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GREAT

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insights

Economic Partnership Agreements and beyond

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Gucht on Economic
Partnership Agree-
ments**

Karel De Gucht, European
Commissioner for Trade

**The SADC EPA and
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Everyone agrees: trade matters for development. There is also a general public consensus that trade is good, though with some scepticism on its impact of jobs, wages and prices, according to a recent world-wide survey by PEW Research Centre. The challenge however remains to identify the type of trade regimes and arrangements, at the multilateral, regional, bilateral and domestic levels, that best promote longer term sustainable and inclusive development objectives and how best to implement them so that they support those objectives.

As stressed in the newly released UNCTAD Trade and Development Report 2014, and hotly debated at the WTO Public Forum in Geneva earlier this month, there is a need to identify appropriate international and national frameworks of rules and disciplines that would facilitate a better integration into the global economy (e.g. via regional and global value chains) while preserving sufficient domestic policy space to pursue effective policies fostering increased productivity, decent job creation and higher standards of living for all, in a sustainable and equitable manner.

With the over a decade-long lingering Doha Round of WTO multilateral negotiations, whose only harvest in the 'Bali package' of December 2013 is now under threat, most efforts have turned to bilateral, regional and mega trade deals. In this context, the conclusion, this summer, of the negotiations on economic partnership agreements (EPAs) between the EU and respectively West Africa and Southern Africa is attracting a lot of attention - and rightly so!

EPAs matter...

After 12 years of negotiations, with many downs and only a few ups, the conclusion of some EPAs at the regional level is no small achievement. While being confronted at times with diverging interests, West, East and Southern African EPA regional groupings have each managed to keep a common position on EPAs, preventing a damaging split in each grouping. In the case of the East African Community (EAC), which initialed an EPA only on 16th October 2014, in 'overtime', following the temporary loss of Kenya's preferences to the EU market, retrograded to simple general system of preferences on 1st October 2014, but now to be reintegrated in the next few weeks in the duty-free quota-free EU trade regime.

Preserving regional integrity has been a key challenge in this EPA process, with Central African, East & Southern African and Pacific regions still divided between the few countries that have concluded an EPA, and the many more that have not. However, the multiple EU trade regimes for Africa are still to be addressed, in particular for these regions. This may affect their integration processes and constrain the possibility of building regional value chains.

But trade is not an end in itself: it is a means to foster better political relations, boost economic ties and in principle stimulate development. The successful conclusions of some EPAs, following a difficult and often contentious process, does partly help to stabilise the trade relationship between Europe and Africa and prevent a strong political backlash. EPAs have created resentment among some, and will likely continue to do so. However tensions



have significantly decreased, opening the way to more appeased relations between Europe and Africa.

The effective impact on development of these EPAs is difficult to predict, and will require close scrutiny. EPAs are certainly not as bad or as good as their critics and advocates tend to argue. With a few exceptions (most probably in Southern Africa), and thanks to a gradual transition process and significant exclusions, the main impact of trade liberalisation is unlikely to be felt before years to come, and will most likely be concentrated on few products and sectors, in specific countries.

This is no reason for complacency, as tomorrow's future must be prepared today. To benefit from such agreements, and mitigate negative effects, strong leadership is now required on both sides: to engage in domestic reforms and adjustments (at national and regional levels), to ensure effective implementation of commitments and monitoring of their impact, and to provide appropriate (financial) support. It also requires accompanying economic policies to help the private sector make the most of potential opportunities to build their productive capacities and access markets.

...but should be placed in the broader trade landscape...

It is also important for the EPA partners to not get distracted by the EPA process and not lose sight of the greater and broader trade dynamics taking place beyond EPAs. Indeed, EPAs are, for the most part, rather traditional, if not already old fashioned, partial trade agreements, covering only goods (except for the Caribbean that have included services, investment and other trade-related issues). Started in 2002, EPAs have been slimmed down and seem somewhat frozen in time and out of tune with today's international context and global trade agenda.

The stalemate at the WTO over the last decade has been accompanied by a proliferation of bilateral and regional trade agreements (RTAs), and more recently mega trade agreements, such as the Trans-Pacific partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP) and Regional Comprehensive Economic Partnership (RCEP). In parallel, emerging economies and South-South relations have boomed over the last decade, with developing countries accounting for more than half of the world income since 2012. Africa's own integration and transformation dynamics has also made significant leaps forwards.

Efforts to boost intra-Africa trade, both within and across regions, including by fast tracking regional integration and supporting convergence among regional trade regimes through initiatives

such as the tripartite free trade agreement in Eastern and Southern Africa, must be pursued vigorously. It must be based on Africa's own priorities but taking into consideration the rapidly evolving context.

The WTO remains a key multilateral forum where the voices and interests of developing countries can best be articulated and heard. Salvaging the 2013 Bali package and reinvigorating the WTO framework and Doha Round, to effectively address trade and development nexus, should be a priority.

Particular attention should also be paid to new mega trade deals, which will have a significant impact on the intensity and direction of trade flows and investment and the structure of regional and global value chains. Most importantly, by focusing on regulatory convergence, the TPP and TTIP in particular, should have a significant influence on the future regulatory dimension of trade, hereby contributing to redefining the 'rules of the game' of world trade. Thus, such mega trade deals will likely lead to an erosion of the margin of preferences that Africa enjoys to big markets, in particular the EU and the US, and may further entrench the position of Africa as rules and standard taker in international trade.

Faced with these challenges, African policy makers need to forge strategic responses by taking steps to foster their own integration process, including by speeding up regulatory and standards upgrading and by addressing non-tariff barriers to trade, still a major hurdle to the cost of doing business in countries and across regions. They should also seek strategic alliances with some other members in order to take the lead at the WTO to address some of the issues that might affect the global trading system. They should not only secure their trade relations with their traditional trade partners, but also with their emerging partners, to avoid marginalisation. They could also seek harmonisation of trade preferences towards Africa, in particular from their main trade partners, such as the EU and the US (e.g. GSP and AGOA). Those that have concluded an EPA could use the in-built review process every five years to harness the benefits of regulatory convergence that the EU would have achieved with big players such as the US or Japan, if and when those trade agreements are concluded.

...addressed in this issue of GREAT *insights*

This special issue of GREAT *insights* brings together perspectives on EPAs, the broader trade and development agenda, from a range of high-level personalities, stakeholders and experts.

Outgoing European Trade Commissioner Karel De Gucht reflects on his legacy on EPAs and the perspectives they offer. Dr. Rob Davies, Minister of Trade and Industry of South Africa, highlights the key outcomes of the SADC-EU negotiations and how they fit a development strategy.

Mr. Bernd Lange, Chair of the European Parliament Committee on International Trade (INTA), offers some insights into why, and how, EPAs can best contribute to development, a perspective contrasted by Mr. Kalilou Sylla (Executive Secretary),

Mr. Mamadou Cissoko (Honorary President) and Ms. Marie Louise Cisse from the West African Network of Farmers' and Agricultural Producers (ROPPA), who denounce EPAs as misleading development instruments, that will on the contrary impoverish Africa.

Mr. Fredrick Njehu, Program Advisor-Trade Justice at the Kenya Human Rights Commission (KHRC), reflecting on the EPA negotiations in EAC (concluded only a couple of days before GREAT's release), also raises concerns about the EPA process and development potential.

Mr. Etienne Giros (Deputy Chairman) and Mr. Patrick Sevaistre (Board Member) of the French Council of Investors in Africa (CIAN), stress the key role that private sector, so far largely ignored in the EPA process, should play in bringing these EPAs into life, translating new trade opportunities into effective business relations.

Taking a broader perspective, Mr. Peter Draper, a leading African trade expert, Director of Tutwa Consulting and Senior Fellow at the South African Institute of International Affairs (SAIIA), looks beyond EPAs to situate them in the sub-Saharan Africa's evolving trade landscape and the challenges ahead.

Mr. Witney Schneidman, former US Deputy Assistant Secretary of State for African Affairs and currently non-resident Fellow at the Brookings Institution and Senior International Policy Advisor for Africa at Covington & Burling LLP, focuses on the Africa-US trade and investment relations and the outcomes of President Obama's Africa Leaders Summit this summer, while Mr. Laurent Law, who represented Mauritius and the Eastern and Southern African (ESA) region in EPA negotiations and is now an official at the trade policy division of the Government of the Province of Nova Scotia, Canada, brings to light the Canada-EU Comprehensive Economic and Trade Agreement (CETA) and possible insights for EPAs.

Finally, Dr. Gabriel Siles-Brügge, Lecturer in Politics at the University of Manchester (UK), reflects on the evolving approach and rhetoric of the EU towards free trade policy. Instead of our traditional EPA Update, we have opted to present some key facts and figures on the EPA process and outcomes, as a potential quick guide to the EPA complex issues.

As always, we hope this issue of GREAT *insights* will both contribute to better inform you and stimulate your own reflections on these questions. Please do not hesitate to share them with us.

Dr. San Bilal (Editor), *Head of Economic Transformation Programme, ECDPM.*

Isabelle Ramdoo (Guest editor), *Deputy Head of Economic Transformation Programme, ECDPM.*

Commissioner De Gucht on Economic Partnership Agreements

Economic Partnership Agreements (EPAs) are a mutually beneficial process that will frame the ACP-EU trade relations in the 21st century and anchor this privileged partnership solidly in the global scene.



Handshake between Tomaz Salomão, Secretary General of the Southern African Development Community (SADC), on the left, and Karel De Gucht, European Commissioner for Trade

State of play

When I took office as the Trade Commissioner in 2010, the process for concluding Economic Partnership Agreements between the EU and the African, Caribbean and Pacific (ACP) partners was deadlocked. One comprehensive agreement, the EU-CARIFORUM EPA, was applied in the Caribbean region and one country, Papua New Guinea, was applying an interim EPA in the Pacific region. Regional negotiations were largely perceived as blocked, and the interim EPAs concluded back in 2007 were neither ratified nor implemented.

Hence, this Commission had a formidable task of putting the EPA file back on the right track, in a joint effort with ACP partners. After close to five years, we have succeeded fairly well. Today, the picture is very different from that of 2010. An increasing number of ACP countries are opting for EPAs. They see these agreements as vectors of their development strategies, providing a stable and predictable framework not only to stimulate trade and investment but also to accelerate structural reform and job creation. We are applying EPAs in several ACP regions: in Africa

with Madagascar, Mauritius, the Seychelles and Zimbabwe in the Eastern and Southern Africa (ESA) region and recently with Cameroon in Central Africa; in the Caribbean with 14 CARIFORUM countries; and in the Pacific with Papua New Guinea and recently Fiji. This year we have concluded negotiations with West Africa, the Southern African Development Community EPA Group (SADC), and the East African Community (EAC).

Together, these agreements now cover more than half of ACP countries with the real prospect of including more. We are still

negotiating with three regions: Central Africa, ESA and the Pacific, and are already implementing EPAs in two of them.

Recent breakthroughs

The successful conclusion of the EPA negotiations with West Africa the SADC-EPA group and EAC in 2014 is a major milestone in the EU-Africa trade relations. These balanced and fair agreements will anchor our privileged relationship solidly in global and regional realities, in full compatibility with WTO rules. They will ensure the application of a single trade regime with the EU throughout the respective regions, instead of different regimes based on each partner's income level. This is important for regional integration in Africa. Taking our joint EPA agenda to the point of implementation will fulfil the objectives set out in the Cotonou Agreement in 2000.

West Africa and SADC EPA regions are the economic heavy-weights in sub-saharan Africa. Several countries in these regions have the ambition to become emerging economies in

less than a generation. The EPAs can support this vision which is in the long-term interest of all parties. On 16th October, we initialled the EPA with EAC. Once implemented, I expect the EPA to help EAC's growth as a customs union, an EU trade partner and an African coastal region with easier access to viable trade routes. The EU is already the main trade and investment partner for these regions. The EPAs are likely to give an additional boost to these relations, with positive spill-over effects in the rest of Africa. There is indeed clear interest in Africa to move from aid towards trade and investment - a strategic declaration expressed at the 4th EU-Africa Summit last April.

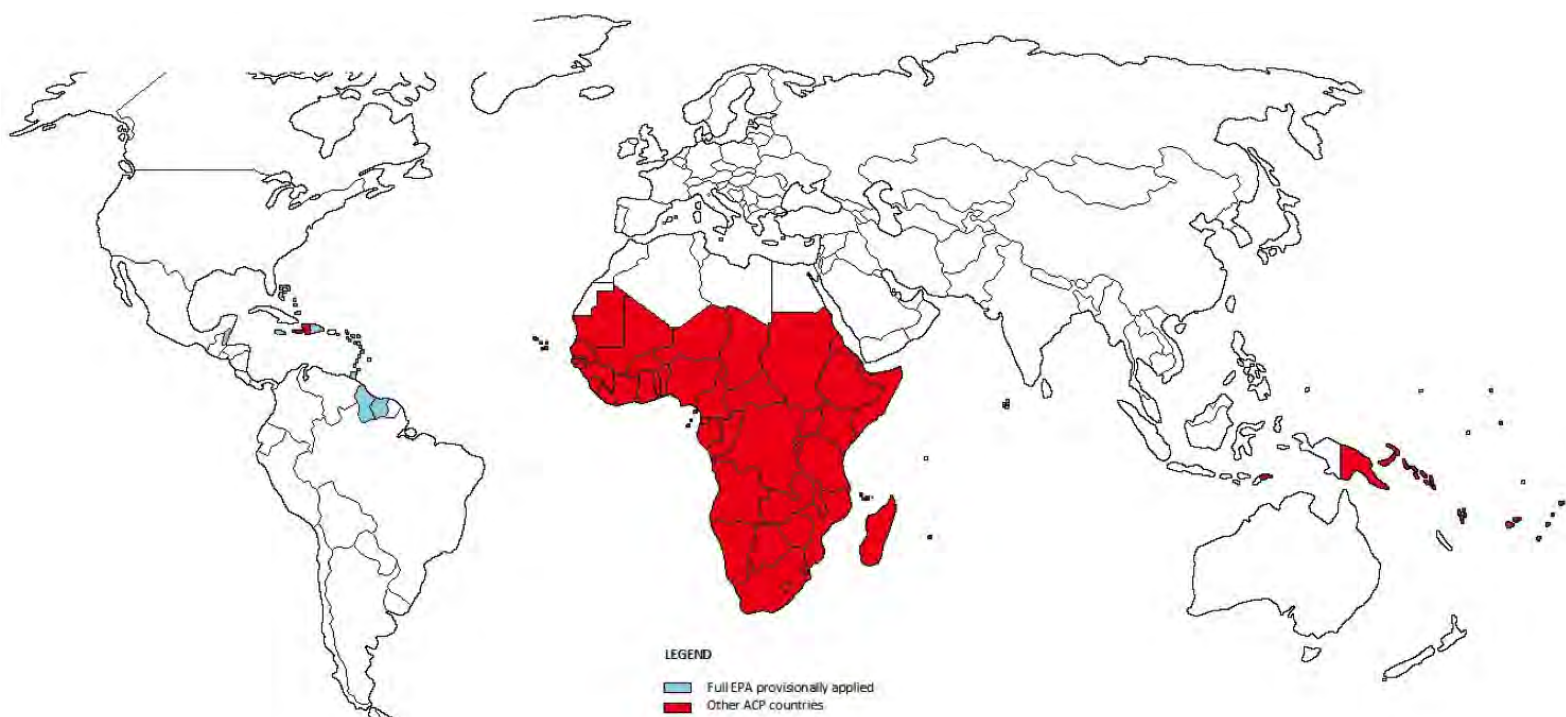
Moreover, these EPAs demonstrate the EU's commitment to use trade agreements with its partners in Africa as an instrument for development, jobs and growth in the long-term. I am particularly pleased to see that 12 Least Developed Countries (LDCs) are part of the EPA in West Africa, four in EAC and two more in the SADC. There are valid reasons for this. EPAs are indeed about much more than market access. They are a

real partnership involving institutions and continuous cooperation. Their benefits cannot be unilaterally changed or withdrawn when countries move up the development ladder. This means legal certainty and stability for businesses and investors.

Let us also not forget that several decades of unilateral preferences under the previous ACP-EU trade arrangements did not deliver export growth and diversification. This is precisely one of the reasons why we decided, together with the ACP, to move to reciprocal - though asymmetric - EPAs. The underlying vision from the start has been that ACP countries possess tremendous potential to grow and take advantage of opportunities arising from a global interconnected economy.

