



Consumer rights, poverty and trade liberalisation Key Consumer Concerns for the Commission for Africa

1. Background

Poverty has many dimensions, taking on economic as well as social forms. Poverty is more than merely a lack of income; it translates into poor health, malnutrition and illiteracy. The UNDP in an attempt to capture the full extent of poverty has classified poverty into a) income-poverty- that is the lack of income to meet a sustainable lifestyle. People earning less than US\$ 1 a day are classified in absolute poverty. Relative poverty refers to the relative levels of deprivation within societies. For example residents of the inner city in the USA are relatively poorer than their counterparts in the suburbs. But in relation to people living in the suburban parts in Africa, they may even be better off. b) human poverty refers to a denial of choices and opportunities for a tolerable life. This includes access to health-care, education, decision-making among others.

As indicated in the Commission's background paper, Africa has been left behind in terms of poverty alleviation. With 315 million people in Sub-Saharan Africa living below the \$1 a day poverty line, high child mortality, illiteracy and a general lack of opportunities and choices for a better life. The UNIDO Industrial Development Report 2004 states that though absolute poverty has propped from 40 % to 21% worldwide in the period 1981 to 2000, in Africa poverty grew from 42% to 47% in the same time period.

The alleviation of poverty and the improvement of the quality of people's lives require the development of effective markets and trade opportunities for people to secure their livelihoods. This involves both national, regional and international trade. Trade involves the production, marketing, sale and consumption of goods and services. Hence it is a sector that is of interest to businesses who produce and market, governments who regulate the market but also consumers who consume these goods and services. However in the formulation of trade policy, governments have traditionally only considered the interest of the private sector, particularly the formal business sector. Consumer interests are seen as incidental to trade policy, as it is assumed that any benefits accruing to the national as a whole would trickle down to consumers. In the most recent past, the evidence from India has shown us that this is not necessarily the case. Despite the far reaching economic changes and the sustained economic growth, poverty levels were basically unchanged as the Indian elite had capture the benefits of this economic boom. This example illustrate that economic growth and improved trade, though a necessary condition for poverty alleviation is not an sufficient policy. Therefore, trade certainly can make a major contribution to poverty alleviation, when accompanied by a conducive national and international environment, including policies, support infrastructures and appropriate human and institutional capacities. However, to make economic growth equitable, an enabling policy framework needs to exist that includes reference to international norms such as standards for labour, consumer protection, product quality and safety.

Adoption or harmonisation of international norms and standards at regional level is also an efficient first step towards a successful integration into global markets. The empowerment of consumers and the implementation of methods to ensure consumer welfare and access to basic goods and services is severely lacking across Africa. There is a need for a strong legal and regulatory framework to enforce legitimate consumer protection.

Trade and economic policies negotiated at the WTO and other fora are increasingly affecting domestic regulation, and indeed the ability of governments to regulate and ensure consumer protection. Cross border trade and restrictive business practices impact on domestic consumers and national governments may not have the jurisdiction to adjudicate such cases. There is therefore a need to ensure that the views of civil society, particularly consumers are consciously integrated within the trade policy formulation process.

Given the above Consumers International has been calling for a reform of the trade governance to ensure that all consumers benefit from trade liberalization. Trade should not be seen as an end but as a means of achieving sustainable development and contributing towards the Millennium Development Goals of poverty eradication.

1.1 The Consumer Movement in Africa

In order to fully understand the context of the project, it is necessary to understand the consumer movement as a whole, and its remarkable development in Africa. In 1991, Consumers International was working with 21 groups in 16 African countries. By October 1995, that number increased to 82 organizations in 39 countries. In 2000, 45 countries out of 53 in Africa hosted a consumer organization – more than 120 independent organizations in total. Although some countries - Kenya, Mauritius, South Africa, Tunisia and Zimbabwe - have strong organizations that were established about 20 years ago - the median age of a consumer group in Africa is less than 10 years old.

The growth of the consumer movement in Africa can be attributed to a number of interconnected factors:

- The end of totalitarian regimes in many African countries and the development of multi-party political systems. Civil society organizations flourished in this atmosphere of increased political tolerance.
- The implementation of structural adjustment programs and the diminishing role of governments as providers of essential goods and services meant consumers felt more vulnerable and needed more information than in the past.
- The feeling on the part of consumers that trade liberalization must be accompanied by global rules and regulations.
- The interest of foundations and other donor institutions in consumer and other civil society groups to press for good governance and private sector performance, as well as to improve public awareness on citizens' rights and responsibilities.
- The work of Consumers International's Office for Africa (ROAF) which aided in establishing new consumer organizations in several African countries and enhanced the visibility and recognition of consumer organizations.

