

A photograph of two women and a young child walking along a dirt path in a rural, arid landscape. The woman on the left is carrying a large bundle of sticks or branches on her head. She is wearing a light blue and orange patterned wrap. The woman on the right is wearing a green and white patterned wrap. The child is walking between them. The background shows dry trees and a clear blue sky. The bottom half of the image is overlaid with a semi-transparent orange band containing white text.

# Economic Partnership Agreement Process and Implementation in eSwatini

Southern Africa Trust 2017

## Table of Contents

Acronyms	3
1. Introduction And Background	3
2. EPA's – Introduction And Negotiation Process	6
3. Status Of EPA Implementation, Challenges And Opportunities	11
4. Regional Integration And Emerging Concerns	15
5. Policy Recommendations And Civil Society Advocacy	17
6. Recommended List of CSO's	18
7. References	18

## Acronyms

ACPs	African, Caribbean and Pacific Countries
CANGO	Coordination Assembly for Non-Government Organisations
CEMAC	Economic and Monetary Community of Central Africa
CMA	Common Monetary Area
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisation
CTA	Chief Technical Officer
DFQF	Duty Free Quota Free
DTI	Department of Trade and Industry
EBA	No Arms Agreement
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
EU	European Union
EUD	European Union Delegation
FECC	Federation of Employers and Chambers of Commerce
FTA	Free Trade Area
iEPA	interim Economic Partnership Agreement
GDP	Gross Domestic Product
GSP	Generalised System of Preference
LDC	Least Developed Countries
MDG	Millennium Development Goals
MoCIT	Ministry of Commerce Industry and Trade
NSA	Non-State Actors
RISDP	Regional Indicative Strategic Development Plan
SACU	Southern African Customs Union
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SMMEs	Small Micro and Medium Enterprises
TDCA	Trade Development Cooperation Agreement
TRQ	Tariff Rate Quota
TWGs	Technical Working Groups
WTO	World Trade Organisation

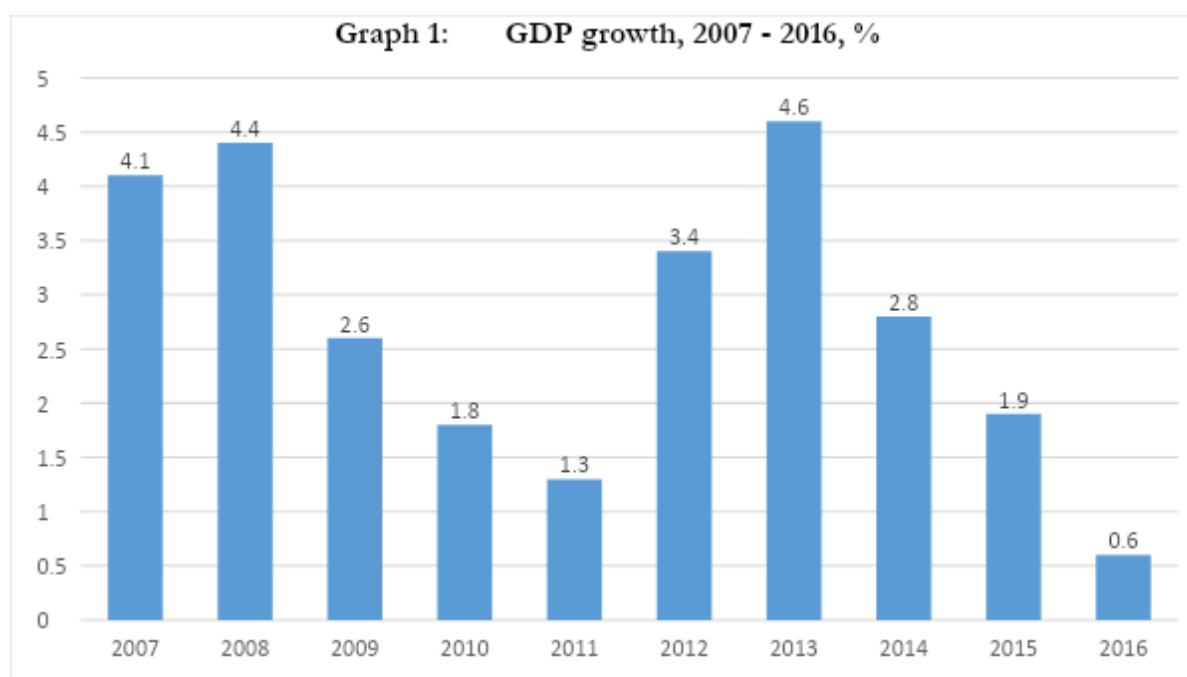
## 1. Introduction and Background Context

This report studies the Economic Partnership Agreement (EPA) negotiated between the Southern African Development Community (SADC) EPA Member States and the European Union (EU). The membership of SADC EPA are Angola, Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland. The EPA was protracted, and the group negotiators had to protect commercial sensitivities of weaker economies of the configuration. In this respect, Swaziland's trade sensitivities, commercial interests and ambitions were presented as part of the Southern African Customs Union (SACU) offer.

### 1.1 Economic context and trade performance

The Kingdom of Swaziland is a small, predominantly rural and land-locked lower middle-income country, surrounded by Mozambique and the Republic of South Africa. The economy is relatively diversified, with services including government, accounting for 48.3% of the total gross domestic

product (GDP) in 2016; followed by manufacturing, mainly textiles and sugar-related processing, representing 45.4%; and agriculture, forestry and mining together taking the remaining 6.3%. The economy is currently attracting relatively high levels of investment in the production of sugar, forestry and citrus crops. As a result, sugar and soft drink concentrate are the largest earners of foreign exchange, making a significant contribution to the country's economic growth and development. A lack of investment in the mining sector in recent years has undermined the contribution of minerals including asbestos, coal, clay, small gold and diamond deposits, quarry stone and talc to the national economy. As a result, the country's GDP whose growth pattern since 2007 reveal more years of sharp declining trend (Graph below), is projected to grow at a slower pace in 2017 largely due to a decline in agriculture, tourism and transport sectors.



Past bilateral trade arrangements between Europe and Swaziland prioritised a goal of promoting Swazi sugar products via trade preferences for sugar from the EU bloc notwithstanding lack of industrial diversification, limited capacity to comply with quality standards, and insufficient capacity and resources to improve customs and border management controls. Swaziland has a dual agricultural system: commercial agriculture is practiced in high value crops (sugar, forestry and citrus) coupled with the practice that mainly emphasises 'title deed land utilisation' which characterises farming by high levels of investment, especially in irrigation, resulting in high productivity. This, unfortunately, has over the years excluded an estimated 70% of the total population, whose livelihood depends on the 'Swazi National Land tenure system' that perennially practice subsistence farming characterised by low investment and productivity. This explains the country's triple challenges - overall low economic growth, high inequalities and growing unemployment. For instance, widespread poverty remains a challenge, affecting over 40% of the population (using World Bank 1.25 USD per day) while Swaziland's position on Human Development Index remains very low, at 141 out of 187 countries (2012) notwithstanding a relatively estimated high GDP per capita of US\$3,139.