With EPAs, access to better choice and cheaper imported inputs will contribute to reduced production costs and lower consumer prices in ACP partner countries. This is crucial for competitiveness, industrial development and better connection to global value chains. Last but not least, many EPA provisions go far

EPAs provisionally applied by February 2010



These EPAs demonstrate the EU's commitment to use trade agreements with its partners in Africa as an instrument for development, jobs and growth in the long-term.

beyond tariffs, like those on improved rules of origin and extended cumulation – essential for regional integration - and technical barriers to trade and customs cooperation, just to mention a few. Unilateral preferences could never achieve all of this.

Naturally, there has been opposition and controversy around EPAs, fuelled by fears over increasing competition and potential loss of tariff revenues in the ACP countries. However, we should not disregard the potential economic benefits and the unprecedented flexibilities embedded in EPAs. They are unique and generous trade and development deals, with a great deal of asymmetry in the commitments and obligations. While the EU opens up its market to all ACP products immediately, ACP partners are granted long transition

periods and are free to shield their sensitive products from liberalisation. Moreover, unnecessary shocks can be avoided through special measures allowing ACP partners to promote their industrial development and protect their food security, infant industries and natural resources.

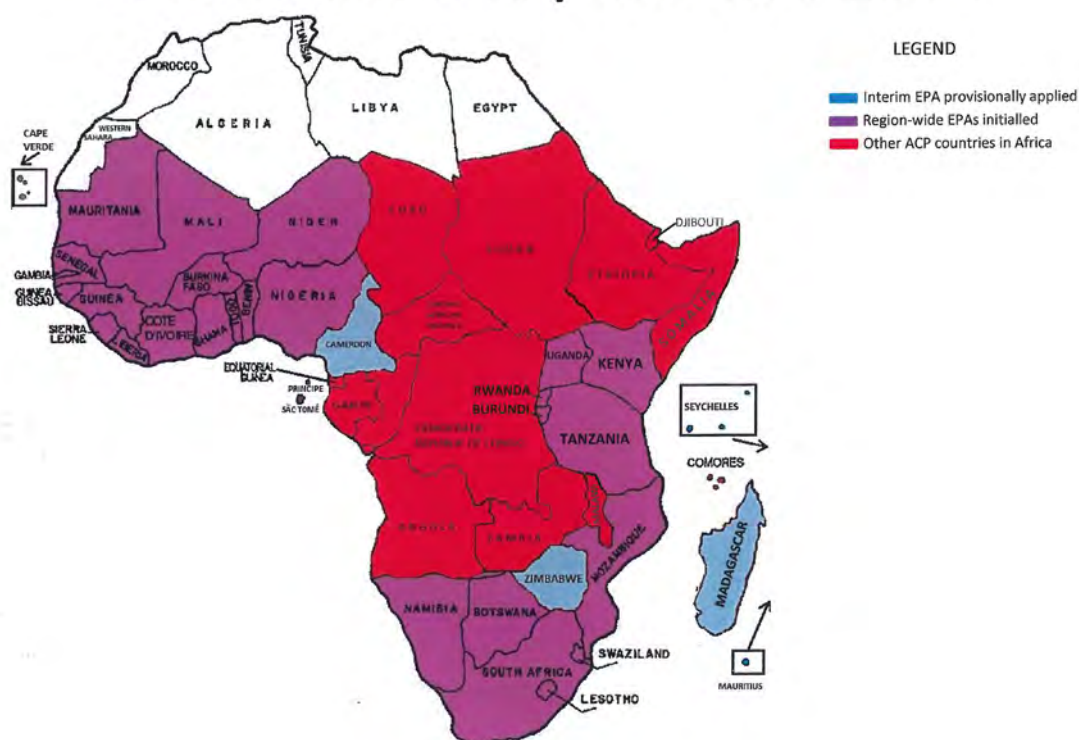
EPAs also offer opportunities to help improve the access of ACP agricultural products to the EU. For example, in the agreement with the SADC EPA Group, as well as opening 100% of the EU's agricultural market to Botswana, Lesotho, Namibia, Mozambique and Swaziland, including for the highly sensitive products of beef and sugar, the agreement extends access for South Africa, building on the Trade Development and Cooperation Agreement of 2000. Overall in agriculture the EU will fully or partially liberalise 90% of

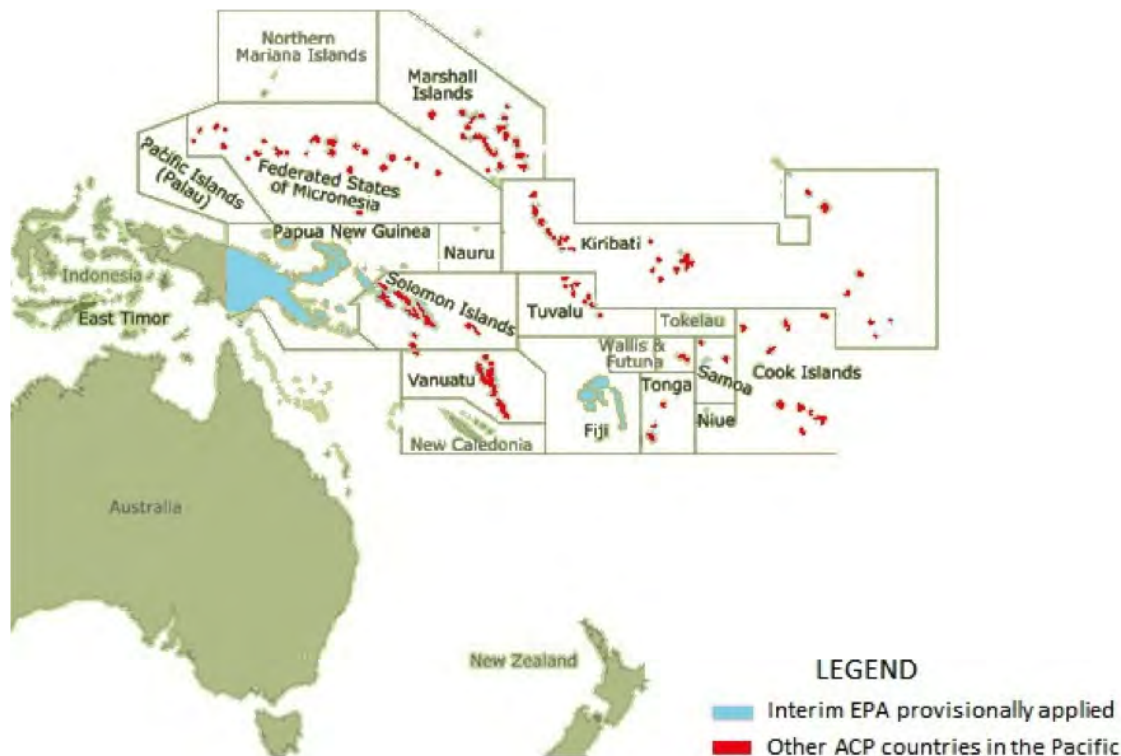
agricultural tariff lines (compared with 91% by the Southern African Customs Union – SACU – including South Africa) and 91% of trade (compared with 97% liberalised by SACU). This enhanced agricultural market access is made possible by additional quota access for South Africa in wine, sugar, and canned fruit, among others, and access for the EU in wheat, barley, dairy and meat products. On both sides, access in sensitive products has been carefully calibrated to avoid unsustainable impacts on domestic markets.

South Africa and the EU have overhauled relations in trade in wines and spirits, enabling two agreements signed but never ratified in 2002 to be replaced. For the first time this will put the parties on a firm and fair footing for trade in high-value products of vital interest to both parties.

EPAs in Africa by October 2014

EPAs in Africa by October 2014





South Africa, like the EU, follows a high standard of winemaking and the parties have agreed to refer to international standards as laid down by the International Organisation of Vine and Wine, for defining winemaking practices. An agreement on geographical indications, initially between South Africa and the EU, which all other EPA States may join later, will protect 251 key EU geographical indications (GIs) as well as 105 mainly wine GIs from South Africa, including the South African infusion Rooibos which will ensure the intellectual property rights in this iconic beverage belong to the producers.

Also, in January 2014, the EU Commissioner for Agriculture and Rural Development, Dacian Cioloș,

announced an important concession for ACP countries that have preferential agreements with the EU. Export refunds for EU agricultural products to such countries will be stopped.

Looking back on all that we have achieved, I strongly believe that economic operators will be more encouraged to develop productive activities and invest in countries whose trade relations with the EU are settled in a stable, WTO-compatible framework of EPAs. An improved business environment and legal certainty will certainly influence their sourcing and location decisions.

What next?

Regardless of the recent successes, there is no time for complacency. In the short term, the recently negotiated agreements need to be consolidated, signed and applied, and the remaining negotiations concluded. In a medium to long-term, there may be a need to widen and deepen the existing partnerships by including other countries and issues, where our partner countries so wish.

It is also essential to keep in mind that the EPA process does not end at the signature and ratification of the agreement – it is an on-going, long-term partnership. Putting the EPA in action requires further efforts on both sides, far beyond tariff

“ The EU is committed to supporting them on this road through aid for trade and broader development assistance.”

cuts joint institutions. It is about carrying out an ambitious domestic reform agenda, creating an enabling environment for business and developing the competitiveness and capacity of the private sector to engage in trade. We cannot ignore the challenges ACP partners may face in doing so. This is why the EU is committed to supporting them on this road through aid for trade and broader development assistance.

My vision is that the EPA network will ultimately cover all ACP countries that want such a partnership with the EU and their neighbours. Some individual countries or even regions may, however, opt out, which is of course their full sovereign right and beyond the EU's control. For those eligible, the EU still offers an attractive Generalised Scheme of Preferences, including duty-free quota-free access to all LDCs under the Everything-But-Arms scheme.

All in all, I am proud to leave the EPA file in a much better shape than in 2010. Admittedly, the process has been challenging. It has changed the dynamics of the ACP-EU relations and the perception of the EU as a partner, shifting from a unilateral provider to a partner. In the future, we will be able to look back and view the EPA process as a positive element – and not as a souring point - in the gradually maturing ACP-EU partnership, a partnership of equals, as envisaged in the Cotonou Partnership Agreement.

“ We should not disregard the potential economic benefits and the unprecedented flexibilities embedded in EPAs. They are unique and generous trade and development deals, with a great deal of asymmetry in the commitments and obligations. ”



Karel De Gucht has been the European Commissioner for Trade since 2010. He will be succeeded by Cecilia Malmström on 1st November 2014.

The SADC EPA and beyond

By Dr. Rob Davies

After ten years of preparations and negotiations, the Economic Partnership Agreement (EPA) between the Southern African Development Community (SADC) EPA Group and the European Union (EU) was finally 'initialed' by our Chief Negotiators on 15th July 2014 in Pretoria. The initialing of the Agreement signals that the negotiations are concluded.

The timing is significant because it pre-empts the 1st October 2014 deadline imposed by the EU after which Botswana, Namibia and Swaziland would have lost preferential access to the EU market for their exports of beef, fish and sugar, on which their economies depend heavily. The EU has assured us all that the act of initialing ensures that the current market access will continue until the agreement enters into force.

South Africa's strategic objectives

As is well known, the EPAs emerged as the EU's proposal for a World Trade Organization (WTO)-compatible alternative to Cotonou preferences, which had been granted legal cover in the WTO through a waiver that expired at the end of 2007. Negotiations to establish EPAs with the EU commenced as far back as 2002.

South Africa joined the SADC EPA Group in 2004 for two core reasons. First, our objective was to minimise, as far as possible, the threat of fragmentation to regional integration and development processes underway in Southern Africa. We were particularly concerned that the EPA would undermine the functioning of the more than 100 year-old Southern African Customs Union (SACU) between Botswana, Lesotho, Namibia, Swaziland and South Africa. Our decision to participate also followed requests from other countries in the Africa, Caribbean and Pacific (ACP), as well as the European Commission (EC) in 2002, to do so. Second, the negotiations offered an opportunity to improve South Africa's agricultural exports to the EU for a more equitable exchange of preferences in our agricultural trade. Under the existing free trade agreement between South Africa and the European Union, the Trade, Development and Cooperation Agreement (TDCA), South Africa liberalised its agricultural markets more than the EU.

The SADC EPA outcome

We are satisfied that the EPA outcome achieves these objectives. It preserves SACU's functional coherence, particularly in regard to maintaining the common external tariff, although the EU continues to provide the other members of the SADC EPA Group better access to its

market than it offers South Africa. Nevertheless, the outcome marks an improvement for South Africa over the TDCA in important ways. South Africa has achieved improved market access for 32 agricultural products, with a significant improvement in our access to the EU market for wine, sugar and ethanol. There is also improved access for our exports of flowers, some dairy, fruit and fruit products. These tariff concessions go some way to re-balancing the TDCA in our favour.

Furthermore, the EPA rules of origin improve on the TDCA as they will facilitate intra-regional trade and industrialisation across southern and eastern Africa in particular. The new rules also contain provisions that will encourage South African clothing exports. Several other restrictive trade rules under the TDCA have been eased under the EPA. The EPA provides a degree of greater flexibility than the TDCA to deploy export taxes on eight products for a period of 12 years with some exception for exports to the EU. In addition, we obtained an agreement that the EU will eliminate export subsidies on agricultural goods destined to SACU, as well as more effective safeguards to address damaging surges of imports.

South Africa agreed to negotiate a Protocol on Geographical Indicators (GIs) because we have an interest in protecting the names of the many South African wines we export to the EU, and we have a growing interest to protect the names of specialised South African agricultural products (such as "rooibos", "honeybush" and "karoo lamb"). The outcome of the GI negotiations will not affect the product names currently being used by producers in South Africa and importantly, for our stakeholders, we established a mechanism to address non-tariff barriers that inhibit trade in wine.



We furthermore welcome the final agreement in the EPA to approach such new generation trade issues as government procurement and competition in terms that are cooperative and not legally binding. However, we are concerned that the ongoing negotiations on services and investment between the EC and some members of the SADC EPA Group, if concluded, will create a new generation of trade policy division in SADC and SACU.

In terms of the process and timeframe for entry into force, the Agreement is now being subjected to a two-month legal vetting process. Thereafter, the Agreement can be presented to the South African Cabinet and, if approved, submitted to the South African Parliament for ratification. Once ratified, the Agreement may be signed, and it will enter into force once all parties have concluded their own respective national approval processes. The timeframe for this process is likely to be around eight months.

Looking beyond the SADC EPA

South Africa's relationship with the EU is wide, deep and strong and underpinned by a Strategic Partnership that was launched in 2007. The initialing of the SADC EPA marks a major new milestone in this evolving relationship with our largest trade and investment partner. We look forward to strengthening this relationship on the basis of the new Agreement and working with our European partners to support South Africa's growth and development objectives, as outlined in our National Development Plan.

Looking back on the past ten years, it is clear that concluding the EPA negotiations and ensuring a fairer 'trade for development' partnership was challenging. The issues under consideration were complex in political, economic and legal terms, and have serious implications for Africa's development and integration prospects.

Recent changes in the global economy have been accompanied by significant improvements in Africa's economic prospects. Africa's overriding economic objective is, however, to move off its current growth path based on consumption and commodity exports to one of sustainable development using the continent's natural resource base as a platform for diversification and industrialisation. African governments and leaders have committed to this transformation, which will require a range and mix of new policy measures including the possibility to utilise export taxes to support industrialisation.

Our overriding concern remains that conclusion of the separate EPAs among different groupings of countries in Africa that do not correspond to existing regional arrangements will undermine Africa's wider integration efforts. If left unaddressed, such an outcome will haunt Africa's integration project for years to come.

Different groups of countries in Africa are negotiating separate EPAs with different tariff

phase down commitments, both in terms of products and time frames, different exclusions lists, different rules of origin, and all this will complicate intra-regional trade as new controls will be required at our borders. Different legal provisions (such as, for example, the MFN clause or export taxes) in the different EPAs will also complicate processes to forge common policy positions in the unfolding integration agenda in Africa.

“Africa's overriding economic objective is, however, to move off its current growth path based on consumption and commodity exports to one of sustainable development using the continent's natural resource base as a platform for diversification and industrialisation.”

There may be ways to mitigate the risks to some extent. For example, it should be possible to build into the rules of origin cumulation provisions that will allow African countries to source inputs from each other for export to the EU under the various EPAs. Such provisions will encourage intra-African trade and industrialisation in Africa. The SADC EPA Group has proposed a 'joint undertaking' at the Africa and ACP levels, as well as with cooperation from the EU, to provide a legal basis for intra-EPA cumulation among ACP countries.

