founded upon national development strategies, export strategies, sectoral strategies, and regional integration objectives.

In the EAC EPA context, the Offer would focus on EAC imports from Europe (i.e. liberalization that the EAC might give to Europe) and represents the commitments that each individual Partner State proposes to undertake. In this sense, there would be five separate offers (representing distinct national interests) that are compiled into a single document for negotiating purposes. If a single EAC market was in place (e.g. post-Common Market integration), then a case could be made for a “single harmonized offer” for the entire region (as per the Common External Tariff (CET) and the EAC’s EPA goods commitments). Indeed, the same would apply in the case of the EU.

## Preparing a Request

Regarding the preparation of Requests, Mr. Alipui pointed out that Partner States would require information on a range of domestic and international issues, including the current state of actual EU market barriers in the various sectors, opportunities in each sector of interest in the different EU Member States. The breadth and complexity of the research would also necessitate broad consultation to ensure the representation of a diversity of views.

## Preparing Offers

On preparation of offers, Mr. Alipui said this required a detailed understanding of the existing state of the trade sector and each Partner State's national economy. Information on the potential impact and of possible commitments would need to factor in how producers in that sector and the rest of the economy might be affected, as well as potential impacts on consumers. In contrast to the "request" process discussed above, the preparation of offers is far more regulatory in nature and requires much deeper engagement of government officials throughout the process, including regulatory agencies. The extent of detailed information needed to properly inform an offer in each sub-sector in each EAC Partner State is quite large. The volume of legal and regulatory information needed can be daunting, however even more so than the request, it is essential that this analysis is available to decision makers before commitments are contemplated.

## The Way Forward and Recommendations

After the introductory remarks by the Team Leader, Mr. Frederick Alipui, participants were invited to make suggestions in terms of follow-up activities for the project – the Way Forward.

The participants first acknowledged that they still needed **capacity building on a continuous basis**. They called for the development of an **Implementation Programme/Action Plan** with timelines to be developed for private sector to continue to have access to technical assistance.

In connection with the above, they called for technical assistance to be delivered at the national level of the five partner States, namely Kenya, Uganda, Tanzania, Rwanda and Burundi. The critical issues for which urgent technical assistance was called for were: **Intellectual Property Rights (IPRs); the Singapore Issues, in particular Investment, Competition and Public Procurement**. Other areas indicated were: **Market Access, Trade Remedies etc.**

In order to implement the above suggestions, it was proposed that the capacity building programmes should be a combination of both ad-hoc and of comprehensively structured programmes to be implemented with the involvement of permanent research/training centres. It was explained that such an approach would facilitate networking and at the same time afford the change for the conduct of technical studies.

On the **implementation of the EPA** in the various Partner States, the idea was mooted that there should be an EPA Information Dissemination Centre/Office established to address the needs of the private sector, e.g. an office where a businessman/woman could go to ask specific questions about EPA. The staffing of this office should include foreign experts to provide trade and trade-related advice at the Centre. It was further suggested that the proposed Centre should be part of the Government establishment; and that the training should be targeted at the Government officials that will be working there.

It was also recommended that because of the **lack of awareness** on the part of the grass-roots population, the training and capacity building should be extended to the **rural communities**. The training should brief them about what is going to happen under EPA and to seek their views and get feedback from them.

Regarding the **studies to be conducted**, participants were reminded that the negotiations were already on course and in full steam. Regarding the sensitisation campaigns, the Workshop recommended that the EABC should undertake sensitisation programmes which should complement those already being done, even with the CEOs, by the Governments as the latter are already overstretched. In doing so, participants called for collaboration between the private sector and the governments as the latter are in possession of the required information to be used to conduct such sensitization campaigns. Other recommendations made included:

- EPA Help Desks – it was also suggested that because of their mandate, the private sector apex bodies should create Help Desks for the benefit of SMEs since they know where they are. In pursuing this goal they should get the required technical information from the Focal Ministries;
- It was recognised however, that in some countries Governments have already established such EPA Help Desks/EPA Information Centres. It was urged that the relevant SME Committee in the apex bodies should work closely with the Government;
- Finalisation of the EABC-EAC- Private Sector Handbook – on these issues, the TL sought to know from the representatives of the workshop whether their “floor-members” have been able to comment in the Draft Handbook for it to be finalised as a Common Position of the EABC-EC Private Sector;
- In their response some participants reported that in their Partner States, the Handbook was widely disseminated and in some instances there was a feeling of excitement about prospect of a private sector common position on EPA, which would be a tool for the private sector to speak with one voice. Consequently they circulated the draft to their members. However, in terms of the Way Forward, those participants recommended that the EABC should take ownership of the Draft and get their members to consolidate the draft position and have the Handbook formally adopted in their policy organs – especially at the level of EABC Board of Directors as the official position for the region;
- While supporting this proposal, some participants informed the Workshop that they were yet to secure the comments and views of their “floor members” as their consultations were still ongoing. The representative of Uganda assured that they were still expecting to send in their comments as consultations were still going on among their Manufacturers Association, Horticultural exporters and the Chambers of commerce respectively.

## ❖ **Preparation of EPA Development Programme**

On the preparation of the EPA Development Programmes, the Workshop was informed that the process started long ago and that, in most Partner States, the private sector participated from the very beginning of the process. Consequently, private sector representatives were working with the focal Ministries of Trade and have already submitted private sector-oriented projects

which are in the process of being included in their respective EPA National Indicative Programmes. Consequently it was noted that it would appear to be too late at this point to submit private sector projects, as the Ministries were in the process of finalising the EAC EPA Development Programme together with the final Development Matrix, which should have been completed by 15<sup>th</sup> March 2010.

Some participants sought to know to what extent the Development Matrix had been shared with the rest of the private sector in order to enable them to provide their input. An explanation was provided to the effect that the private sector, right from the beginning, had worked with the public sector and it was felt by the latter that they were sufficiently involved to have had adequate access to the content of the EPA programme.

Regarding the contents, it was reported that the Development Programme and Development Matrix included a number of infrastructure projects such as electricity, roads, etc.

- On the other hand it was also suggested that the EABC should formulate a technical assistance (TA) project at Regional Level under the 10<sup>th</sup> European Development Fund (EDF) for financing by the European Commission through the Delegation of the European Union in Dar es Salaam;
- There should be a number of new projects designed by the EABC to assist the private sector towards the implementation of the EPA in particular in terms of assisting national parliaments to ratify and pass Acts of Parliament into national laws; to “domesticate” the EPA and its Development Programme; and to provide resources at the national level to implement the relevant laws;
- It was also recommended that Competition Authorities should be established in each of the Partner States. The Authorities should be well staffed and its operational rules and regulations be adequately formulated and put in place and made fully functional and operational;
- The EPA Development Programme should be translated into national laws and programmes that should address, inter alia, the challenges of Infrastructure, the high cost of transport and the problems of the environment;
- There should be an EPA monitoring mechanism and dissemination of information regarding, inter-alia, Trade Remedies and how to pursue them. In that regard each Partner State should put in place an EPA Implementation/Response Strategy to ensure an effective and beneficial implementation of the EPA Development Strategy.

## ❖ **Workshop’s closure**

On the whole, there was an improvement in the involvement of the participants in the discussions compared to the first session. This is to be attributed to the positive impact of the capacity building technical assistance provided by the TradeCom project. The participants were appreciative of the opportunity the TradeCom project afforded them and they expressed their gratitude. They gave assurance that they will make maximum use of the information made available to them for the benefit of their constituents – the national apex bodies in the five Partner States.

The 2<sup>nd</sup> Regional Sensitisation Workshop was declared closed by Mr. Charles Yegella, EABC Trade in Services Fellow. In his closing remarks he expressed thanks, on behalf of EABC, to the TradeCom project and AGORA' 2000 for providing the technical assistance available for the benefit of the Private Sector in the East African Community. He expressed the wish that a further phase of the project should be implemented in order to deepen the knowledge of the Private Sector. To that end, he indicated that the EABC Secretariat would do its best to aim at securing agreement for another project.

It is the view of the Team Leader that, bearing in mind the positive note on which the deliberations ended, the 2<sup>nd</sup> Workshop can be declared a successful event.

### **3.4. Phase 4: Project's Closure**

Following the conclusion of the project's activities with the second Workshop and training at the EABC, the Team Leader prolonged his last mission to Arusha until 27<sup>th</sup> March, discussing with EABC staff the way forward and prospect's for project's sustainability as well as coordinating the final work of the local experts and Sector Specialist about the production of the remaining project's outputs. Then he came back home and in collaboration with the team of experts and with support by AGORA' 2000 proceeded with the drafting of the Final Report.