Swaziland country statistics:

- 70% of the 1,467 million population rely on subsistence agriculture
- There is a high incidence of food shortages due to erratic weather and soil degradation
- Rapid population growth
- Growing unemployment
- 40% of the population are in poverty
- High inequality



- High infant mortality rates
- High HIV/AIDS prevalence

The Swazi economy is very closely linked to the South African market, from which it receives over 90% of its imports and to which it sends about 70% of its exports. This has a direct impact on the Swazi economy on account of monetary policy directives and sensitivities. For instance, Pretoria's policy of targeting inflation has left Swaziland, a member of the rand Common Monetary Area (CMA), with limited discretion on monetary and fiscal policy options to assert guidance on the trade agenda in particular and economic management in general. Other trading partners are Namibia (4% of exports), China (5.3% of imports) and Mozambique (5.1% of imports).

The net importing of goods and services economy has for a decade been experiencing both low absorption capacity and low-growth trajectory, resulting in high reliance on workers remittances and customs duties from the Southern African Customs Union (SACU), accounting for an estimated at 60% of the total government revenue. But in 2017, the revenue from SACU receipts as well as sugar exports and other agricultural products had declined thereby undermining government's efforts to improve the country's social and economic conditions. Indeed, any sharp decrease in SACU revenues is a contributing factor to fiscal deficits and public debt, whose ratio to GDP in 2016 is estimated at 12.3% and 27.5% respectively. Fiscal deficit for 2018 is further projected to rise to 24%. This development increases the risk of fiscal unsustainability, casting doubts on the government's commitment to diversify the economy in general and exports in particular. The above also worsens fiscal deficits thereby seriously compromising efforts to redress the triple national challenges of poverty, underdevelopment and inequality.

## **1.2 National trade and development strategy**

### *1.2.1 With respect to COMESA Regional Integration*

Swaziland's participation in the Common Market for Eastern and Southern Africa (COMESA) aims at promoting regional integration through trade development, among other instruments. Since the establishment of the COMESA Free Trade Area (FTA) in 2004, the economy has "continuously benefited from a derogation", which allows non-reciprocal trade in the context of being a member to the FTA. Furthermore, the Kingdom has been the beneficiary of a European Development Fund (EDF) grant that has since May 2015, been administered by the COMESA Secretariat under the Regional Integration Support Programme. In this respect, Swaziland has been implementing a 20-month EU-funded project in collaboration with COMESA that focuses at improving the country's capacity to implement national trade policy commitments under COMESA, including the capacity of trade related institutions, and improving support to the small to medium enterprises (SMMEs) and exporters who aim at contributing to increased exports into the region and international markets, thereby expanding the national economy. Meanwhile, Swaziland has developed an Aid-for-Trade strategy that prioritises the diversification of the products and markets to ensure that products produced by SMMEs have potential to access regional markets, especially those that can be exported to countries other than South Africa. To this end, the government of Swaziland through the National regulatory and quality policy implementation plan for 2013-2017, has been supporting the growth of SMMEs, developing the competitiveness of their products and promoting their access to regional and international markets. It is imperative that the Ministry of Commerce and International Trade (MoCIT) prioritises interventions in support of value chains' development, including undertaking a diagnostic study, developing a value chain strategy and related action plan, and operationalising the strategy on the honey sector.

### **1.2.2 With respect to SADC and SACU regional integration**

Swaziland's short to medium-term strategic vision has been guided by SADC's Common Agenda and Vision, as enunciated in the SADC Treaty, Protocols and Policy Frameworks; and the revised Regional Indicative Strategic Development Plan (RISDP), 2015–2020 that recognizes the role of the

private sector in policy and strategy formulation for regional integration. The country's strategic objectives in Vision 2022 notes full commitment to RISDP, including efforts to promote market integration through the consolidation of the SADC FTA in goods and services, value addition as part of the SADC Industrialisation Strategy and Roadmap, and trade in services.

In line with SADC's roadmap, which established an FTA in August 2008, SACU countries, to which Swaziland is a member, are among the SADC Member States that successfully implemented tariff phase down commitments. This success was largely due to the collective commitments of SACU economies and the close alignment of the Swazi economy to that of South Africa.

It is in this context that the country subscribes to a wide range of trade-related commitments including:

- customs cooperation and trade facilitation
- technical barriers to trade
- sanitary and phytosanitary measures
- competition policy and intellectual property rights
- and trade in services.

However, there are some factors that currently undermine improving trade flows through the implementation of regional trade agreements. Firstly, overreliance on the South African export market that is currently consuming 90% of Swazi exports. As a result, there is limited volume of exports going to other regional countries and bilateral trade partners. Secondly, the economy is less diversified to an extent that a substantial share of exports, comprising sugar and sugar derivatives, and textiles into the EU and US markets respectively are covered by bilateral trade preferential market access. As a result, fewer products are currently destined to other regional economies through regional trade memberships (COMESA, SACU, SADC FTA). In particular, the Swazi economy has not been maximising commercial benefits under the SADC Trade Protocol. Similarly, the economy is unlikely to exploit significant market opportunities presented by the unfolding Tripartite FTA agenda. Thirdly, the prevailing poor physical and quality infrastructure contributes to higher transport costs, cumbersome cross-border procedures and introduces other non-tariff barriers, all of which slow down trade flows in the region and beyond. As a result, Swaziland's effort to maximise mercantile benefits associated with membership of various regional economic integration initiatives has not been visible. These challenges have prevented the country from harnessing the socioeconomic and poverty reducing benefits associated with increased bilateral trade agreements.

### *1.2.3 With respect to World Trade Organisation*

Swaziland has been an active founding member of the World Trade Organisation (WTO) since 1995, whose trade provisions are meant to benefit the economy by taking advantage of external market opportunities. Even the recently ratified Economic Partnership Agreement (EPA) regime is governed by relevant WTO provisions such as anti-dumping, countervailing measures, and various safeguard measures whose implementation protect the domestic market in instances of import surges. There is a similarity between WTO Doha round, a development round and the EPA regime being implemented, which inter alia, aims to promote sustainable development and poverty eradication. Given the above, stakeholders, especially civil society formations, should evaluate the international trade regimes such as the EPA in terms of assessing its scope for achieving the MDGs. The global trading system and the EPAs must facilitate the creation of domestic policy space and flexibility for fostering MDG progress in member states.