It may also be necessary to establish a mechanism through which African governments reserve the right to address any impediment to Africa's regional integration that arises from commitments undertaken in the EPAs. We believe this could assist in preserving the integrity of our commitment to regional integration in Africa. An effective mechanism in this respect would assist in ensuring that the EPAs better complement Africa's integration agenda.



Dr. Rob Davies, MP is the Minister of Trade and Industry of South Africa.





Trade without trade-offs

By Bernd Lange

Economic Partnership Agreements (EPAs) present an opportunity to strengthen and foster intra- and inter-regional integration, an opportunity which should not be wasted. The long-stigmatised EPAs process has the potential to become a catalyst of improved Africa-Africa and Africa-EU political and business relations.

Towards genuinely fair trade

Free and fair trade can be a powerhouse for job creation and growth if the conditions are right. Resources and know-how brought about by properly regulated and transparent foreign direct investment are crucial aspects for success. Trade and investment policy must create and sustain conditions to add value to the complex cross-border supply chains of the world we live in.

Globalisation has demonstrated its capability of lifting millions out of poverty by creating and upgrading jobs. If properly governed, it can improve standards of living and boost economic and social integration. But if left to the forces of the free market and crony capitalism it has proven

time and again to be the cause of social and environmental degradation.

The European Parliament and its Committee on International Trade (INTA) are deeply committed to ensuring that trade is not only free, but fair; balancing values and shared interests. We are convinced that only a rules-based trade regime without distortions, red-tape, arbitrary import and export bans and discrimination of foreign businesses and investors is free. We also believe that trade policy must be used to uphold sustainable development, social inclusion and protection of human rights to be considered as fair. In this spirit, trade and investment policy must be used to contribute to advancing not only economic interests, but also civil, political, social, environmental and solidarity rights.

The European Parliament analyses every EPA and related legislation, putting it to the interests, values and development test. And of course it has the last word in ratifying any agreement. During the long-drawn-out EPAs negotiation process, the European Parliament re-focused the EU's Generalised System of Preferences (GSP) on the countries most in need. We have extended the phasing out of the Market Access Regulation (MAR) 1528/2007, approved interim EPAs with the Pacific, Eastern and Southern African countries and Cameroon and scrutinised the implementation of the CARIFORUM EPA. Our work is far from being complete: the agreements with the Western and Southern African groupings will soon be on the agenda of the INTA committee and soon after debated by the entire European Parliament.

“The European Parliament and its Committee on International Trade (INTA) are deeply committed to ensuring that trade is not only free, but fair.”

EPAs – a rocky road to success

The EU's trade policy in general and EPAs in particular are the outcome of extensive discussions and consultations involving EU institutions, EU member states and stakeholders from within the EU and beyond. In spite of long delays, a breakthrough in key talks launched back in 2002 between the EU and African, Caribbean and Pacific (ACP) groupings of states on the conclusion of WTO-compatible and development-oriented regional EPAs was reached this summer.

Both the conclusion of regional EPAs with the Western African and Southern African groupings and the ratifications of further interim EPAs mark important milestones for EU-Africa trade relations. Even though flawed, the oftentimes bumpy and protracted EPA process can nevertheless be considered a success story for several reasons:

In terms of content we have coupled the principle of substantial trade liberalisation with an improved rules of origin and development component, adding a boost to regional cohesion for our partner countries. Up-front access to the EU's market and asymmetrical and gradual market opening in partner regions characterise our approach.

We have also succeeded in terms of process. The years African and European negotiators dedicated to trade talks were not wasted. We have proven our political will when making necessary policy choices showing a

remarkable degree of flexibility. We reached compromises when we were close to losing hope, and maybe most importantly, we have confirmed our commitment to trade-driven development. And we have remained flexible: the doors for expanding membership and deepening interim EPAs when the time is ripe remain wide open.

And this option will remain important. It is clear that bilateral and plurilateral trade agreements which replace unilateral preferences continue to be essential while uncertainty looms around the implementation of the WTO Trade Facilitation Agreement.

Furthermore, mobilisation of civil society and the interest of the academic community triggered substantial discussions and valuable analysis, helping to raise awareness and clear up concerns among our partners. While monitoring the EPA negotiating process, the European Parliament carefully listens to the voices of the civil society and business community from within and outside the EU and will continue doing so. Let me reiterate that the “non-execution clause” in EPAs is a red line for the European Parliament. The protection of human rights as well as social and environmental standards is deeply embedded in the EU's trade relations and the European Parliament will continue to act as Europe's democratic conscience when protecting these.

However painful for some partner countries, “the choices deadline” of the Market Access Regulation, which phases-out preference discrimination, gave an extra boost for policy-makers

to think regionally. Nevertheless, it should be obvious that regionalisation and development cannot be forced upon any country or region. It is therefore encouraging to see a feeling of genuine ownership of the process emerging throughout different regional blocks. We must seek to transform the EPAs process into a catalyst for genuine positive change, facilitating qualitatively new Africa-Africa and Africa-EU political and business relations.

EPAs partners have undertaken WTO-compatible contractual obligations aiming to facilitate regional integration and trade-driven development. But efforts are required: painful structural reforms will be needed and economic operators will have to adapt to their new realities of increased competition.

Although trade is among preconditions for development, it is not sufficient by itself. Therefore, the EU must fulfil its duty to support countries that take responsibility to play the role of engines for long-term integration within their respective regions, willing to accept short-term pains for the sustained growth benefiting their businesses and societies. Effectively targeted aid for trade must be put at the service of trade mainstreaming. The EU must walk the extra mile and continue assisting developing countries to create regional value chains and eventually join the global production lines.

“Trade and investment policy must be used to contribute to advancing not only economic interests, but also civil, political, social, environmental and solidarity rights.”

“The “non-execution clause” in EPAs is a red line for the European Parliament.”

A process rather than a destination

Let's not forget that however difficult the process of negotiating and ratifying agreements is, it is just the first step of the long process. Implementation is the key. The CARIFORUM EPA is a case in hand.

The challenges and opportunities for the different ACP groupings, including Africa's regional economic communities, are clear. Many steps forward seem to be self-evident. One piece of the growth puzzle will be to minimise or eradicate barriers to trade amongst African countries. Without a doubt these are an impediment to development. To put it differently: it is obvious that total isolation from world trade and overreliance on raw-material exports are not a formula for sustainable growth and development.

It is up to our ACP partners to tap into their potential and use available instruments to trigger positive socio-economic transformation. In this process, the success of partnerships will very much depend on the credibility and effectiveness of regional bodies, the involvement of parliaments and civil society and the capacity of national authorities to deliver on promises made in the past.

The creation of a strong agricultural and industrial backbone is not possible without a functioning “hard” and “soft” infrastructure and services that glue economies together. As ample successful examples illustrate, fostering linkages within an economy, diversifying trade and investment flows and trading partners are key for capturing “value-added” elements. In times of scarce public finances, technical assistance targeted at

trade mainstreaming, public-private partnerships and the role of emerging economies, it is ever more important. Moving-up the value chains is impossible without legal certainty and sound regulatory environment, enabling transfer of technologies and skills that increase competitiveness and productivity. In this regard, the role of national and regional parliaments in shaping policies and holding governments accountable for the policies they implement and agreements they conclude is essential.

Ambitious targets and visions, like the one of creating an African Continental Free Trade Area by 2017 are important focal points. However, we must remain realistic and start with bringing down barriers between individual countries. Only genuine intra-regional integration and effective inter-regional coordination can make continental ambitions come true. After a critical mass within a regional block is attained and common institutions are strengthened, we may be able to witness further “enlargements” and “mergers” of regional economic communities, such as the envisaged Tripartite COMESA-EAC-SADC initiative.

EPAs ensuring “traditional” market access to the EU market by themselves are not solutions to Africa's economic challenges. While EPAs were negotiated, a complicated network of interlinked intermediate inputs covered by a “spaghetti bowl” of free trade agreements has emerged. The EU has both concluded and embarked upon a wide range of trade talks, including the comprehensive Transatlantic Trade and Investment Partnership.

Nevertheless, in this context the EPA-process can still become a stepping stone for long-term economic reforms, preparing developing partners to use the potential offered by investment, services and trade-related rules. I am convinced that despite the challenges, Economic Partnership Agreements have the potential to play an important role for countries seeking sustainable economic growth and deepened integration.

Furthermore, EPA partners should strive to adhere to environmental and labour standards, ensure sustainable use of resources and promote Corporate Social Responsibility. Although flexibility is important, double standards and discrimination among trade partners in this field have to be avoided. Monitoring in this area is indispensable. EPAs must now be put to the service of sustainable and sustained development.



Bernd Lange is a Member of the European Parliament within the Progressive Alliance of Socialists and Democrats and Chair of the European Parliament Committee on International Trade (INTA).

“We must seek to transform the EPAs process into a catalyst for genuine positive change, facilitating qualitatively new Africa-Africa and Africa-EU political and business relations.”



The EPA: A political agreement detrimental to economic development and cooperation between Europe and Africa

By Kalilou Sylla, Mamadou Cissoko and Marie Louise Cisse

During the 45th ordinary session of the Conference of Heads of State of the West African Community held in Accra on 10th July 2014, the 15 member countries of the Economic Community of West African States (ECOWAS) and Mauritania officially approved the signing of the Economic Partnership Agreement (EPA) with the European Union (EU). As a result of this decision, the ECOWAS represents the first African region to have signed such a trade agreement with the EU. The agreement was concluded at a decisive moment for West Africa, the world's leading high-growth region.

An analysis of the impacts that EPAs have, the underlying reasons for the agreement and the consequences for relations between Africa and Europe is needed.

Impact of the EPA: testing rumours against the facts

From the start of the negotiations, all the West African actors understood that negotiations were not about economic development, simply because there was no reason to exert such pressure on states to sign an agreement intended to offer them a better future. Furthermore, why sign agreements in secret if they are supposed to have a positive effect on populations?

To get a better global understanding, we need to look closely at each of the arguments put forward by negotiators on both sides: the EPA promotes growth, the EPA promotes investment, and the EPA promotes development. *These are mere rumours.*

Rumour no. 1: the EPA promotes growth

The EPA actually threatens West Africa's main source of growth: agriculture. Heavily subsidised European products (over CFA 270bn, or roughly €414 million) will destabilise West African agriculture, leading to lower relative prices, particularly for stockbreeders and milk producers.

In effect, the EPA legalises dumping by introducing these heavily subsidised products, which will stifle

‘The EPA distorts investment flows.’

regional production, reduce the profitability of numerous agricultural products and contribute to an unprecedented deterioration of living conditions, especially amongst the most vulnerable – these being stockbreeders and women who sell milk.

Not only will the EPA shatter the shield of resilience, but it will also prompt massive rural–urban migration, which, because of a lack of opportunity, will, in turn, result in illegal immigration to Europe. Consequently, the EPA will demobilise rural populations in their attempts to secure a future of prosperity and peace for themselves in their territories. Moreover, the agreement puts to the test the trust between senior officials and populations who are already traumatised by disappointment in those in whose hands they have placed their future.

In the final analysis, the EPA cannot be said to promote growth, as it actually threatens West Africa’s main source of growth.

Rumour no. 2: the EPA promotes investment in West Africa

According to *The Economist*, Africa south of the Sahara is the world’s most popular region in terms of investment intentions. A global consensus thus confirms West Africa’s place as the world leader for attracting potential investment. Even without the EPA, global investors will choose West Africa, which yields the highest profit per franc invested in the world.

The reality is that the EPA diminishes this prospect by limiting access to the region to European investors. The EPA distorts investment flows to the region by developing an implicit preference for European investments above other investments.

As a result, the agreement will constitute the most significant barrier to investment in West Africa from other parts of the world. Indeed, the region will be threatened by other global investors, who will be playing an ever more important role in global investment, and who will demand the same preferential treatment as that given to Europe. It is thus very likely that the US will attach such a condition to the renewal of the African Growth and Opportunity Act (AGOA).

Rumour no. 3: the EPA promotes economic integration and development

By implicitly subsidising European products, the EPA creates a trade diversion benefiting Europe and discourages the production and consumption of local products in favour of European imports. The agreement reinforces the division of labour in West Africa, which

provides raw materials to European industries, yet does not give West Africa access to the European market, which is, in fact, protected by technical barriers to trade.

Furthermore, the West African states will suffer tax losses as a result of the EPA, thereby rendering them less able to face development challenges. These tax losses will, in turn, eventually lead to a balance of payments deficit exacerbated by a trade balance and capital deficit with respect to the EU, a situation that will diminish the capacity and quality of monetary policy in the region, and thus economic policy to promote development.

As we have shown, the EPA will prompt rural–urban migration followed by illegal immigration to Europe with lower relative prices in the agricultural food sector. This wave of migration will be all the greater since regional integration, the region’s chief potential asset, will be threatened by the EPA, which effectively introduces legalised dumping at the expense of regional products and a trade diversion benefiting Europe.

‘...the EPA creates a trade diversion benefiting Europe and discourages the production and consumption of local products in favour of European imports.’

The illusion that Europe is funding the EPA Development Programme (PAPED) has been created for West Africa’s benefit; in reality, the subsidies on European products to destabilise markets, in particular those of agriculture, and representing over €414 million a year, will cause more damage than the amount budgeted to fund the PAPED.

Underlying reasons for entering into the EPA

Europe and the US represent only about 35% of global GDP, and their share will continue to shrink. The West’s waning importance in the global economy is linked mainly with a loss of market share and an ageing population.

One of the strategic reasons for the new world situation is the dynamic economies of emerging market countries and their grip on the world’s natural resources.

Inversely, West Africa abounds with natural resources, and its population is undergoing an important change, which gives it a large market. For Europe, the EPA is a powerful tool allowing it to be towed along by one of the most dynamic markets in the

world and, more importantly, providing it with uncontested access to resources.

For the political leaders of West Africa, the agreement gives them a way to consolidate their power in the run-up to elections and, more importantly, to benefit from political support from the EU.

Therefore, such EPAs are, in actual fact, political agreements hiding behind supposed economic agreements meant to make up for the European economy's lack of competitiveness and to give political support to the signatory heads of state.

The EPA: a tool for destroying the partnership between Africa and Europe

As the facts show, the EPA will exacerbate poverty in rural areas, particularly for nomadic populations working as meat and milk producers.

It is expected that illegal immigration will accelerate and that far-right parties will influence public policy in Europe and endanger cooperation between Africa and Europe. African public opinion will be characterised by growing anti-European sentiment, providing ideal conditions to other countries, particularly emerging markets, which offer more growth potential and which refuse to sign economic agreements forcing West Africa to trade with them while maintaining their subsidies on exports. In reality, the EPA is a true subsidy which will strengthen trade between West Africa and other countries, particularly emerging markets.

In addition, West African governments wishing to sign the EPA will have difficulty explaining to their populations, particularly during upcoming electoral debates, the reasons for their choice, which will help destroy the regional market and implicitly tax local products in favour of European products, while accelerating rural–urban migration and illegal immigration.

“ROPPA will mobilise in Africa and in Europe to mount opposition to the EPA using all legal means at its disposal.”

Conclusion

The EU has come to West Africa seeking a stable market and will benefit from the development powerhouse that is West Africa with its strong growth, young population and dynamic market. In exchange, Europe is offering a short-term political subsidy to African political leaders, thus transforming an economic agreement into a political one.

West Africa and Europe will emerge weakened by this agreement, as it fails to reflect the underlying needs of both parties. It is for all these reasons that the Network of Farmers' and Agricultural Producers' Organisations of West Africa (ROPPA) will mobilise in Africa and in Europe to mount opposition to the EPA using all legal means at its disposal.



Kalilou Sylla (left) is Executive Secretary of the ROPPA, Mamadou Cissoko is Honorary President of the ROPPA, and Marie Louise Cisse (right) is Senior Advocacy and Gender Programme Officer with the Executive Secretariat of the Network of Farmers' and Agricultural Producers' Organisations of West Africa (ROPPA).

Trade prospects between France and Africa: The EPA and the private sector

By Etienne Giros and Patrick Sevaistre

The recent approval of the Economic Partnership Agreement (EPA) between the European Union (EU) and West Africa (which only just preceded the EU–Southern Africa EPA) introduces fundamental changes to the prospects for trade relations between the two continents. In the present article, the Conseil Français des Investisseurs en Afrique (CIAN, French Council of Investors in Africa) outlines the methods and contents of the EPA, and describes the role that the private sector should play in implementing EPAs in the coming years.

