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Unequal Partners: How EU–ACP Economic Partnership Agreements (EPAs) could harm the development prospects of many of the world's poorest countries

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'I come from a small fishing village in Ghana. Members of my family fished for their livelihood, but fishing has become impossible since larger European fishing vessels came and fished our seas empty. The same happened with poultry. EU imports of frozen chicken wings destroyed the local market...EPAs are free trade agreements, and as such, they will bring poverty to Africa.'

– Tetteh Hormeku, Third World Network, Accra, Ghana

'Our experience tells us that FTAs between a large market like the EU and small economies are not easily sustainable and often lead to a deficit for the weaker partner.'

– EU Europa Trade website: the EU describing its recent Free Trade Agreement (FTA) negotiations with Central America¹

Summary

The Doha 'Development' Round of trade talks has stalled, but the world's poorest countries remain under pressure to open up their markets with potentially disastrous consequences. These negotiations were meant to 'make trade fair', but they were blocked by the USA and EU, unwilling to address the rigged rules and double standards from which they benefit. The EU wants to forge new free trade agreements with 74 of its former colonies in Africa, the Caribbean, and the Pacific (ACP). These imbalanced negotiations of 'Economic Partnership Agreements' between the two regions, pit some of the world's most advanced industrial economies against some of the poorest nations on earth. In addition, the ACP countries are split into six small groups for the negotiations; the smallest group, the Pacific Islands, is negotiating a trade agreement with an economic giant more than 1400 times its size.

The EU has an opportunity to develop fairer trading relations with ACP countries, but such extreme disparities in negotiating power could all too easily produce unfair results, and Oxfam fears that the future development of the ACP countries may be jeopardised by the EU's tactics. Far more is at stake for the ACP than for Europe. Nearly half (41 per cent) of ACP exports go to Europe, but ACP trade is merely small change for the giant European economy. Firms in the City of London pay more in executive bonuses than Europe spends on buying products from the whole of the ACP.² Yet there is every sign that Europe is playing hardball in these negotiations, putting commercial self-interest before development needs. In addition, there is a wider concern that EPAs could undermine multilateralism.

Under the proposed EPAs:

- farmers and producers in many of the world's poorest countries will be forced into direct and unfair competition with efficient and highly subsidised EU producers;
- regional integration amongst ACP countries will be severely undermined;
- ACP governments will lose substantial revenue along with many of the policy tools they need to support economic and social development.

In September 2006, the EU and ACP will start their mid-term review of the EPA negotiations, a formal exercise scheduled when the EPA process was launched in 2002.³ The review provides a real opportunity for ACP governments – and the EU – to fully consider the development implications of the current EPA proposals and trends, and to re-focus efforts on putting together a pro-development trade agreement in conformity with the Cotonou Agreement. As this note will show, the proposed EPAs are a serious threat to the future development prospects of ACP countries, and the forthcoming review must be used to force a radical rethink.

Next round: world's poorest vs. world's richest

The EPA negotiations are being conducted between the 25 EU countries, which have a combined GDP of \$13,300bn, and six groups of African, Caribbean, and Pacific countries. Among these ACP countries are 39 of the world's 50 Least Developed Countries (LDCs). The smallest group, the Pacific Islands, has a combined GDP of only \$9bn – 1,400 times smaller than the EU's. Even the largest group, the West Africa region, is more than 80 times smaller than the EU in terms of GDP. Given these vast inequalities, it is not hard to see where the power lies.

Table 1: Unequal partners in trade

EPA	GDP 2005 (billion US\$)	per cent of EU GDP ⁱ	Ratio to EU GDP
EU	13,300		
SADC	66	0.50	200
ESA ⁱⁱ	75	0.56	178
West Africa	162	1.22	82
Central Africa	40	0.30	330
Caribbean	72	0.54	185
Pacific ⁱⁱⁱ	9	0.07	1,414
Total EPA	425	3.20	31

Source: World Bank 2005

<http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf>

ⁱ Data given to two decimal places.

ⁱⁱ Eastern and Southern Africa.

ⁱⁱⁱ Data unavailable for Cook Islands, Nauru, Niue, Tuvalu.