## 2. EPAs – introduction and negotiations process

### 2.1 Fragmented ACP versus a united and enlarged EU

The relationship between the EU and Africa-Caribbean-Pacific (ACP) states which dates back to 1975 with the first Lomé convention, developed to what was termed the 'culture of ACP-EU cooperation', that is, non-reciprocal Aid and Trade preferential treatment of ACP states. Subsequently, a series of Lomé conventions culminated into the Cotonou agreement (2000-2020) whose core objective was poverty reduction and its eventual eradication. However, the preferences under Cotonou were challenged by non-ACP developing countries, resulting in EPA negotiations to replace the trade chapter of the Cotonou Agreement that proved to be WTO incompatible due to its non-reciprocity nature. Indeed, from the onset, the EPA negotiations process split the ACP group that for decades had negotiated trade ambitions as a bloc with the EU. As a result, both the Caribbean and Pacific countries became a configuration that negotiated the EPAs with the Brussels, while the African continent split further into four configurations – the Economic and Monetary Community of Central Africa (CEMAC), the Economic Community of West African States (ECOWAS), the Eastern and Southern Africa (ESA) and the SADC EPA group to which Swaziland is a member.

In order to exert pressure on the SADC EPA Member States towards a conclusive EPA outcome, the three EU political structures unanimously voted in favour of withdrawing the Market Access Regulation 1528 of 2007 by 1 October 2014. This caused anxiety since the withdrawal of the Regulation was feared to deny SADC EPA states alternative preferential trade regime in accordance with WTO trading system. Such a move would have negatively affected Botswana and Namibia under the Generalised Systems of Preference (GSP). While Swaziland would continue to benefit under the GSP, some of her important exports to the EU would have lost the duty-free, quota-free (DFQF) market access other countries were enjoying under the Regulation. In order to avoid disruption to trade, the SADC EPA Ministerial meeting adopted a roadmap, guiding the Senior Officials towards concluding the full EPA negotiations by end of June 2013. This entails intensifying internal technical working groups (TWGs) and Senior Officials negotiation and consultation in order to progress negotiations covering thematic areas including market access, rules of origin, trade related issues and unresolved issues. The internal and joint meetings between the EU and the SADC EPA states recorded progress while exposing contentious areas in the process, e.g. the joint TWGs and Senior Officials meetings of March 2013 could not resolve most issues, especially in the areas of market access, cumulation/rules of origin, unresolved issues and trade related issues.

### 2.2 Negotiating road map, sequence and principals

The SADC EPA configuration comprising of SACU countries (Botswana, Lesotho, Namibia, Swaziland and South Africa), Mozambique and Angola agreed with the EU on the EPA negotiation roadmap covering trade in goods with the EEU in June 2004 in Windhoek, Namibia. This joint road map then sequenced the negotiations in three stages. The roadmap defined the impetus, direction, and timeframes for deeper regional and/or configuration integration, the basis through which these countries increasingly become integrated into the EU market and the global economy, in line with EPA objectives. In addition, to clearly define the overall objectives of the group including sustainable development of SADC economies, their smooth and gradual integration into the EU and the rest of the global economy and contribution towards poverty eradication. This entails promoting sustained economic growth and development; enhancing industrial production and export capacities of SADC economies; fostering the diversification and structural transformation of the SADC economies; and supporting the goals of regional integration initiatives as stipulated by RISDP. The joint road map allocated six months to set negotiation priorities; two and half years to engage in substantial negotiations, i.e. developing issues, interests and positions; and one and half years to conclude the negotiation process with the EU. Sequencing stage negotiations were initially expected to end on 31 December 2007, but the timeframe was extended to mid-June 2016. In this

respect, the joint road map not only defined the principles of negotiations, but also identified priority areas including development dimensions; regional integration; market access in agriculture, non-agriculture and fisheries products; rules of origin; trade facilitation; technical barriers to trade; and sanitary and phytosanitary standards.

Immediately after the launch of the negotiations in July 2004, the group religiously followed the road map in its quest to meet the set deadline. Intense discussions in 2005 resulted in the "Framework for EPA Negotiations between the EU and SADC EPA" document that was adopted on 12 February 2006, in Luanda, Angola by the SADC EPA Ministers of Trade, and subsequently submitted to the EU on 7 March 2006 at a joint EU-SADC EPA meeting in Gaborone, Botswana. As a result, South Africa which participated as an observer, requested the whole group of SADC EPA countries to join the negotiation through the above framework in 2006, and the EU accepted the proposal the following year on the basis of amending its mandate, taking into account the level of competitiveness and development vis-à-vis other group economies.

The framework created a single trade regime between the EU and SADC EPA economies by merging the Trade Development Cooperation Agreement (TDCA), Everything but Arms (EBA) and the Cotonou Agreement. In this respect, the framework's key proposals and the corresponding EU response are summarised in the table below. This framework presented a strategic approach that navigated the complexity of trade relations in this configuration. As a result, SACU countries adopted TDCA as a basis for tariff negotiations, considering all their sensitivities, especially that of Lesotho and Swaziland. Meanwhile, both parties agreed to prepare cluster negotiations at the technical level (thematic TWGs) while actual negotiations of all thematic areas were done by Senior Officials. Trade Ministers were only involved in situations and issues that threatened to derail the process. In this respect, they provided political oversight to the process, especially on emerging contentious issues or situations, threatening to slow down the process.

#### **SADC EPA proposals and the EU responses**

<b>SADC EPA proposals</b>	<b>EU responses</b>
Botswana, Lesotho, Namibia and Swaziland (BLNS) countries should use the TDCA as a basis for their market access offers to the EU.	The EU accepted the use of TDCA as a basis for market access offers but proposed a differentiation between South Africa and the rest of the group member states. This effectively means that there would be two treatments for EU exports to the SADC EPA region as well as for imports into the EU market from the group. However, there would not be any technical problems regarding exports to the EU as opposed to imports where close monitoring would be required.
Two LDCs in the group (Angola and Mozambique) should not be required to reciprocate the concessions from the EU.	The EU insists on some form of reciprocity for the LDCs with respect to tariff concessions. Mozambique accepted to reciprocate while Angola could not (negotiations ended without an offer being shared with the EU).
South Africa should be accepted as a substantive member of the SADC EPA configuration.	The EU accepted the inclusion of South Africa in the group.
There should be no binding commitments on new generation issues under the EPA though the issues would be discussed for the purposes of cooperation only.	The EU insisted on the inclusion of new generation trade issues, highlighting their importance and necessity in terms of achieving development as well as providing investors' certainty about the region. The EU also insisted on linking the



	inclusion of these issues in the negotiation and development assistance to be offered the EPA.
--	--

**Source: Botswana Ministry of Trade and Industry/NCTPN/12th/2007/9**

However, as with all other configurations, SADC EPA negotiations between the EU increasingly become protracted, rendering the negotiations outlined above, irrelevant. Meanwhile, Botswana, Lesotho and Swaziland signed the interim EPA (iEPA) on 4 June 2009 followed by Mozambique on 15 June 2009. Namibia initialled iEPA on 3 December 2007 but decided not to sign while South Africa refused to initial iEPA, owing to disagreements on some key provisions of the agreement. Following the SADC EPA Ministerial instructions to the senior officials to conclude the process in 2010, the iEPA signatory countries suspended the process of ratification of the agreement, pending the conclusion of the full EPA negotiations. Both parties then agreed to continue negotiations covering also services, investment and trade-related rules. Although the SADC EPA group aimed to secure three trade regimes with Europe, based on tariff liberalisation schedules and commitments, namely, EU-SACU, EU-Mozambique and EU-Angola, the last (EU-Angola) failed to take place. Indeed, the parties finally signed the comprehensive EPA with the EU on 10 June 2016.

