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ECOWAS and SADC Economic Partnership Agreements:

A Comparative Analysis

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Key messages

After 12 years of hard talks, the EPAs finally concluded with ECOWAS and SADC this year were made possible, largely due to the strong political leadership shown on all sides in order to ensure the smooth trade relationship with the EU and to maintain regional unity and solidarity.

In terms of product coverage, ECOWAS will liberalise 75% of its tariff lines, based on its common external tariff, over a period of 20 years while the SADC EPA group is expected to liberalise 80% of its trade with the EU.

ECOWAS and SADC countries maintain some policy space to protect their domestic economies in case imports from the EU threaten to cause injury to their domestic industries and both EPAs contain flexibility for countries to apply *export taxes* in exceptional circumstances in case of specific revenue needs.

EPAs must now be placed in a broader perspective, notably in the larger strategic EU-Africa relationship. This means that both the EU and the regions that have concluded EPAs will now have to mainstream EPAs in their own economic dynamics. A trade agreement in itself is just the starter.

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Acronyms

ACP	African Caribbean Pacific
AGOA	Africa Growth and Opportunity Act
BLNS	Botswana, Lesotho Namibia, Swaziland
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
DFQF	Duty Free Quota Free
EAC	Eastern African Community
EBA	Everything But Arms
ECDPM	European Centre for Development Policy Management
EC	European Community
ECOWAS	Economic Community of Western African States
EIB	European Investment Bank
EPA	Economic Partnership Agreement
EU	European Union
FTA	Free Trade Agreement
GATT	General Agreement on Tariff and Trade
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
LDCs	Least Developing Countries
PAPED	EPA Development Programme
REC	Regional Economic Community
MFN	Most Favoured Nation
REC	Regional Economic Community
SACU	Southern African Customs Union
SADC	Southern African Development Community
TDCA	Trade, Development and Cooperation Agreement
TRQ	Tariff Rate Quota
UMIC	Upper Middle Income Countries
UEMOA	Union Economique et Monétaire Ouest Africaine
WTO	World Trade Organization

Executive Summary

Negotiations of Economic Partnership Agreements (EPAs) started in 2002 and were expected to be concluded by 31st December 2007. Besides ensuring that ACP products would secure duty free quota free (DFQF) market access in the European Union (EU), EPAs were mainly meant to be a *development tool*.

However, by 2008, in Africa, only 19 countries had concluded an *interim* agreement, covering mainly trade in goods. Of those 19 countries, only four (Madagascar, Mauritius, Seychelles and Zimbabwe) signed and are currently implementing their EPAs. The other 15 countries revised their positions because it was felt that some issues were “contentious issues” and that the negotiations needed to continue in the regional configuration. The remaining countries (i.e. those that did conclude an EPA in 2007) were relegated to standard EU Generalised System of Preferences (GSP), a unilateral trade regime, which included a particular regime granting duty-free quota free market access to least developed countries (LDCs).

For those countries that had concluded an (interim) EPA in 2007, in order to avoid market disruption and to allow them sufficient time to sign and ratify the agreement, the EU adopted a Market Access Regulation - MAR 1528 as of 1st January 2008 – that enabled an advanced application of EPAs. It was later decided that the MAR would expire on 1st October 2014.

As the 1st October deadline gets closer, two regional EPAs, namely the ECOWAS and the SADC EPAs have been concluded. The East African Community EPA has reached an advanced state of negotiation.

The *timing* of the conclusion of the ECOWAS and SADC EPAs is important. It pre-empts the 1st October 2014 deadline, after which all non-LDCs in both groups (i.e. Ghana and Ivory Coast in ECOWAS and Botswana, Namibia and Swaziland in the SADC group) would have otherwise lost their duty-free quota-free preferences for their main exports to the EU market, and fall back on the Generalised System of Preferences or in the case of Botswana, would lose all preferences after 2016 when the transitional period accorded to upper middle-income countries expires.

In addition, the *political importance* of concluding EPAs at regional level needs to be underscored. For African policymakers, it ensures the coherence with their own regional integration process, and above all, it maintains cohesion of regional blocks, that could have otherwise been at risk, if some countries had no other choice but to implement individual EPAs. For the EU, it also ensures policy coherence between EPAs and its overall support to building regional integration. It would have been difficult to justify support to regional integration in a broader context if EPAs had contributed to break up regional blocks. It finally confirms the fact that in the end, strong political leadership was needed to solve the deadlock in the negotiations. This is key for future trade relationship between Europe and Africa.

In terms of product coverage, **ECOWAS** will liberalise 75% of its tariff lines, based on its common external tariff, over a period of 20 years. The list of exclusion covers a wide range of products, ranging from agricultural goods to industrial goods. It is meant to ensure that local industries will not be subject to competition from duty-free products from Europe. Regional unity and strong political leadership have proved very useful.

The **SADC** EPA negotiating group comprises seven member states. These are Botswana, Lesotho, Namibia, Swaziland and South Africa, as well as Mozambique and Angola. While Angola was part of the negotiations, it did not conclude the EPA. Prior to the EPAs, South Africa’s trade was covered by a different regime, the Trade and Development Cooperation Agreement, concluded in 1999. South Africa joined the EPA negotiations to improve its market access to the EU and to ensure functional coherence of the

Southern African Customs Union (SACU), a customs union, of which it is the largest member. The current market access schedule of the SADC EPA group consists of a single offer for the five SACU countries, based on SACU's Common External Tariff (CET) and a separate offer for Mozambique, which is not part of the SACU. As a group, the **SADC EPA group** is expected to liberalise 80% of its trade with the EU.

On its side, the EU extends full duty free quota free market access to all ECOWAS states. However, in the case of SADC, while Botswana, Lesotho Namibia, Swaziland (BLNS) and Mozambique have full DFQF access to the EU for all products (with the exception of arms and munitions), South Africa, due to its level of development, has a more complex tariff schedule, comprising exclusions and tariff staging with liberalisation spanning over up to 11 years. As a result of a common schedule to the EU, BLNS nevertheless had to make additional efforts to open their markets for some products that they considered sensitive because there were strong interests from the EU for such products in South Africa. To mitigate any potential negative impacts that imports from the EU might have for these products, they managed to secure a **transitional safeguard clause** for a list of specific products. This was a key political compromise in favour of BLNS countries, as they were asked to make significantly more efforts to open their markets, due to the common schedule with South Africa.

In terms of policy space, the asymmetric nature of the ECOWAS and SADC EPAs allow for a certain number of products to be excluded from liberalisation. In addition, ECOWAS and SADC countries maintain some **policy space to protect their domestic economies** in case imports from the EU threaten to cause injury to their domestic industries, disturbance to a sector or to market of agricultural products. This is possible through safeguard measures.

Furthermore, both ECOWAS and SADC EPAs contain flexibility for countries to apply **export taxes** in exceptional circumstances in case of specific revenue needs, to promote infant industries or for environmental protection. In the case of ECOWAS, duties on exports may be raised on a temporary basis, after consultation with the EU, on a limited number of products. The SADC clause is quite comprehensive, as it addresses the specific concerns regarding beneficiation strategies. **Agricultural exports subsidies** will be removed by the EU.

Finally, the question of extending preferences that SADC and ECOWAS countries could grant to third (large) countries (the so-called Most Favoured Nation clause), in future negotiations have been addressed through a non-automatic clause, where consultations will be conducted and the preferences assessed by a joint EPA committee.

In terms of financial support and development, while the ECOWAS EPA confirmed the West African EPA Development Programme (PAPED), for the period 2015-2019 and for at least €6.5 billion, there is no such equivalent costed clause in the SADC EPA. However, parties agree that an EPA Fund could be set up but there are no commitments on the modalities or on potential additional sources of revenues.

Despite the fact that EPA signatories managed to secure their duty-free and quota free market access to the EU, some remaining challenges need to be addressed for the EPA to be truly developmental. These include:

1. Expanding the coverage beyond goods to cover other issues such as trade in services, competition, investment etc. However, African Regional Economic Communities (RECs) are still in the process of deepening their own regional integration agenda, notably to boost intra-REC trade but also to improve the trade relationship across regions, towards building a common continental

agenda on trade. Therefore proper sequencing is needed to avoid repeating the mistakes of the current EPA process.

2. Regional integration has been preserved but continental integration may be at risk. While ECOWAS and to some extent SADC EPAs (in particular the SACU) managed to agree on a regional framework that ensures the unity of the region, it is however less clear to what extent these EPAs can support broader regional integration, in particular the continental integration agenda (including with North Africa). Issues such as overlapping membership and the (unintended) lock-in effect of EPAs, and multiple trade regimes that African countries face in the EU still need to be addressed.
3. Potential impact of EU's future trade deals with third countries on EPAs. As the EU deepens trade ties with its key trading partners, there are concerns regarding preference erosion and the effect that negotiations will have on the regulatory environment.
4. Development is not automatic. It will require broader reforms and financial support. It is unclear what the commitments are on all sides, in particular regarding leverage innovative mechanisms to finance development and what could be the role of the EU, its member states and its financial institutions.
5. Finally, how the EPAs related to the broader multilateral trade agenda, such as the WTO trade facilitation Bali Agreement is a question that merits reflection, in particular as one of the key obstacles to boosting trade across African countries and region lie precisely in the bottlenecks that exist both behind the border and beyond the border.