The current round of EPA negotiations has been sparked by the expiry of previous trade agreements between the EU and ACP countries. Since 1975, political and economic relations between the two blocs have been governed by a series of five-year 'Lomé Conventions'.⁴ Recognising the vast economic differences between the EU and ACP, the agreements provided trade preferences and aid to ACP countries, without requiring them to reciprocate. ACP exporters were given substantial access to EU markets, while ACP countries retained the right to protect their producers from highly competitive (and often highly subsidised) EU exporters. The Lomé Convention and Cotonou Agreement were not unqualified successes. Despite having many pro-development elements, they have also contributed in some ways to some of the development problems faced by ACP countries today.

The last Lomé Convention came to an end in 2000, and was replaced by the Cotonou Partnership Agreement, which had the principal objectives of reducing poverty and promoting the sustainable development of ACP countries and their gradual integration into the world economy.⁵ Under the Cotonou Agreement, the EU and ACP agreed to maintain the Lomé preferential system until the end of 2007, and then to replace it with a new Economic Partnership Agreement that would be WTO-compatible.⁶

Under the World Trade Organisation rules, both parties must liberalise, with the ACP being required to give duty-free access to 'substantially all' EU exports within a 'reasonable time'.⁷ So, to maintain the preferences they already have in the EU market, from January 2008 ACP countries must open their own markets to direct competition from highly competitive EU goods and services. In addition, the EU is pushing for the inclusion of competition policy, investment, and government procurement. The proposed EPAs imply nothing less than a fundamental restructuring of the political and economic relations between the EU and ACP countries.

A true 'partnership'?

Surely 'partnership' implies that both parties gain from an agreement? With EPAs, the gains for the EU are clear; but it is hard to see where the gains will be for ACP countries.

Market access for ACP exporters

Although the EU has promised to increase market access for all ACP exporters, there is little sign that this will happen. The EU established an 'Everything but Arms' (EBA) programme for the Least Developed Countries, including 39 LDCs in the ACP blocs in 2001. Under this initiative, eligible countries have duty-free market access for the vast majority of their exports into the EU. For the remaining developing countries in ACP, however, it is unlikely that market access will be expanded beyond the preferences they already had under the Lomé Conventions, or remove the barriers that undermined the effectiveness of previous preferential agreements.⁸ Even with an EPA, it is likely that ACP exporters will continue to face stringent rules-of-origin, which limit the number of exports that can receive preferential treatment;⁹ ever-increasing sanitary and phyto-sanitary standards (SPS), which make it very hard for their exporters to break into European markets;¹⁰ and tariff escalation on key value chains, which levies higher taxes on processed goods (e.g. instant coffee) than on raw materials (such as coffee beans), and so deters ACP countries from processing their own products. Slow progress on EU agricultural reform means that even if they manage to export to the EU, ACP exporters will still have to compete with highly subsidised EU producers.¹¹

In sum then, the 39 least developed ACP countries will not gain appreciably from market access under an EPA, since they have already been promised this access under the EBA scheme, while the other 35 developing countries are negotiating just to preserve the market access they already have under the Cotonou Agreement.

Market access for EU exporters

In terms of ACP market opening, the exact meaning of 'substantially all' trade is strongly debated. Under the EU-South Africa free trade agreement, the EU agreed to liberalise 95 per cent of its trade with South Africa over a 10 year period, while in return South Africa was required to liberalise 'only' 86 per cent of its imports from the EU over a 12-year transition period.¹² In the context of EPAs, the EC has stated that the 'reasonable length of time' for transition it envisages will be 10 years, but may be longer in exceptional cases.¹³

In terms of the liberalisation coverage in ACP countries, the EC has been more guarded. It is generally understood, however, that if the EU liberalises 100 per cent of its trade, the ACP countries will have to liberalise 80 per cent of their markets, thus allowing only 20 per cent protection of products from competition with European

goods and services. While such a split would meet the EC's criterion for WTO compatibility of an average of 90 per cent of trade liberalised,¹⁴ it would effectively squeeze ACP governments into choosing between maintaining tariffs on valuable revenue-raising imports such as cars and electronics; protecting staple foods such as maize; exempting a few existing industries from competition; or securing the ability to support future industrial development.