### 2.3 Reciprocity and EPA negotiation principles

The EPA negotiations were based on the principle of reciprocity as opposed to the non-reciprocal preferences of the past ACP-EU trade relationships. What the EPA implies is reciprocal trade liberalization that is compatible with WTO rules. In this context, reciprocity refers to the reduction of a country's import duties or other trade restraints in return for comparable trade concessions from another country. The concept involves the adjustment of one nation's tariff rates in exchange for similar adjustments from another nation. The principle of reciprocity is accepted by the WTO as a necessary trade liberalisation tool, though a departure from EU trade preferences. However, the content of the WTO agreements qualifies this concept by making it applicable to developed country members. Further, WTO legal texts are premised on the acceptance of the differences in the economies of the member states. Throughout the texts there are references to different obligations between developed and developing countries; an acknowledgement that the principle of reciprocity in trading arrangements cannot achieve fairness if applied indiscriminately.

The parties adopted negotiation principles that guided the process towards an outcome, in line with the principles of reciprocity, WTO compatible while acknowledging different levels of economic development within the configuration and between the negotiating parties. Further, the adopted negotiation principles sought to project the developmental character of the EPA; respect existing regional economic integration schemes; recognise the importance of special and differential treatment given the level of economic diversity within the group, in SACU, and between the negotiation parties; and highlight the need for EU through EDF window to support adjustment costs.

#### Negotiation principles

Instrument for development: This considered specific socio-economic, environmental and structural constraints of the countries concerned; the capacity to adapt their economies to the EPA process; and SADC developmental objectives as spelt it in its RISDP.
---

Regional Integration process: This premised the EU-SADC EPA processes on regional integration initiatives of SADC in terms of its design and sequence; intention to complement and support regional integration process and programmes; harmonise regional rules; and consolidation of SADC regional market.
--

WTO Compatibility: This ensures that the EU-SADC EPA be compatible with multilateral trade rules and principles, considering the context of the Doha Development Agenda.
Preservation of the Cotonou Trade Acquis: This ensures that the EU-SADC EPA not only preserve but improve the current ACP's EBA preferences into the EU market for SADC exports. The outcomes should therefore ensure that all SADC EPA Member States are better off.
Special and Differential Treatment: Both sides concur that the EU-SADC EPA provided special and differential treatment to all SADC countries, taking into account particular needs of LDCs coupled with situations of vulnerability as small and single commodity; land-locked countries; natural calamities (drought and floods); and countries emerging from conflict (Angola).
Sustainability: This entails that the EU-SADC EPA have both negative and positive significant implications for the socio-economic fabric of group Member States in terms of welfare maximization and adjustment costs minimisation.
Legitimacy and Transparency: This entails that the EU-SADC EPA establishes its legitimacy in all the parties to the agreement through its contribution to sustainable development. This further calls for both parties to involve widely and deeply all relevant stakeholders in the negotiation process, coupled with mobilising public support to the process and the outcomes.
Resources and support adjustment: Ensuring that the implementation of the EPA process entails adjustment costs thereby allocating adequate fiscal revenues to upgrade productive structures; hire requisite human officials; and build institutional capacity. Meanwhile, resources are needed to assist Member States in meeting EPA-related adjustment costs.

**Source:** *Derived from EU-SADC Unit documents and other sources*

From the table, Swaziland Civil Society Organisations (CSOs) should evaluate the EPA provisions and their implementation using the highlighted principles as strategic mirror judgement criteria. They can also use the same mirror to assess how other stakeholders are implementing the new trade provision, especially the private sector, government and development partners. Indeed, at the conception of the EPA, both parties were very clear that they would be developmental tools more than just trade agreements. This assertion of a likely pro-development EPA calmed down possibilities of anti-EPA campaigns that would have mobilised country-wide stakeholders to monitor the process. The EPA in its initial phases was sold to the people as developmental tools and hence as being able to work towards the realization of MDGs especially the 'development and poverty eradication' element. Indeed, the above provide sufficient entry point for stakeholders, especially CSOs, media, academics, labour and other social formations to monitor implementation in view of the stated principles.

## **2.4 EPA coordination, preparation and negotiations**

The SADC EPA negotiations were conducted through a three-tier structure, at the Ministerial, Senior Officials and technical levels. The Botswana government through the Ministry of Trade and Industry (MTI) was assigned coordinating responsibilities of all EPA negotiations sessions in liaison with the SADC Secretariat. Subsequent to the launch of the negotiations in Namibia in 2004, Botswana seconded a senior trade officer as Chief Technical Advisor (CTA) to head the EPA Unit that was established at the SADC Secretariat under the Directorate of Trade, Industry, Finance and Investment. This EPA Unit has, since its establishment, been manned by the CTA and a secretary whose main role included assisting in the preparation of meetings in terms of documentation, logistics and facilitating the office. The operation of this office has been funded by the EU including all EPA TWGs, Senior Officials, Ministerial and joint EU-SADC EPA related meetings. The EU also has been funding secretary and a portion of CTA emoluments. In this respect, CTA manages EPA technical office, whose mandate includes preparations of SADC EPA meetings, providing technical advice to group Member States on EPA issues, and sequencing negotiations at all levels – TWGs,

Senior Officials and Ministerial. The CTA has also been assisting national negotiators during the process, as well as working closely with different cluster negotiators based in Brussels. Since March 2016, Lesotho seconded another senior trade officer to the EPA Unit. Currently, EPA Unit provides technical advice and assistance in support of the implementation of the new trade regime.

Further, the Botswana MTI had been designated to lead the negotiations at all levels: Ministerial, Ambassadorial, Chief negotiator at Senior Officials and TWGs. South Africa in 2008, transformed participation from observer status to an active participant country. Subsequently, South Africa deployed the Department of Trade and Industry (DTI) seasoned and experienced trade negotiation officials (negotiators) to be involved in producing thematic technical negotiations' position and discussion papers, leading preparatory TWGs' negotiations processes and participating in other related processes. The SADC EPA preparations and negotiations were intense, reflecting member states' commitment to a busy preparatory and actual negotiations' schedules and processes.

However, the whole process that culminated with the new trade agreement between the EU and SACU countries stretched to the limit Swaziland's limited capacity, to the extent of relying on the expertise, competency and skills of other countries. For instance, DTI officials led in drafting thematic negotiations text proposals, and assumed leadership on various thematic TWGs, especially on 'market access', 'trade-related issues' and 'unresolved issues'; Lesotho Revenue Officers did the same with respect to 'rules of origin / cumulation'. At senior officials' level, DTI's chief negotiator, Xavier Karim and Namibia's provided most negotiations leads and demands; and Botswana's senior officer, as the coordinator of the process, chaired all negotiations sessions. While others group countries contributed, Swaziland's contribution at that level was affected by the government's decision to replace the senior officer who had been in charge between 2011 to 2012, with another officer, who was equally new to the 'trade talks mining field'. It is instructive to note that DTI officials were involved in the TDCA negotiations, had better experience, expertise and knowledge of the SADC EPA counterparts (the EU negotiators) compared to their colleagues in other group countries.