Looking forward, the EPAs must now be placed in a broader perspective, notably in the larger strategic EU-Africa relationship. This means that both the EU and the regions that have concluded EPAs will now have to mainstream EPAs in their own economic dynamics. For SADC and ECOWAS, this will entail ensuring that countries make the most of the market access to EU, not only by using as much as possible that they deepen their trade ties with Europe, beyond their current and traditional exports, but more importantly by using EPAs to deepen trade ties among themselves, notably through the development of regional value chains.

For the EU, it means mainstreaming EPAs in the broader EU-Africa relationship. This has so far not been the case, mainly because the African Union was the big absent of EPA negotiations. This is necessary however if the EU-Africa relationship is to take a business-like approach. It will otherwise be difficult to conceive business without a key instrument such as trade. This is not only the responsibility of the European Commission. It also depends largely on the role that member states will play, because private sector dynamics will come from member states. And this requires political leadership from some key member states, willing to take this role, as a way to implement EPAs in practical terms. This is the only way EPAs could become truly developmental.

Finally, a trade agreement, however well negotiated and flexible, in itself is just the starter. It requires a powerful engine to unlock the full potential, and this can only be done if countries and regions are supported in their efforts to implement the agreement. Support can take financial forms, but to be self-sustainable, it will require in-depth business-to-business linkages, in particular to support African private sector, so that they can reap the full benefits of the trade agreement.

1. Introduction

When the Cotonou Partnership Agreement was established in 2000, succeeding two Yaoundé Conventions¹ and four Lomé Conventions, it called for fundamental changes in the longstanding non-reciprocal trade preferences that had governed the African, Caribbean and Pacific (ACP) and European Union economic and political relationship for almost 40 years. Two main reasons motivated this change. First, the impact of these unilateral preferences were rather disappointing: the share of ACP trade in the EU market was continuously falling and most countries did not manage to use these preferences to diversify their economic structures. Secondly, the preferences were not compatible with the rules of the World Trade Organization (WTO), as they discriminated against non-ACP developing countries.² For the first time therefore, ACP countries were required to negotiate reciprocal, though asymmetric trade agreements with a major (developed) trading partner.

Negotiations of economic partnership agreements started in 2002 and were expected to be concluded by 31st December 2007, a date by which the waiver³ that had been granted by the WTO to EU and ACP would expire. Besides ensuring that ACP products would secure indefinite duty free quota free market access in the EU, EPAs were mainly meant to be a *development tool*, this time enabling ACP countries to deepen their own regional integration dynamics and to facilitate their integration into the global economy.

However, negotiations were more difficult than expected and by the end of 2007, of the 77 ACP countries only 36 had concluded EPAs with the EU. With the exception of the Caribbean EPA, all agreements were “*interim*”, meaning that their scope was rather narrow, covering only trade in goods and development cooperation. In 2007 in Africa, only 19 countries⁴ had concluded a deal, although later on, most of them did not sign and implement their agreements as they showed strong reserves on some issues deemed “contentious.”⁵ Out of these 19 countries, only four (Madagascar, Mauritius, Seychelles and Zimbabwe) signed and are currently implementing their EPAs. The others continued negotiations on a proviso that the “contentious issues” would be addressed.

The remaining countries (i.e. those that did conclude an EPA in 2007) either traded under the Everything But Arms (EBA) Initiative or under the Standard Generalised System of Preferences, depending whether they were LDCs or developing countries. However, for those countries that had concluded an (interim) EPA in 2007, in order to avoid market disruption and to allow them sufficient time to sign and ratify the agreement, the EU adopted a Market Access Regulation - MAR 1528 as of 1st January 2008 – that enabled an advanced application of EPAs.

¹ The first Yaoundé Convention was signed in 1963 and the second Yaoundé Convention was signed in 1969.

² This is a breach of a fundamental principle of the Most Favoured Nation treatment (MFN) as set out in Article I of the General Agreement of Tariff and Trade (GATT) 1994 of the WTO, which states that a WTO member (the EU) cannot discriminate between members when granting preferences.

³ As a result of the incompatibility of the EPAs with WTO rules, a waiver is required for every trade preference that entailed discrimination among WTO Members so as to cover the non-discrimination imposed by the Article I of the General Agreement on Tariffs and Trade (GATT). The waiver to the preferences granted under the Lomé Convention expired in February 2000 and a request for the extension of the waiver under the Cotonou Agreement was requested in 2000. After much debate, the EU was granted a waiver, until 31 December 2007.

⁴ These are Botswana, Lesotho, Namibia, Swaziland and Mozambique in the SADC EPA configuration; Comoros, Mauritius, Madagascar, Seychelles, Zambia and Zimbabwe in the ESA configuration (Comoros and Zambia finally pulled out of the Interim EPA by not signing the Agreement); Burundi, Kenya, Rwanda, Tanzania and Uganda in the EAC region; Cameroon in Central Africa; and Cote D'Ivoire and Ghana in the ECOWAS Region.

⁵ See Bilal S, Ramdoo I. 2010. *Which way forward in EPA negotiations? Seeking political leadership to address bottlenecks*. ECDPM Discussion Paper 100. November 2010. www.ecdpm.org/dp100

It was later decided that the MAR would expire on 1st October 2014, following which countries that did not enter into a regional agreement or had not taken the necessary steps to implement their Interim EPAs would be removed from preferences under the EPA and instead, fall under the other trade regimes granted by the EU, such as:

1. The Generalised System of Preferences, accessible to all developing countries, irrespective of their geographical location;
2. For LDCs, a particular regime of the GSP, that gives duty free quota free market access on all products, except arms; or
3. For countries not eligible for GSP preferences, because of their upper-middle or high-income status, normal “most favoured nation” (MFN) tariffs would apply.

The 2014 deadline is therefore going to have significant impact on African economies and regions, either because they will have to gradually open their markets to EU products or because they might lose preferences, in which case they would have to face external competition when exporting to the EU market, or find alternative markets for their products.

It will also have wider political implications. As a result of changing geo-politics and Africa’s increasing assertiveness on the global scene, the EU and its African partners are in the process of recalibrating their partnership. This was largely reflected at the Joint Africa-EU Summit that took place in Brussels in April 2014. Both sides expressed the need to maintain and deepen their relationship towards a more business-like partnership, based on mutual benefits, including economic and trade benefits. But the difficult EPA negotiations of the last 12 years might leave some scars in the trade relationship, despite positive outcomes in at least three regions. As negotiations continue on unfinished issues, such as services, investment and other trade-related questions, it is now important to build trust and maintain political goodwill to ensure positive outcomes in the future.

While the EPAs are relevant to the whole ACP group, the rest of the paper will focus on two EPA groupings: the Economic Community Of West African States (ECOWAS) region (plus Mauritania) and the Southern African Development Community (SADC) EPA grouping⁶, which have recently concluded a regional EPA.

2. Underlying principles of EPAs: regional integration, development and WTO-compatibility

Before examining the content, challenges and opportunities of the EPAs for ECOWAS and SADC region, it is necessary to recall the prime objective of EPAs, which is meant to be a development tool, to help signatories achieve the following objectives:

1. Create a mutually beneficial agreement that fits their development needs while maintaining economic interests of Europe;
2. Foster regional integration and inclusive growth by stepping up trade and investment, improving their business environment and securing sustainable access into the EU market;

⁶ The SADC EPA grouping comprises only a subset of SADC countries: Botswana, Lesotho, Mozambique, Namibia, Swaziland and South Africa.

3. Facilitate the integration of ACP countries into the global economy;
4. Contribute to the reduction poverty and;
5. Provide focused financial development support to accompany reforms necessary to implement the EPAs.

Additionally, being essentially a trade agreement, negotiated between parties that are WTO members, EPAs need to ensure compliance with the rules of the WTO, in particular, with the provisions of Article XXIV of the General Agreement of Tariffs and Trade (GATT). Therefore, the agreement must cover “*substantially all trade*” and markets must be liberalised “*within a reasonable timeframe*”. This shaped the outcome of market access schedules.

3. Comparing SADC and ECOWAS EPAs

ECOWAS was the first region in Africa to conclude and officially endorse a **regional** EPA on 10th July 2014.⁷ They were followed by the SADC EPA group, when chief negotiators ‘initialled’ the EPA on 15th July 2014, marking the conclusion of 12 years of negotiations on trade in goods with the EU. While these agreements are sufficient to ensure access of key products to the EU market, negotiations are however expected to continue on services, investment and other trade related issues to ensure a comprehensive framework that is set to govern trade ties between African regions and Europe. There is however no specific timeframe to conclude the negotiations on these issues.