The EU–ECOWAS EPA: a balanced agreement that puts an end to ten years of talks between the EU and Africa

The EPA between the EU and West Africa (the 15 countries making up the Economic Community of West African States (ECOWAS) plus Mauritania) was approved by the heads of state and government in Accra on 10th July. The agreement must now be ratified by the European and African national parliaments.

The EPA is a free trade agreement and includes a development component such that:

- for imports into the EU, there is a total opening of the markets to ECOWAS products;
- for imports into the ECOWAS, the opening of the markets to EU products is partial and gradual, with 75% of all tariff lines progressively being liberalised over a 20 year period; and
- the agreement is accompanied by a €6.5 billion EPA Development Programme (better known under its French acronym PAPED), funded by the EU. It will be developed and deployed by the ECOWAS from 2015 to 2020 for the purpose of bringing the region's production system up to standard. The PAPED is intended to maximise the EPA's impact and to minimise the risks it entails by:
 - supporting these countries' efforts to implement the necessary structural reforms (tax transition);
 - helping the region to create competitive advantages; and
 - financing necessary investments in regional infrastructure such as railways, roads, energy and telecoms interconnection.

After ten years of difficult negotiations, the two sides have reached an agreement that African political leaders now consider to be balanced in so far as:

- opening up their markets to a maximum of 75% over a 20 year period allows the ECOWAS to continue to protect industries and sectors exposed to competition, or products with a high tax impact – the choice is theirs;
- the EU undertakes to end its export subsidies;
- the agreement will be reviewed every five years, in accordance with the results of an impact assessment based on an economic analysis model;
- the ECOWAS will benefit from a five-year moratorium during which it will introduce no tariff reductions; and
- the safeguards of the ECOWAS Common External Tariff (CET) will be incorporated into the EPA, thus offering each country the opportunity to protect its domestic production if necessary.

Until recently, EPAs were unpopular, rejected outright by West Africa, which had no CET, no funding for a PAPED, nor a joint trade policy, much less a sensitive list. Now, however, all these elements have been put in place.

However, the private sector has not been involved in the EPA negotiation process and now finds itself presented with a *fait accompli*

The private sector, both in Europe and in Africa, which is supposed to be the main stakeholder in, and beneficiary of, the EPA, has never really been consulted or involved in the negotiations, unlike NGOs, which until now have





been alone in making their voices heard by denouncing the risks of blindly introducing free trade between the countries of the North and South, which are structurally asymmetrical.

To date, the private sector has not been informed precisely of what the terms of negotiation actually were with regard to:

- those tariff lines making up the 25% which will not be liberalised: what priority have the ECOWAS given to protecting products with a high tax impact or ECOWAS products exposed to competition, such as agricultural products?
- the calendar for liberalisation: all that is known is that the West African region has identified four product groups according to their degree of sensitivity:
 - a) products liberalised five years after implementation of the EPA has begun;
 - b) products liberalised 15 years after implementation has begun;
 - c) products liberalised 20 years after implementation has begun; and
 - d) sensitive products which will not be liberalised.

Until now, impact assessments of the EPA have focused more on the question of customs revenue than on those relating to sector protection and competitiveness, added value or jobs. Nevertheless, the ECOWAS industries

which will be affected by the EPA are known. They are:

- cotton/textiles/clothing;
- agribusiness: fishing, animal husbandry and the food trade;
- cosmetics/fats/cooking oils;
- chemicals: pesticides, insecticides, fungicides and paint;
- the sack and bag trade, and packaging;
- building materials;
- matches, cigarettes; and
- the automotive industry: semi-finished products for cars, tyres.

It is therefore necessary that the private sector should be informed quickly of the full contents of the agreement to know exactly how these industries will be affected.

Under these conditions, three requirements are necessary with respect to the five-year transition period which has just commenced:

- 1) consulting the private sector on the contents of the PAPED, including those points which are deemed to favour companies, such as promoting investment, supporting intermediary organisations, training and strengthening human capital, providing access to financial services, improving the business environment, providing sector-based support and bringing companies up to standard;

“ The private sector, both in Europe and in Africa, which is supposed to be the main stakeholder in, and beneficiary of, the EPA, has never really been consulted or involved in the negotiations.”

- 2) informing companies about and quickly training them sector by sector in the scope and possible consequences of the EPA in order to bridge the communication gap from which professional organisations in both West Africa and France suffer where the EPA is concerned; and
- 3) developing scenarios to measure the impact by sector and by country, in a regional framework.

Côte d'Ivoire, which represents 50% of the economy of the West African Economic and Monetary Union (WAEMU) and whose economy is the most diverse, will be the first country affected by the new situation. The Confédération Générale des Entreprises de Côte d'Ivoire (CGECI, Business Confederation of Côte d'Ivoire) could, for example, play a role as regional leader of the private sector and as partner to the public services sector. After all, employers' organisations are better placed than public services to inform and train their members and to defend their interests.

What, in general, does the EPA contribute to the private sector?

- A widespread reduction in the price of consumer goods imported from the EU.
- Lower industrial production costs (duty relief on capital equipment and inputs imported from the EU).
- An opportunity to introduce major structural reforms, particularly with respect to taxation: an incentive to replace entry taxes (i.e. the taxation of imports and exports) with a modern domestic tax system (VAT).
- The end of European subsidies for agricultural products exported to West African markets (an undertaking to which the EU is committed).
- New opportunities for foreign investors interested in producing and selling duty-free to the EU and ECOWAS.

Although they have been explained poorly, if at all, by the EU, EPAs represent a real opportunity for

African countries to adapt in order to take advantage of trade liberalisation at a global level. The trend towards a widespread reduction in customs duties will lead to the opening up and integration of African companies into global value chains.

Furthermore, EPAs provide a more stable legal framework and environment than the EU's unilateral rules do.

We can't turn back the clock. The issue today for companies is no longer knowing, as some NGOs continue to wonder, whether these agreements are good or bad for Africa, but knowing how they can benefit from them in practical terms. Moreover, Chinese industry seems to have understood this, taking immediate steps to relocate certain activities to West Africa in order to benefit from preferential access to European markets.

From this point of view, it is essential that French companies make their voices heard now and that a true dialogue between the public and private sectors is initiated with Brussels on the structural reforms needed to ensure that tariff reduction maximises the advantages of the EPA for African and European companies, as well as minimising the risks it poses.

In this context, a coalition of various representatives from the private sector, including the CIAN which, together with the French public authorities and the Agence Française de Développement (AFD, French Development Agency) must be formed urgently in order to make the voice of French companies heard to influence future decision-making and to develop a true dialogue with decision-makers in Brussels and in West Africa.

This article was originally written in French and has been translated to English at the request of ECDPM. To read the original version please visit our website.



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“ The private sector should be informed quickly of the full contents of the agreement to know exactly how these industries will be affected.”

Implementation challenges: Insights from the first CARIFORUM-EU EPA five-year Review

By Sacha Silva



Since its signing in 2008, the Economic Partnership Agreement (EPA) between the Caribbean Forum (CARIFORUM) and the European Union (EU) has been the subject of intense scrutiny from academics, civil society, opinion-makers and policymakers. The agreement arguably cast a long shadow over the other EPA regions' much-delayed negotiations with the EU, in their search for a final package that better reflected their own unique trading profile. But, until now, there has been no comprehensive effort to evaluate its implementation and impact.

The intense interest lies in both the timing and the novelty of the agreement. In October 2014, the CARIFORUM region - consisting of 15 Caribbean ACP countries¹ - is still the only ACP regional grouping to have signed a 'full' EPA, i.e. with all members of the original regional configuration. CARIFORUM also remains the only region to have comprehensively treated the full suite of negotiating issues in the final text, including commitments on trade in services, so-called "trade and sustainable development" (i.e. labour and the environment), and trade-related issues ranging from competition policy to public procurement.

The recently-published study that reviews the EPA at its five-year mark, drawing on country missions to ten CARIFORUM members and now available online on the European Commission DG Trade website,² provides both a fascinating glimpse into the realities of implementation – long after the euphoric highs, frustrating lows and long nights

of the negotiations – as well as important lessons for other ACP regions.

The results of the five-Year Review: Much done...

In a context where the wider EPA process has stretched far beyond its originally allotted schedule (and likely beyond the attention span of many observers of the ACP-EU relationship), it is important to note at the outset that the first five-year period of implementing the CARIFORUM EPA has seen its share of successes.

Around half of EU and CARIFORUM Member States have ratified the Agreement, and ten out of 15 CARIFORUM countries have given effect to the agreed tariff reductions. Institutions tasked with guiding implementation efforts have been established at the national and regional level within CARIFORUM, supported by EU cooperation funds that have generally covered the key

priority areas envisioned under the EPA (albeit with some important exceptions). In some instances where the European Development Fund (EDF) programming process was slow in delivering assistance for EPA implementation, bilateral donors such as the United Kingdom and Germany stepped in to fill the breach. Bilateral dialogues have taken place on important issues to CARIFORUM (such as mutual recognition), and partner agencies on the ground have used EU funds to help some CARIFORUM firms better contest the EU market.

All of these successes have taken place in a highly unfavourable economic context, whereby CARIFORUM and EU governments affixed their signatures to the EPA at the brink of a deep and damaging global recession – one whose negative impacts are still being felt in many CARIFORUM countries, and which has arguably set back (or even frozen) much political enthusiasm for, and resources behind, EPA implementation.

... and much to do

Yet the study also finds serious and important deficits on both sides in some of the basic elements of the implementation agenda. On ratification and tariff reduction, for example – arguably key psychological signals of both Parties' commitment to the Agreement – the less-than-full implementation picture means that the EPA has yet to enter into force, and that some CARIFORUM countries have had to (imperfectly) resort to implementing the tariff reductions administratively.

The regional integration element of the EPA, highlighted from an early stage as a new-generation 'value-added' of the Agreement, remains a largely unfulfilled promise, as CARIFORUM countries have yet to agree on how to implement the 'regional preference' obligation between them, and as trade between CARIFORUM and the EU outermost regions remains subject to barriers.

The study also finds that key opportunities for bilateral dialogue – the crucial non-financial cooperation aspect of the ACP-EU relationship, enshrined in scheduled reviews of certain provisions of the Agreement – have not been actively taken up, from improvements in the EPA rules of origin to future liberalisation in services and investment. Critical areas of trade-related regulation in CARIFORUM that underpin a range of provisions – effective competition policy, for example – remain a work in progress in several countries.

Even where many national and regional EPA Units have been established, resources and sustainability are a constant concern. While EDF funded projects are increasingly covering the full range of implementation activities, and while

organisations such as Caribbean Export are breaking new ground in their support to the private sector, many key projects have only very recently come on-stream. Delays in supporting some critical areas of the Agreement (e.g. the protection of intellectual property rights) have held up efforts to craft CARIFORUM positions and thus further dialogue and negotiation with the EU.

And finally – and arguably most importantly – there is still little clear recognition or activation of some of the main 'wins' achieved by CARIFORUM at the negotiating table. For example, rather than reflecting the EPA's innovative provisions on temporary movement in trade in services, the information made publicly available by EU Member States still refers to 'migration', 'employment' and/or 'workers' attempting to access the labour market, rather than the short-term movement of CARIFORUM services suppliers which are meant to enjoy a clear competitive edge over other third-country nationals. Whether as cause or consequence of this lack of recognition, consultations indicated that very few CARIFORUM service suppliers have actually attempted to contest the EU market under the EPA.

In sum, the 'EPA signal' – the active take-up of regulatory challenges and market opportunities – remains fairly muted, both within the Caribbean and the EU. The study finds a few discernible aggregate impacts from the EPA: for example, the expansion of agricultural exports and some free-zone manufactures from the Dominican Republic; a resurgent regional rum industry backed by an innovative EU-backed programme; some noticeable shifts in policy thinking amongst a few CARIFORUM policymakers. But

there is still a long and unfinished implementation agenda to complete before the CARIFORUM EPA can 'move the needle' in terms of its impact on CARIFORUM trade and development.

What can other regions learn from the CARIFORUM experience?

The CARIFORUM experience of implementation yields four key lessons for other ACP regions as they navigate the post-2014 waters.

First, implementation is just as much a negotiation as the actual negotiation. Observers could be forgiven, after ten difficult years of stop-and-start negotiations between the ACP regions and the EU, for thinking that the signature of the EPA marked the finishing line. The experience of CARIFORUM however suggests otherwise: the signature merely marks the starting point of another long, highly technical and sometimes contentious process.

From the legal scrubbing of the Agreement, to the selection of persons for the various EPA committees, to the rectification of perceived errors further down the line, ACP regions will need to marshal the same (if not more) technical expertise that was deployed during the negotiations. Bilateral encounters with the European Commission will still require careful pre-strategising; ministerial interventions will still be required to unblock impasses on key issues; and technical expertise will still be needed to clarify the legal implications and economic impact of certain provisions, and shepherd the various pieces of EPA-related legislation through national parliaments.

ACP regions would be well advised to begin, at the earliest opportunity, liaising with donor partners to ensure an uninterrupted flow of resources for the implementation exercise, and ensure that institutional structures are in place with as much flexibility, resource availability and technical firepower as those in place for the actual negotiations.

“...the signature merely marks the starting point of another long, highly technical and sometimes contentious process.”

Second, and closely linked to the first point, *mobilising bilateral donors early is critical*. While there are substantial envelopes of resources available under the EDF, the CARIFORUM experience suggests that those funds may not turn into actual projects for three to four years after signature.

Why the rush? Simply put, there is a narrow window for kick-starting implementation efforts. In many ACP regions (and here CARIFORUM is no exception), the EPA negotiations have attracted their fair share of criticism, and that criticism can easily harden into cynicism unless there is an early countervailing push to champion implementation and unlock the benefits of the Agreement.

In CARIFORUM, bilateral donors – particularly the United Kingdom and Germany – played a key role providing rapid-response support in those crucial early hours of implementation. Other EU Member States have not yet been as active.

Third, *both Parties should ensure an 'early harvest' of key pillars of implementation*. It is difficult to categorise certain areas of the Agreement as more important or more development-friendly than others. Yet consultations for the study suggested that certain parts of the Agreement were considered – particularly by the private sector – to be important markers of their governments' seriousness in achieving the objectives of the EPA.

These included, *inter alia*, ratification of the Agreement, the launching of EU-funded projects (specifically those aimed at private sector development), the ability of the various EPA committees to quickly deal with issues arising from implementation, the implementation of tariff reduction, and the prioritising of those parts of the Agreement that mark a clear innovation from the status quo: in the CARIFORUM case, for example, the EPA provisions on temporary movement.

Rather than see the EPA as a single laundry list of obligations, these priority areas should be fast-tracked, to create a strong momentum in favour of implementation.

...priority areas should be fast-tracked, to create a strong momentum in favour of implementation.

Fourth, *the experience of EPA implementation does not necessarily undermine regional integration, but can certainly expose its shortcomings*. There is understandable concern that the EPA – whether in the negotiations or implementation stage – could undermine the regional integration processes within the various ACP configurations. In the CARIFORUM case, the experience of implementation has, in certain cases, exposed the weaknesses of both intra-Caribbean Community (CARICOM) and intra-CARIFORUM integration. Implementation of regional preferences for trade in services, for example, has been shelved until there is clarity on the internal CARICOM services regime. Planned negotiations with the EU on issues such as geographical indications are being delayed due to the lack of agreed regional positions and frameworks. The readiness of certain countries to move ahead is checked by the hesitation or lack of preparedness in others.

While the EPA has set a certain *de facto* calendar for certain regional integration initiatives, the pre-EPA dynamic of incremental progress remains. Other ACP regions – which have both higher and lower levels of regional integration than that of CARIFORUM – will need to carefully manage both their own and the EU's expectations for any provision requiring a common regional position.

Notes

1. CARIFORUM consists of Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, Haiti, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Suriname and Trinidad & Tobago.
2. Monitoring the Implementation & Results of the CARIFORUM EU EPA, available online at <http://ec.europa.eu/trade/policy/countries-and-regions/regions/caribbean>, accessed on 9th October 2014.