## **2.5 Participation of Swaziland NSA's**

The SADC EPA group during the launch of trade negotiations in Namibia agreed that the NSAs would be part of their respective government delegations to TWGs, Senior Officials and joint EU-SADC EPA meetings held both in the region and Brussels through the EU funding. Subsequently, the Federation of Employers and Chambers of Commerce (FECC) and Coordination Assembly for Non-Governmental Organizations (CANGO) representatives were active participants in some SADC EPA and joint EU-SADC EPA meetings that were convened in the region and in Brussels, culminating with the new trade regime, which is currently being implemented by Swaziland.

This study could not verify the level of participation of other NSAs' representatives. The study also established that both FECC and CANGO could not participate in other EPA negotiations, especially those held in Brussels, due to financial constraints. The study also could not verify the level and depth of consultations within government trade-related Ministries, institutions and structures; between government and quasi-government institutions; and between government and NSAs prior to any group EPA related meetings.

## **3. Status of EPA Implementation, Challenges and Opportunities**

Swaziland together with six other SACU countries negotiated and signed the comprehensive EPA with the EU on 10 June 2016, in Kasane, Botswana. The EPA is a trade facility that allows Swaziland's products to enter the European market duty- and quota-free immediately upon entering into force. Swaziland subsequently ratified the EPA regime on 26 August 2016 and deposited her ratification instrument with the EU in October 2016. In this Agreement, SACU countries, to which Swaziland belongs, presented the market access offer as a bloc, and negotiations had to consider market sensitivities of weaker economies of the group, including Swaziland. Besides market access

provisions, the SADC-EU EPA parties also agreed to be governed by the relevant WTO Agreements on anti-dumping and countervailing measures. They further agreed on various safeguard measures to protect domestic markets in instances of import surges, and to cooperate on competition matters. If the parties decide to launch negotiations on competition in future, the EU undertakes to include provisions on cooperation and special and differential treatment. This entails that the EPA process must be in harmony with development policies that countries are implementing in order to achieve Millennium Development Goals (MDGs).

The implementation of EPA commitments therefore encourages government to intervene in the area of national quality infrastructure, to diversify the country's products and export markets. This means that the EPA regime contains trade facilitation provisions in line with the country's industrialisation strategy and has potential to encourage economic entrepreneurs to exploit emerging regional (COMESA, SACU and SADC) and bilateral (Europe and USA) market opportunities. The above should also motivate Swaziland to prioritise investment aimed at strengthening sectoral and industrial value chains and the establishment of the National Trade Remedy Authority, coupled with building requisite capacities of officers responsible for investigating commercial injuries, and subsequent enforcement of related recourse.

Currently, Swaziland suffers from supply-side constraints that may militate against the domestication of the EPA provisions. These include insufficient production capacities; limited product diversification and competitiveness; limited information about the EU market; inadequate and inappropriate infrastructure and technology; and lack of access to technical and financial assistance. Redressing the above is necessary if the authorities are to promote trade flows with the EU while monitoring and evaluating the implementation of this trade regime. Speaking at the ratification formality, the EU Ambassador, Bellomo, urged Swaziland Government not only to "speedily implement the EPA provisions, but also to ensure the dissemination of its benefits to the private sector for effective implementation". In order to maximise gains from this agreement, government has prioritised the development of the EPA implementation strategy and action plan with a view to identify both the comparative and competitive advantage of its domestication. Already, funding to develop EPA implementation strategy and action plan has been secured from the SADC Trade Related Facility. The proposed strategy also seeks to assist in developing and building requisite physical and human capacities in support of ongoing EPA negotiations on trade in services, and the agenda of developing national value chains in support of the country's industrialisation strategy. Further, the strategy wants to encourage the domestication of the EPA provisions, thereby assisting the economy to maximise commercial returns from the agreement, potentially attracting foreign investment, especially from the EU, within COMESA, SACU and SADC regions.

There are challenges likely to undermine effective implementation of the EPA strategy including non-availability of necessary information, inaccessibility to crucial documentations from key stakeholders, and unwillingness of stakeholders to openly and robustly engage with each other as the process unfolds. The study has found out that stakeholders, especially private sector and civil society formations have tendencies to shy away from any commissioned work whose outcome or output is intended to support EPA implementation in Swaziland. Furthermore, current negative perceptions on government-driven initiatives from some NSAs, especially the private sector, based on assumptions that are informed by previous interactive processes, discourage open participation as the process unfolds.

However, it is necessary and crucial to encourage robust engagement between government and all relevant stakeholders in the implementation of the EPA regime. It is also imperative to encourage private sector participation in coordinating Tariff Rate Quota (TRQ) commitments to satisfactory levels; advise best EPA promotion ways thereby securing and/or cementing business/entrepreneurial links between economic actors, in the EU, Swaziland, SADC EPA and the rest of SADC economies. Dialogue between the private sector and government should encourage commitments on EPA tariff liberalisation, implementing necessary arrangements for cumulation as per the agreement, and prepare government negotiators and key stakeholders for future SACU-



United Kingdom trade negotiations in the context of Brexit. EPA implementation dialogue should also encourage amendments to customs legislation in order to conform with the EPA regime; encourage compliance with EU's SPS and TBT Standards; prioritise trade facilitation; and encourage effective monitoring the domestication of the agreement. All the above require government to cultivate the sound working relationships that had developed during the protracted EPA roadmap with key stakeholders. It is therefore imperative for CSOs to be aware of all related EPA issues and expectation of both the EU on the one hand and Swaziland government, private sector and other stakeholders on the other.

A national EPA TWG has been established and is composed of all relevant stakeholders to have an oversight on the EPA implementation process in the country. In August 2017, Swaziland set up an EPA Technical Implementation Working Group (TIWG) chaired by the Ministry of Commerce,

Industry and Trade (MoCIT) and comprises of:

- other trade-related Ministries
- quasi-government institutions (including Swaziland Investment Promotion Authority, Swaziland Revenue Authority and Swaziland Competition Commission)
- the business community (such as Freight Forwarders, FECC, Rhodes Food, Swaziland Environmental Association, Swaziland Meat Industries and Swaziland Sugar Association)
- civil society formations represented by CANGO
- the University of Swaziland as a research institution
- other relevant stakeholders such as Members of Parliament under the Trade and Development Committee and the Attorney General's office.

The European Union Delegation (EUD) as a partner in development that has been central to the EPA process is a key member in the implementation of this new trade regime with European countries. In addition, MoCIT consistently consulted stakeholders in the private sector through organised EPA implementation dialogue sessions, especially meetings, seminars and workshops. Indeed, the above TIWG is expected among other issues, to resolve or redress emerging concerns that have been identified by all parties.