The *timing* of the conclusion of the ECOWAS and SADC EPAs is important. It pre-empted the 1st October 2014 deadline, after which all non-LDCs in both groups (i.e. Ghana and Ivory Coast in ECOWAS and Botswana, Namibia and Swaziland in the SADC group) would have otherwise lost their duty-free quota-free preferences for their main exports to the EU market, and have had to fall back on the Generalised System of Preferences or in the case of Botswana, would lose all preferences after 2016 when the transitional period accorded to upper middle-income countries expires.

It is important to underscore the *political importance* of concluding EPAs at regional level. For African policymakers, it ensures the coherence with their own regional integration process, and above all, it maintains unity of regional blocks, that could have otherwise been at risk, if some countries (i.e. Ghana and Ivory Coast in ECOWAS and Botswana, Lesotho, Namibia and Swaziland in SADC) had no choice but to implement individual EPAs for the sake of maintaining trade preferences with the EU. For the EU, it also ensures policy coherence between EPAs and its overall support to building regional integration, notably through development cooperation with several regional economic communities. It would have been difficult to justify support to regional integration in a broader context if EPAs had contributed to break up regional blocks. It finally confirms the fact that in the end, strong political leadership was needed to solve the deadlock in the negotiations. This is key for future trade relationship between Europe and Africa.

3.1. What’s in the ECOWAS and SADC EPAs?

Annex 2 gives a detailed overview of the key provisions of the SADC and ECOWAS EPAs respectively. The following section summarises these key provisions and provides some comparison in terms of

⁷ See <http://ecdpm.org/great-insights/extractive-sector-african-perspectives/epa-update-july-august-2014/>

coverage, policy space and development and the likely impact that these agreements will have in the two regions.

It is important to highlight at the outset, that although EPAs were negotiated in regional configurations, only two regions, namely East African Community and ECOWAS covered the full membership (in this case plus Mauritania, a non-ECOWAS member) of the regional economic communities (RECs) and therefore could negotiate as a block, on the basis of their on-going regional integration agenda. The rest, because of overlapping membership of countries in different RECs, or lack of interest of some of their members, could, at best, represent “sub-sets” of their respective configurations. This may have significant implications on the impact of EPAs on the REC’s agenda in the future.

In the case of ECOWAS, negotiations were hence based on the region’s own integration process, with the recently agreed tariff bands of the Common External Tariff⁸ (CET) used as a basis for the tariff phase down. This allowed for a more coherent tariff schedule with the EU, ensuring that concerns of all countries could be duly considered during the negotiations. Regional unity and strong political leadership have proved very useful, in particular when Nigeria showed some strong reservations in the very last stages of negotiations on issues it deemed sensitive for its own national economic agenda.

On its side, the SADC EPA negotiating group comprises seven member states, out of a total of 15. These include the five Southern Africa Customs Union member countries, namely Botswana, Lesotho, Namibia, Swaziland and South Africa, as well as Mozambique and Angola. While Angola was part of the negotiations, it did not conclude the EPA. Therefore, the current SADC EPA consists of only six countries. It must be recalled that South Africa’s trade was covered by a different regime, the *Trade, Development and Cooperation Agreement*, concluded in 1999. South Africa joined in 2006 the EPA negotiations to improve its market access to the EU and to ensure functional coherence of SACU, a customs union, of which it is the largest member. SADC is not yet a customs union, contrary to the SACU. Therefore the current market access offer of the SADC EPA group consists of a single offer for the five SACU countries, based on SACU’s CET and a separate offer for Mozambique, which is not part of the SACU.

3.1.1. Product coverage

ECOWAS, as a region, will liberalise 75% of its tariff lines, based on the ECOWAS CET, over a period of 20 years. Products are classified in four categories and liberalisation will be gradual, as summarised in Table 1:

⁸ The CET was agreed in January 2014, to be effective on 1st January 2015.

Table 1: ECOWAS Tariff phase down

	Applied CET Rate				
	0%	5%	10%	20%	35%
Category A: Basic commodities; capital goods; specific inputs; essential social goods	100% in Yr T	100% in Yr T+5	n/a	n/a	n/a
Category B: Inputs and intermediate products (Tariff phase down over 15 years)	5 year moratorium, effective as from Yr T+5	100% in yr T+10	50% in yr T+10 100% in yr T+15	n/a	n/a
Category C: Final products (Tariff phase down over 20 years)	N/a	100% in yr T+10	50% in yr T+10 100% in yr T+15	50% in yr T+10 75% in yr T+15 100% in yr T+20	n/a
Category D: Sensitive products	EXCLUDED				

Note: Year T is the year in which the Agreement enters into force. Tariff phase down will be effective at the end of each 5-year period. For example: If the Agreement enters into force on 1st January 2015, then Category A products will be fully liberalised on 1st January 2020 (i.e. T+5); Zero-rated Category B products will apply from 1st January 2020 and products subject to 5% tariff in this category will be fully liberalised on 1st January 2025 (i.e. T+10), and so on.

The list of exclusion (see Annex 2) covers a wide range of products ranging from agricultural goods to industrial goods being produced or where projects are being developed in ECOWAS countries. These include, *inter alia*, meat and meat products, fish and fish products, vegetable products; cereals; cocoa and cocoa preparations; pasta; cement, textiles and apparel; paint and varnish. The list of exclusion was subject to intense discussions among the ECOWAS group itself, in particular in the last phase of negotiations, as those were the main concern of Nigeria. In effect, in its process of industrialisation, the Nigerian private sector is investing massively in agricultural and agro-processing in an effort to provide locally produced goods to the local market. Similar investments are being made in other industrial sectors such as light manufacturing, cement and the textile sector. The exclusion list therefore ensures that local industries will not be subject to competition from duty-free products from Europe.

As a group, the **SADC EPA group** is expected to liberalise 80% of its trade with the EU. The market access schedule consists of two distinct lists:

1. The first one covering the SACU region, namely Botswana, Lesotho, Namibia, Swaziland and South Africa, as summarised in Table 2; and
2. Another one covering Mozambique, whose market access scheduled had been agreed already in 2007. The two market access schedules have yet not been merged and therefore still remain separated. There is however an annex to the text for Mozambique to update its Tariff nomenclature and to subsequently submit an updated tariff schedule, including the staging categories proposed by Mozambique during the negotiations.

However, the text of the Agreement is applicable to the entire SADC EPA group.

Table 2: Overview of SACU Tariff Schedule and Tariff Rate Quotas

Category	Tariff Phase Down and Time frame
A	Tariffs to be eliminated on the date of entry into force of the Agreement
A* (mainly agriculture and fisheries products)	Tariffs to be eliminated, applicable when all SACU countries have ratified and provisionally applied the Agreement
B*	Tariff to be phased down over 6 years, in equal instalments, applicable when all SACU countries have ratified and provisionally applied the Agreement
C*	Tariff to be phased down over 10 years, in equal instalments, applicable when all SACU countries have ratified and provisionally applied the Agreement
AUTO18 (vehicles; parts & accessories)	Duty shall be 18% ad-valorem, effective on the date of entry into force of the Agreement
PM5 (machinery, electrical appliances; vehicle parts & accessories)	5% preference margin over MFN
PM40 (textiles: clothing, fabric, households and yarns)	12-year tariff phase down, with a maximum margin of preference of 40% over the MFN applied rate at the end of the liberalisation period.
X	Excluded
TRQs	
Wheat/ Meslin	300,000 Metric Tons (MT) duty free
Barley	10,000 MT, duty free
Cheese with some exception	7,100 + 250 MT per annum, duty free
Pig Fat	200 MT, duty free
Cereal based food preparation	2,300 MT, duty applied: 25% of MFN
Pork	1,500 MT, with a tariff phase down of 12.5% every year, over 6 years, with final duty: MFN minus 75%
Other dairy fats	500 MT, with a tariff phase down of 12.5% every year, over 6 years, with final duty: MFN minus 75%
Ice cream	150 MT, at MFN minus 50%
Mortadella Bologna	100 MT duty free

Similarly, the market access schedule of the EU is different for South Africa than from the rest of the SADC EPA group. In fact, while the BLNS and Mozambique have full DFQF access to the EU for all products (with the exception of arms and munitions), South Africa has a more complex tariff schedule, comprising exclusions and tariff staging with liberalisation spanning over up to 11 years, as summarised in Table 3.