Most ACP governments are heavily dependent on import taxes to raise government revenue. The World Bank estimates that in sub-Saharan Africa tariff revenues average between 7–10 per cent of government revenue.¹⁵ The governments of Gambia and Cape Verde, for example, count on tariffs for up to 20 per cent of their revenues.¹⁶ With EU products representing 40 per cent of total imports in sub-Saharan Africa, eliminating tariffs on EU imports would lower tariff revenues considerably. In the worst-case scenario, Gambia and Cape Verde stand to lose nearly 20 per cent of their total government revenue, while Ghana and Senegal can be expected to face a decline in revenue of 10–11 per cent.¹⁷

These losses are likely to have serious impacts on government spending because ACP countries, if they are unable to mitigate the loss by raising revenue in other ways, will be forced to cut fiscal expenditure. This could in turn put social programmes at risk and lead to declining investments in health and education. To put it into perspective, the estimated tariff revenue loss as a result of EPAs for the Republic of Congo is roughly equivalent to the government's total public expenditure on education.¹⁸

While consumers in ACP countries may benefit from a wider variety of cheaper goods and services entering ACP markets under import liberalisation, an EPA would threaten livelihoods in key agricultural and manufacturing sectors. The removal of tariffs on EU imports will put products (often highly subsidised)¹⁹ from one of the world's most economically advanced regions in direct competition with producers in some of the world's poorest countries. Despite the expectation on both the EU and ACP sides that in some sectors liberalisation will have dramatic consequences, impact assessments to date have been superficial and of variable quality, failing to quantify the effects on levels of production, employment, or the future competitiveness of productive sectors in ACP countries. According to the EC's own Sustainability Impact Assessment (SIA) of EPAs, 'While liberalisation might encourage [consumers to buy products at affordable prices], it *might also accelerate the collapse of the modern [sic] West African manufacturing sector*' [emphasis added].²⁰

Not only do EPAs threaten existing productive sectors, they could severely undermine the ability of ACP governments to support *future* economic development. Virtually all countries that have developed in the past have used tariff policy to encourage small enterprises to move up the value chain into new manufacturing and processing industries.²¹ This entails changing tariff levels in response to the needs of the economy and to national or regional development priorities.²² The EPAs will severely restrict the ability of ACP governments to use tariff policy in this way. ACP countries will only be able to exempt from full liberalisation products that account for less than 20 per cent of the total value of trade with the EU. In addition, it is unlikely that they will be able to make significant changes to these decisions in the future, even if their evolving industrial structure requires different patterns of protection. Considerations of revenue and protection of existing livelihoods are likely to exhaust the 20 per cent of trade excluded from EPA negotiations, leaving little or no flexibility to include on the list other industrial or agricultural sectors that may have future growth potential. Freezing tariffs under EPAs therefore runs the risks of locking ACP countries into production of primary commodities and preventing economic development.

A further offensive interest of the EU is to open up ACP trade in services. The Cotonou Agreement reaffirms the commitments made under the General Agreement on Trade in Services (GATS), and confirms that ACP countries must receive special and differential treatment.²³ However, the EC's negotiating mandate is more aggressive than either Cotonou or the WTO, stating that negotiations on services should 'begin in all sectors by 2006 at the latest'.²⁴ The implications for development of including services in the EPA negotiations remain largely unknown, and few studies have analysed in depth the services sectors in ACP countries. ACP countries themselves have stated firmly that 'due respect must be given to the right of members of the ACP group to regulate trade in services and liberalise according to the national policy objectives'.²⁵ It remains to be seen how successful they will be at retaining flexibility to regulate services in the negotiations.