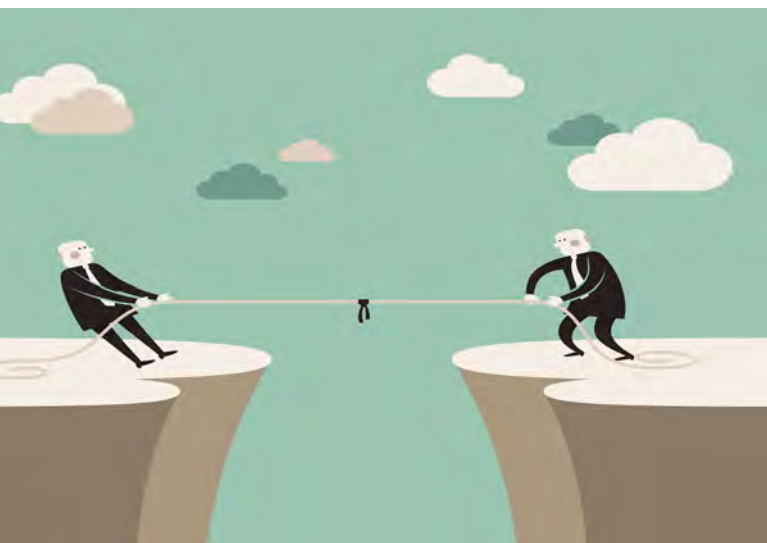
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Manoeuvring at the margins of an EPA deadlock: Has the EAC bowed down to EU pressure?

By Fredrick Njehu

Why the EAC pursued an EPA?

When the African, Caribbean and Pacific (ACP) group of states and the European Union (EU) signed the Cotonou Partnership Agreement on 23rd June 2000, both parties affirmed their commitment to work together towards the achievement of the objectives of poverty reduction, sustainable development and the gradual integration of the ACP countries into the world economy. In their elaborate preamble, both parties further reaffirm their willingness to revitalise their special relationship and to implement a comprehensive and integrated approach for a strengthened partnership based on political dialogue, development cooperation and economic and trade relations.



Over the last decade or so, there has been pervasive condemnation by smallholder farmers, civil society organisations, parliamentarians, media and religious groups on the design and structure of the Economic Partnership Agreement (EPA) between the East African Community (EAC) and the EU. Smallholder farmers argue that negotiators and the private sector have focused extensively on commercial interests without focusing on major aspects of labour, standards, human rights, environment and climate change as well as development as it was envisaged by the Cotonou Partnership Agreement.

Guided by the principles of the Cotonou Partnership Agreement, the EAC went into these negotiations with a view to integrating themselves gainfully into the

global economy, sustaining their economic development and reducing poverty with an eventual intention of exterminating it later. By accelerating the already existing economic integration, the EAC hoped to remove barriers to trade in the region and build bigger markets as well as inspire the necessary investments and productivity expansions that will drive development.

EPA concluded after a decade of sensitive negotiations

The EAC-EU EPA was finally initialed on 14th October 2014. Over the last decade, the EAC has been very busy pursuing regional integration through consolidating both the common market and the customs union. The EU has been through the same journey before and is quite aware of this.

The EAC region has of recent past experienced concerted diplomatic tactics from the EU pushing for a signature of the interim EAC-EU EPA concluded at the end of 2007. The decade-long negotiations can be attributed to a failure to agree on outstanding issues between the negotiating parties. The outstanding issues among the negotiating partners were genuine and should have been treated as such. Issuance of deadlines to EAC partner states through withdrawal of the market access offer to the EU market for Kenya from 1st October 2014, did not lead to a timely conclusion of an agreement but only spurred tensions between the EU and the EAC. The areas that remained highly contentious until the end included the levels of liberalisation the EU demands; export taxes; the MFN clause; infant industry and safeguards; community levies; development cooperation/aid and the issue of whether there are new funds or only a recycling of existing funds etc.

(i) Market access

By 2033, the EAC has committed to liberalise up to 82.6% of all its imports from the EU. In as much as this has been agreed, EAC feels that the level of liberalisation is high with a likelihood of having negative implications on livelihoods, employment, shrinking of the policy space, and on our efforts to industrialise and integrate meaningfully into the global economy. This extensive liberalisation is based on the argument that the region needs cheap intermediate goods to be used as inputs in the production processes thus enhancing competitiveness; and finished products whose availability at lower costs

is deemed to have consumer welfare-enhancing effects. However, permanent removal of tariffs on these products makes it extremely difficult for EAC to produce them in future thus curtailing the industrialisation process and relegating the region to the perpetual production of raw materials.

(ii) Duties and taxes on exports

Under this clause, the EU would disallow the EAC partner states to impose new export taxes or increase existing ones unless they can justify special needs with regard to revenue, food security, or environmental protection. Export taxes¹ are an essential development tool that can be used in promoting industrialisation and employment creation, and in creating incentives to add value to local products rather than exporting them in their raw form.

For the EAC, export taxes remain very critical after the discovery of oil, natural gas and other minerals. It is worth noting that the EU disciplines in EPAs on export taxes emanates from its Raw Material Initiative which states that *“Access to primary and secondary raw materials should become a priority in EU trade and regulatory policy. The EU should promote new rules and agreements on sustainable access to raw materials where necessary, and ensure compliance with international commitments at multilateral and at bilateral level, including WTO accession negotiations, Free Trade Agreements, regulatory dialogue and non-preferential agreements”*. However, raw materials security for the EU should not be at the cost of the EAC’s development ambitions.

(iii) Economic and development cooperation

The main outstanding issue under this chapter was how to treat the EAC EPA Development Matrix. The Development Matrix indicates costed priority projects to address the supply side constraints in the region, the envisaged adjustment costs and other trade

“Raw materials security for the EU should not be at the cost of the EAC’s development ambitions.”

The EDF is not only already committed with only relatively small funds earmarked to support capacity constraints, but it is also cumbersome to access. In addition, AfT and the EU budget are still a nebulous concept, lacking specificity on the exact amounts available. It is argued that the revenue losses and the adjustment costs will be offset from the increase in trade arising from the increased market access under the EPA. However, the benefits accruing from the EPA are elusive yet the obligations are certain and legally binding.

(iv) More favourable treatment (MFN) resulting from economic integration agreements

Under this provision, the EAC is obliged to extend to the EU any more favourable treatment resulting from a preferential trade agreement with a major trading economy/country. This circumscribes EAC’s external trade relations and will undermine the prospects of South-South trade which the EAC is aspiring to promote. In addition, the clause is contrary to the spirit of the World Trade Organization (WTO) Enabling clause that promotes special and differential treatment for developing countries and South-South cooperation.

(v) Agriculture

The most contentious issues under this chapter were the agricultural subsidies provided in the EU, and the weak safeguards provided for in the EPAs. The EU has rejected for years the discussion of its subsidies in the EPAs on the grounds that this is a WTO issue. However, the EAC argued that the issue of subsidies has not been addressed in the WTO as developed countries, including the EU have failed to live up to what was agreed during the WTO Hong Kong Ministerial to eliminate export and trade distorting subsidies by 2013.

There is ample evidence to show that agricultural subsidies in the EU have led to dumping of agricultural products with far-reaching implications on Africa’s agricultural production and agro-processing. It is a “conventional” example of a destruction of the extraterritorial obligation of governments to respect the right to food.

The decision at last by the EU to remove agricultural export subsidies in the context of the EPAs, announced earlier this year, is good news. But may not cater for all distorting agricultural subsidies in Europe, to the detriment of EPA countries.

“Export taxes are an essential development tool.”

related infrastructure so as to enable the region to take full advantage of the market access granted by the EU.

The EAC position was that the Development Matrix should be part and parcel of the EPA agreement. However, the EU has repeatedly stated that it will contribute to the EPA under the European Development Fund (EDF), Aid for Trade (AfT) and the EU budget. These funds are obviously insufficient.

How bad is losing EU market preference versus how bad is the agreement to be ratified?

A study² by the South Centre shows that the EAC is more competitive than the EU on only 10% of tariff lines. As a consequence, this would mean that the majority of products that are currently produced will be put at risk due to tariff elimination in the EPA, and the EU being more competitive, producers will lose market share to EU imports as well in home markets and other EAC markets.

The study further shows that 51.3% of tariff lines/products where there is current local production will be put at risk, perhaps even damaged (1,100 tariff lines out of 2,144) as these are lines where liberalisation will take place *and* the EU is more competitive on these lines than the EAC. Taking into account potential future production (tariff lines where there is no current production), 2,366 tariff lines will be liberalised making the possibility of having future production in these products questionable. In total, 68.8% of all tariff lines or products could be put at risk (current and future production).

Further, a short list of sectors where there is current production which could be jeopardised and tariff lines where there is at present regional trade which could be compromised by the EPA as the EU is more competitive includes: processed oil products; chemical products for agriculture; commodity chemicals; medicines, vaccines and antibiotics; intermediate industrial products; final industrial products; vehicle industry; agricultural products; and books, brochures and other printed material.

What next for EU-EAC EPA negotiations?

The 1st October 2014 date had a strong message. It was either the EAC signs and begins the ratification process of its interim EPA concluded in 2007 (no longer an option for the EAC) or EAC countries must conclude a new regional EPA if they wish to continue enjoying market access to the EU. Otherwise, Burundi, Rwanda, Uganda and Tanzania have to rely on the Everything But Arms trade regime where they have duty free quota free market access to the EU, while Kenya has to trade under the less preferential EU generalised system of preferences (GSP). The EAC has been flexible in its market access offer to the EU given the asymmetrical nature of the

negotiating parties. But EPAs are only a free trade area, with no additional financial package attached to it to address fiscal challenges EPAs could bring, and a limited focus on development.

The deadline issued was not the EAC's but the EU's and the talks should have been based on mutual 'how to conclude the talks'. In order to have a 'win-win' outcome of negotiations, then the EU should have been willing to support the development pillar that addresses supply side constraints. In addition, special and differential treatment should have been part and parcel of the developmental EPA. The EAC negotiators were right to keep pushing for an extension of the EU deadline under the EU Market Access Regulation 1528/2007 to such a period where the negotiations can be concluded or an alternative trade arrangement could be initiated. The EU should have shown flexibility and not penalise EAC countries and Kenya in particular, which fell back to GSP from 1st October 2014, though it can now be reinstated with the EAC-EU EPA deal, reached on 14th October 2014.

To save on the back and forth, the focus of the talks should have been on development. This development should be sustainable and defined by EAC and agreed by both negotiating partners. In the current trade diplomacy, trade is not only about tariffs, it is about regulation, standards and norms, licensing practices, domestic taxes and investment. More importantly, trade is not only about market access, it is about human rights, corporate accountability, and environment and labour rights. So, it is crucial that we look at the future trade relationship between Africa and Europe in a broader yet detailed context.

Notes

1. United Nations Economic Commission for Africa, 2013 Addis Ababa, Ethiopia.
2. http://www.southcentre.int/wp-content/uploads/2013/09/AN_EPA32_CARIFORUM-Changes_EN.pdf

“ Trade is not only about market access, it is about human rights, corporate accountability, and environment and labour rights.”



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Situating Economic Partnership Agreements in sub-Saharan Africa's evolving trade landscape

By Peter Draper

While EPAs are finally being concluded, the global and African landscapes are being fundamentally reshaped by the connected phenomena of mega-regional trade negotiations and China's rapid expansion into the continent. How can the major developed countries negotiating mega-regional and African deals, respond to these developments?

After years of acrimonious negotiations, Economic Partnership Agreement (EPA) negotiations seem to be finally drawing to a successful close. While the overall picture for sub-Saharan Africa is quite murky for those not actively involved in the negotiations, the main regional groupings seem to have concluded negotiations. It looks likely that most non-least developed countries (LDCs) will be integrated into the EPA net, whereas LDCs (even those not covered by an EPA) have guaranteed full access to the European Union (EU) market via the Everything but Arms (EBA) preferential access scheme. And while the EPA agreements are primarily centered on goods market access, they include *rendez-vous* clauses containing the possibility of broadening and deepening the arrangements in the future.

Yet the strategic landscape enveloping EPA negotiations has changed fundamentally since their inception more than a decade ago. Central to this is the recent emergence of 'mega-regional' trade negotiations, and China's rapid ascent in the African trade and investment landscape.

Mega-regionals as 'game-changers'¹

'Mega-regionals' attract various definitions. In my view they are preferential trade agreements (PTAs) involving three or more countries; constituting a quarter or more of world trade; and entailing deep, behind the border regulatory commitments. Thus only the Trans Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP) qualify.

Led by the USA, the TPP and the TTIP are wide in scope, deep in ambition, and laden with many implications for non-party states and for the global trading system. Partly a product of the impasse in the World Trade Organization (WTO), they have sucked negotiating energy out of the WTO thereby contributing to the difficulties in concluding the Doha round; even as they are strategically aimed at reinvigorating their leadership of the WTO down the line through the process of 'competitive liberalisation' (see Box). These PTAs are also a product of China's geopolitical rise, prompting the USA and EU to lock-in access to key markets and regions. China and other major developing economies are responding with initiatives of their own, such as the Regional Cooperation in Asia and the Pacific (RCEP) negotiations. Hence there is renewed impetus behind PTA negotiations across the world.

The notion of '*competitive liberalisation*' is associated particularly with Fred Bergsten, former Director of the Petersen Institute for International Economics, and Richard Baldwin. The former argues that as the USA secures PTAs with other countries, so those countries become like-minded with the USA and seek to form PTAs along similar lines with third parties. Soon those left outside emulate the PTAs, and ultimately the logic finds its way back into the WTO in the form of new agreements. (See C. Fred Bergsten "*Competitive Liberalization and Global Trade: A Vision for the Early 21st Century*", Working Paper 96-15, Peterson Institute for International Economics.)

Baldwin identified the 'juggernaut' effect, whereby major multinational companies seek regulatory convergence in order to smooth the operation of their global value chains, and lobby host governments to provide it particularly through mutual recognition agreements. This pressure finds its way into PTAs, thereby creating a juggernaut effect reinforced by competitive liberalisation. (See Richard Baldwin "*A Domino Theory of Regionalism*", NBER Working Paper, 4465, 1993.)

Generally impact assessments on the TPP and TTIP negotiations concur that the effects of tariff liberalisation on negotiating member states will be modest. Similarly there is some concurrence that trade diversion impacts on outsiders will be relatively small, particularly for African states since they mostly do not directly compete with those party to the talks. However, some countries are likely to suffer from preference erosion in key commodities, limited by the fact that tariff barriers in the EU and USA markets are mostly already low. Some studies argue that trade creation impacts, for example increased demand for natural resources in parties to the two agreements, may outweigh those of trade diversion for outsiders, yielding net positive gains.

Crucially, all studies concur that removal of non-tariff barriers to trade, particularly through regulatory harmonisation, will have the most significant impacts both on parties and non-parties, although the effects are

very difficult to measure let alone predict. Some worry that standards will be raised so high that non-parties will be locked out of erstwhile markets; others argue that mutual recognition agreements backed up by extension of conformity assessments amongst negotiating parties will increase market access for outsiders substantially. The devil is in the detail, and only product specific assessments will reveal the likely impacts. Either way there is concurrence that regulatory standards negotiations are very much here to stay as part of the modern trade diplomacy landscape; a fact that African states have largely avoided in the EPAs, but will have to adapt to.

It is important to understand potential scenarios for how mega-regionals may unfold, since the strategic implications for African states vary substantially. In a full success scenario, competitive liberalisation would march on triumphant, with the regulatory agenda manifesting strongly in the WTO and in demands for reciprocity from African states, which they would find difficult to resist. Under a partial success scenario important aspects of the regulatory agenda and trade impacts described above would manifest, but Western hegemony over the global trading system would not have been decisively reasserted.

This would offer a 'balance of power' prospect to African states, nuanced according to sub-region and degree of exposure to Chinese influence in particular. But the search for reciprocity in bilateral trade relations would move up the major developed countries' radar screens, with attendant negative implications for preference schemes. Under a failure scenario, the implications just described would manifest quicker and more intensely as the Western powers scramble to shore up traditional 'spheres of influence'. Furthermore, and particularly if the current Chinese economic reform programme is successful, African countries would face a China dominated trading system earlier, perhaps, than previously anticipated. In all three cases the shifting sands of geopolitics are set to intrude ever more sharply into African trade and investment relations.

“The strategic landscape enveloping EPA negotiations has changed fundamentally since their inception more than a decade ago.”

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The evolving trade landscape²

The backdrop to the mega-regional effort is that sub-Saharan African nations are concurrently engaged in discussions with major partners over institutional arrangements of long-term developmental and strategic importance. The African Growth and Opportunities Act (AGOA) – the centrepiece of the USA's economic relations with the region since 2000 – is up for renewal in 2015 against the backdrop of a fair degree of uncertainty regarding the terms of any new agreement. AGOA has been characterised by its unilateral and non-reciprocal nature, features that are up for discussion, specifically with regards to sub-Saharan Africa's biggest economies and most dynamic markets. An important factor behind American calculations is that the EU will shortly cement the EPA process, which is built on reciprocity, hence preferential access to African markets for European firms.