Table 3: Summary of EU Market Access Schedule to South Africa

Category	Tariff Phase Down and Time frame
A	Tariffs to be eliminated on the date of entry into force of the Agreement
A* (mainly agriculture and fisheries products)	Tariffs to be eliminated, applicable when all SACU countries have ratified and provisionally applied the Agreement
B* (mainly Fisheries)	Gradually eliminated, when all SACU countries have ratified and provisionally applied the Agreement, over six years, in equal phase down
C* (mainly fisheries)	Gradually eliminated, when all SACU countries have ratified and provisionally applied the Agreement, over ten years, in equal phase down
D* (oranges)	Specific dates when oranges are allowed. EU market is not open from 1 st June to 15 October; from 16 th Oct. until 30 Nov., 11 year phase down, when all SACU countries have ratified and provisionally applied the Agreement
X	Excluded
TRQs (see Annex 2) – includes inter alia, milk, butter, flowers, jams and jellies, sugar, wine, juices	

Despite the differences in their levels of development, by joining the EPA, South Africa's trade regime with the EU is better harmonised with other SACU countries, ensuring regional coherence and preserving the CET which binds SACU countries together. For South Africa, the EPA is more favourable than the previous Trade, Development and Cooperation Agreement (TDCA) with significantly improved access, in particular for a range of agricultural products (such as wine, sugar, fruits) and for industrial products such as textiles and motor vehicles that were previously not liberalised.

The EPA now includes 98% duty free coverage for industrial products and 60% for agricultural products⁹ for South Africa. For BLNS, while they benefit from DFQF on the EU market, as a result of a common offer to the EU, they nevertheless had to make additional efforts to open their markets for some products that they considered sensitive because there were strong interests from the EU for such products in South Africa. To mitigate any potential negative impacts that imports from the EU might have for these products, they managed to secure a **transitional safeguard¹⁰ clause** for a list of specific products, such as frozen chicken, milk, sweet corn, some vegetables and fruits; cocoa and chocolate, pasta etc. (see Annex 2). This was a key political compromise in favour of BLNS countries, as they were asked to make significantly more efforts to open their markets, due to the common schedule with South Africa.

The rules of origin in both ECOWAS and SADC EPAs are quite flexible. In addition to allowing countries within the group to cumulate among themselves, they also allow countries to cumulate with other EPA signatory states. Furthermore, the rules of origin allow countries the possibility to source their inputs for cumulation from countries that have a free trade agreement (FTA) with the EU and with countries that benefit from duty free quota free access under EU autonomous preferential regimes, such as the GSP and the EBA. Although cumulation with EU FTA partners and GSP/EBA countries does not apply to agricultural products, it allows EPA signatories to cumulate with LDCs on most industrial products.¹¹ This is a major advantage as it could potentially allow EPA regions to benefit from cheap imports of inputs for higher value addition within their regions to export to the EU.

3.1.2. What policy space?

The asymmetric nature of the ECOWAS and SADC EPAs allows for a certain number of products to be excluded from liberalisation. For ECOWAS countries, it represents products considered sensitive (subject to a CET of 35%), for a total of 25% of all tariff lines.¹² Members will continue to benefit from tariff protection to allow local transformation and value addition. In the case of SADC, 20% of trade is excluded, also reflecting key sensitivities.

The Agreement allows some **policy space for countries to protect their domestic economies** in case imports from the EU threatens to cause injury to their domestic industries, disturbance to a sector or to market of agricultural products. This is possible through the use of **trade defence instruments**, in particular through the use of safeguard measures. Measures can take the form of:

1. A suspension of the tariff phase down;
2. An increase in the customs duty on the product concerned up to a level which does not exceed the MFN applied rate; or
3. The introduction of tariff quotas on the product concerned.

The ECOWAS EPA has a specific safeguard clause for nascent industries while the SADC EPA group has a specific agricultural safeguard clause, in addition to BLNS transitional safeguard clause mentioned earlier.

⁹ Source: <http://www.bdlive.co.za/business/trade/2014/07/02/sa-benefits-from-sadc-deal-with-eu>

¹⁰ In the form of an import duty, for a period not exceeding 4 years, with the possibility of extension. The list of specific products under this clause is defined Annex V of the Agreement.

¹¹ Provided countries have entered into Customs Cooperation Agreements with each other.

¹² The EU had for years maintained that to comply with the GATT Article XXIV rule, which requires parties to a regional trade agreement to liberalise substantially all trade between them, ACP countries willing to conclude an EPA should liberalise at least 80% of their trade with the EU. ECOWAS countries initial offer was to open up only 65% of their trade. An agreement at 75% of tariff lines thus resulted from significant concession on both side to reach such a compromise.

In addition, both ECOWAS and SADC EPAs contain **flexibility** for countries to apply **export taxes** in exceptional circumstances in case of specific **revenue needs, to promote infant industries or for environmental protection**. In the case of ECOWAS, duties on exports may be raised on a temporary basis, after consultation with the EU, on a limited number of products.

The SADC EPA provision on export taxes allows BLNS countries and Mozambique for specific revenue needs, for the protection of infant industries or the environment, or where essential for the prevention or relief of critical general or local shortages of foodstuffs or other products essential to ensure food security.

Moreover, **any** SADC EPA state (i.e. including South Africa) can potentially apply export taxes on a limited number of products, if it can justify **industrial development needs**. Temporary duties can only be applied to a total number of eight products¹³ per SADC EPA state at a given time, and for a maximum period of 12 years in total (with possibility of extension or re-instatement). Two conditions however apply to the use of this measure:

1. In the first six years of the introduction of an export tax for *industrial development purposes*, the SADC EPA State will exempt from the application of the tax, exports to the EC on an annual amount equal to the average volume of exports of the product to the EC over three years preceding the introduction of the tax. As from the 7th year following the introduction of the tax until its expiry, the SADC EPA State will exempt from the application of the tax, exports to the EC on an annual amount equal to 50% of the average volume of exports of the products to the EU over the three years preceding the date of introduction of the tax. Products exempted from export duties are meant to be processed in the EU and shall not be re-exported to third countries. Export duties may be re-instated on any consignment circumventing the terms of the agreement.
2. Export duties or taxes shall not exceed 10% of the *ad valorem* export value of the product.

This clause is particular to the SADC EPA and does not appear in the ECOWAS text. It is meant to preserve a certain amount of raw material production for beneficiation in the country of production, while securing supply, at least equivalent to current level of export to the EU, in the first six years of the measure. This guarantee of supply quantity is then halved, potentially allowing time for the EU to diversify its sources of supply.

This provision is the outcome of the tense debate regarding the beneficiation strategies in SADC, in particular from strategic raw materials on the one hand, and the need to ensure security of supply of some of those raw materials for the EU on the other hand. However, it is not clear to what extent this measure will indeed allow beneficiation, given that it appears that in the short term (i.e. in the first six years of the introduction of the tax), the export tax may have only little effect to retain inputs for local production, given the guarantees given to the EU.

One of the major points of contention in the negotiations was the so-called **most favoured nation** (MFN) clause. The recent signals given by the US in the context of the extension of its Africa Growth and Opportunity Act (AGOA) that it would also seek reciprocity, in line with the EPAs, confirmed the concerns of African negotiators.

The reason to seek “automatic” extension of more preferences from the European side was justified on the basis of equity, given that the EU extended full duty free and quota free access to African regions in the

¹³ As defined at an HS6 tariff line level, or in case of 'ores and concentrates' at an HS4 tariff line level.

EPAs. But from the perspective of African countries and regions, it was a major economic and political concern. By agreeing in advance, to extent all preferences they might negotiate in the future, they were severely putting at risk their policy space to negotiate meaningful future trade agreements, regardless of whether those trading partners would give them other non-tariff advantages, such as more flexible rules of rules of origin or other forms of ease access through more flexible rules and regulations, than what is provided for by EPAs.

Despite strong reserves from ECOWAS and SADC EPA groups, the two agreements finally include an MFN clause. The clause is **not automatic** for *ECOWAS and SADC countries* and any future preferences would have to be examined before it is extended to the EU. In addition, it excludes agreements among African regions and countries, ACP countries and other developing countries and LDCs. “Major trading partners” are qualified, to mean:

1. SADC EPA considers a major trading country as a developed country or any country whose world share of merchandise exports is higher than 1% (1.5% for a group of countries) before the entry into force of the EPA. Before any extension, the SADC group will have to demonstrate that it has given substantially more favourable treatment to the major trading country;
2. ECOWAS EPA considers a major trading country to be one whose share of world trade is higher than 1.5% (2% if negotiating with a group of countries) AND whose degree of industrialisation, measured as the value in manufacturing in GDP is higher than 10% before the entry into force of the EPA.

The MFN clause is **only applicable to customs duties, fees and other charges**. Issues such as rules of origin or regulatory measures are not included. It makes it difficult therefore, based on tariffs only, in particular in cases where tariffs are already low, to measure preferences.

The use of **agricultural export subsidies** will no longer be permitted upon the entry into force of the EPA, a long-standing demand from ECOWAS and SADC regions. This may be viewed as an important concession to EPA signatories given the deadlock at the WTO regarding the removal of export subsidies.