### **3.5. Deployment of the project's experts**

#### **3.5.1. International Experts**

The Team Leader, Mr. F. Alipui and Mr. Peter Steele, the Rules of Origin Experts, attended the 1<sup>st</sup> Regional Workshop and made presentations. Mr. Steele also developed a Position Paper on Rules of Origin. The other experts also participated although not on site, and provided comments on the Draft Position Paper on Trade in Services was submitted by Mr. McLeod to the Team Leader.

The 2<sup>nd</sup> Workshop was attended by all the 3 Sector Specialists, beside the Team Leader. The Team Leader, Mr. Alipui, delivered 5 presentations. Prof. Erasmus (Sector Specialist) gave 2 presentations; Mr. McLeod (Sector Specialist) gave 5 short presentations; Mr. Steele (Sector Specialist) delivered 2 presentations. In addition, 4 Position Papers were developed by the three Sector Specialists.

In addition during the third phase of the project, Mr. Alipui and Prof. Erasmus held an In-house training to the EABC staff, divided into three sessions.

#### **3.5.2. Local Experts**

The local Experts who worked on the project were Mr. Adrian Njau, the Local Coordinator and Mr. Godwin Muhwezi Bonge, Webmaster. During the period under review, the Local Coordinator assumed the full responsibility of the tasks assigned to him in his work plan. He contributed significantly to the drafting of the position papers and the power point presentations. He also collaborated with the Webmaster to generate information not only for the website but also the 1<sup>st</sup> issue of the Newsletter, 2<sup>nd</sup> and 3<sup>rd</sup> issues of the EAC-EC EPA Newsletter and Workshops

The Webmaster was responsible for the constructed the EAC-EC EPA Negotiations website and developed the EPA information pages. He also produced the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> issues of the EAC-EC EPA Newsletter in accordance with the Communication Strategy of the Project.

### **3.6. Backstopping Support of AGORA' 2000**

Under the supervision of the Project's Coordinator, Ms Barbara Amato, AGORA' 2000 deployed two internal resources to follow the day to day implementation of the project, plus the logistics coordinator, Ms Ambra Giorgi, who intervened during the organisation of the workshops and on site in Arusha to provide support to the Team of experts and the participants. The second Workshop has been also attended by Ms Valentina Gentile. This consolidated management model has helped to ensure the smooth implementation of the activities and supervised the work of the Team of international and local experts to ensure that the foreseen timetable was respected. AGORA' 2000 staff has also maintained constant contacts with the TradeCom Secretariat to keep them updated on the project's activities.

## **4. CONCLUSION**

---

### **4.1. Overall assessment of the project's implementation and results**

#### **4.1.1. Overall Assessment of the Project**

This project was designed to contribute to the improvement of the participation of the Private Sector in the EPA Negotiations between the EAC and the EU as well as in regional trade policy formulation and implementation in the East Africa Region. To that end, the project team implemented activities which sought to:

1. Inform the EAC private sector of the EPA negotiations in areas of interest to the region;
2. Reinforce the consultation mechanism between the Private Sector and negotiation teams at the national and regional levels;
3. Build competences in the Private Sector to follow, contribute to and support the negotiations between the EAC and the EU;
4. Support the EABC's core functions of providing advisory support to its members in technical areas related to the negotiations.

During the period under review, the Project Team successfully carried out specific activities, under the TORs, which translated the objectives and aims of the Project into operational and specific actions that have resulted in:

1. Raising awareness and information dissemination on the EPA negotiations for the benefit of the Private Sector of the EAC, by making available to them a compendium of Position Papers/Briefs on key issues currently under negotiations within the context of the FEPA, on the one hand, and also the outstanding issues to be negotiated under the *Rendez-Vous* Clause within the context of the upcoming negotiations for a Comprehensive EPA between the East African Community and the EU, on the other. In doing so the Project also created a Public Private Sector Dialogue (PPD) Platform where the negotiation issues were discussed within the Private Sector perspectives;
2. Pursuing an integrated communication strategy through the two Regional Sensitization Workshops organized under the framework of the Project. A system of consultation has been successfully strengthened beyond the status quo, resulting in a mutually rewarding channel of communication that has been created during the workshops when the representatives of the private sector and the public officials openly dialogued on the issues of concern to them at the EPA negotiations. The project also afforded the Private Sector the opportunity for the public officials to hear at first hand their views on how best they would like the public officials to consult them and the modalities for connecting the Private Sector and negotiators working at the national (within the EAC) at the Focal Ministries of Trade and regional (EAC-EU) levels;