Through the back door

The EU is pushing strongly for the inclusion of competition policy, investment, trade facilitation, and transparency in government procurement (the so-called Singapore Issues) in the EPA process. With the exception of trade facilitation, developing countries have successfully excluded these issues from the remit of WTO negotiations. ACP countries have collectively stated that they do not want to include competition policy, investment and government procurement in the EPA negotiations and described their disagreement with the EU on these issues as of a 'fundamental nature'.²⁶ At the last African Union Ministerial, ministers called on the EU not to press African countries to take up obligations that go beyond their WTO obligations, and called for these issues to stay 'outside the ambit of EPAs'.²⁷ Yet the EC continues to insist that there will be 'no EPA without investment rules and full reciprocity'.²⁸

The implications for ACP countries of negotiating the Singapore Issues have not been systematically analysed, but there is enough evidence to worry ACP policy makers. A pragmatic concern is the sheer cost of implementation. The costs of implementing new laws on competition would be substantial,²⁹ and developing countries are still struggling to implement the WTO obligations on customs reform, intellectual property rights, and SPS agreed during the Uruguay Round. Estimates suggest that each of the 16 areas of reform agreed during the Round cost a country US\$2.5m to implement.³⁰

A more strategic concern is that ACP countries would be entering binding agreements with the EU in key areas of trade and industrial policy. They have relatively little experience or technical expertise in these areas, and it is not clear which type of policy will best suit their economies, either now, or crucially, as they develop in the future. For this reason it is imperative that ACP governments retain sufficient flexibility to adapt policies as needs require.

Investment is a case in point. The EU argues that by entering a binding investment agreement, ACP countries would benefit from an influx of foreign direct investment, which would stimulate economic growth.³¹ To date, this appears to be little more than conjecture. There is a large body of evidence which led the World Bank to conclude that countries that have investment agreements are no more likely to receive additional investment flows than countries without such a pact.³² Surveys suggest that the primary disincentives for investors in sub-Saharan Africa are concerns surrounding political stability, security, and unreliable electricity supply, rather than a lack of binding investment agreements.³³

In addition, the EC's EPA negotiating mandate favours 'non-discrimination', meaning that ACP countries would be forced to treat giant European multinationals in the same way as their own far weaker companies. This would prevent ACP governments from using investment policies that many other countries have used to build up national industries (including limits on ownership, performance on exports or local employment, or insistence on joint ventures with local firms). Yet EU negotiators continue to insist on including investment, claiming in their negotiations with West African countries that 'it is not worth having an [EPA] between the EU and ECOWAS if the Agreement did not include... liberalised rules for investment'.³⁴

Regional (dis)integration?

'The EC's insistence on trying to determine what is best for the ACP and how we should configure our economic space seems more than a little disingenuous. It is difficult to see how the [European] Commission can reconcile its current negotiating approach with the statements made by various Commission officials that it is up to ACP regions to determine the pace and priorities of their regional integration.'

– Dame Billie Miller, Barbados Minister of Foreign Affairs and Foreign Trade and Chair, ACP Ministerial Trade Committee, 20 June 2006

The European Union continues to pay lip service to the importance of regional integration. However, as currently envisaged, EPAs are likely to weaken future regionalism and hinder intra-ACP trade.

Regional integration is a central plank of the Cotonou Agreement³⁵ and a key part of the development strategies of ACP countries. For the ACP, regionalism can promote the pooling of resources, the expansion of markets, increased trade and investment, and greater diversification and value addition, and in turn reduce dependency on a small number of developed country markets. The EU has also recognised in its EPA negotiating mandate that 'economic and trade integration shall build on regional integration initiatives of ACP states'³⁶ and 'shall take into account the regional integration processes within the ACP'.³⁷ However, if regional markets are opened to EU imports before they have been consolidated, it will undermine, rather than reinforce, the regional efforts currently under way. The case of CARIFORUM is but one illustration of this point. CARIFORUM offers differentiated treatment to weaker and vulnerable economies in the region.³⁸ However, in EPA negotiations with the region, the EC has been pushing for a single regime with harmonised rules for all CARIFORUM members so that EU exporters can enjoy a single point of entry. This is a direct challenge to regional governments' sovereignty in constructing their regional trade regime.

Splintering regional groups

The EPA negotiations are splintering existing regional alignments and forcing ACP countries to choose the body through which they will negotiate with the EU. Within each EPA regional body,³⁹ there are problems of overlapping membership. This is particularly the case in Southern and Eastern Africa, where parties to the Southern Africa Development Community (SADC) Trade Protocol have split into three groups (see Table 3). Sixteen of the member states of SADC and COMESA are negotiating with the EU under the banner of the Eastern and Southern Africa (ESA) Group; the Democratic Republic of Congo is negotiating in the Central African Group; while the remaining members of SADC (Southern African Customs Union members Botswana,

Lesotho, Namibia, and Swaziland, together with Angola, Mozambique, and Tanzania) are negotiating a completely separate EPA in the SADC Group. In addition, the three East Africa Community (EAC) states (Uganda, Kenya, and Tanzania) are split between the SADC and ESA groupings.