The ECOWAS and SADC EPAs do not contain an explicit **non-execution clause**. Instead, a reference is made to the Cotonou Agreement, where parties can adopt “appropriate measures” pursuant to the Cotonou Agreement but with no specific reference to human rights or the rule of law.

The SADC EPA contains an important **Protocol on Geographical Indications** where 105 South African products, namely three agricultural products and foodstuffs (rooibos, honeybush and Karoo lamb) and 102 wines are now protected. On the EU side, 251 products are covered by the Protocol. These include 105 agricultural and foodstuffs, 5 beers, 120 wines and 21 spirits.

3.1.3. Financial Support and Development

The ECOWAS EPA confirmed the West African EPA Development Programme (PAPED), which is the comprehensive development framework that will accompany and address potential challenges linked to the implementation of EPAs. In terms of financial support the EC, together with its member states and the European Investment Bank (EIB), is expected to provide support to the PAPED in the programming period 2015-2019, for at least €6.5 billion. Support will focus on trade, agriculture, infrastructure, energy and capacity building for developing civil society. The PAPED is supported by a well-developed development matrix that reflects the priorities of the region.

The PAPED will be implemented through two instruments, namely:

1. A Regional EPA Fund will be set up to channel the funds;
2. A Competitiveness Observatory will be set using performance indicators up to monitor and evaluate the impact of the EPA.

While the SADC EPA has a section on development cooperation, there is no equivalent to ECOWAS's PAPED, and no financial commitment has been made so far. Parties agree that a regional development financial mechanism, such as an EPA Fund, could be set up, but there are no commitments on the modalities or on potential additional sources of revenues (beyond existing sources, such as the European Development Fund (EDF) or Aid for Trade). There is some recognition of the potential fiscal impacts of tariff phase down on SADC EPA countries, and in particular in LDCs such as Lesotho, but no commitment has been made in terms of financial support.

4. Addressing the challenges: What could be done?

Despite the fact that EPA signatories managed to secure their duty-free and quota free market access to the EU, some remaining challenges need to be addressed for the EPA to be truly developmental. So far, it remains merely an FTA, with an unfinished agenda on other key trade related issues. An FTA in itself is therefore not a magic bullet to unfold wider economic and development benefits.

4.1. Coverage: trade goes beyond goods

The current African EPAs cover only trade in goods, although all EPAs have a *rendez-vous* clause for a more comprehensive agreement covering other issues such as trade in services, competition, investment etc. This is an important issue to consider, in particular as global trade increasingly specialises in trade in tasks and intermediaries. An ambitious trade agreement, that reflects the reality of the global economy, must therefore take due account of the changing nature of trade and the implications that global value chains have for African countries.

In Africa, RECs are now in the process of deepening their own regional integration agenda, notably to boost intra-REC trade but also to improve the trade relationship across regions, towards building a common continental agenda on trade. To achieve this, it is therefore essential to have coherent and comprehensive frameworks, based on agreed common denominators that reflect this ambition. These frameworks should be bold in coverage and in depth. But such frameworks should not be confined only to the African agenda, in particular as African countries and regions are increasingly expected to play a more important role on the global scene, as the sustainability of economic prospects is confirmed.

The current African EPAs, in that sense, are quite traditional FTAs, and do not sufficiently reflect the changing nature of international trade and the growing importance of Africa, although many African countries are yet to play a significant and influential role in global value chains. As it stands, it is understandable that the agreements had to be concluded within a particular deadline (i.e. 1st October 2014), first and foremost to prevent trade disruption for some African countries and to ensure its WTO compatibility. But the current Agreements also reflects the level of (un-)readiness and (un-)willingness of African countries to negotiate more comprehensive agreements, in particular on issues where the regional agenda is not very advanced. While it is important to ensure proper sequencing in negotiations – i.e.

allowing time for regional negotiations to be concluded first, before entering in agreements with third parties – it is unlikely that EPAs will deliver on significant results if it remains trapped in a shallow *trade in goods* agreement framework.

Given the slow pace of advancement of regional integration, notably on issues such as services, investment, competition, public procurement or intellectual property rights to name a few, it may not be realistic to push for coverage of these issues in a comprehensive agreement. No agreement is better than a bad agreement, in this context. And lessons from the 12 years of difficult negotiations should be learnt, namely that unwillingness and lack of ownership of the process can only sour a relationship.

To assist countries and regions to finish their own regional agenda, which would then serve as the basis for a more comprehensive EPA, it would therefore be worth exploring development support to reforms in order to fast-track these issues, both by supporting national efforts to put in place the necessary rules and regulations and by supporting regional negotiations efforts to ensure coherent, coordinated and simultaneous efforts for a rapid conclusion of such regional agendas.

4.2. Regional integration preserved but continental integration may be at risk

While ECOWAS and to some extent SADC EPAs (in particular the SACU) managed to agree on a regional framework that ensures the unity of the region, it is however less clear to what extent these EPAs can support broader regional integration, in particular the continental integration agenda.

First, as mentioned earlier, the regional integration process is still largely in the making in most of the five EPA regions. Although most regions have free trade area in place, not all countries implement them, which renders difficult the deepening of trade integration within specific regions. The tripartite initiative among SADC-EAC-COMESA is the first initiative to set up a wider free trade zone across three RECs. This process has however been quite slow, given diverging interests among member states (and challenges to finance the initiative).

The difficulty to have functional free trade areas among African RECs means that EPA regions are likely to extend more favourable treatment to the EU than they would give to their own regional partners. Given the low level of intra-Africa trade and the difficulty to agree on cross-regional FTAs, there have been growing concerns that EPAs would further discourage intra-African trade because producers would rather favour the EU market as a result of the security given by the permanent duty free regime. This concern is yet to be verified in particular as the EBA did not really deliver on expectations of deepening trade ties between LDCs and the EU.

Current EPA texts make provisions for regional preferences, but again, it is not clear to what extent countries/regions are willing to extend unilateral preferences across regions, if they are not sure that they will receive reciprocal treatment in return.

Second, the number of RECs and regional bodies on the continent has been steadily growing and many countries are members of several arrangements. Even though some RECs (such as ECOWAS and UEMOA in the Western Africa and SADC-COMESA and EAC in the Eastern and Southern African Region) have taken some steps towards rationalisation, the issue remains largely unaddressed, resulting in a complex web of regional organisations, of which only eight are officially recognised by the African Union¹⁴.

¹⁴ These are: Arab Maghreb Union (AMU), Southern Africa Development Community (SADC), Common Market for Eastern and Southern Africa (COMESA), Eastern African Community (EAC), Community of Sahel Saharan States

This not only leads to costly competition for resources, potential conflict and inconsistencies in policy formulation and implementation. It also causes unnecessary duplications of functions and efforts, fragmentation of markets, which consequently reduces the ability of RECs to pursue coherent and effective integration programmes. It further complicates the RECs relationships with partners outside the continent. The EPAs are a case in point. As mentioned, with the exception of EAC and ECOWAS, it was difficult to negotiate EPAs with whole regions, given the overlapping members of some countries, sometimes in more than two organisations.

EPAs may hide an unintentional **lock-in effect**, that is, it contains countries within the region in which they have negotiated an EPA. As regions are seeking ways to address overlapping memberships and to create larger economic entities, it is unclear how this issue will be addressed. The SADC EPA makes provision for accession of any country or organisation to the SADC EPA, but EPAs also contain a stand-still clause, where countries cannot increase their tariffs in the future, beyond what is provided for in the EPAs.

In the hypothetical case where, in the future SADC and ECOWAS decide to harmonise their trade regimes to form a bigger customs union, how to align market access schedules without terminating the EPAs in their current state, remains a key question.

Third, with many countries remaining outside the EPAs, the question of multiple trade regimes *vis-à-vis* the EU, is yet to be addressed (see Annex 3). The current EPAs provide for the possibility of cumulation with other countries and regions with which the EU has an FTA or with LDCs and GSP countries, provided the product is subject to duty free entry (except for agricultural products). This is a positive step for EPA countries and regions. But the reverse is not possible, i.e. LDCs that are non-EPA countries or GSP beneficiaries cannot cumulate with EPA countries and regions or other countries benefiting from EBA or GSP preferences.

This is therefore likely to constrain the possibility of building regional value chains. In the case of SADC, while EPA signatories would be able to source regionally or in countries eligible for cumulation, non-EPA SADC countries will not be able to benefit from such dynamics, if these are created. Similarly, it constrains and complicates sourcing and value creation across RECs, potentially affecting industrialisation and continental integration dynamics.

4.3. EU's trade deals with third countries: Potential impact on EPAs

As part of its broader trade diplomacy, the EU is deepening trade ties with its key trading partners, as can be observed by the number of comprehensive trade agreements recently concluded (including with South Korea, Singapore and Canada). The current negotiations with the United States are likely to set different benchmarks for its future trade agenda, since the key stakes of the Trans-Atlantic Trade Partnership will not be around tariff negotiations, but rather around rules, standards and regulations.