3. Improving the Capacity building of the Private Sector. This was made possible through the series of lectures given at the two Regional Sensitization Workshops, with user-friendly power point presentations. Participants had the opportunity to benefit from the technical experience of the highly experienced Sector Specialists and the Team Leader, not only the knowledge base in respect of the thematic issues under the EPA negotiations but also the practical application of the Techniques of International Trade Negotiations – which are novel to the Private Sector Representatives at the Workshop—they were most appreciative;
4. In order to provide assistance to the EABC in advising its members, as far as negotiations are concerned the project also successfully implemented an In-House Training Programme for the benefit of the general membership of the EABC Secretariat on the fundamentals of International and Trade Regional Agreements and the EPA; and their Private Sector implications. The Project Team, inter-alia, also provided technical advice ranging from identification of negotiation issues of national concern; how to carry out consultations among the stakeholders at the respective national levels in order to formulate their respective national positions and subsequently translate the same into regional negotiation positions and/or Requests and Offers Preparation.

#### **4.1.2. Communication Strategy**

The communication strategy of this EABC-TradeCom project can be assessed as very successful because, through the EABC, it was able to network and disseminate information on the EPA and to the national chapters, i.e. the Confederation of Tanzanian Industries (CTI); Kenya Association of Manufacturers (KAM); Private Sector Foundation Uganda (PSFU); Rwanda: Private Sector Federation and the Chamber of Commerce, Industry, Agriculture and Handicrafts (CCIB) of Burundi.

##### **❖ Website**

The project developed EPA information pages on EABC website and uploaded successfully all the Position Papers and Briefs as well as the power point presentations on the key issues under the EPA negotiations. The website's structure, designed, constructed and devoted to EPA negotiations, has been defined in accordance with the existing EABC web portal. The website can be accessed at <http://eabc.info/epa/>. The website is a user-friendly instrument and the TL affirms that it does meet the requirements of the beneficiary of the Project.

##### **❖ Newsletter**

The 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> issues of the bi-monthly EPA Newsletter under the Project were successfully produced in accordance with the ToRs to be circulated and widely disseminated.

##### **❖ Preparation of the Position Papers by the Sector Specialists**

As required by the ToRs, a second set of Position Papers was drafted by the Sector Specialists for the benefit of the EABC Secretariat to assist the private sector. These Position Papers have been formulated and compiled into a Handbook for use by the EABC Private Sector as a reference material in their participation in the on-going FEPA negotiation and the upcoming negotiations

for a Comprehensive EPA. This Training Tool will contribute immensely to their capacity to formulate their national and regional positions in the two negotiations.

It is proposed that they be incorporated as an “Addendum to the EABC Private Sector Common Position Manual/Handbook on the EPA Negotiations” to serve as a Reference Material for the negotiations.

#### **4.1.3. Capacity Building, In-House Training to EABC Staff**

In accordance with the ToRs and the Technical Offer presented by AGORA' 2000, an In-House Training was held for the internal EABC staff by the Team Leader and by the Sector Specialist Prof. Erasmus. The training was prepared building on the results of the two EPA Sensitization Workshops, and on the needs identified with the beneficiary and also following the consultation among the Team of Experts. The training was divided into three sessions covering: General Orientation and Introduction to International Trade and EPA; Introduction to Thematic Issues; Trade Negotiations Techniques.

The lectures successfully improved and enhanced the understanding of the EABC staff on fundamental issues of contemporary international trade relations to the creation of the World Trade Organization (WTO) and ongoing Doha Development Round and how the same has compelled the EAC Partner States to negotiate the EPA because the trade regime of Cotonou Agreement was in-compatible with their commitments in the WTO which is based on the principle of non-discrimination.

#### **4.1.4. Strengthening Private Sector Participation in Trade Negotiations**

The project served to create a Regional Platform that enabled the Private Sector in the EAC, under the banner of the EABC and TradeCom to be sensitized about the key issues under the EPA negotiations. The project provided them the opportunity to understand the business implications of the upcoming EPA once adopted and ratified. The Project has made available to the Private Sector a “user-friendly” Handbook of Briefs and Position Papers as well as power point slides which all provide a critical knowledge-base for the EAC Private Sector. The Project also enabled the Private Sector to have direct contact with the officials from the Ministries of Trade who are the focal Ministries, negotiating on behalf of the Partner States. With the professional contacts created and the inter-personal relations developed during the two Regional Workshops the necessary “trust and confidence” have been created between the Private Sector and the Public Sector officials which, inter- alia, would contribute positively to the Private Sector’s participation in trade negotiations at both national, regional and international levels.