Since 2000, the Forum on China-Africa Cooperation (FOCAC) has served as the main stage for Sino-African bilateral relations. Recently, there have been moves to formalise trade and investment arrangements with African regional groupings through initial Framework Agreements with the East African Community (EAC) and the Economic Community of West African States (ECOWAS). China, too, may start to demand reciprocity with certain partners in response to EPAs.

So shifting geopolitics are manifesting at a time when the continent's trade and investment patterns are undergoing a profound shift from traditional economic partners to intensified relations with fast-developing centres of world commerce. The EU as a bloc remains sub-Saharan Africa's largest trading partner, yet its share of total trade halved between 1989 and 2011 from 50% to 25%. In 2011, the USA accounted for 12%, while China had become sub-Saharan Africa's single country biggest bilateral trading partner with 15% of the region's total trade. The speed and scale of China's engagement with the continent has been a game-changer.

What can the EU and USA do to assist African states?

From the standpoint of sub-Saharan African states, and regardless of which mega-regional agreements negotiation scenario prevails, the immediate tendency may be to gravitate towards European and US partners – especially if existing preference schemes are strengthened and the EU makes African economic development a strategic priority. In this light, generous preference schemes in developed markets with rules adapted to the realities of modern trade could spur African export diversification. The TTIP, in particular, could provide an opportunity for the EU and the USA to jointly revisit trade preference schemes to support the development objectives of sub-Saharan African low-income countries. The Trans-Atlantic partners apply distinct non-reciprocal arrangements through AGOA and EBA that offer special access to African nations and least developed countries. Liberal access to developed markets could help stimulate investment and job creation into African LDCs agricultural, manufacturing and service export sectors.

However, despite their successes, both schemes suffer from sharp limitations: AGOA excludes and applies tariff quotas to key products the region can produce competitively; EBA provides full duty-free quota-free coverage but only to countries classified as LDCs, thereby driving an arbitrary wedge into various African regional groupings; the rules of origin required for product eligibility militate against the development of value chains; and AGOA's annual review mechanism added to the uncertainty of the scheme's renewal post-2015 reduces security of access.

Harmonisation of preference schemes does not seem to be on the TTIP's agenda. Nonetheless, the EU and the USA could mutually recognise requirements covering rules of origin under AGOA and EBA. This would reduce information costs and ease compliance procedures for African exporting firms, and potentially allow preference-qualifying products imported from African countries to be granted reciprocal access to EU and USA markets.

Regulatory standards negotiations are very much here to stay as part of the modern trade diplomacy landscape; a fact that African states have largely avoided in the EPAs, but will have to adapt to.

“ The EU as a bloc remains sub-Saharan Africa’s largest trading partner, yet its share of total trade halved between 1989 and 2011 from 50% to 25%. ”

What can Africans do?

While sub-Saharan African economies have grown faster than other regions of the world in recent years, primary commodities have driven much of this growth. Most African nations need to implement reforms that improve their business environment and attractiveness as investment destinations so they can develop their potential in manufacturing activity and agricultural productivity. Modernised infrastructure and backbone services (logistics, telecommunications and transportation) are further preconditions for competitiveness and the ability to tap into sophisticated global value chains.

Securing greater depth and coherence to existing regional integration efforts will also be an important element in creating an environment conducive to the expansion of value chains. Currently weak regional integration is partly driven by the lack of complementarities between the region’s economies, but also by the prevalence of high barriers to trade that severely restrict the ability to form regional value chains. Thus Africa will remain dependent on external forces for a long time. However, initiatives at the regional level could be used as laboratories for reform and for building regional value chains with an eye on graduation into global production networks.



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Notes

1. This section is taken from Draper P., Lacey S. and Y. Ramkolowan. 2014. “Mega-regional Trade Agreements: Implications for the African, Caribbean, and Pacific Countries”, ECIPE Occasional Paper, No. 2. The title is taken from World Economic Forum. 2014. Mega-regional Trade Agreements: Game-Changers or Costly Distractions for the World Trading System, Geneva: World Economic Forum.
2. This section is taken from Draper P. and S. Ismail. “The Potential Impact of Mega-regionals on Sub-Saharan Africa and LDCs in the Region”, in World Economic Forum, op.cit.



The missing link in President Obama's Africa Leaders Summit: Addressing the African, EU, US conundrum

By Witney Schneidman

The Africa Leaders Summit, held in Washington in early August, marked a welcome and important turning point as trade and investment became a top priority in US-African relations. At the same time, this development has placed the European Union (EU) and the US on a collision course as it concerns trade with Africa.

From patronage to partnership

The transition in US-Africa relations began with the passage of the African Growth and Opportunity Act (AGOA) in 2000. AGOA, which reduced US tariffs to zero on 6,400 products for 40 countries in Sub-Saharan Africa, was important for introducing trade, light manufacturing and private sector-led investment as a stimulus for economic development. No longer would the US rely solely on traditional development assistance in its partnership with African nations.

While the administration of George W. Bush did dramatically ramp up the US aid relationship with Africa by funding the President's Emergency Program for AIDS Relief, first at US\$15 bn and subsequently increased to US\$48 bn, it was a legitimate and important response to a dire health crisis on the continent. The reality is that this type of aid response is not likely to occur again, even with the Ebola crisis posing such a threat in West Africa.

In addition to extending the life of AGOA from 2008 to 2015, the Bush Administration took other steps to move away from traditional development assistance as the primary US connection to Africa, principally through the creation of the Millennium Challenge Corporation (MCC). Not only was the MCC a vehicle for making large scale investments, via grants, in African nations, it did so according to a rigorous set of governance criteria. The ease of doing business and the role of the private sector became important indicators for determining the allocation of MCC grants.

Obama and the private sector

When Barack Obama became president in January 2009, the transition in US-African relations was well underway. The financial crisis of 2008-2009 helped to ensure that the days of robust aid budgets were a relic of another era. Equally important, however, were the dramatic improvements in governance and economic growth taking

hold across the continent. Foreign direct investment and the role of Africa's private sector were increasingly becoming the engines of long-term sustainable growth, job creation and the key to integration into the global economy. In fact, in 2007, foreign direct investment exceeded official development assistance (ODA) for the first time, according to the African Economic Outlook. Combined with remittances and portfolio investments, private sector flows today are nearly three times greater than ODA.¹ The Obama Africa policy, although belated in its roll out, has accelerated the transition in US-African relations initiated by the passage of AGOA.

In 2009 at the L'Aquila G-8 meeting, Obama launched Feed the Future to address the global food crisis, especially in Africa, with a US\$3.7 bn commitment. Three years later, the Administration brought the private sector into the programme through the New Alliance for Food Security and Nutrition. At the August Summit, it was announced that more than US\$10 bn will be invested by private sector companies in agricultural activities, and more than half of this investment is coming from African-based companies.

Power Africa, whose goal is to bring a reliable source of electricity to more than 60 million homes and businesses, is a second signature Obama initiative in Africa. The private sector features prominently in this as well. According to USAID, there has been a ratio of nearly 4:1 in the leveraging of funds, as there has been more than US\$26 bn in private sector financing compared with US\$7 bn from the US government.

Even with the Young Africa Leaders Initiative, which attracted more than 50,000 applications for 500 fellowship opportunities in leadership training at US universities, the private sector has been an important partner to the US government.

Trade Africa is another administration programme designed to deepen commercial ties between the US and Africa. While it has not yet been successful in negotiating a trade and investment agreement with the East African Community (EAC), the programme will restructure the three regional trade hubs into trade and investment hubs. In addition to helping African companies access the US market under AGOA, the hubs will now assist American companies to capture opportunities in African markets. In addition, the Commerce Department will double its presence in Africa.

In short, the Obama administration has done more than any other administration to advance US commercial objectives on the continent, although there is still much to do. The reality, however, is that American companies are slowly waking up to the African opportunity.

The August Summit

More than any other issue, Obama used the August Summit to focus on promoting trade and investment in Africa. On 5th August, more than 300 CEOs from the US and Africa participated in a day long business forum hosted by Commerce Secretary Penny Pritzker and former New York Mayor, Michael Bloomberg. Not only did Obama participate in the forum but US\$33 bn worth of investments were announced.

Equally as important, trade and investment was one of three sessions of the official Summit on 6th August, along with peace and regional security and governing for the next generation.

Throughout the Summit, the renewal of AGOA was a constant topic of conversation, with African leaders stressing the importance of the legislation. The Administration also conveyed its commitment to work with Congress for a "long term" extension of AGOA as well as an expansion of AGOA's product coverage, an improvement in the rules of origin and an updating of the eligibility criteria. During the Summit week, there were countless side events that focused on the upside of investing in Africa.

The African, EU, US conundrum

In the wake of the Africa Leaders Summit there was a sense among many participants that a new era in US-African relations was genuinely possible. Nevertheless, the EU trade policy toward Africa could be a major obstacle to this new era achieving its full potential, given that AGOA and the Economic Partnership Agreements (EPAs) of the EU are working at cross purposes.

AGOA, for example, is a non-reciprocal preference programme that is using trade to promote economic development. The EPAs, in contrast, are free trade agreements that African countries were required to sign by 1st October 2014 or face the loss of preferential access to the EU. Where the US is trying to gain market access in Africa through a number of mutually beneficial initiatives and AGOA, the EU is essentially trying to dominate the market through preferential access and most favoured nation agreements. The two approaches could not be more divergent.

Moreover, while the EPAs guarantee EU companies access to those African countries that sign on, they have serious negative consequences for the continent. For example, what the EU refers to as the "SADC EPA Group" is, in reality, the five members of the Southern African Customs Union (SACU - South Africa, Botswana, Namibia, Lesotho and Swaziland) plus Mozambique.

“The Obama administration has done more than any other administration to advance US commercial objectives on the continent.”

“The EPAs are also likely to complicate the prospect for AGOA’s renewal.”

Not only is the nomenclature misleading, the EU has succeeded in dividing the Southern African Development Community (SADC), which has a history of collective decision-making dating back to 1980.

The division of SADC has regional implications as the SACU plus one group has no idea of the terms on which the other eight SADC members will initial EPAs, or whether they will do so at all. For SADC, which is working to integration with the East African Community and the Common Market for Eastern and Southern Africa (COMESA) through tripartite cooperation, the EPAs are a significant hurdle not only to the vital goal of regional economic integration, but the development agenda more broadly. After all, the COMESA-EAC-SADC Tripartite Free Trade Area, expected to be launched in 2015, could benefit half of the African Union’s member countries overall, with a combined population of 600 million people and an integrated domestic product of almost US\$1 trillion.²

Figure 1: Dividing the region: Members of “SADC EPA Group” and SADC

Countries	The EU’s “SADC EPA Group”	SADC
Botswana	X	X
Lesotho	X	X
South Africa	X	X
Namibia	X	X
Swaziland	X	X
Angola		X
Mozambique	X	X
Democratic Republic of Congo		X
Madagascar		X
Malawi		X
Mauritius		X
Seychelles		X
Tanzania		X
Zambia		X
Zimbabwe		X

The EPAs are also likely to complicate the prospect for AGOA’s renewal. Some members of Congress are already questioning why the US should extend non-reciprocal benefits to African countries which are simultaneously agreeing to free trade agreements with the EU. There is no question that the EPAs represent a challenge to AGOA, which has led to the creation, directly and indirectly, of more than one million jobs across the continent.

What next?

Over the next two years the Obama Administration will work to deepen its legacy in Africa through its private sector-led initiatives. Extending AGOA in a timely manner, well before its expiration date of 30th September 2015, will be critical to this.

The EU will continue to move forward to extend its free market arrangements throughout Africa. This may be good for EU companies but it will undermine efforts by US companies to establish a presence in Africa. It also works against efforts by African companies and traders to increase regional trade and investment.

If there was any shortcoming of the Africa Leaders Summit it was the silence of the US and its African partners on this issue. The distinguished Oxford economist, Paul Collier, in his 2007 book, *The Bottom Billion*, argues that Africa needs “one simple scheme” for trade with the global economy, with generous rules of origin, pan-African coverage and a long-term phase out in order to ensure that poverty is reduced and African producers enter new export markets. As the US and EU work to create the world’s largest free trade area through the Transatlantic Trade and Investment Partnership (TTIP), both sides would be well served to also harmonise their trade relationship with Africa. There would be no down side, especially as it concerns Africa’s continued growth and development.

Notes

1. AfDB, OECD, UNDP and UNECA (2013), African Economic Outlook 2013: Structural transformations and natural resources, p. 46.
2. Mail and Guardian Africa, “1 Trillion ‘Grand’ Africa Tripartite Free Trade Area Expected to Beat 2016 Schedule”, August 17, 2014: <http://mgafrica.com/article/2014-08-17-africa-economy-africas-grand-fta-negotiation-progressing-well-sadc-officials>



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The Canada-EU Comprehensive Economic and Trade Agreement and the ACP EPA: A common fate?

After more than five years of negotiations, the Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU was concluded on the 5th August and signed on the 26th September 2014. The agreement will now go for legal scrubbing and is expected to be implemented by both parties in 2016. CETA is expected to boost the Canadian economy by 20% in bilateral trade and a C\$12-bn (about €8.5 bn) increase in annual GDP, whereas from the EU perspective the agreement will increase total exports to Canada to an estimated 24.3% or €17 bn.

By Laurent Law

EPA as precursor

The impact of CETA on the Economic Partnership Agreement (EPA) negotiations, conclusion and implementation will certainly be felt in different ways. Canada, though a G8 country, is richly endowed in natural resources like many African countries. From 2009 to 2013 the share of commodities in Canada's exports was consistently over 60% with energy products topping the list followed by metals and minerals, forestry and wood pulps.¹ Canada is also a big producer and exporter of agricultural products such as meat, oilseed, farm products and wheat/flour. Currently around 73% of Canadian goods exports go to the US; it is expected that some exports will now be diverted to the EU as a result of CETA. It remains to be seen how CETA market access will affect EPA countries as Canada produces or exports either the same or directly substitutable/competitive products but, more importantly, the impact of CETA will mainly be felt on the rules side.

The coverage of CETA makes it one of the most complete agreements ever signed by the parties. Indeed, it goes

beyond the classical free trade area on trade in goods and services as it captures issues related to investment protection, environment, government procurement, labour and many "dialogues" on different issues like technology, raw materials or forestry. In all there are more than 40 items that are covered in the agreement. To a great extent the EPA negotiations between the African, Caribbean and Pacific (ACP) and the EU, as provided in the Cotonou Partnership Agreement (June 2000) and formally started in 2002, have inspired and shaped many aspects of trade and economic negotiations that we can see in CETA today, i.e. an all-encompassing economic and trade agreement that goes beyond market access and includes rules, domestic taxes, intellectual property rights (IPR) or competition. However, as compared to CETA, the EPA did not proceed to its full completion, except for the Caribbean Forum (CARIFORUM), and is still considered to be an Interim EPA limited to trade and some trade related aspects in goods. Based on the outcome of CETA in terms of coverage and rules, the burning question is: have the ACP lost the advantage of first movers, i.e. setting the rules and are now "cornered" by a sort of "rule of precedence" set up by CETA?



A most contentious rule: Exports restrictions

One of the most contentious points in the EPA negotiations has been the application of export restrictions thus taxes. In short, export taxes are usually applied to commodities in an attempt to divert supply of goods away from the export market and into the domestic market, thus driving the price up internationally and down locally while also favouring local transformation. In all its free trade agreements (FTAs) the EU systematically asks for the removal of export taxes as it sees it as an impediment to the competitiveness of its industries and access to raw materials. In CETA the issue of export restrictions became contentious to the point that there were uncertainties with regard to the effective implementation of the agreement.

Under the Canadian federal system, the federal government negotiates and ratifies all international treaties. However, as provided in article 92 of the Constitutional law of 1867, Provinces retain regulatory powers for a number of issues including those related to trade such as provincial state owned enterprise, government procurement or investments regulations. In a system of co-sovereignty, a large part of the implementation of CETA would fall under provincial jurisdiction. Newfoundland and Labrador and Quebec have put in place regulations, known as minimum processing requirements (MPR), that favour domestic processing by barring the export of unprocessed fish and seafood without approval. Exemptions can be granted to unprocessed export products when they can fetch a higher price than those that are processed locally.

This type of provisions may be in conflict with certain provisions included in Canada's trade agreements, such as provisions requiring parties to treat foreign nationals and locals equally as well as provisions prohibiting the restriction of imports and exports except if they have been excluded.