The first implication for EPAs is that it will gradually erode all margins of preferences: tariffs in the EU are in any case very low, and soon, EPA signatories, despite their DFQF access, will be faced with competition from other FTA partners of the EU. To many this means that all the benefits of the EPAs will be completely eroded, especially if EPAs remain focused on trade in goods.

(CEN-SAD), Economic Community of Central African States (ECCAS), Economic Community of Western African States (ECOWAS), and Inter Governmental Authority on Development (IGAD).

The second, and most important implication of these new “mega” trade deals for EPAs is that the tariff liberalisation effects of these new trade deals might be relatively modest. However, non-parties to these agreements will be confronted with changes in the regulatory landscape and would therefore become rule-takers. In the context of EPAs, despite the agreements in place, it is therefore feared that regions will constantly have to compete over higher standards and regulations to access the EU market, although market access *per se* is guaranteed.

Finally, we are unlikely to see African regions enter in the likes of the “mega-trade deals” at least in the short term, even in the event that the US would seek to enter into FTAs to replace AGOA preferences. But it is not unlikely to see more traditional forms of trade agreements involving RECs ready to go to so, with some of their trading partners. While the EU managed to secure mega-trade deals out of the MFN clause (due to the fact that MFN clauses in EPAs apply only to tariffs and therefore non-tariff preferences are not covered), African RECs may find themselves in the unfair situation where they would have to further open their markets (due to their high applied tariffs) while in return, they will not benefit from any better frameworks that will come out of such new trade agreements.

4.4. Development is not automatic

It is expected that EPAs would have positive spillover effects, notably on economic reforms and on the increasing interest of private operators to invest in the local economy to reap the benefits of the EU market. But while this is the well-intended effect, it will not happen automatically. It will be difficult to measure to what extent any potential reforms or investment decisions can be directly attributed to the EPAs. Development impacts will therefore only be measurable overall, if EPAs are used as a tool to kick-start certain reforms or to accompany others, and are linked to countries’ and regions’ own programmes and priorities.

One example is trade facilitation: EPAs could provide scope to build regional value chains, notably by making use of cumulation provisions in rules of origin to identify comparative and competitive advantages among producers along specific product value chains. But this requires effective cross-border customs procedures, addressing transport costs and coordinated hard and soft infrastructure and logistics. Support to those linkages could be sought through the development cooperation provisions of EPAs, provided priorities are clearly identified and efforts are well coordinated.

The regional programming of the 11th EDF provides an important opportunity to address some of the EPA-related financing, including in financing infrastructure.¹⁵ In addition, given the current financial constraints and the difficulty for Europe to commit additional funding (beyond the EDF and existing Aid for Trade commitments and mechanisms, such as regional funds), a pragmatic approach would be to further explore collectively innovative financing mechanisms (such as blending grants and loans¹⁶, and various forms of public private partnerships and cooperation¹⁷), in particular to finance large projects such as cross border infrastructure or energy projects, currently a major prerequisite to industrial development in many African countries and a key element of effective regional integration.

There is already an on-going debate in Africa, notably under the joint leadership of the African Development Bank, the African Union Commission and the UN Economic Commission for Africa to explore

¹⁵ See for instance Krätke F. (2014), *Regional Programming for the 11th European Development Fund*, ECDPM Talking Points, 21.02.2014 <http://ecdpm.org/talking-points/regional-programming-11th-european-development-fund/>

¹⁶ See for instance Bilal, S., and F. Krätke (2013), *Blending loans and grants for development: An effective mix for the EU?* ECDPM Briefing Note 55, www.ecdpm.org/bn55

¹⁷ See for instance Bilal, S., Große-Puppenthal, S., Rosengren, A., Krätke, F., Nubong, and G., Byiers, B. (2014), *Decoding Public-Private Partnerships for Development*, ECDPM Discussion Paper 161, www.ecdpm.org/dp161

new ways of financing development, including by using Africa's own resources.¹⁸ It would be appropriate to join this debate, and to make creative use of existing financial mechanisms as a leverage for innovative financing, including from European private sector, multilateral financial institutions and African financial institutions.

4.5. Trade facilitation and the EPAs

Some of the key challenges on intra-African trade are the bottlenecks that exist both behind the border and beyond the border. While current SADC and ECOWAS EPA texts agree to cooperate on trade facilitation, there is little in the agreement to unlock and address those challenges that are a major hurdle to the cost of doing business in these regions.

A major step was reached by the WTO in December 2013 in Bali, with the agreement by members to move ahead with the trade facilitation agenda, as an early harvest, to reduce red tapes and streamline customs. However, with the recent difficulties to agree on the Protocol to amend the WTO Trade Facilitation Agreement, it seems that there will be delays in implementing what was agreed in Bali, including on technical assistance for developing countries to remove the barriers to trade. While this is being dealt with at the multilateral issue, trade facilitation is clearly a cross-cutting issue, which will have an impact on trade flows and the cost of doing business, including in the context of EPAs.

It may therefore be opportune to explore the possibility to implement the commitments of the Bali Agreement, within the regional context, given the importance and urgency of removing those barriers to boost trade in Africa, and in particular in EPA regions.

It is however important to pursue this goal with some caution, as it may be a politically sensitive issue with African partners. In the past, there had been concerns that through the EPAs, the EU was trying to bring in all issues that had failed in the multilateral context (the so-called Singapore issue), and trade facilitation was one of them, although many recognise that addressing these bottlenecks is a necessary measure, primarily to deepen regional trade, although it is important for foreign investors too.

5. Conclusion

After 12 years of hard talks, the EPAs finally concluded with ECOWAS and SADC were made possible, largely due to the strong political leadership shown on all sides in order to ensure the smooth trade relationship with the EU and to maintain regional unity and solidarity. Although not finished, and not free of challenges, the agreement provides some degree flexibility and policy space for African RECs and their member states to pursue their own development path.

Looking forward, the EPAs must now be placed in a broader perspective, notably in the larger strategic EU-Africa relationship. This means that both the EU and the regions that have concluded EPAs will now have to mainstream EPAs in their own economic dynamics. For SADC and ECOWAS, this will entail ensuring that countries make the most of the market access to EU, not only by using it as much as possible to

¹⁸ See for instance NEPAD and UNECA. 2013. *Mobilizing Domestic Financial Resources for Implementing NEPAD National and Regional Programmes & Projects: Africa looks within*; and Aggad-Clerx, F. and El Fassi, S. 2014. *Implementing African development initiatives: Opportunities and challenges to securing alternative financing for the Agenda 2063*, ECDPM Briefing Note 65, www.ecdpm.org/bn65

deepen their trade ties with Europe, beyond their current and traditional exports, but more importantly by using EPAs to deepen trade ties among themselves, notably through the development of regional value chains.

For the EU, it means mainstreaming EPAs in the broader EU-Africa relationship. This has so far not been the case, mainly because the African Union was the big absentee of EPA negotiations. This is necessary however if the EU-Africa relationship is to take a business-like approach. It will otherwise be difficult to conceive business without a key instrument such as trade. This is not only the responsibility of the European Commission. It also depends largely on the role that member states will play, because private sector dynamics will come from member states. And this requires political leadership from some key member states, willing to take this role, as a way to implement EPAs in practical terms. This is the only way EPAs could become truly developmental.

Finally, a trade agreement, however well negotiated and flexible, in itself is just the starter. It requires a powerful engine to unlock its full potential, and this can only be done if countries and regions are supported in their efforts to implement the agreement. Support can take financial forms, but to be self-sustainable, it will require in-depth business-to-business linkages, in particular to support African private sector, so that they can reap the full benefits of the trade agreement.

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Annex 1: EPAs: Who's in? Who's out?