#### **4.1.5. First EPA Sensitization Workshop, Arusha 27-28 November 2009**

The First Regional EPA Sensitization Workshop resulted very successful. It was attended by 12 participants from both the private and the public sectors of the 5 Partner States, plus the 5 speakers. It was preceded by the preparation of the draft Concept Note and the draft Agenda/Programme for the Workshop which were circulated in time to enable timely responses to facilitate the necessary logistic arrangements. Sensitization materials were made available under the project on thematic issues which included, the “State of Play in the EPA Negotiations”; “Contentious Issues under EAC-EC EPA Configuration”; “EAC-EC Market Access

Offers on Trade in Goods” ; “Customs & Trade Facilitation”; “Technical Barriers to Trade (TBT) and Sanitary & Phytosanitary Measures”; “Rules of Origin”; “State of Play on Trade in Services” ; “Sector of Interests to EAC”; “Priority areas of Private sector in EAC”; “Agriculture”; “Trade, Environment and Sustainable Development”; “Intellectual Property Rights”; “Economic & Development Cooperation”.

During the sessions on Questions and Answers, the trainee/participants exchanged views extensively on the various issues/themes dealt with and the Team Leader, the Rules of Origin Expert and the Local Coordinator provided technical advisory (TA) services by explaining the intricacies and complexities of issues to the former within the Private Sector Perspectives. The success registered at the Workshop was captured in the form of a number of recommendations which were issued as the “Way Forward Action” which positively contributed to laying the foundation for the successful preparation and organisation of the second Sensitization Workshop organized by the Project Team.

#### **4.1.6. Second EPA Sensitization Workshop, Arusha, 12-13 March 2010**

On the whole, attendance to the Workshop was good, as there were representatives from both the public and the private sectors from all five EAC Member States. The 2<sup>nd</sup> Workshop also sensitized the participants on the need for EAC Private Sector to get involved and participate in their Partner States’ “Post-Negotiations Action Plan” which should ensure the successful and productive implementation, Monitoring and Evaluation Plan at the National level and the domestication in their countries of their international trade commitments.

Compared to the First Workshop one would say that participation and involvement of the participants in the discussion were much livelier. On the whole, the workshop addressed real needs and was conceptually well prepared. The papers addressed matters of relevance to the private sector and most participants gave a positive evaluation of the workshop and of logistical arrangements. This could be attributed to the fact that participation was in a relatively small group. As against this, it must be noted that, unfortunately, few of the participants appeared to have prepared for the workshop. Only a few came to the workshop with specific feedback from their members/stakeholders on issues arising from the first workshop in November 2009. There was little evidence of “nationally agreed positions”, as had been hoped for.

Presentations on new issues considered at the March workshop, such as trade in services and trade-related issues such as competition, elicited little reaction from delegates, suggesting that they were unfamiliar with the topics or reluctant to comment without a mandate from the members/stakeholders.

Delegates from the public sector (governments) had little to say on progress with negotiations or on why the private sector had not seen draft EPA texts submitted by the EC. Discussion on certain topics could have been more concrete if it had been based on specific proposed negotiating texts.

The differences (level of economic development, length of membership of the EAC, languages) between EAC partner states meant that differences of understanding and involvement between delegates from different countries (in terms of experience and contributions) were inevitable. It is strongly suggested that the momentum created under this project is not lost.

The Team Leader is pleased to report that that the expected results of the EABC-TradeCom project have been met. The workshop closed with kind words of appreciation toward the positive outputs generated by the project.