In the CETA negotiations, the EU has made it clear that it would not accept any export restrictions but if it has to agree to such provisions, it would review its market access offer. The federal government had to convince the province of Newfoundland and Labrador to abandon its MPR absent of which the EU would have withdrawn its market access offer on seafood products. Finally, after intense negotiations, the federal government agreed to a C\$400 million (about €284 million) package for the province of Newfoundland and Labrador and, in addition, Canadian negotiators were able to get a phase out period for the MPR², i.e. an exception to the application of the import and export restrictions in the national treatment and market access chapter of CETA.

Are there any lessons from the Canadian experience for the ACP on EPA concerning export taxes/restrictions?

Lesson 1: Consistent EU approach on export restrictions

The application of export restrictions in trade and economic agreements in CETA shows a level of consistency in the EU's approach to the question. Canada's dilemma was to weigh the impact of maintaining export restrictions or gaining further market access to the EU. Ultimately, based on balance of interest, Canada decided to deal with MPR internally and negotiated an arrangement with the EU on this issue. It can be safely assumed that in any of its future trade and economic dealings with any partner the EU will ask for the inclusion of export restrictions articles in any agreements. The EU stance adopted in the EPA negotiations with the ACP is thus no exception. The Canadian experience gives us clues on how to mitigate some of its aspects while having a balanced approach.

Lesson 2: There is room for manoeuvre

CETA has the merit of showing that the EU has adjusted its export restrictions articles in different FTAs over time. A look at the FTAs applied by the EU over the years shows how this issue has evolved from being one of the clauses that must be in an agreement to an article that has become almost a redline in EU trade negotiations. In the EU-Mexico FTA (2000) there is scant reference to quantitative restrictions on imports and exports and measures having equivalent effect, in the EU South Korea (2011) and EU-Colombia (2013) FTAs it went a step further with the transposition of article XI of the General Agreement on Tariffs and Trade (GATT) 1994 in the agreements.

In the CARIFORUM EPA (2008), article 26 on prohibition of quantitative restrictions prohibits import and export restrictions and also limits fees and duties applicable to the approximate cost of services rendered and cannot impose taxation on imports or exports for fiscal purposes. The CARIFORUM provision seems to be a GATT plus commitment as article XI GATT 1994 allows the application duties and other charges for import and export restrictions. CETA shows another facet of export restrictions. It combines the application of article XI GATT 1994 and a carve-out period of three years for MPR. This shows that there is room for manoeuvre. Options range from application of article XI GATT 1994 plus specific exclusion, time bound exclusion or situational exclusion. The lesson here is that export restrictions, clumsily, presented both by the EU and ACP as a total prohibition of policy space with regards to the subject are more flexible than they seem to be.

“Have the ACP lost the advantage of first movers, i.e. setting the rules and are now “cornered” by a sort of “rule of precedence” set up by CETA?”

“ CETA is expected to boost the Canadian economy by 20% in bilateral trade and a C\$12-bn (about €8.5 bn) increase in annual GDP, whereas from the EU perspective the agreement will increase total exports to Canada to an estimated 24.3% or €17 bn.”

Lesson 3: Need from a restructuring fund

As CETA negotiations proceeded, Canada knew that it had to deal with the MPR as it was deemed to be an export restriction and decided to compensate the province of Newfoundland and Labrador for giving up its MPR legislation. It is reasonable to think that developing countries with limited resources who are giving up a policy tool should be supported appropriately to deal with a situation which from a trade and economic perspective does not affect the EU but would negatively impact resource based economies in the ACP. For giving up export restrictions as a policy tool in the context of an EPA, ACP countries should seek the creation of a restructuring fund from the EU as the province of Newfoundland and Labrador sought from the Canadian federal government. This fund should be over and above the current amount of the 11th European Development Fund as it is for a specific purpose that results from the application of a precise provision of trade and economic agreement that will benefit only one party i.e. the EU; indeed, it is difficult to see how such a provision would benefit ACP EPA countries.

What other lessons to extract?

Valuable other lessons are to be learned from CETA negotiations for the ACP EPA negotiations. Beyond the issue of export restrictions, it also sheds some light on the direction trade and economic negotiations are heading. If ACP countries, when negotiating a more comprehensive EPA, can take advantage of innovative rules and technical issues that were discussed in CETA, there are subjects where the ACP countries have lost the advantage of being the first movers, i.e. sensitive subjects that are either not on the table or are in a *rendez-vous* clause, among which there are very controversial subjects such as investment/investor state dispute settlement (ISDS), access to government procurement, state owned enterprise etc.

Finally, from a trade perspective, the effect of CETA on ACP-EU trade relations (margin of preference) will be moderate; on the other hand the impact of the EU-US negotiations for the Transatlantic Trade and Investment Partnership (TTIP), by itself, will be minor as the respective trade patterns differ quite significantly. With the combination of CETA and TTIP, and the EU-Mexico FTA already in place, the EU would have economic and trade agreements with all North American Free Trade Agreement (NAFTA) countries. Collectively, Canada, the US and Mexico would present greater competition for the ACP countries in the EU. When the three FTAs are

implemented there will be a beginning of harmonisation rules, the most noteworthy being rules of origin. CETA contains a provision on diagonal cumulation, the same is expected in TTIP and there is an understanding that it will also be applied in the EU-Mexico FTA. The fact that the three NAFTA countries will be able to cumulate between themselves export to EU while retaining originating status would open competition on the sourcing and supply side. In addition, Canada, the US and Mexico, as well as the EU, have FTAs with respectively Chile and Peru (Trans-Pacific Partnership – TPP - countries) thus creating a network of diagonal cumulation (at least for the NAFTA countries) hence more originating sourcing and supply opportunities that will have an impact on ACP countries.

The opinions expressed in this article are the author's own and do not necessarily reflect the views and, should not be attributed to the Government of the Province of Nova Scotia.

Notes

1. www.ic.gc.ca/eic/site/tdo-dcd.nsf/eng/Home
2. An account on how the situation unfolded can be found on the Government of Newfoundland and Labrador website <http://www.assembly.nl.ca/business/electronicdocuments/Canada-EUComprehensiveEconomicTradeAgreement-CETA.pdf>
<http://www.theglobeandmail.com/news/politics/newfoundland-rolls-out-400-million-fishery-fund-after-eu-trade-concessions/article15145904/>



Laurent Law represented Mauritius and the Eastern and Southern African (ESA) region in EPA negotiations and now works in the trade policy division of the Government of the Province of Nova Scotia, Canada.

The limits to selling free trade: from distributional to normative conflicts in EU trade policy

By Dr. Gabriel Siles-Brügge

The increasing presence of normative rather than distributional conflicts in European Union (EU) trade policy is challenging the European Commission's competitiveness-based rhetoric in defence of free trade.

Open markets

'The European economy stands or falls on our ability to keep markets open, to open new markets, and to develop new areas where Europe's inventors, investors, and entrepreneurs can trade'.¹ With these words, spoken in 2005, former EU Trade Commissioner Peter Mandelson aptly summarised the motivations behind the important trade policy taking place under his tenure. After the stagnation of the Doha Round that followed the Cancún and Hong Kong Ministerials, and the relative inaction of his predecessor Pascal Lamy, Mandelson became the architect of the EU's new 'Global Europe' trade strategy, announced with great fanfare in October 2006.²

'Global Europe' not only saw the EU abandon its self-imposed moratorium on new free trade agreements (FTAs), but also firmly established trade policy as the 'external dimension' of the EU's Lisbon competitiveness agenda. Keeping EU 'markets open' and, most importantly, providing exporters with new avenues to export to rapidly growing markets was seen as central to maintaining and boosting EU competitiveness in a globalised economy.³

The strategy saw the EU launch a series of FTA negotiations with East and South Asian economies in 2007. In line with the broadly liberal objective of both keeping EU markets open and opening markets for exports, the European Commission explicitly foresaw a strategy of trading away the EU's last remaining 'pockets of protection' (outside agriculture) in exchange for market access, thus essentially 'killing two birds with one stone'. This dynamic culminated in the EU-Korea FTA. The first and most ambitious trade agreement implemented since 'Global Europe' saw the EU trade away protection in the field of automobiles in exchange for market access concessions on services.⁴

In an unfavourable economic climate and given the opposition of the powerful automobile sector – which was reeling from the effects of the economic crisis – the European Commission secured the approval of the EU-Korea FTA by EU Member States and the European Parliament over the period 2009-2010. Crucial to its success was precisely the competitiveness rhetoric deployed in defence of the agreement: opponents of the FTA were no more than a 'protectionist hangover that had failed to adapt to the changing nature of the global economy' and its competitive rigours.⁵

Keeping EU ‘markets open’ and, most importantly, providing exporters with new avenues to export to rapidly growing markets was seen as central to maintaining and boosting EU competitiveness in a globalised economy.

The case of EU-ACP EPAs

By this time, however, limits to the EU’s economic rhetoric were already emerging. From the start of his tenure, Mandelson had given a strong push to the EU-ACP Economic Partnership Agreement (EPA) negotiations, notably in strongly pushing for a number of regulatory provisions (on, for example, services liberalisation, investment and competition policy). Although Mandelson and the European Commission deployed very similar arguments to those used for the EU-Korea FTA, emphasising the importance of boosting ACP competitiveness in a globalised world, a concerted campaign by civil society activists, allied with certain ACP governments, successfully opposed the inclusion of binding commitments on these provisions on the grounds that they unduly restricted the policy space of ACP states.⁶

This points to an important limitation in the rhetoric adopted by the European Commission since ‘Global Europe’ to legitimate free trade. It appears to work well in the case of distributional conflicts over trade policy, in other words, over who benefits from trade liberalisation (as in the case of the EU-Korea FTA). Here, it is easy to tarnish opponents of free trade by simply labelling them as ‘protectionists’. The EPA episode, however, illustrates that such arguments are far less persuasive where trade policy conflicts are ‘normative’, concerning broader questions of how economies should be regulated.

Beyond ‘free trade’

The Transatlantic Trade and Investment Partnership (TTIP) negotiations being conducted between the EU and the US are a case in point. On the one hand, these negotiations represent the culmination of the economic logic driving free trade talks since ‘Global Europe’. At a time of crisis and austerity TTIP represents, in the words of outgoing Trade Commissioner Karel De Gucht, ‘the cheapest stimulus package you can imagine’,⁷ allegedly generating extra GDP growth of €120bn annually and boosting EU competitiveness.

The problem is that despite attempts to emphasise its economic benefits, policymakers are already on the back foot when it comes to defending TTIP against mounting opposition from civil society groups in Europe (as well as a number of members of the European Parliament). Not only have these groups challenged the economic rhetoric of ‘growth and jobs’, but they have painted it as a threat to hard-won social and environmental protections – claims that so far have had considerable political resonance.

To an extent, these claims echo those of the anti-globalisation movement of the 1990s, which was a factor behind the limited progress in several global economic talks at the time, such as on the failed Multilateral Agreement on Investment.⁸ In a world where trade policy is seen to increasingly impinge on the way in which states regulate their economies – and is no longer simply a distributional game – there may be growing limits to the European Commission’s ability to sell ‘free trade’.

Notes

1. Mandelson, P. 2005. *Europe’s Global Trading Challenge and the Future of Free Trade Agreements*, Available from: http://trade.ec.europa.eu/doclib/docs/2005/september/tradoc_124783.pdf, p. 4.
2. Siles-Brügge, G. 2014, *Constructing European Trade Policy* (Basingstoke: Palgrave Macmillan).
3. Ibid.
4. Ibid.
5. Ibid., p. 120.
6. See Siles-Brügge, G. 2014. *Constructing European Trade Policy*, Ch. 5; Trommer, S. 2013. *Transformations in Trade Politics* (Abingdon: Routledge). Only the Caribbean region appears to have signed up to a ‘comprehensive’ EPA that significantly covers many of these areas.
7. De Gucht, K. 2013. *A European Perspective on Transatlantic Free Trade*. Available from: http://europa.eu/rapid/press-release_SPEECH-13-178_en.htm.
8. See, for example, Walker, A. 2001. ‘NGOs, Business, and International Investment: The Multilateral Agreement on Investment, Seattle, and Beyond’, *Global Governance*, 7 (1), pp. 51-73.



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Talking Points

Current discussions on ECDPM's blog on the challenges of the EU's international cooperation
<http://ecdpm.org/talking-points>

How can Intra-African Agricultural Trade be Tripled?



Talking Points, Francesco Rampa, Lesley-Anne van Wyck & Clément Silverman, 10 October 2014

Tripling intra-African agricultural trade needs collective action, say experts at ECDPM side-event, African Union Commission HQ. All the key Comprehensive Agriculture Development Programme (CAADP) actors reaffirmed the commitments of the Malabo Declaration this week at the ReSAKSS Annual Conference, saying that they are attainable through multi-stakeholder partnerships and multi-sectoral cooperation...

Shaping a Real European Foreign Policy: Challenges Ahead for Federica Mogherini



Talking Points, Andrew Sheriff & Cecilia Gregersen, 10 October 2014

European Union High Representative for Foreign Affairs and Security Policy/ European Commission Vice-President (HRVP)-designate Federica Mogherini enters her job with a full plate. The rise of Islamic State, like the Arab Spring, appeared to come from nowhere, the crisis in Ukraine escalated quickly, and the general feeling of the EU Neighbourhood being 'on fire' stalks the corridors of the EU institutions. Yet, as we argued just last week, ill-conceived firefighting and wishful thinking won't impress...

The EU Commission's Private Sector Communication – Communicating with Whom?



Talking Points, Bruce Byiers, 9 October 2014

As European Commission Communications go, "A stronger role for the private sector in achieving inclusive and sustainable growth in developing countries" is pretty good. It covers all the possible angles for working with, through and for the development of the private sector, and even gets down to proposing principles, criteria for working with firms and specific actions to undertake (see infographic for a summary)...

A Gentle Exchange or an Agenda for Change in the Sahel?



Talking Points, Damien Helly & Greta Galeazzi, 9 October 2014

With a new and rebranded Commissioner for International Cooperation and Development, comes the desire (as usual) to start with something new. But how have past EU commitments in the Sahel actually been implemented?

EPAs: Frequently asked questions

by Isabelle Ramdoo

What are EPAs?

Economic Partnership Agreements (EPA) are 'development-focused' asymmetric free trade agreements negotiated between the African, Caribbean and African (ACP) countries/regions and the European Union (EU), where the EU, as one regional block, provides full duty free and quota free market access to EPA countries and/or regions and where ACP countries/ regions commit to open at least 75% of their markets to the EU.

Who is concerned so far?

As of 16th October 2014, EPAs have been concluded by the EU (28 countries) with 49 ACP countries, covering over 900 million people on 4 continents.

Why negotiate EPAs?

EPAs are trade instruments that replace the unilateral trade regime that governed the trade relationship between EU and ACP countries for over 30 years, under successive Lomé Conventions and since 2000 (and until the end of 2007 only), under the Cotonou Partnership Agreement (CPA). This unilateral trade regime was not compatible with the World Trade Organization (WTO) because it granted more favourable treatment only to ACP countries but not to other developing countries. It thus required a waiver, which was granted by WTO members to the EU until 31st December 2007, under the condition that the discriminatory trade Cotonou regime in favour of the ACP only would be replaced by WTO-compatible trade regimes. This meant in practice either free trade agreements (i.e. EPAs), a non-discriminatory and arbitrary preferential trade regimes to developing countries (i.e. the general system of preferences - GSP), or non-preferential treatment (i.e. trading under the most-favoured nation clause –MFN- of the WTO).

Who negotiated EPAs and under what regional configuration?

EPA negotiations, initiated in 2002, have been conducted at the regional level, in the context of 6, and then 7, EPA groups, namely in: (i) the Caribbean Forum (CARIFORUM) region (15 countries); (ii) the Pacific Islands Forum region (14 countries); (iii) the 15 Economic Community of West African States (ECOWAS) countries plus Mauritania; (iv) the Central African region (8 countries); (v) the Southern African region (a sub-group of the Southern African Development Community - SADC), currently comprising Botswana, Lesotho, Namibia, Swaziland, Mozambique and South Africa; (vi) the Eastern and Southern African (ESA) region (a sub-group of the Common Market for Eastern and Southern Africa - COMESA), included 11 countries (four countries left in 2007 to join the East African Community -EAC- EPA group); and since 2007, the 7th EPA group, comprising of the 5 members of the Eastern African Community (EAC).

Why conclude EPAs before 1st October 2014?

