

On the importance of Monitoring Economic Partnership Agreements:

**Principles and concrete steps for the
negotiations and beyond¹**

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1 The importance of monitoring the implementation and impact of EPAs

As the contours and implications of the Economic Partnership Agreements (EPAs) between the European Union (EU) and the African, Caribbean and Pacific (ACP) countries gradually emerge, it is becoming clear that careful consideration needs to be given to the challenges of their implementation, which for certain ACP countries that signed Interim EPAs is due to start in 2008.

As reflected in the provisions of the Cotonou Partnership Agreement, the parties involved in EPA negotiations, have agreed that the new free trade arrangements should, first and foremost, be instruments for development. However, the prospect of EPAs has raised serious concerns about their capacity to actually deliver on development. The impact of the EPAs on poverty and poverty eradication, on ACP regional integration processes and on the unity of the ACP group have been called into question, as well as the merits of reciprocal market opening, the capacity of the ACP to negotiate and implement EPAs and the linkages and coherence of the agreements with the ongoing Doha Round at the WTO.

To ensure that the development dimension of EPAs is fulfilled, it is of prime importance to closely monitor the implementation of the new partnership agreements. Many actors in the ACP and EU have suggested setting up an EPA monitoring mechanism, with the aim of assessing progress in EPA implementation relative to the goals set out in the Cotonou Partnership Agreement. In light of criticism that the EPAs may not be properly implemented and may actually contribute to the further economic marginalisation of ACP states, a sound and transparent monitoring process could play a role in keeping the EPAs focused on their ultimate objective (i.e. development, and not just trade). Monitoring might also help identify possible remedies should the EPAs deviate from their primary intended purposes. That said, the utility of monitoring should not lead those involved to underestimate the problems surrounding the establishment of a suitable monitoring mechanism.

Before an EPA monitoring mechanism can be established, the ultimate goals of the EPA must be identified, complemented by more specific objectives, policy reform ambitions and required accompanying measures. This set of goals and objectives can be determined only by the stakeholders involved. Hence, any credible EPA monitoring mechanism requires a consultative and participatory approach, rooted in the realities of the domestic policy environment.

Although people are growing more aware of the importance of monitoring the implementation and impact of EPAs, little thought has been given so far to the possible details of a monitoring mechanism. The ECDPM has engaged in and encouraged debate on this issue, with its partners and through a consultative process. In view of the process to conclude comprehensive EPAs by the end of 2008, and the information needs of the negotiating parties and the many different actors involved, this paper seeks to share the key conclusions and recommendations emerging from this work.

2 Four key questions for monitoring EPAs

The key messages in this paper follow from an in-depth exploration of the following four dimensions:

2.1 Why monitor EPAs?

There are different reasons for monitoring EPAs. Providing that negotiations are successfully concluded, most stakeholders agree on the need for closely monitoring the implementation of EPAs and their impact, to ensure that they effectively deliver on their development promises. Monitoring should provide evidence of:

- (a) the actors' capacity to implement EPAs in a way that benefits them,
- (b) compliance with the commitments made,
- (c) the outcomes and impacts of the EPAs.

The results of monitoring should inform national, regional and ACP-EU policy processes (including the policy on EU development assistance) and should trigger adjustment and remedial measures.

2.2 What should be monitored?

Besides having a range of different purposes, EPA monitoring may also differ greatly in terms of coverage and focus. Three key factors need to be taken into account here:

- (a) the contents of the agreement (as well as related commitments and strategies);
- (b) the context (i.e. economic conditions, institutions, policies and existing capacities);
- (c) the actors involved (and the interests and expectations that each represents).

Based on these factors, a monitoring mechanism could cover the following aspects:

- (i) The **capacity to implement** EPAs. In order to ensure that EPAs are properly implemented, the parties need to monitor the capacity of the various stakeholders to comply with the provisions of the agreement, benefit from them and put the relevant accompanying measures in place. This would also help to identify capacity-building needs.
- (ii) The **implementation of EPA provisions** (including on development cooperation). The parties need to monitor the implementation of EPA provisions, including those on development cooperation and capacity-building.
- (iii) **Impacts and outcomes of EPAs**. Monitoring the results of EPAs should be an activity that triggers certain policy adjustments, the formulation of appropriate accompanying measures and possibly the amendment of certain terms, where relevant.
- (iv) The **enabling environment**. EPAs are not enforced in a vacuum and thus have to be seen in a broader context, which ideally should be enabling. Accompanying domestic measures need to be adopted so as to ensure that EPAs deliver on their objectives. Appropriate adjustment measures as well as framework conditions will have to be monitored, too.