These key concerns are:

- Achieving the goal of sustainable development, including those of the SDGs leading to poverty alleviation and improvement of living standards for the people
- An effective monitoring and evaluation mechanism to ensure the EPA objectives are achieved as outlined in the agreement
- Parties and stakeholders cooperating in order to achieve sustainable development goals
- Lack of transparency regarding the process
- Limited understanding of the agreement's provisions, clauses and concessions.

There are plans to introduce other dialogue platforms such as "roundtable discussions and breakfast meetings". In this respect, a clearer picture is expected to be unveiled by the communication and visibility strategy currently being developed by an expert. The process of engaging stakeholders continue since some stakeholders with resources may government delegations in related EPA dialogues sessions and platforms. However, a significant number of CSO representatives confirmed that they have not been consulted by government in many of the unfolding events in support of domesticating the EPA regime. In this respect, the government is earnestly called upon to intensify collaborative and consultative processes with all key stakeholders, including civil society formations in support of the EPA implementation strategy and action plan. Forming an alliance with both strategic and non-strategic stakeholders is considered a crucial input in the domestication of the EPA regime. Regrettably, the voice of the business sector is missing on this crucial matter.

Government has confirmed that most NSAs were not actively involved during the negotiation process. As the EPA implementation began, government has appointed an EPA focal point person in order to intensify consultations with all stakeholders, with a view to invite some of them to dialogue

platforms and/or sessions. The government has all along been working with the private sector representatives, especially the Federation of Swaziland Business Employers and Chambers of Commerce (FSCE & CC). Similarly, CANGO, which has been part of the EPA TWG representing broader sections of civil society formations in the country, has confirmed this time around to be busy tracking the unfolding process of implementation.

Since the EPA entered into force last year, the necessary institutional frameworks, policies and strategies are still being put in place both at the national and regional levels. For instance, the MoCIT has through funding from the SADC TRF engaged a consultant to develop the EPA implementation strategy. Similarly, resources have been mobilised at the SADC Secretariat level to engage another consultant to develop the communication and visibility strategies of the EPA implementation in all SADC EPA countries. There is high probability for Swaziland to develop synergies, lessons learnt and best practices between these two parallel processes for intense stakeholder engagement. Indeed, the unfolding developments or processes are set to improve the level, depth and country-wide consultations within government, between government and quasi-government trade-related institutions, between government and NSAs structures, and between government and development funding partners, especially if Swaziland links EPA implementation with work in support of MDGs. Furthermore, a study has recently been commissioned to develop EPA implementation strategy at the regional level, hence Swaziland stakeholders should make every effort to mainstream national and regional EPA implementation processes with a view to maximise gains associated with the new trade regime.

The Trade and Development Committee was established at the regional level, with its first meeting in February 2017, and its second meeting was held in the margins of the EU-ACP meeting in Brussels, Belgium in October 2017. Plans are at advanced stages to establish other relevant committees at the regional level, including the customs and trade facilitation and the agricultural and geographical indications committees. Another study on the implementation of the EPA in SADC EPA region supported by DFID has been commissioned, and consultations in Swaziland are scheduled for either late January or early February 2018. All the above developments require high levels of cooperation and consultations between government and key stakeholders, such as the business community, CSOs, labour, research institutions and development partners.

In line with communication and visibility strategies, the MoCIT has been holding awareness seminars and related meetings at national level. Plans are underway to intensify publicity on implementation of the EPA. Other related milestones include the draft Trade Policy and Action Plan that has already been developed, though yet to be submitted to Cabinet for approval. As alluded above, Swaziland will soon be developing a National EPA implementation Strategy and Action Plan to complement defining moments in line with the EPA roadmap and related EPA TWG outlined activities. Further, the MoCIT already developed a Trade in Services Strategy that has been adopted by Cabinet and will soon be launched for stakeholders to engage on its contents. In this respect, CANGO has confirmed knowledge on dissemination of the Trade in Services strategy.

There are divergent views between MoCIT and CANGO on establishment of the EPA implementation committee and its composition. Government confirms achievement of the EPA TWG and possible challenges including availability of officers, their continuity in office and their capacity development.

Government confirms continued trade with EU countries on existing exports and possible introduction of new export products and services as a major opportunity that Swaziland should aim to maximise. By negotiating Trade in Services, Swaziland will open possibilities of attracting investment not only from the EU, but also other global players in provision and consumption of services. These are areas which, as CANGO puts it, require earnest, honest and robust engagement of all key stakeholders. Already the country has established institutional and/or regulatory frameworks to engender the EPA implementation including the Customs Act, which already

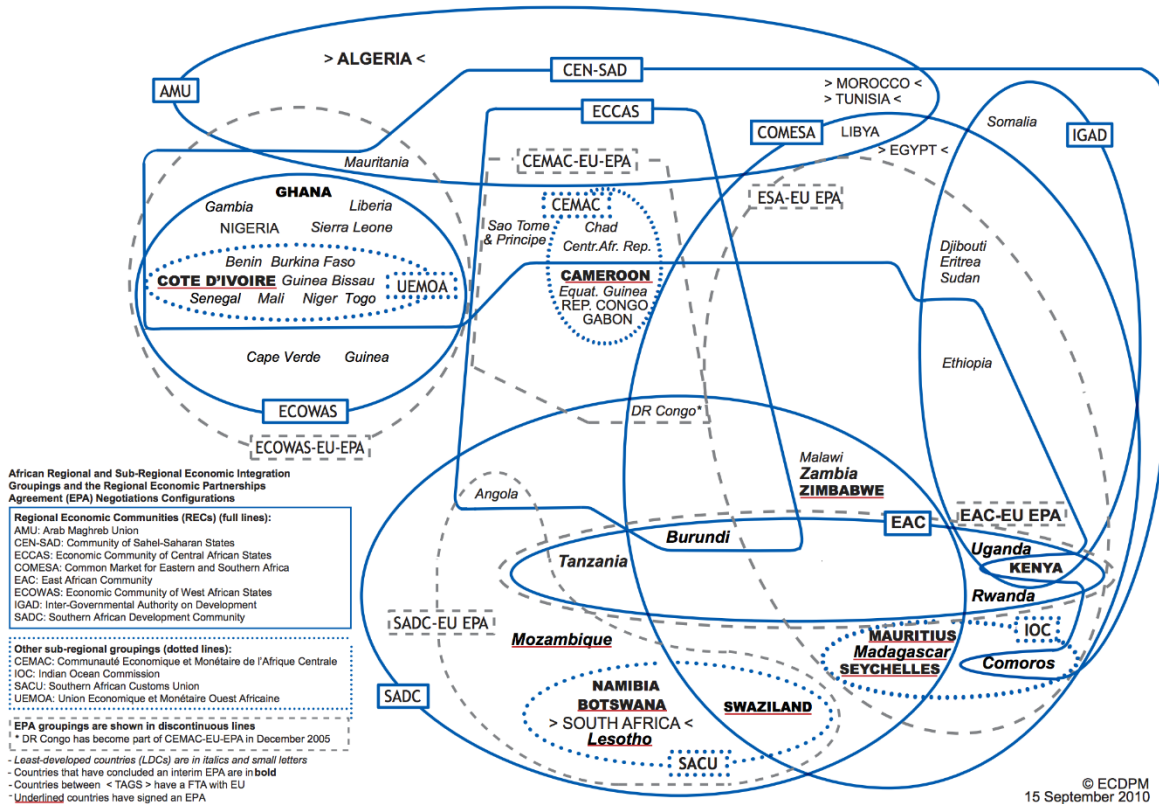
accommodate the EPA implementation process. In this respect, CANGO is aware of such developments.