EPA Configuration	EPAs	EBA	GSP	MFN (Upper middle income countries)
SADC EPA Group	South Africa, Botswana, <i>Lesotho</i> , Namibia, Mozambique, Swaziland	Angola		
West Africa (ECOWAS)	<i>Benin, Burkina Faso, Cape-Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, Togo</i>			
East African Community		Burundi, Rwanda, Tanzania, Uganda	Kenya	
Eastern and Southern Africa	<i>Madagascar</i> , Mauritius, Seychelles, Zimbabwe	Comoros, Zambia		
Central Africa	Cameroon	Central African Rep, DR Congo, Chad, Equatorial Guinea, São Tome	Rep. Congo	Gabon as of 1 st Jan. 2016 Equatorial Guinea as from 2017

Note: EPA countries in italics are LDCs

Annex 2: Comparing SADC EPA and ECOWAS EPA: key provisions

PROVISIONS	SADC EPA Group – i.e. Botswana, Lesotho, Namibia, Swaziland, South Africa and Mozambique). Note Mozambique has a separate EPA	ECOWAS EPA
Market Access: EU Offer	<p>EU will provide duty free, quota free (DFQF) treatment for all products (with a transitional period for sugar up to 2015), for Botswana, Lesotho, Mozambique, Namibia and Swaziland.</p> <p>South Africa: EU to phase down tariff based on 5 categories: Category X: excluded from tariff liberalisation (mainly agricultural products, meat of bovine animals) Category A: Immediate liberalisation (Industrial products including textiles) Category B: 4 years Category C: 9 years (including preserved tuna) Category D: 10 years</p> <p>Key products excluded from South Africa only (but not rest of SADC EPA group):</p> <ul style="list-style-type: none"> • Some live animals (bovine); fresh, chilled, frozen meat and offal of bovine; edible flours of meat • Rose carnation • Sweet corn, fresh, preserved, prepared, frozen; • Fresh bananas • Rice • Cereals other than wheat and meslin (essentially rice and maize), including groats, pellets, and otherwise worked; • Starches • Prepared meat • Sugar and sugar confectionaries • Chocolates; • Some preparation of cereals, pasta, bread, biscuits; cakes • Tomatoes, prepared and preserved • Jam and jellies (sugar content >13%); plum puree; tropical fruit jam; chestnut puree; mandarin • Juice: Grape, cherry, mixture of citrus and pineapple • Coffee and tea concentrates; chicoree; • Certain soups and broths; • Some mineral waters; vermouth; rum • Some animal fodder with starch; • Some chemicals organic and inorganic; some finishing agents; some preparation for chemical allied industries; 	DFQF to ECOWAS states

	<p>EU is also providing TRQ to SA for the following products:</p> <ul style="list-style-type: none"> • Wine: 110m litres duty free, remaining subject to specific tariffs; • Sugar: 150,000 tons duty free, remaining subject to specific tariffs; • Ethanol: 80,000 tons duty free remaining subject to specific tariffs; • Skimmed milk: 500 metric tons duty free remaining subject to specific tariffs; • Butter: 500 metric tons duty free remaining subject to specific tariffs; • Flowers: 800-100 metric tons duty free remaining subject to specific tariffs; • Tropical canned fruits: 3200 metric tons duty free remaining subject to specific tariffs; • Juices: 1120-3478 metric tons duty free remaining subject to specific tariffs; <p>Geographical indication: 105 SA GI and 251 EU GI protected</p>	
<p>SADC/ECOWAS Offer</p>	<p><u>Main products excluded from SACU market access:</u></p> <ul style="list-style-type: none"> • Meat and edible meat offal; • Some dairy produce (including imported from Switzerland) • Some cereals • Some products of milling industry (mainly products of wheat and maize) • Some preparation of meat (such as ham) • Sugar and sugar confectionary • Mineral fuels; mineral oil and products of their distillation • Some inorganic chemicals and some organic chemicals; • Some vegetable textile fibres, paper yarn and woven fabric of paper yarn; • Some articles of base metals such as fittings of iron • Some vehicles • Some machinery and mechanical appliances • Ch 98 – 99: services linked to construction 	<p>ECOWAS to liberalise 75% of all tariff lines over 20 years</p> <p>Tariff phase down based on 4 categories classified according to CET tariff bands:</p> <p>Category A: Essential products, basic commodities, capital goods and primary raw materials. CET range between 0 – 5%, to be liberalised in up to 5 years from the entry into force of the agreement</p> <p>Category B: Inputs and intermediate products: CET range between 0 – 15%, to be liberalised in up to 15 years from the entry into force of the agreement</p> <p>Category C: Final products: CET range between 0 – 20%, to be liberalised in up to 20 years from the entry into force of the agreement</p> <p>Category D: Sensitive products, CET range between 0 – 35%. All <u>products in this category are excluded from liberalisation</u></p> <p>Main products excluded include:</p> <ul style="list-style-type: none"> • Meat and meat products; Preparation of meat; fresh, chilled and frozen fish and fish products; preparation of fish products • Milk and dairy products • Vegetable products such as edible vegetables, fruits, nuts, some cereals (rice), products of milling industry (different types of flour); • Animal and vegetable fats and oils and prepared edible fats • Sugar and sugar confectionary; • Cocoa and cocoa preparations; • Preparation of cereals, flour, starch and milk • Preparation of vegetables, fruits and nuts • Other edible preparation such as tea, coffee, sauces, seasonings etc. • Beverages (alcoholic – mainly beers and spirits) and non-alcoholic (table water etc.)

		<ul style="list-style-type: none"> • Tobacco • Cement • Pharmaceutical products; • Paint, varnish and mastic • Perfumery, cosmetic and toilet preparation; • Soaps and washing preparation; waxes • Glues; pyrotechnic products; • Articles of plastic; Rubber articles; leather products; wood and wood articles; paper, paperboard and articles of paper pulp; printed books and newspapers • Cotton (thread); other vegetable textile fibres, yarn and fabrics; • Man made fibres; some woven fabrics; some knitted and crocheted fabric; • Articles of apparel and clothing accessories; • Glassware; some articles of iron and steel; copper and nickel • Tools and cutlery of base metals; some machinery and mechanical appliances; some electric machinery; • Some furniture and mattress support (wood and metal); lighting and fittings
Community levy	N/A	Maintained for ECOWAS and WAEMU until a new mode of financing is put in place
CET	N/A	ECOWAS has up to 31.12.2014 to revise its tariff schedule, in line with the finalisation of its CET
Common sectoral policies	N/A	ECOWAS may modify its tariff schedules on a few products to meet the objectives of its common sectoral policies
Export taxes	<p>ET can be applied in exceptional circumstances for industrialisation purposes, for revenue needs, for environmental protection, for food security purposes, on a limited number of products;</p> <p>For industrial purposes, ET may be introduced on a temporary basis, after notification, a total number of 8 products, as defined at an HS6 tariff line level, or in case of 'ores and concentrates' at an HS4 tariff line level, per SADC EPA State at any given time and shall not be applied for a period exceeding 12 years in total. This period can be extended or reinstated for the same product in agreement with the EC Party. This is subject to 2 conditions:</p> <p>1. In the first 6 years of the introduction of an export tax for <i>industrial development purposes</i>, the SADC EPA State will exempt from the application of the tax, exports to the EC on an annual amount equal to the average volume of exports of the product to the EC over 3 years preceding the introduction of the tax. As from the 7th year following the introduction of the tax until its expiry, the SADC EPA State will exempt from the application of the tax, exports to the EC on an annual amount equal to 50% of the average volume of exports of the products to the EU over the three</p>	Existing export taxes are maintained; possibility to introduce new taxes for infant industries, revenue needs and environmental protection on a limited number of products and after consultations with the EU side.

	years preceding the date of introduction of the tax. Products exempted from export duties are meant to be <u>processed in the EU</u> and shall not be re-exported to third countries. Export duties may be re-instated on any consignment circumventing the terms of the agreement. 2. The ET shall not exceed 10% ad valorem.	
BLNS Transitional Safeguard	The agreement allows the BLNS countries to apply safeguard measures on a list of some 60 products (waffles, olives, beer, pasta, umbrellas, paper among others) for a maximum of 4 years, with possibility of extension. The transitional safeguard clause will cease to exist after a period of 12 years from the entry into force of the agreement.	N/A
Bilateral safeguard	Safeguard measures applicable for 4 years, renewable once.	Safeguard measures applicable for 4 years, renewable once. The EU can apply bilateral safeguards on ECOWAS products if the later cause or threaten to cause damage local industries, economic sectors or agricultural markets of <i>outermost</i> regions of the EU (measures to be limited to these regions only).
Agricultural Safeguard Measures	The agreement over and above the bilateral safeguard provides the possibility of applying transitional agricultural safeguard measures on six products namely edible offals, worked cereals, meat preparations, milk, cucumbers and olives, chocolates	No specific ASM, but covered by bilateral safeguard clause
Infant Industry Clause	Specific safeguard clause for infant industries. Measure to be referred to Trade and Devt Committee. In critical circumstances, SADC EPA countries can nevertheless, in exceptional cases, take appropriate measures for a period of up to a maximum of 200 days. The safeguard may be applicable for up to 8 years and can be renewed.	Specific safeguard clause for infant industries. Measure to be discuss in EPA committee. In critical circumstances, ECOWAS can nevertheless, in exceptional cases, take appropriate measures for a period of up to a maximum of 200 days. The safeguard may be applicable for up to 8 years and can be renewed.
Most favoured nation treatment (MFN) resulting from free trade agreements	No automatic extension to the EU. SADC EPA considers a major trading country as a developed country or any country whose world <u>share of merchandise exports</u> is higher than 1% (1.5% for a group of countries) before the entry into force of the EPA. Before any extension, the SADC group will have to demonstrate that it has given <i>substantially more favourable treatment</i> to the major trading country. If EC gives more preferences to a third party than to SA in future FTAs, it shall enter into consultations to decide whether to extend to SA or not.	WA to grant MFN to EU (except for African and ACP States) for countries whose share of trade is higher than 1.5% (2% for a group of countries) and degree of industrialisation, measures as value in manufacturing & GDP is higher than 10% in the year before the introduction of EPA.
Food security	SADC EPA countries may invoke the food security provision to take safeguard measures	In case of difficulties to access agricultural products to ensure food security, bilateral safeguard measures will apply.
DEVELOPMENT		
Development	Contains a chapter on development including cooperation on trade in goods, services, supply-side competitiveness, fiscal adjustment The EC Party has agreed to support the region to set up the EPA fund and will also contribute to the fund following a satisfactory audit	PAPED: €6.5 billion over the liberalisation period. EU and MS to support also through their own development instruments, in particular in supporting regional integration and through Aid for Trade 5 priority areas identified: 1. Diversification and increase in production capacity; 2. Boosting intra-regional trade and facilitate WA access in global markets 3. Support to trade-related infrastructure;