A monitoring exercise will most likely be a mix of the above areas. These are interlinked and differ from one region and country to another, reflecting differences in national and regional contexts and priorities.

Obviously, the broader the scope of the monitoring exercise, the more complex and costly it will be to perform and analyse. For this reason, it will be necessary to prioritise the areas to be

monitored, so as to focus on essential issues only. In doing so, it will be opportune to rely as much as possible on existing reliable data collection processes and to develop and improve data collection where necessary. We also recommend sequencing monitoring and broadening (or shifting) its scope over time. Monitoring activities might also usefully be clustered by category, so as to create synergies. Moreover, stakeholders should try and reach collective decisions on the value of generating and analysing monitoring information at national or regional level, in accordance with the principle of subsidiarity.

2.3 How should EPAs be monitored?

The methods used for collecting and analysing monitoring information can be selected and refined once agreement has been reached on the focus, contents and purpose of monitoring. Although it will be possible to rely on existing monitoring sources, additional indicators will have to be designed specifically for monitoring EPAs. These should be defined along participatory lines.

The choice of approach used may differ from one region or country to another and different areas will require different methods of identifying impact chains (i.e. causal links), indicators and approaches for collecting evidence. Moreover, the final decision on which methods to use will also depend on the availability of data and the analytical capacities in each country and region. In many countries, a major aspect of the monitoring exercise will involve collecting and generating relevant data that are not yet readily available. The quality of the data collected will also have to be checked. It is essential that the data be reliable. The possibility of performing comparative assessments of monitoring outcomes in different ACP countries and regions depends on the quality of the data and the adoption of sound analytical methods. To this end, regional coordination will be needed to ensure that national monitoring exercises can be brought together to assess EPAs at a regional level.

2.4 What stakeholders should be involved, and what sort of institutional framework is needed?

EPAs are ambitious agreements with a broad outreach. Their implementation will thus affect a large number and variety of stakeholders in EU and ACP countries, including regional and national state and non-state actors, as well as the population at large. Besides the challenge of identifying methods that allow for consultation and ideally for participation of representatives of these stakeholders, it will be crucial to determine the relationships between key actors and institutions involved in EPA monitoring. Clearly, the range of actors involved in the monitoring of EPAs should go beyond the official signatories and should also include parliamentarians, the private sector and civil society, alongside government officials.

A special effort needs to be made to ensure that vulnerable groups can participate in the monitoring process and can benefit from its results. Given that actors may sometimes have to bear high opportunity costs to participate, evidence that their inputs are taken into account in the monitoring and decision-making process will be important to encourage them to further improve their capacities and set aside resources for participation. The ultimate objective is that the involvement of different actors in 'formal monitoring' will help to create ownership and foster the development-oriented implementation of the EPAs.

The broader the scope of the monitoring exercise, the stronger the need to establish synergies with other (existing) policy monitoring mechanisms at national and regional levels. Besides avoiding duplication and unnecessary demands on ACP national or regional administrations and relevant non-state actors, this will also raise the efficiency of monitoring while reducing its cost. In any case, a complex and heavy institutional design should be avoided, as this would obstruct the timely production and interpretation of information and hamper decision-makers from acting in response to monitoring results.

2.5 How should an effective EPA monitoring mechanism be framed?

In view of the importance of the EPA monitoring exercise, it is judicious for the parties not to leave this issue out of their negotiations on the form and contents of EPAs. Instead, they should enshrine the key principles of a monitoring framework in the text of each agreement. This will not only make it easier to undertake the monitoring exercise once the agreements have been signed, it will also be a valuable tool for political decision-makers. It could also help to reduce the risks of endless debates on the purpose, scope, conduct and use of monitoring, in a context that is already very politically sensitive.

The first task is thus to identify those features that should be included in the text of an EPA or a protocol on monitoring. If this is not feasible, a protocol on the monitoring of the EPA could be attached to the agreement, possibly at a later stage. Once an agreement has been signed or the protocol on monitoring agreed upon, various steps will need to follow in order to create mechanisms that will enable the implementation and impacts of the EPA to be monitored.

Drawing on the above discussion of the four key points that should be borne in mind when debating an EPA monitoring mechanism, the following sections contain general recommendations on the features that should be included in the text of the agreement and on the type of process that is required to operationalise the monitoring mechanism.

3 Key recommendations and options for the inclusion of provisions in the text of EPAs

In order to establish an effective and practical monitoring mechanism, it is important that the design and process of monitoring be carefully thought out. At the same time, a monitoring mechanism must remain flexible and capable of adapting to unforeseen and changing circumstances.