Table 2: Splintering the SADC region

	SADC Grouping	ESA Grouping	Central Africa Grouping	Not Negotiating An EPA
Angola	Shaded			
Botswana	Shaded			
DRC			Shaded	
Lesotho	Shaded			
Madagascar		Shaded		
Malawi		Shaded		
Mauritius	Shaded			
Mozambique		Shaded		
Rwanda		Shaded		
South Africa				Shaded
Swaziland	Shaded			
Tanzania	Shaded			
Zambia		Shaded		
Zimbabwe		Shaded		

SADC Trade Protocol

This complex realignment of regional blocs and the pace of negotiations that the EU is forcing on its former colonies will create serious difficulties for the harmonisation of liberalisation schedules. Because ACP countries have different priorities regarding the sectors they wish to protect from import competition and to preserve for the generation of tariff revenues, it is possible that each member of an EPA will select different products on which to liberalise. If regional groupings are not sufficiently harmonised before an FTA is launched, the EPAs will create new barriers to intra-regional trade.

For example, if Kenya chooses not to liberalise flour and maintains its tariff levels but Ethiopia removes all duties, traders may circumvent Kenya's restrictions by transporting cheap (and possibly dumped) goods imported from the EU across the border from Ethiopia.⁴⁰ In order to prevent this type of transshipment, rigorous border controls would have to be maintained to differentiate between goods originating regionally and goods originating from the EU. The imposition of these time-consuming customs procedures and costly rules-of-origin checks would reinforce barriers to intra-regional trade rather than reduce them.

Regional partnerships under strain: inside or outside an EPA?

The presence of both LDC and non-LDC countries within EPA negotiating groups is also likely to produce difficulties for regional integration initiatives. Under the EBA arrangement, LDCs already have duty-free access to the European market for 'everything but arms', and therefore have little incentive to sign a further free trade agreement. In ECOWAS, for example, 13 of the 16 member countries are LDCs. However, if these countries choose to opt out of an EPA, but continue with the ECOWAS regional integration process, they will still feel the effects of EU imports entering their markets via their non-LDC regional neighbours.

The hidden dangers that free trade agreements with the EU pose for regionalism are illustrated by the case of the Southern African Customs Union (SACU). Although South Africa is a member of SACU, it has signed a free trade agreement with the EU – the Trade, Development and Co-operation Agreement (TDCA). While the agreement did not formally include the other members of SACU – Botswana, Lesotho, Namibia, and Swaziland – it has had a clear impact on them, effectively making them *de facto* members. Because of the SACU's common external tariff, the four countries will be forced to reduce their tariffs on imports from the EU at the rate agreed by South Africa. It is estimated that this could lead to a 21 per cent decrease in their tariff revenues, with Botswana standing to lose around 10 per cent of its total national income.⁴¹ Similarly, the partners in any SADC EPA would effectively be accepting the import regime that South Africa has already agreed with the EU, unless they retained robust and costly border controls to filter out EU-originating goods coming into their country via South Africa.

Splitting regional groups between the non-LDC countries that enter an EPA with the EU and those LDCs that maintain their trade barriers will have serious consequences. In practical terms, LDCs that chose to remain outside an EPA would only be able to prevent the *de facto* liberalisation of their markets if they also erected barriers against their neighbours. Such barriers would ultimately negate the principle of greater regional integration.

Historically, intra-regional integration has tended to be weak in ACP countries, due to the outward orientation of their market infrastructure and institutions and their economic reliance on a limited basket of primary commodities for export outside the region. If these regional weaknesses are not prioritised and sufficiently addressed, the conclusions of EPAs risk creating 'hub-and-spoke' development, whereby ACP countries become increasingly dependent on EU imports at the expense of regional integration. Intra-regional integration needs to be allowed to proceed at its own internally driven pace, not according to imposed, arbitrary timetables and progress targets, as the EC is currently attempting to do.