Entry into force of an agreement is a lengthy process: it requires signature, ratification and implementation and may sometimes take years. Therefore, to prevent trade disruption pending the entry into force of EPAs, on 1st January 2008, a Market Access Regulation (MAR 1528/2007) was adopted by the EU, to provisionally apply EPA preferences from the EU to countries that had concluded a deal in 2007, but were yet to sign, ratify and implement their agreements. It was later decided in May 2013 that the MAR would expire on 1st October 2014.

As a consequence, any country or region that would not have taken the necessary steps to ratify the

EPA concluded in 2007, or would not have concluded a new (regional) EPA before 1st October 2014, would therefore automatically fall, after that date, under the GSP, a preferential but less favourable trade regime that the EU gives unilaterally to all developing countries. Least-developed countries (LDCs) can trade under the Everything But Arms (EBA) Initiative under the EU GSP, which provide duty free quota free access to the EU market for all exports, except arms, from LDCs. However, according to the new EU GSP that entered into force on 1st January 2014, any upper middle-income countries would no longer have trade preferences on the EU market.

Does the deadline imply that EPA negotiations are over?

No, the "deadline" of 1st October 2014 does not mean the end of EPA negotiations. The deadline only refers to the coverage of countries under MAR 1528/2007 after that date, as discussed above. EPA negotiations can still continue as necessary (i.e. for countries that have not yet concluded an EPA but would still wish to do so, and for EPA countries/ regions that have *rendez-vous* clause to pursue negotiations on a broader scope in terms of content, such as trade in services, investment and other trade-related issues).

What do EPAs cover?

With the exception of the CARIFORUM EPA, which is a comprehensive Agreement covering investment, services and a number of trade-related regulatory issues (from public procurement to competition and intellectual property rights, among others), all remaining EPAs cover only trade in goods and development cooperation. The rest are contained in a *rendez-vous* clause to continue negotiations on a number of issues, but there is no specific timeline for the finalisation of the negotiations.

The EU provides immediate duty free and quota free market access to all products to EPA signatories (with the exception of South Africa, which has a less open regime with a longer time frame for liberalisation).

On the ACP side, markets are not fully liberalised. The degree of liberalisation varies between 75% for ECOWAS countries and 98% in the case of Seychelles over up to 25 years, reflecting countries' and regions' level of development and capacity to open up their goods market.

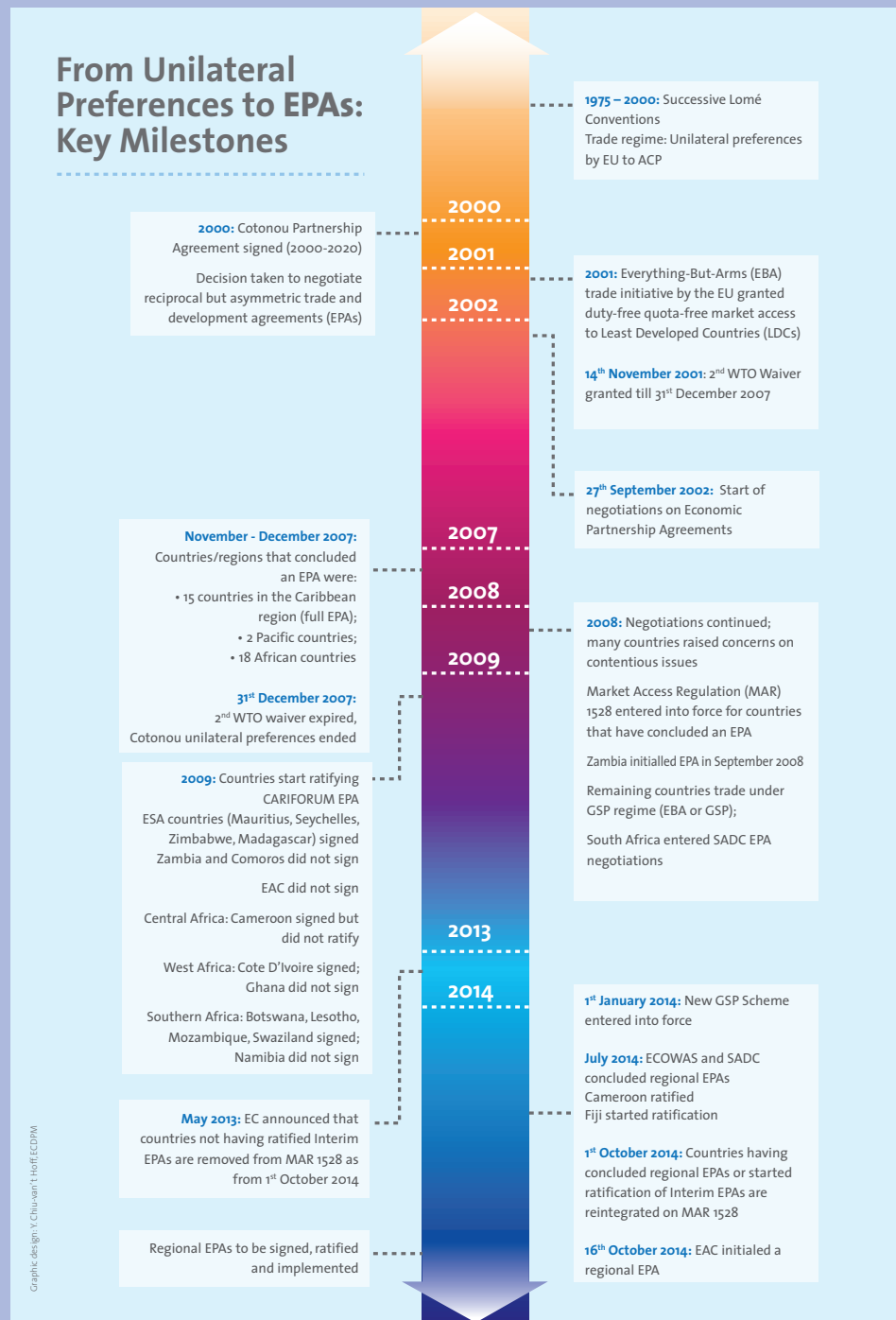
Regions excluded mainly products deemed sensitive for their domestic economies. These include agricultural products and some industrial products that are being produced at home. (For an overview of the ECOWAS EPA and SADC EPA concluded this summer, see www.ecdpm.org/dp165).

What were the key issues that were the more difficult to agree upon?

A number of issues were considered to be 'contentious', given their critical importance for industrial, development, food security and foreign policy purposes. These include: (a) the degree and timeframe for liberalisation; (b) export taxes; (c) MFN clause; (d) non-execution clause; (e) infant industry clause; (f) agricultural export subsidies and domestic support in the EU; and (g) development finance.

EPAs were meant to be development tools: What's in the EPAs for development?

EPAs have been initially branded first and foremost as "development tools", not traditional free trade agreements pursued with vested mercantilist interests. However, the development impact of EPAs will not be automatic



and it may be difficult to measure what economic development can be directly attributed to the EPAs or not. Advocates of EPAs stress the potential positive impacts of EPAs, in terms of free trade but also on possible positive spillover effects, notably on economic reforms, competition and on the increasing interest of private operators to

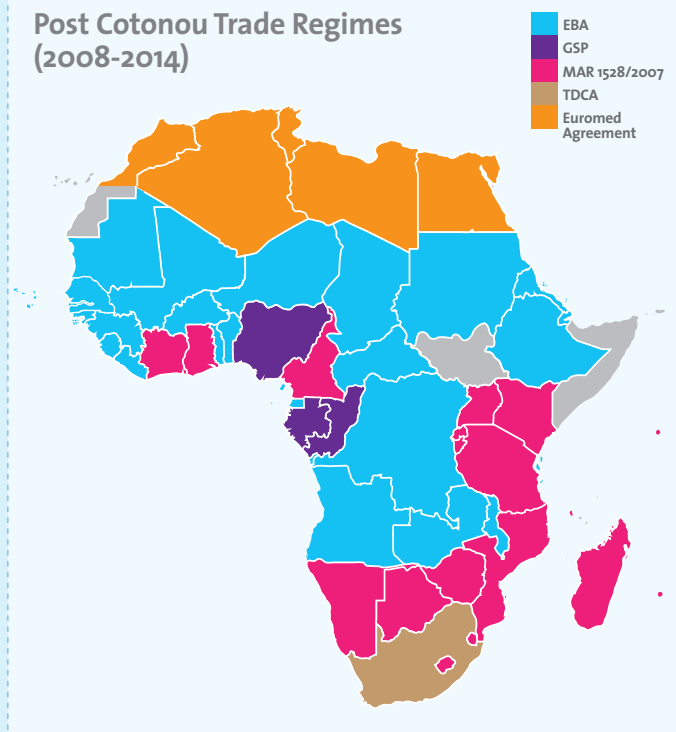
invest in the local economy to reap the benefits of access to the EU market. Critics of EPAs emphasise the potential negative effects EPAs can entail, in terms of policy space for pursuing development policies, lack of capacity (institutions, infrastructure, productive capacity, etc.), adjustments costs (loss of fiscal revenues, productive adjustments,

Who will be covered by EPAs and what trade regimes will apply to my country/region after October 2014?

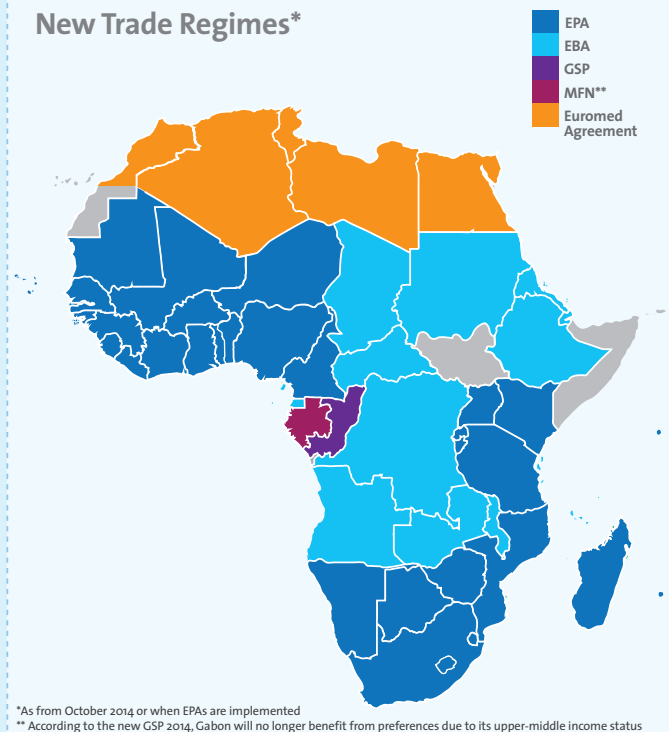
State of Trade Regimes

■ EPA Economic Partnership Agreement
 ■ GSP Generalised System of Preferences
 ■ MAR 1528/2007
 ■ TDCA Trade, Development and Cooperation Agreement
■ EBA Everything But Arms
 ■ MFN Most Favoured Nation
 ■ Euromed Agreement

Post Cotonou Trade Regimes (2008-2014)



New Trade Regimes*



*As from October 2014 or when EPAs are implemented

** According to the new GSP 2014, Gabon will no longer benefit from preferences due to its upper-middle income status

etc.), and lack of financial support.

On the financial side, ECOWAS is the only region that obtained a financial commitment from the EU of €6.5 billion with their EPA, through the EPA Development Programme (better known under its French acronym PAPED). For the others, there is no similar financial support but the regional programming of the 11th European Development Fund (EDF) provides an important opportunity to address some of the EPA related financing, including in financing infrastructure. 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), the use of innovative financing mechanisms could be explored (such as blending grants and loans, and various forms of public private partnerships and cooperation).

*This is a summary of the ECDPM EPA Dossier:
Frequently Asked Questions*

<http://ecdpm.org/dossiers/dossier-economic-partnership-agreements/>

Further information on EPAs:

- ECDPM <http://ecdpm.org/topics/trade-policy-economic-partnership-agreements/>
- EC DG Trade <http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/>
- Civil society <http://www.bilaterals.org/?-eu-acp-epas->

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Monthly highlights from ECDPM's Weekly Compass

www.ecdpm.org/weeklycompass

What does the new HRVP mean for development cooperation? | Africa 2030 – Realising the Possibilities

Weekly Compass, 10 October 2014

European Union High Representative for Foreign Affairs and Security Policy/European Commission Vice-President (HRVP)-designate Federica Mogherini's vision, laid out in her European Parliament hearing, is to ensure a common, long-term vision to prevent crisis and to manage post-crisis situations and beyond. Mogherini intends to ensure more effective external action by increasing European ownership of the Common Foreign Policy, improving institutional relations and ensuring coordination and coherence among all Commissioner portfolios.

Future of EU International Cooperation and Development | Malmström's Trade Policy

Weekly Compass, 3 October 2014

It's a dangerous thing trying to predict the future – including the EU's international development priorities. The Agenda for Change, the EU's guiding development policy since 2011, was almost good to go when the Arab Spring was suddenly in full swing, requiring a hasty rewrite that re-emphasised governance and human rights. So what are the recurring themes likely to be the focus of new Commission for 2014 – 2019?

Moment of Truth for EU External Climate Action? | Post-2015 Means of Implementation | Financing Development

Weekly Compass, 25 September 2014

EU leaders arrived at this week's UN Climate Summit with a weakened negotiating position. Despite ambitious funding targets and a range of foreign policy tools to push the climate change agenda, EU leaders are struggling to find common ground on binding targets for renewable energy, greenhouse gas emissions cuts and energy efficiency for 2030.

Colophon

Governance, Regional integration, Economics, Agriculture and Trade (GREAT) *insights* is ECDPM's monthly magazine covering a wide range of topics related to economic development in Africa and the developing world. *GREAT insights* gathers expert analysis and commentary from a wide variety of stakeholders with different perspectives.

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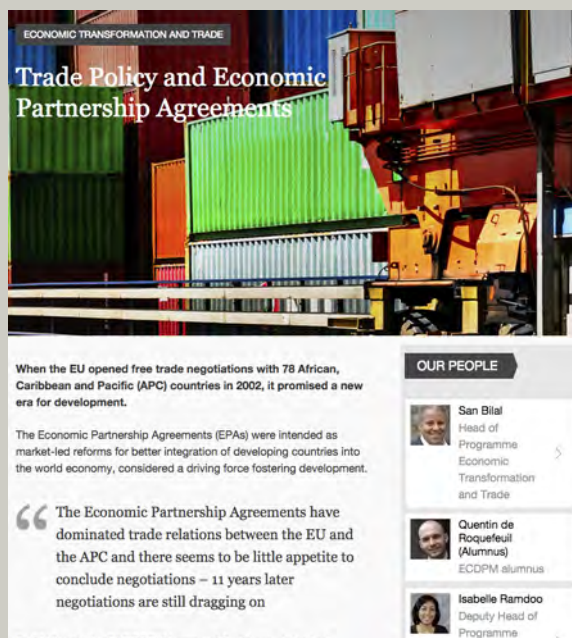
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Visit ECDPM's web page on Trade and Economic Partnership Agreements to follow our discussion on EPAs and see our latest publications on this issue.



Ramdoo, I., Große-Puppenthal, S. 2014. Commodities and the extractive sector: Can transparency foster prosperity, progress and development in the EU and Switzerland? ECDPM Briefing Note 68. Maastricht: ECDPM.

Byiers, B., Krätke, F., Rosengren, A. 2014. EU engagement with the private sector for development: Setting up a one-stop-shop? ECDPM Briefing Note 69. Maastricht: ECDPM.

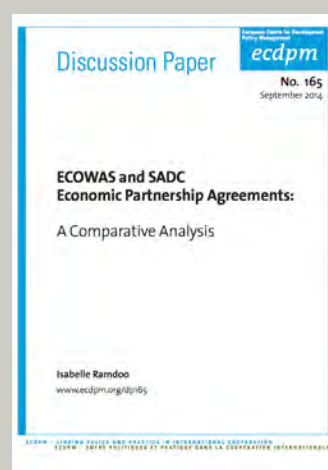


The EC's new Communication on engaging the private sector for development is broadly welcomed as ambitious and action oriented, bringing EU strategy up to date with other donor practices.

Ramdoo, I. 2014. ECOWAS and SADC Economic Partnership Agreements: A comparative Analysis. ECDPM Discussion Paper 165. Maastricht: ECDPM.



The priority for resource-rich developing countries is to transform their extractive resources into prosperity, progress and development. Commodity trading plays a key role in the supply chain. The role of traders and that of their home-countries, are crucial in fostering progress and development in resource-rich countries.



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.

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