In deciding what monitoring clauses to include in the text of an EPA or a protocol on monitoring to be annexed to the agreement, the key consideration should be to pave the way for the creation of a credible, transparent, workable and effective monitoring mechanism. Provisions should therefore be included on:

- (1) the principles of monitoring;
- (2) the main purposes of monitoring;
- (3) the scope of monitoring;
- (4) the use to be made of the findings of monitoring;
- (5) the basic institutional setting for monitoring;
- (6) the related cooperation and development assistance;
- (7) an indication of the possible methods and procedures to be followed.

When discussing such different elements (e.g. principles, key functions, etc.), a choice will have to be made firstly as to whether or not to include clauses or groups of clauses on each specific point, as recommended in this paper. The parties will also need to agree on the level of detail. A balance inevitably needs to be struck between specificity on the one hand and flexibility on the other.

The following table highlights our key recommendations on provisions that should be included in the text of any EPA. It also summarises key opportunities and challenges (these are discussed in more detail in ECDPM Discussion Paper 79, www.ecdpm.org/dp79).

Table 1 Recommendations for monitoring clauses for the text of an EPA or a Protocol

Dimension	Recommendations	Opportunities	Challenges
1. Principles of monitoring	<p>Parties should commit themselves to the establishment of a credible, practical and effective monitoring mechanism, in line with the principles of ownership, transparency, mutual accountability and participation</p> <p>The monitoring mechanism must remain flexible and capable of adapting to unforeseen and changing conditions</p>	<p>Agreeing on the main principles may help to prevent the monitoring process from becoming politicised</p> <p>Agreeing on the main principles helps to integrate the monitoring process into the mainstream of EPA implementation</p>	<p>Policy space and flexibility may be reduced.</p> <p>Risk of duplication of efforts</p> <p>Principles (i.e. transparency, participation and flexibility) may be overambitious and hence impractical</p>
2. Key functions	<p>The monitoring mechanism should seek to ensure that parties have the capacity to implement and take advantage of EPAs, while overseeing compliance with the commitments made and assessing the effects of their implementation</p> <p>The monitoring mechanism is intended both to identify problems (information gathering) & assess the changes required (information analysis)</p>	<p>Establishing a credible monitoring mechanism</p> <p>Clearly identifying its role and functions</p> <p>Preventing the proliferation of shadow monitoring mechanisms</p> <p>Information analysis may lower the risk of the information collected being subjected to political interpretation or interpretation in accordance with vested interests</p>	<p>Less scope for policy changes and flexibility</p> <p>Insufficient resources and capacities for performing all the functions</p> <p>Too costly to do both information gathering and information analysis</p>
3. Scope	<p>a) compliance +</p> <p>b) impacts +</p> <p>c) capacity development needs +</p> <p>d) framework conditions (for EPAs) will be monitored</p> <p>Monitoring mechanism to cover trade(-related) indicators and development objectives</p> <p>Precise details of the monitoring mechanism should be specific to each agreement</p> <p>Prioritisation required, based on national and regional development strategy, data collection capacity and human resources capacity</p>	<p>At least tracking of undesired effects and impacts</p> <p>Monitoring a-d with the aid of a commonly agreed mechanism likely to be less cumbersome, controversial and political</p> <p>Ensuring that the development dimension of EPAs is not overlooked or left open to interpretation</p> <p>Reality-check and effective prioritisation can curb excessive ambitions or expectations</p>	<p>Development impacts are difficult to measure due to doubts about causal links</p> <p>Parties may argue about causal links (attribution gap)</p> <p>Overlaps with other policy monitoring mechanisms at national and regional levels</p> <p>Difficult to agree on exact scope by end of negotiations</p> <p>Scope too broad for available resources and capacities</p>
4. Use of results	<p>The results of monitoring should feed into EPA-related national, regional and ACP-EU policy- making processes.</p> <p>The results of monitoring should trigger adjustments and remedial measures: periodic formal reviews and evaluation of EPA</p> <p>The results of monitoring should inform the application of built-in flexibilities such as safeguards and development assistance provided by the EU</p> <p>The results should be used for accountability and public information purposes (by forwarding the reports to national parliaments, media and other interested parties)</p>	<p>Raising the effectiveness and credibility of the monitoring mechanism</p> <p>Incentive for actors to engage</p> <p>Implementation of the EPA is facilitated, less cumbersome, controversial and political</p>	<p>Can the parties effectively monitor themselves?</p> <p>Monitoring remains a controversial exercise whose outcomes are politicised</p>