The illusion of assistance

Implementing an EPA will clearly be costly for ACP countries in terms of losses in tariff revenue and employment. In addition, impact assessment studies⁴² show that for ACP countries to reap any benefits from increased market access provided under EPAs, they first need to address the major supply-side constraints that impede competitive production. One study estimates conservatively that total 'adjustment costs' such as compensation for loss of tariff revenue, employment, production, and support for export development for ACP countries could be about €9.2bn.⁴³

The EU has a history of providing substantial development assistance to ACP countries, covering areas such as health, education, water and sanitation, and roads. This support is channelled through the European Development Fund (EDF) and disbursed in five-year cycles. In response to ACP concerns about the costs of EPAs, the EC has pledged to increase the amount pledged under the next EDF funding cycle (2007–11) to €22.7bn.⁴⁴ At first glance this would seem to be sufficient to meet the EPA adjustment costs, but deeper scrutiny suggests that this assistance may be more illusion than reality.

Table 3: Funds allocated and spent during each five-year financing cycle (million euros)

EDF assistance package	Funds allocated during the five-year envelope (nominal value)	Real value of envelope (1975 base year)	Disbursements in the five years to which the envelope was allocated (nominal value)	Percentage of total allocation disbursed in the five years to which it was allocated (nearest per cent)
4 th EDF (1976–80)	3,390	2,696	1,454.5	43
5 th EDF (1981–85)	5,227	2,586	2,041.0	39
6 th EDF (1986–90)	8,400	3,264	3,341.6	40
7 th EDF (1991–95)	12,000	3,514	4,417.9	37
8 th EDF (1996–2000)	14,625	3,463	2,921.6	20
9 th EDF (2001–06)	15,200	3,131	4,239.0	28

Notes: Under the 8th EDF the first year of payment was 1998. The total covers three years of actual payments from 1998–2000. Under the 9th EDF the first year of payment was 2002. The payments cover the four years from 2002–05.

Source: Grynberg, R. and A. Clarke (2006) 'The European Development Fund and Economic Partnership Agreements', Commonwealth Secretariat, Economic Affairs Division
Data from

http://ec.europa.eu/comm/development/body/cotonou/statistics/stat11_en.htm.

The EC suggests that funds to compensate ACP countries for the costs of implementing EPAs would come from the 10th EDF funding cycle (2007–11), for which a total of €22.7bn has been pledged. Yet, even before EPAs came onto the scene, it was estimated that €21.3bn would be needed for the 10th EDF funding cycle, merely to fund the costs of the EU's existing aid portfolio and maintain EU contributions at 0.38 per cent of the EU's national income (GNI).⁴⁵ If this is the case, the 10th EDF is merely business as usual. Rather than provide new funds for EPAs, the EC will cover EPA adjustment costs from its existing aid budget diverting money away from other areas, such as health, education, and rural development.

Even if ACP countries decide to use existing aid money for EPA adjustment costs, it might be very slow in arriving. During the last five-year cycle (2001–06), the EU promised €15bn in aid to ACP countries. By the end of the cycle, only 28 per cent of this money had been disbursed. The record for the previous cycle was even worse. For

1995–2000, a promise of €14.6m was made. Funds only started to be disbursed in the third year, and by the end of the five years only 20 per cent had been paid out. Since ACP countries will quickly feel the impact of EPAs on their economies, the EU's disbursement mechanisms clearly need a major overhaul if EU assistance is really to make a difference.

ACP governments are wary of the EC's smoke-and-mirrors approach to development assistance and have called for a separate and additional EPA financing facility,⁴⁶ so that the EC can be held to its promises and funds can be clearly tracked. To date, this has not been agreed and the promise of assistance remains a mirage.