At present, since the process is still unfolding, government could not identify potential obstacles in the domestication of the EPA regime. However, CANGO is spot on in identifying lack of comprehension of the clauses and provisions of the agreement among all key stakeholders, especially the business community, broader sections of civil society and consumers. This challenge demands government to develop and disseminate appropriate EPA information in a language that all stakeholders understand. Meanwhile, both government and CANGO agree that the EPA implementation dovetails into Swaziland's trade and development agenda via the National Development Strategy and the Poverty Reduction Strategy and Action Plan, as well as market access for Swazi products, a development that further stimulates industrialisation. The implementation of the EPA regime supports sustainable development goals of Swaziland via high probability of expanding business entrepreneurs and stimulating the industrial productive capacities leading to job creation, improved incomes and better socio-economic development and conditions. There is no direct EPA implementation threshold to support specific issues of gender and the youths, though government acknowledges that any support given to all private sector has high potential to benefit women and youth.

#### **4. Regional Integration and Emerging Concerns**

EPAs emanate from the Cotonou Agreement between ACP and the EU and are meant to replace the thirty-year-old Lomé non-reciprocal trade regime. One of the EPA objectives was to ensure that no country in the ACP community would become worse off under the new trade regime. From the onset, the EPA negotiations process split Africa into four configurations. Beside the SADC EPA group to which Swaziland is a member, other configurations are ECOWAS, CEMAC and ESA. With specific reference to the eastern and southern Africa sub-regions, the EPA process divisive character is more complex in multiple memberships of countries of the sub-regions as reflected in the figure below. The diagram also confirms that the EPA process has created another layer of regional integration with its own programme of action (structured and systematic negotiation rounds), and timelines for tariff liberalisation scheduling and implementation commitments. Only Angola and Mozambique belong to one regional integration scheme (SADC), in addition to belonging to the SADC EPA configuration.

## EPAs and Regional Integration in Africa



Source: [www.google.co.za/search?q=diagram+of+epa+regional+integration+in+southern+africa](http://www.google.co.za/search?q=diagram+of+epa+regional+integration+in+southern+africa)

The EPA process has (had) a direct bearing on existing regional integration goals in the sub-region. In this respect, the outcomes compound the multiplicity of overlapping regional memberships by creating yet another bloc that has not only been meeting more often, but is committed to different tariff schedules. The EPA bloc already has a financing window aimed at ensuring quick implementation of all agreed EPA provisions. This development undermines the regional integration in the SADC which not only provides an opportunity for mutual beneficial trade, but also makes development and poverty reduction possible in Swaziland.

The main challenge is the different levels of EPA tariff liberalisations (see table below) that are not in line with existing tariff liberalisation already agreed at the regional community level. For instance, both Mozambique and Zimbabwe, which backloaded their respective tariff phases under the SADC FTA, agreed under the iEPA to open their respective economies to EU products by 78.5% and 45% respectively. The implementation of the EPA outcomes is set to disrupt regional milestones, resulting in disruptions of regional and national markets due to potential flooding of EU products into the sub-region on account of porous borders. This confirms that tariff liberalisation and commitment secured by EPA signatories are different from the agreed regional integration processes. For Swaziland, this would mean an EPA tariff level which may be close to the SACU liberalisation commitment but different from those of COMESA and SADC. Therefore, stakeholders in Swaziland should collectively ensure that the domestication of the EPA regime is sync with the integrative and developmental plans of various regional commitment.



## IEPA tariff liberalisation schedule and commitment, percentages

Country	2008	2010	2012	2013	2017	2018	2022	2023	2033	Total
EAC		64.0						80.0	82.0	82.0
Madagascar				37.0			80.7			80.7
Mauritius	24.5				53.6		95.6			95.6
Seychelles				62.0	77.0		97.5			97.5
Zimbabwe			45.0				80.0			80.0
BLS		86.0								86.0
Mozambique	78.5									80.5

**Source:** Own compilation from various sources

Implementing EPA liberalisation is likely to reduce the flow of both SACU and Swaziland government revenue. As a result, less revenue generated through trade by Swaziland, translates to less state resources to improve economic development, develop requisite capacities of entrepreneurs, social and humanitarian capacities to address some development concerns including the attainment of MDGs, since the little income generated by the governments will be diverted to adjusting to EPAs. That alone leaves the governments with little to spend on implementing their national pro-development policies which are targeted to attaining partnerships for development.

The government maintains that the SACU common external tariff has not been compromised by the EPA regime, meaning that intra-regional trade will likely remain unaffected. Government also argues that EPA related cumulation currently allows trade within the SACU/SADC EPA region, enhancing intra and inter-regional trade. Further, cumulation is allowed between SACU economies and other EPA signatories economies in the ESA configuration and other ACP signatories. The study has also found that cumulation must be done using the SADC rules of origin, in line with both RISDP and the SADC Trade Protocol. These are areas likely to benefit Swaziland, hence the importance of ensuring maximum cooperation and consultations between government and other stakeholders.

## 5. Policy Recommendations and Civil Society Advocacy

The study informants recommend a policy that bring youth on board, ensuring that the incubation of innovations is sufficiently funded. Similarly, sufficient funding is needed to improve trade facilitation, as well as improving the production of SMMEs. The study also strongly recommends the involvement of NSAs in the Implementation Committees, as well as sustained building of both government and CSOs' capacities through convening of seminars, workshops and training sessions. The study further acknowledges the role the SADC Secretariat is playing with respect to link national EPA implementation processes in member states with proposals to enhance their respective capacities and competences. It is therefore recommended that the building of capacity of NSAs will improve their understanding of the provisions of the EPA and what they hope to achieve, for them to be able to effectively monitor and evaluate the impact.

In implementing the EPA trade regime, MoCIT should recognise the importance of coordination and collaboration with various stakeholders interested in outlined activities including public institutions (other trade-related government ministries/departments, quasi-government bodies, the Parliamentary Committee on trade and development), private sector and the civil society groups. It is for this reason that the government should thoroughly understand each stakeholders' roles, interests and commitment to ensure successful implementation of the new trade regime with Europe.

Judging by the outcry of neoliberal trade and market policies under the economic structural adjustment programmes since the 1980s, the EPA tariff liberalisation that Swaziland is implementing may struggle to promote socio-economic development and alleviate poverty.