<p>5. Basic institutional setting</p>	<p>Create synergies with other (existing) policy monitoring mechanisms at national and regional levels, and with existing joint ACP-EU institutions where appropriate</p> <p>The monitoring mechanism should involve not only government officials, but also parliamentarians, the private sector and civil-society representatives</p> <p>The respective roles and responsibilities of the various institutions and stakeholders involved in national, regional and joint ACP-EU monitoring bodies should be specified</p> <p>Monitoring should be conducted at both regional and national levels, with a division of responsibilities in accordance with the principle of subsidiarity</p> <p>The institutional setting should be designed to be 'light'</p>	<p>Avoiding duplications and the imposition of unnecessary demands on ACP countries</p> <p>Raising the efficiency of monitoring while reducing its cost</p> <p>Guaranteeing credibility, accountability and ownership</p> <p>Outsourcing parts of the monitoring process</p> <p>Timely production of information and smooth functioning of monitoring mechanism</p>	<p>Available resources and capacities not sufficient for certain stakeholders</p> <p>Reduced institutional flexibility</p>
<p>6. Related cooperation and development assistance</p>	<p>Investments should be made in capacity-building both in ACP countries and within the EU</p> <p>Assistance should be provided at both national and regional levels</p> <p>Categories of assistance: establishment of national monitoring frameworks, participation of different actors, and collection and processing of monitoring data</p> <p>Representatives of vulnerable and marginalised groups should be involved in the monitoring mechanism or should be able to make use of the results of the monitoring process</p> <p>Possible sources: EU Joint AFT initiative and EDF</p>	<p>Raising the credibility of the monitoring mechanism by addressing problems of low data quality and availability in most ACP countries</p> <p>Own investment in capacity- building strengthens commitment to serious monitoring process</p> <p>Assistance with actors' participation raises credibility of monitoring mechanism</p>	<p>Development resources used for monitoring may be diverted away from other key areas of EPA support</p> <p>The agreed assistance may not be delivered in good time to ensure the smooth operation of the monitoring mechanism</p>
<p>7. Possible methods and procedures</p>	<p>Evidence-based approach</p> <p>Participatory approach at national and regional levels</p> <p>Different methods should be used for different regions and countries and for different areas to be monitored</p> <p>Improve quality of data collection and strengthen analytical capacities</p> <p>Procedures should be put in place to ensure that the establishment of a monitoring mechanism receives a practical follow-up, at least naming institutions that are responsible for fleshing out the mechanism (by an agreed deadline)</p> <p>Impact chain analysis should be used, as this is a useful tool for monitoring EPAs and assessing causal links</p>	<p>Ensuring the monitoring mechanism is operationalised (as simply agreeing on its principles and functions may not be enough)</p> <p>Formalising monitoring results within a jointly agreed framework and thus promoting evidence-based interpretation and analysis</p> <p>Preventing the monitoring process from becoming too polemical and political and its results contestable</p>	<p>Difficult to agree on methods and indicators that are valid for all parties before the conclusion of negotiations</p> <p>Available resources and capacities may be not sufficient for certain methods</p> <p>Specifying methods and procedures may reduce operational and institutional flexibility</p>

4 Steps to be taken after signing an EPA: detailing the road map

Before or shortly after signing an EPA, the parties should agree on the legal framework for monitoring EPAs. Yet, it is likely that, the negotiating parties will not consider monitoring as their first priority during the final stages of negotiations. In this case, monitoring clauses do not necessarily have to be included in the agreement itself. A monitoring protocol could be annexed to the agreement even after the official conclusion of negotiations. This may be a valid means of enabling the negotiators to discuss and formulate clauses on monitoring in spite of their busy timetables. In this case, the text of the EPA should include a commitment to agree on such a protocol, as well as a concrete timetable for its finalisation.

Once the parties have agreed on a legal framework for monitoring, either in the text of the agreement itself or in a protocol, the ACP countries and regions will have to take a number of concrete steps in order to establish a monitoring mechanism. While monitoring itself should take place at national level, the results should be coordinated and harmonised at a regional level. Thus:

- each country should form (if new) or identify a national monitoring committee, which should include representatives from civil society, the private sector and the government.
- a regional monitoring framework should be defined in parallel with this. The role of a regional framework should be to coordinate national monitoring exercises, i.e. to ensure that each member state reports on a limited set of key indicators so as to ensure that the data are comparable and so as to be able to compile, check and analyse the national data. The regional monitoring body should also be responsible for producing and analysing data on aspects that can be monitored only at a regional level (e.g. regional integration). The relevant regional bodies should also be responsible for regularly producing monitoring reports for the region and for organising regular Committee reviews, the results of which should feed back into the Joint ACP-EU EPA Council.

A process aiming at establishing an EPA monitoring mechanism in good time could follow some of these steps. The road map there proposes the creation of different committees at national and regional levels in order to frame specific functions of the monitoring mechanism. In practice, the institutional structure of the monitoring mechanism may, of course, take different forms, depending on existing capacity and the institutional landscape.

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