A flawed process

The EPA negotiations have been heavily criticised for their lack of transparency, consultation, and informed debate. For many ACP countries, negotiations are largely the preserve of technical negotiators based in very weak regional institutions, where staff are often paid by the EU. In the Central Africa Region, the regional negotiating structure of the CEMAC Secretariat is so weak that DG Development has expressed serious concerns about its management capabilities.⁴⁷ At a recent EU–ACP ministerial meeting,⁴⁸ ACP ministers called for the EC 'to respect the negotiation process and to desist from exerting pressure at the highest political level by taking advantage of the information gap that may exist between the negotiators and the political leadership'. They called on EU member states to 'urgently review the negotiating directives of June 2002 and the current negotiating structure' so as to facilitate delivery on the 'development component of the EPA negotiations'. Civil society organisations and politicians have criticised the negotiating process for its lack of transparency, and for its limited political and public participation and debate.

The EPA review: an opportunity for a radical rethink

The EPA negotiations are clearly plagued with problems of both content and process, and, in their current form, the proposed EPAs will not deliver their development promises. The formal mid-term review of the EPA negotiations is scheduled to start in September 2006, and is an ideal time to turn the tide on EPAs.

In preparing for the mid-term review, the EU pressed for a process that would essentially avoid questions of content and would merely assess whether the negotiations were on track for 'timely completion' in December 2007.⁴⁹ The ACP countries, on the other hand, insisted that the review must be 'inclusive and consultative', 'conducted at national and regional levels' and must include 'the structure, process, and substance of the negotiations, the trade and development dimensions, as well as the capacity and preparedness to conclude EPAs'. The ACP ministers won the day, and agreement has been reached on a mandate for a comprehensive, consultative, and inclusive review.⁵⁰ The challenge now is for the EU and the ACP to make sure that the implementation of the review genuinely reflects the wording of this mandate.

The review should also be expanded to include exploration of alternatives to EPAs. The Cotonou Agreement explicitly provides for the consideration, if necessary, of alternative trade arrangements for non-LDC ACP countries that would be 'equivalent to their existing situation'.⁵¹ There are various WTO-compatible alternatives to EPAs, including non-reciprocal options and options requiring less than full reciprocity.⁵² ACP

countries, as well as the EU, have to consider alternatives to EPAs if they are to make an informed decision as to what is best for development.

There has been no mention of contingencies if negotiations cannot be concluded before the ACP waiver⁵³ expires at the end of 2007. The EU will have to temper its pressure to conclude negotiations by then with a commitment to ensure that whatever trade co-operation framework is agreed with ACP regions, it provides the best possible solution to promoting development. If it is unlikely that an EPA – or an alternative to an EPA – will be agreed by the deadline, the EU will have little option but to ask WTO members for the current waiver to be extended until agreement can be reached.

Conclusion and recommendations

The mid-term review provides an opportunity for negotiators to strengthen the legitimacy of the EPA process by improving the quality of information available, expanding participation, and increasing transparency and accountability between EU and ACP negotiators and their respective political bodies and wider publics. To make the most of this opportunity, the review should ensure that:

1. The quality and scope of impact assessments is substantially improved, to examine not only the immediate adjustment implications of EPAs, but also their impact on future development policy.
2. A range of alternatives to EPAs is examined, in compliance with Article 37.6 of the Cotonou Agreement. This must include arrangements without reciprocal market liberalisation, without Singapore Issues, and without WTO plus provisions, particularly in relation to TRIPs. The expected impacts of the different arrangements must be assessed, so that all parties can judge what arrangement would best contribute to sustainable development and poverty reduction in the ACP countries.
3. There is full disclosure of information to the public, including the findings of independent impact assessments, and transparency on the content and process of the negotiations.
4. The process includes parliamentary debate and stakeholder consultation with unions, NGOs, the private sector, the media, and other key actors in ACP countries.
5. Sufficient financial and technical assistance is provided to ensure that transparent, structured, and participatory consultation and debate can take place at both national and regional levels. Funding for this process should not come with conditions attached or involve outside influence from EU donors.
6. Sufficient time is allowed beyond the date of the next Joint ACP-EU Ministerial in the first half of 2007, if the review process is to ensure quality analysis on the implications of EPAs, and for it to be genuinely comprehensive and inclusive.
7. There is coherence and consistency with national development strategies, by involving in the review process relevant ministries as well as donors that support those development strategies.

8. The EU does not exert disproportionate pressure on ACP countries to conclude negotiations by the end of 2007, if negotiating texts do not adequately serve the objectives of promoting development and reducing poverty.