Therefore, if the EPA implementation is to benefit Swazi economy:

- Government and key stakeholders should push for policy space, allowing the country to achieve domestic and regional development targets including the MDGs.
- Government and private sector should collectively work together to improve industrial and sectoral competitiveness, for local industries to compete with the EU products and services.
- Private sector and government should work on economic diversification coupled with value addition to local products.
- Government should then translate economic benefits to social development, thereby benefiting the poor citizens.
- Stakeholders should push for a financial aid provision in the EPA so that the AID component becomes a legally binding commitment.

All the above demands robust advocacy and lobbying for inclusion of a human face during the implementation of this new trade regime.

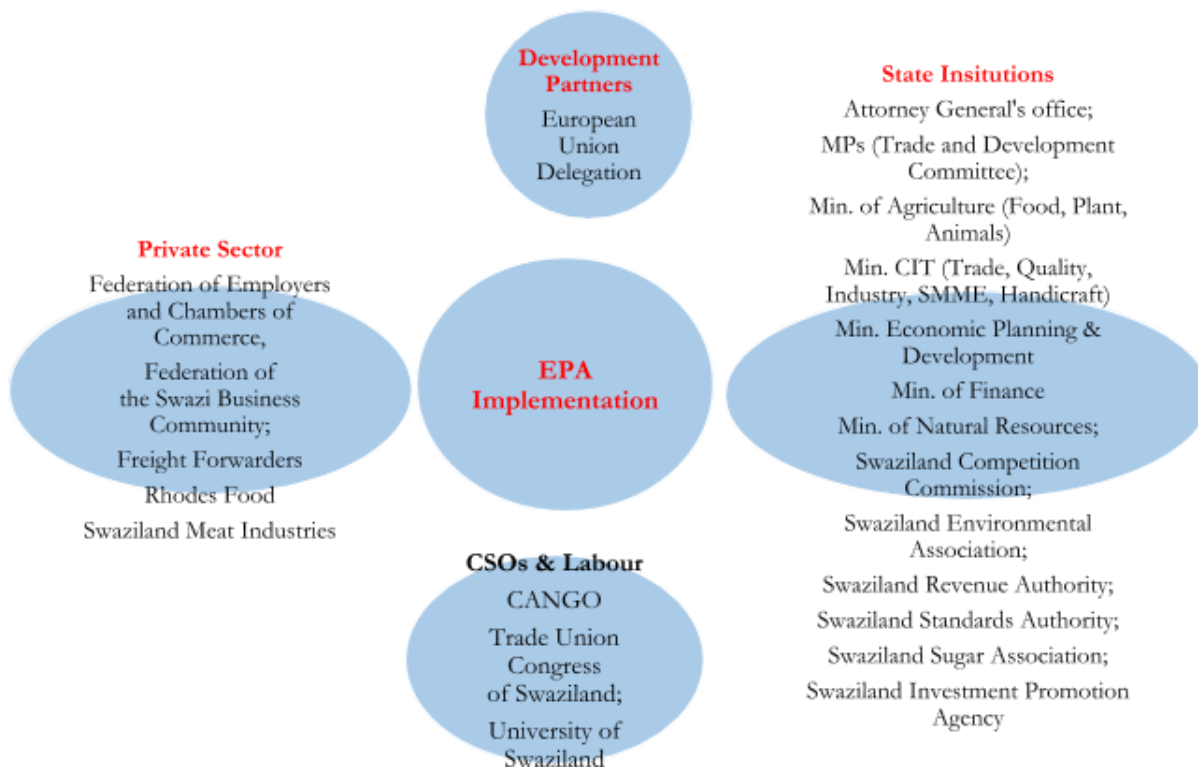
Civil society in Swaziland and the entire region should therefore always employ the questions below as they monitor the domestication of EPA in Swaziland:

- Advocacy for human face on EPA Implementation
- What is industry saying?
- What is the sector saying?
- What are individual producers and exporters saying?
- What are MPs saying within their three constitutional mandates – oversight of government trade and industrial policy, representative of constituents and law makers who ratified the agreement?
- What is the voice of labour saying – in their engagements with government, industry and workers?
- What are civil society organisations saying?

## **6. Recommended list of CSOs / Stakeholders to be involved in National Consultations going forward**

The study recommends the involvement of the following institutions and organisations in the implementation of EPA regime and/or an EPA implementation dialogue session (seminars, workshops, conferences, roundtable discussions, capacity building and skills training) going forward. These are in four categories: state institutions (government, quasi-government & legislature), private sector, civil society and labour, and development partners.

## List of institutions that should be involved



## 7. References

- African Youth Coalition against EPAs 2007, African Governments should shun EPAs and double up efforts for MDGs.
- DCP 2000, Partnership agreement signed in Cotonou (DCP Brussels) ACP and EU, Joint EPA Economic partnership agreement Between the SADC group of states, on the one part, and The European union and its member states, on the other part: Joint text initialled On( November 2007) In (Brussels)(DCP Brussels)
- Earth trends 1994, Economic Indicators Botswana.  
[http://earthtrends.wri.org/pdf\\_library/country\\_profiles/eco\\_cou\\_072.pdf](http://earthtrends.wri.org/pdf_library/country_profiles/eco_cou_072.pdf) accessed on 13 March 2008
- European Centre for Development Policy Management 2003, The Cotonou Agreement: A User guide for Non-State Actors (Brussels South Centre)
- *ibid.* p.13
- *ibid.* p.17
- Government of Botswana 2002, Draft National Development Plan 9.
- Government of Botswana 2008, About Botswana. ( <http://www.gov.bw/> accesses on 26 February 2008)
- Keet Dot 2007, Reclaiming SADC for peoples' development: Let the people speak (SAPSN Lusaka)
- Kruger Paul, SADC EPA negotiations: a circle of trust in Trade negotiations insight Vol.6.No 8 p.8
- *ibid.* p.8
- *ibid.* p.24
- Maes Marc 2007, Economic Partnership agreements, (København, Belgium)
- Mandelson Peter, Economic Partnership Agreements: putting a rigorous priority on development (Brussels European Commission)  
([http://www.ec.europa.eu/commission\\_barroso/mandelson/speeches\\_articles/sppm011\\_en.htm](http://www.ec.europa.eu/commission_barroso/mandelson/speeches_articles/sppm011_en.htm) accessed on 20 February 2008)

- Qaiser Aftab 2000, Botswana <http://ravi.lums.edu.pk/rwes/bostw.html>
- Roux Wallie, An 'Alternative' To The EPA Proposals: A Provision Dropped from the EU'S 'EPA Negotiation Manual'? (Windhoek)
- Sachs D. Jeffery 2007. The Millennium Development Goals: broken promises <http://sundaytimes.lk/070422/International/i510.html> (accessed on 20 February 2008)
- South Centre 2007, Aid for Trade and Financial assistance to implement the EPAs: Fact sheet No. 6 (South centre Geneva)
- *ibid.*p.6
- *ibid.*p.10
- *ibid.*p.12
- Stiglitz Joseph 2002, Globalisation and its discontents, (London, Penguin Books)
- *ibid.*p.15
- *ibid.*p.15
- Tearfund, Much to lose, little to gain: Assessing EPAs from the perspective of Malawi