## 4.2. Project's Sustainability

During the closure phase of the project, the TL held a number of consultations with Ms Agatha Nderitu, the Executive Director on the sustainability of the project. It was clear from the discussions that the EABC is in the position to sustain the gains of the project. First of all, the Local Coordinator, Mr. Adrian Njau who is a Trade Economist worked on this project and drafted the initial briefing and position papers and having presented them during the workshops, has demonstrated that his skills and capacity have been enhanced to follow-up on the recommendations of the project. Secondly, the involvement of the Mr. Charles Yegella, the EABC-ILEAP Services Trade Fellow, who also made immense contribution to the project events in terms of technical input on Trade in Services, would also continue to impact positively on the sustainability of the project. Thirdly, the EABC Secretariat is benefitting from two Trade Policy Experts who have two/three year contract projects from the Commonwealth Secretariat and DFID respectively will also positively contribute to the sustainability of the gains of the project. Finally, Ms Nderitu has also put in place a number of measures that will enable her to develop jointly with other research centres like TRALAC, capacity building project on trade and trade-related thematic issues for the benefit of the EAC private sector. This effort, it is expected, would not exclude the possibility of EABC seeking technical assistance through the EC Delegation in Dar es Salaam, Tanzania, to have an Expert to develop for them for EC funding an EPA Implementation Regional Project under the provisions of the 10<sup>th</sup> European Development Fund.

## 4.3. Recommendations

In order to sustain the positive results of the project we recommend that, as requested by the "floor members" of the EABC Apex Bodies during the Inception Mission of the Team Leader, the EABC Secretariat may wish to seek technical assistance to develop another TA project which will, inter-alia, respond to the said request, namely:

- Organise national sensitization Workshops on the EPA issues for:
  - CEO EPA Breakfast Meetings/Workshops (one hour);
  - Media Sensitization Workshops;
  - Local Stakeholders Workshops targeting farmers and other economic agents operating outside the capital cities of the 5 Partner States.
- Develop an EPA Implementation Phase Project, including mechanisms for Monitoring and Evaluation and to include sensitization and capacity building projects/programmes targeting beneficiaries that need to understand the key business generating provisions of the EPA in order that they could use them to maximum advantage. To that end it is further proposed that such a Project should

be designed as an EABC –EC Regional Project to be funded under the 10th European Development Fund (EDF);

- The EAC-EABC Private Sector EPA Negotiation Handbook should be further circulated to the national Chapters of EABC for further comments with a view to improving upon the draft Position Papers – a Private Sector Trade Negotiations Resource.

The EABC Secretariat should explore the possibility of developing technical relationships with the Embassies of the 5 Partner States in Brussels in order to arrange for some training and attachment courses for the private sector agents both in Brussels and/or in Geneva at the WTO through the Office of the ACP Secretariat in Geneva.

Technical assistance should be designed to assist Partner State private sector in negotiating Trade in Services and investment and other issues and areas mentioned in the Rendez-vous Clause of the EAC FEPA. To that end TA should be sought to prepare the private sector.

#### 4.4. Project’s outputs

Below is presented the full list of the outputs produced in the framework of the Project, with indication of the Report to which it is annexed.

PROJECT OUPUT	REPORT TO WHICH IT IS ANNEXED
Concept Note of 1 <sup>st</sup> Workshop	Mid-Term Report
Agenda of 1 <sup>st</sup> Workshop	Mid-Term Report
List of invitees to 1 <sup>st</sup> Workshop	Mid-Term Report
Presence list of 1 <sup>st</sup> Workshop	Mid-Term Report
Presentations of 1 <sup>st</sup> Workshop	Mid-Term Report
Draft Position Papers: The state of EPA negotiations; TBT and SPS Measures; Customs and trade facilitations under EPAs; Market access issues and rules of origin under EPAs; Agriculture under EPAs; Trade in services under EPA negotiations; Economic and development cooperation under the EPA; Trade-related issue under EPAs.	Mid-Term Report
Paper on Rules of Origin (by Peter .J. Steele, Sector Specialist)	Mid-Term Report
EABC EPA Website content	Mid-Term Report
Concept Note of 2 <sup>nd</sup> Workshop	Final Report
Agenda of 2 <sup>nd</sup> Workshop	Final Report
List of participants to 2 <sup>nd</sup> Workshop	Final Report

Presence list to 2 <sup>nd</sup> Workshop	Final Report
Presentations of 2 <sup>nd</sup> Workshop	Final Report
Project Newsletters (issues No. 1, 2, 3)	Final Report
EAC-EABC Private Sector EPA Negotiations Handbook – Draft Common Position	Final Report
EAC-EABC Private Sector EPA Negotiations Handbook – Draft Common Position - ADDENDUM	Final Report
Presentations of In-house Training for EABC Staff	Final Report