Equity and justice are fundamental to the work of the African consumer movement, and these are embodied in the eight consumer rights, the first of which is the right to the satisfaction of basic needs. Our basic task is to lobby for policies and regulations to ensure people everywhere universal access to affordable and essential goods and services, more so here in Africa where poverty is so pervasive and concentrated and unfortunately increasing at an alarming rate. We have to first tackle poverty before we can ensure the African consumer of his other rights.

2: The issues for consumers and consumer organisations in trade and economic policy

Consumer groups recognize the need to balance the value and benefits of market openness with the obligation to provide access for all to basic goods and services and the importance of defining and meeting safety and other standards. As representatives of the general consumer interest (the public as purchasers and users of goods and services), consumer organizations are necessarily concerned about public decisions, including trade and economic policies, that will affect their members and consumers at large.

The **consumer rights** most often invoked in the context of trade and economics are the right to:

- the **satisfaction of basic needs** – access to basic goods or services necessary for survival, such as food, water, energy, clothing, health care, education and sanitation; policies that deal with food and agriculture, textiles and clothing services and Intellectual Property Rights are relevant to consumers
- **safety** – protection from hazardous products, production processes and services by bans on dangerous goods and establishment of mandatory safety and information standards; regulations on Sanitary and Phytosanitary standards, product standards and labelling are clearly relevant here.
- **information** – protection from misleading or inaccurate advertising and labeling, as well as provision of information enabling informed consumer choice regarding the quality of products including their related processes and production methods; again the TBT is relevant.
- **choice** – access to a variety of quality products and services at competitive prices;
- **representation** – advocacy of consumers' interests and ability to take part in the formulation of economic and other policies affecting consumers,.
- a **healthy environment** – environmental safety for present and future generations.
- The **right to redress** – as international trade barriers fall, the risk of cross border unethical and restrictive business practices increase. Consumers need to be assured of regional and multilateral mechanisms, which would assure them of compensation in the instance of misleading advertising, collusive behavior of firms and sale of shoddy products and services.
- The **right to consumer education** – consumers need to acquire the knowledge and skills to become an informed and rational consumer in the global marketplace. This would enable consumers to collectively take action to secure their rights. This would entail a public awareness program on multilateral, regional and national trade policy and the impacts this has on the day-to-day lives of consumers.

At the 4th Ordinary Session of African Ministers of Trade in Kigali, Rwanda, Ministers resolved to, "to enter into policy dialogue with their citizenry with a view to enacting the requisite legislation to protect their consumers from all forms of exploitation and

all forms of unfair business practices. To that end, they agreed to promote consumer education in their countries.”

<http://www.consumersinternational.org/news/display.asp?regionid=152&tag=A&id=390&type=news&cat=4&langid=1>

2.1 Issues of Concern

- **Food and Agriculture**

- ✓ Food Security for small –scale-farming households – due to structural adjustment policies, government support to farming households has had to be cut back. This has caused an increase in their production costs. At the same time high levels of domestic support and export has led to a surge in cheaper imports into domestic markets. For farming households who depend on farming as both a source of food and income, the liberalization has affected them twofold.
 - a) Rising input costs constrained their ability to produce for home consumption
 - b) Due to increased competition from cheaper imported produce income to purchase basic goods and services has also declined.

- ✓ **Food Security** – Accelerated globalisation and further trade liberalisation have impacted negatively on the food distribution and marketing systems. In particular, it has increasingly become impossible for small-scale farmers to access markets and improve their incomes. On the other hand, while there are possibilities of moving surplus to areas of shortages, this has not always been realised at the national levels. There is need to develop appropriate distribution and marketing systems to ensure food security for all. Furthermore, the pricing of goods often lead to higher costs that hinder easy access of goods (food) to low income consumers, raising the need to bring transparency and understanding of the pricing structures to ensure both farmers and consumer benefit and become food secure at the local level.

