

# **THE PROTECTION ISSUE OF AFRICAN COMPANIES REGARDING THE INTERNATIONAL TRADE'S MULTILATERALS RULES.**

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The Liberalization and globalization have convince everyone about the role that companies must play in African economies' development. The private companies, especially, are initially indexed.

They are founded with foreign or national capital and need perennity to constitute an engine of development. But the internal, economic, legal and political environments in which they exchange are not very favourable for a good evolution of their activities and their expansion beyond the borders.

On that we can add the competing, forcing and devastator international environment.

In any event, it is useless for a company to hope to sell a product abroad if it does not have a real competing advantage. A company that wants to extend its activity abroad faces many choices: choice of the target market, the appropriate structure to reach it etc. Some legal and economic criteria are determining in the option of export or establishment. Legally speaking and for African companies, it is advisable to have a practical and realistic vision of applicable texts. It is not always the case, because in the international order, the proliferation of the texts makes the task difficult. Moreover some texts are edited and claim to apply to them without taking into account their interests and their survival.

Developing countries, especially African countries can aspire to ensure an economic development only if their companies manage to integrate the international trade in a certain proportion.

They try to do it but commercial obstacles used here and there slow down the dashes and put on the agenda the sharp question of protection, especially regarding the international trade's rules.

The obstacles to the international trade, in particular technical regulations, sanitary and phytosanitary measurements represent a major concern for the developing countries. In any case a protection of the African companies proves to be essential. It already exists but requires reinforcement by a certain number of actions. On the first hand, this protection implies a comprehension of the rules, knowledge and a popularization of the of the trade's multilateral rules and it leads in the search of a more efficient strategy of strengthening on the second hand

## **I: The comprehension of the multilateral rules' dynamics**

It is initially necessary to evoke the rules' knowledge and the popularization then the abuses that can be caused by their application in the international order showing at the same time the law transgressing.

### **A. Preliminary Knowledge and popularization of the international trade's multilateral rules**

No subjective right under consideration to the glance of the human receives a better protection from the administrative and legal institutions if the holder of the right knows it.

The same assertion can be made concerning the companies. The private companies which can and must increase the economic development in the African States are not always impregnated of the international trade rules.

It is like this because apart from the economic operators action who create a "lex mercatoria" to control the international economic exchanges, there are States that negotiate international conventions and agreements whatever their objects are.

For example WTO (World Trade Organization) agreements were adopted by the States and their implementation draws the attention of the same States.

Talking about the quantitative restrictions or the plant health rules, companies are initially interested in and not the States.

As soon as they have negotiated for them and in their interests, the rules which regulate the international trade, it is necessary to make them understand the content of the adopted law.

But facing the growing number of the concluded commercial agreements, one can easily be lost. The first symposium of the ICC (Geneva) in 2005 about the international agreements and the developing countries revealed that, in the various international trade sectors, commercial multilateral conventions multiply in a burst way, accentuating the difficulties of information and follow-up.

There would be an advantage to simplify and harmonize trade's rules if one wishes to encourage their application. The companies want this harmonization for a better circulation of the goods and services.

That is primarily based on the development of multilateral commercial agreements and standard laws that the States must popularize to the first concerned: companies.

## **B. Ambiguity in the application of the multilateral rules of the international trade**

It is enough to take support on some rules in their application to realize that certain developed States do not make things easy for companies of the developing countries.

Indeed, the strict standards which currently regulate the agricultural products and food were mainly established by the industrialized countries.

They aim to protect consumers, but sometimes the standards are so high that they become non tariff obstacles. That is why in order to obtain a better access to the markets, the developing countries must influence the international standards and benefit from the Agreement on the application of medical and plant health measurements.

The obstacles to the international trade, in particular technical regulations and medical and plant health measurements, represent a major concern for the developing countries. But as liberalization opened the world trade to the free competition, some measurements were taken at the national level to stop the access to the market with the reason that the prices of the exporters are unfair. Steel, iron and the chemicals from the developing countries and economy of transition were aimed more and more by these "commercial corrective measurements". But it exists, within the WTO framework, a system to prevent the governments to abuse it, but the consequences are always annoying for an exporter or a country which is subjected. The charge of dumping used involves a sanction which it is however difficult to overcome. In any event, it is a question of reconsidering all the existing strategy in order to strength it in order to get a better participation in the development of the international trade rules and an effectiveness in the protection of the African companies.

## II. Strategy of strengthening African companies' protection

The reinforcement of negotiation capacities and a participation in the development process of the rules indicate the way to be followed to get African economies and their companies out the non protection

### A. Reinforcement of negotiation capacities

How can African countries consolidate their expertise in order to more effectively promote their interests during trade negotiations and benefit from the commercial system? The solution obviously comes through the negotiators capacities reinforcement. Defending companies interests requires for this purpose, to establish a public-private dialogue and associate small business, informal sector and other groups of the company. The Government must then associate these various actors in the negotiation by giving them the means to defend their rights within negotiation authorities. If the developing countries want to profit from the world commercial system, their public and private sectors must work together, government and negotiators establishing a common strategy. Thus we could reach a cohesion able to inflect the rules of the international trade.

### B. The participation in the development process of the rules

The African farmers and entrepreneurs underlined the harmful potential effects on the incomes of the markets opening, a long time protected from goods and services of developed countries and the new restrictions concerning public support for their own export industries. What to do, if established rules must lead into developing countries and their company marginalisation? The answer comes by the way. It is already necessary to try *to help the commercial organizations* of the developing countries to better communicate with their members and especially with the government for a consequent and influential participation during the texts edition. Which illustrations can better show this option.

Malaysia set up a national committee and 12 local committees which reflect the national interest in certain committees of the " Codex Alimentarius ". The industry representatives take an active part, especially the Malayan Group of the food manufacturers. That helps Malaysia to play an important role in the development of several standards of the Codex.

India, showed a real dynamism during the formulation of an international standard relating to the tea, by preparing the preliminary discussions of the committee. Thus the International Standardization Organization (ISO) adopted an international standard (ISO 3720:1986, black Tea - Definition and basic characteristics) which take into account India point of view in its contents.

African States may find it beneficial by taking these cases as a starting point to establish a real policy of participation which the effects will be beneficial for companies.