		<p>4. Addressing trade-related adjustment and SS constraints;</p> <p>5. Monitoring and evaluation (through indicators)</p> <p>Two instruments to be put in place:</p> <p>1. EPA Regional Fund;</p> <p>2. A Competitiveness Observatory to ensure the monitoring of performance indicators</p>
PROTOCOL ON RULES OF ORIGIN		
Cumulation	<p>Contains provisions on:</p> <ul style="list-style-type: none"> Bilateral cumulation between the EU and SADC EPA Diagonal cumulation between SADC EPA states, ACP states, EU and OCTs: cumulation possible on the provision that there is a customs administrative cooperation agreement in place Cumulation with respect to materials originating in other countries benefiting from preferential duty-free quota-free access to the European Union: (fish excluded) Cumulation with respect to materials which are subject to MFN duty free treatment in the European Union (includes all LDCs and GSP where products are duty free) but does not apply to agricultural products (Ch1-24) <p>Note cumulation not possible for fish products from the Pacific as well as for material from SA which does not enter into the EU duty free.</p>	<p>Contains provisions on:</p> <ul style="list-style-type: none"> Bilateral cumulation between the EU and ECOWAS countries Diagonal cumulation between ECOWAS, ACP states, EU and OCTs: cumulation possible on the provision that there is a customs administrative cooperation agreement in place; Cumulation possible with South Africa, except with product does not benefit from DFQF under SADC EPA Cumulation with respect to materials originating in other countries benefiting from preferential duty-free quota-free access to the European Union: (fish excluded) Cumulation with respect to materials which are subject to MFN duty free treatment in the European Union (includes all LDCs and GSP where products are duty free) but does not apply to agricultural products (Ch1-24) Cumulation not possible for fish products from the Pacific
Special provision		Ceuta and Melilla are covered by the Agreement
Derogation	<ul style="list-style-type: none"> Allows for Normal derogation Namibia obtained an automatic derogation of 800 tons for preserved tuna (HS 1604, 0302, 0304) Mozambique obtained a derogation on shrimp and lobster 	<ul style="list-style-type: none"> Allows for Normal derogation Automatic derogation of 6,000 MT
Final Provisions		
Entry into force	The Agreement shall enter into force on the first day of the second month following the deposit of the last instrument of ratification, acceptance or approval	The Agreement shall enter into force on the first day of the first month following the deposit of the last instrument of ratification of all EU member states and of at least two-thirds of member states of the West African region; as well as the deposit of the instrument of approval of the Agreement by the EU
Accession	A third country or an organisation may request accession to the SADC EPA. Terms to be jointly negotiated	N/A

Annex 3

EPA Groups	Country's status	economic	Trade regime applicable before 1 st October 2014	New trade regime applied by the EU
Central Africa				
1. Cameroon	Lower middle income country		MAR 1528/2007	EPA
2. Central African Rep.	Least Developed Countries		EBA	EBA
3. Chad	Least Developed Countries		EBA	EBA
4. Congo Rep.	Lower middle income country		GSP	GSP
5. DR Congo	Least Developed Countries		EBA	EBA
6. Eq. Guinea*	Upper middle income country		EBA	EBA til 2017 and the MFN
7. Gabon	Upper middle income country		GSP	MFN as of 1 st Jan. 2016
8. Sao Tomé & Ppe	Least Developed Countries		EBA	EBA
East African Community**				
1. Burundi	Least Developed Countries		MAR1528/2007	EBA**
2. Kenya	Lower middle income country		MAR1528/2007	GSP**
3. Rwanda	Least Developed Countries		MAR1528/2007	EBA**
4. Tanzania	Least Developed Countries		MAR1528/2007	EBA**
5. Uganda	Least Developed Countries		MAR1528/2007	EBA**
Eastern and Southern Africa				
1. Comoros	Least Developed Countries		EBA	EBA
2. Djibouti	Least Developed Countries		EBA	EBA
3. Ethiopia	Least Developed Countries		EBA	EBA
4. Eritrea	Least Developed Countries		EBA	EBA
5. Madagascar	Least Developed Countries		MAR1528/2007/EPA since 2013	EPA
6. Malawi	Least Developed Countries		EBA	EBA
7. Mauritius	Upper middle income country		MAR1528/2007/EPA since 2013	EPA
8. Seychelles	Upper middle income country		MAR1528/2007/EPA since 2013	EPA
9. Sudan	Least Developed Countries		EBA	EBA
10. Zambia	Least Developed Countries		EBA	EBA
11. Zimbabwe	Lower middle income country		MAR1528/2007/EPA since 2013	EPA
ECOWAS***				
1. Benin	Least Developed Countries		EBA	EPA
2. Burkina Faso	Least Developed Countries		EBA	EPA
3. Cape Verde	Lower middle income country		EBA	EPA
4. Gambia	Least Developed Countries		EBA	EPA
5. Ghana	Lower middle income country		MAR 1528/2007	EPA
6. Guinea	Least Developed Countries		EBA	EPA
7. Guinea Bissau	Least Developed Countries		EBA	EPA
8. Ivory Coast	Lower middle income country		MAR 1528/2007	EPA
9. Liberia	Least Developed Countries		EBA	EPA
10. Mali	Least Developed Countries		EBA	EPA
11. Mauritania	Least Developed Countries		EBA	EPA
12. Niger	Least Developed Countries		EBA	EPA
13. Nigeria	Lower middle income country		GSP	EPA
14. Senegal	Least Developed Countries		EBA	EPA
15. Sierra Leone	Least Developed Countries		EBA	EPA
16. Togo	Least Developed Countries		EBA	EPA

Southern African Development Community							
1. Angola	Least Developed Countries			EBA	EBA		
2. Botswana	UMIC			MAR 1528/2007	EPA		
3. Lesotho	Least Developed Countries			MAR 1528/2007	EPA		
4. Mozambique	Least Developed Countries			MAR 1528/2007	EPA		
5. Namibia	Upper country	middle	income	MAR 1528/2007	EPA		
6. South Africa	Upper country	middle	income	TDCA	EPA		
7. Swaziland	Lower country	middle	income	MAR 1528/2007	EPA		
North Africa ****							
1. Algeria	Upper country	middle	income	Euromed Agreement	Partnership	Euromed Agreement	Partnership
2. Egypt	Lower country	middle	income	Euromed Agreement	Partnership	Euromed Agreement	Partnership
3. Libya	Upper country	middle	income	Euromed Agreement	Partnership	Euromed Agreement	Partnership
4. Morocco (not an African Union Member)	Lower country	middle	income	Euromed Agreement	Partnership	Euromed Agreement	Partnership
5. Tunisia	Lower country	middle	income	Euromed Agreement	Partnership	Euromed Agreement	Partnership
6. Western Sahara (recognised by AU only)	n/a			n/a	n/a		

* General Assembly resolution 68/L.20 adopted on 4 December 2013, decided that Equatorial Guinea will graduate from the list of LDCs three and a half years after the adoption of the resolution.

** On 5th September 2014, at the time this discussion paper is finalised, the EAC EPA negotiations were yet to be concluded

*** ECOWAS EPA group included the 15 ECOWAS member states plus Mauritania

**** North African countries are not involved in EPA negotiations. However, for the purpose of African continental integration coherence, the trade regimes applicable to North Africa countries are included in this note.

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ECDPM was established in 1986 as an independent foundation to improve European cooperation with the group of African, Caribbean and Pacific countries (ACP). Its main goal today is to broker effective partnerships between the European Union and the developing world, especially Africa. ECDPM promotes inclusive forms of development and cooperates with public and private sector organisations to better manage international relations. It also supports the reform of policies and institutions in both Europe and the developing world. One of ECDPM's key strengths is its extensive network of relations in developing countries, including emerging economies. Among its partners are multilateral institutions, international centres of excellence and a broad range of state and non-state organisations.

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- Addressing food security as a global public good through information and support to regional integration, markets and agriculture

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