- ✓ **Food Safety** - Liberalisation of trade in food and agricultural products has outpaced the capacity of food standards authorities in many African countries to enact and enforce adequate standards. There have been reported instances of sub-standard products originating from developed and some developing countries being sold in African countries, despite bans on these products in their country of origin. In some instances, a discriminatory two-tiered standard system has developed with a set of higher standards for developed states and a lower standard for developing countries. Need to ensure the enactment and enforcement of minimum standards to reduce incidents of dumping of expired, counterfeit or unfit foods in developing countries.

http://www.consumersinternational.org/document_store/Doc944.doc

- ✓ **GMOs** – Nations in the third world are increasingly faced with the introduction of genetically modified organisms (GMOs) and products derived from GMOs through field trials, imported goods and most recently through food aid. These GMO products may cause potential risks and the magnitude and scope of consequence to human health and the environment are yet to be established. While there are claims to increase food production and promote sustainable agriculture, it appears that the technology could cause negative impact on socio-economic aspects for

the developing countries. However, there are no regulations in place in most of the recipient countries to deal especially with the movement across boundaries of these GMOs and their products and their donation as food aid. For this reason, most countries need to put in place the national biosafety laws and build local capacity on the issue.

http://www.consumersinternational.org/document_store/Doc789.doc

- ✓ **Sustainable food production and consumption** - Lack of access to markets is one of the key factors limiting development in Africa, therefore there is need to investigate the manner in which access to markets and other factors affect the ability of small farmers (especially those involved in sustainable development initiatives, e.g. producers of organic products) to engage in the sustainable production and consumption of food. The investigation should take into consideration the very relevant background issues of corporate control of food and its production as well as the issues of concentration.

Services

Economic liberalisation has seen the rise in private sector participation in the delivery of essential services such as water, energy and telecommunications utilities. Due to low levels of capital mobilisation, entrepreneurial skills and infrastructural support most private firms, which have become active, have been foreign multi-national. This has resulted in a net transfer of resources from Africa to the more developed countries.

- a) Universal Access – there has been a concentration of services in urban, high-income areas. For example in Ghana reforms in the telecommunications sector have led to a rapid increase in the number of fixed and pay phones in the country, from 3,166 in 1996 to 191,380 in 2000. This increase though has been only in the mainly in urban centres of Accra-Tema and Kumasi. In the rural areas of Ghana only 500 new lines have been provided
- b) Affordability has become an issue, particularly for poorer consumers. Commercialisation of electricity supply and delivery in Zambia means that consumers in the lowest income bracket would be required to pay 41% of their income to meet their basic energy requirements.
- e) Poor quality of service delivery - In Mozambique 10% of consumer interviewed have had gadgets damaged due to power surges without compensation by the electricity company.
- f) Adequate technology – Some type of technology limits considerably access and affordability especially for disadvantaged consumers. For instance the water sector in South Africa, a smaller 15 mm water meter has replaced 19 x 25 mm connection pipes. This cuts down costs and enables further network expansion but has meant that poorer consumers spend hours trying to get just one bucket of water as the pipes drip water.
- g) Poor target of subsidies within the tariff structure, which benefits the better off at the expense of the poor who really need the subsidies.
- h) Lack of independent and autonomous regulation framework.

Competition

As trade barriers are lowered, the risk of cartels, monopolies and other restrictive business practises by multinational firms extending beyond national borders increases. Most African states have just passed competition laws and policy are in a learning curve in regards to effective implementation. However consumer are still

being negatively impacted by RBPs by mergers and cartels formed outside of their national boundaries and on which their national competition commissions (were such exists) can not effectively analyse the impact on consumers and the domestic economy nor enforce sanctions upon the offenders. Regional competition commissions will go a long way in eliminated some forms of this through collective action by states with greater threat of collective sanction.

<http://www.consumersinternational.org/Newsdocs/{126FB324-D0C1-40E3-9487-EFBEF3AD0290}.doc>

Trade Related Intellectual Property Rights

Intellectual property is one area of immense concern for consumers as it has huge implication for consumer access and affordability of products.

Patents - Exclusive rights of production, and marketing of patented products means increased and reduced consumer choice as smaller innovators who may be able to find alternative means of producing the same products at a cheaper cost are stifled as well. Consumers recognise that innovators should be compensated for creative work but not at the expense of consumer access and affordability. The case of patents and essential drugs is a well-known and documented case.

Copyright protection - stringent copyright protection on educational materials for example restricts access to these materials, pushes up costs and creates monopolies. Copyright protection for educational material has been increasingly strengthened since the Berne Convention was adopted in 1886. This is inspite of the reservations expressed by developing countries in Stockholm in 1967 and in Paris in 1971 that the exemptions provided in the Berne Convention for copyright protection were insufficient to allow them to achieve their development targets. Since then, the Agreement of Trade Related Aspects of Intellectual Property Rights (TRIPS) and the WIPO Copyright Treaty have expanded copyright protection even further to areas that were previously not covered in the Berne Convention. The standards agreed in these two international treaties have been further ratcheted up through bilateral trade agreements.

Copyright protection that is too stringent has negative consequences for society's access to educational material. There is already an enormous "knowledge gap" between the richest and the poorest countries and this gap is increasingly getting wider as a result of increased copyright protection for educational material