Notes

¹ http://europa.eu.int/comm/trade/issues/bilateral/regions/central_america/index_en.htm.

² Total EU imports from the ACP were \$35.8bn in 2004; while in 2006, London City firms paid \$US 36.2 bn (£19bn) in bonuses. Sources: www.trademap.org; *Guardian newspaper* 17 August 2006.

³ Article 37.4 of the Cotonou Agreement. 'The Parties will regularly review the progress of the preparations and negotiations and will, in 2006, carry out a formal and comprehensive review of the arrangements planned for all countries to ensure that no further time is needed for preparations or negotiations.'

⁴ The Lomé Conventions were part of a series of post-independence agreements which governed relations between the EU and its former colonies. Note that the Lomé IV agreement spanned 10 years.

⁵ Article 1 (2) of the Cotonou Agreement.

⁶ The WTO's Enabling Clause allows countries to provide preferences to developing countries as a whole, or just to LDCs. The Lomé Conventions were incompatible because they excluded a large number of developing countries.

⁷ Free trade agreements would have to accord with Article 24 of the General Agreement on Trade and Tariffs (GATT) 1994. While the WTO explicitly recognises the rights of developing countries to Special and Differential Treatment (SDT), Article 24 has the fundamental flaw of lacking SDT provisions.

⁸ The high value of preferences is concentrated among a few beneficiaries, primarily small-island states and other major sugar and banana producers. To a far lesser extent in terms of value, preferences are also of considerable benefit to a small number of low-income countries that are heavily dependent on a narrow set of products (notably tobacco, textiles, fisheries, and cocoa). Source: K. Alexandraki, (March 2005) 'Preference Erosion: Cause for Alarm?', IMF Policy Development and Review Department.

⁹ Rules of origin determine where a good 'comes from' for the sake of trade preferences, as only goods originating in certain countries qualify for duty-free access or lower tariffs. However, current rules are much stricter than necessary.

¹⁰ Sanitary and Phyto-Sanitary Standards (SPS) are standards put in place in principle to protect public health in an importing country, while Technical Barriers to Trade (TBT) are put in place to ensure that products meet technical standards and other specifications for use in the importing country.

¹¹ Furthermore, the present and future value of ACP preferences is decreasing due to most-favoured nation (MFN) liberalisation, reforms of the EU sugar and banana regimes, and the introduction of other preferential schemes that provide developing countries with preferential access to the EU market.

¹² Karingi et al (2005) 'Economic and Welfare Impacts of the EU-Africa Economic Partnership Agreements', UNECA, ATPC Work in Progress, No. 10.

¹³ European Commission (2005) 'Economic Partnership Agreements — Putting a Rigorous Priority on Development', memo, 20 January 2005. Brussels: European Commission. www.europa-eu-un.org/articles/en/article_4245_en.htm.

¹⁴ S. Bilal, and F. Rampa (2006) 'Alternative to EPAs: Possible Scenarios for the Future ACP Trade Relations with the EU', Maastricht: ECDPM, Policy Management Report 11.

¹⁵ L. Hinkle et al. (2005) 'Beyond Cotonou: Economic Partnership Agreements in Africa', in R. Newfarmer, 'Trade, Doha, and Development: A Window into the Issues', Washington DC: The World Bank, pp.267–80.

¹⁶ *Ibid.*

¹⁷ M. Busse et al. (2004) 'The Impact of ACP/EU Economic Partnership Agreements on ECOWAS Countries: An Empirical Analysis of the Trade and Budget Effects', Institut für Wirtschaftsforschung, Hamburg.

¹⁸ The Republic of Congo's public expenditure on education in 2000–02 was 12.6 per cent of total government expenditure, compared with an estimated loss of 11.7 per cent of total government revenues as a result of EPAs. Figures on public expenditure on education sourced from UNDP, 'Human Development Report 2005'. Figures on revenue loss from Karingi et al., *op. cit.*

¹⁹ In 2005, the EU spent €1.43bn on export subsidies to dump surplus EU dairy and dairy products on world markets, destroying livelihoods in some of the world's poorest countries. See 'Milking the CAP: How Europe's dairy regime is destroying livelihoods in the developing world', Oxfam International, December 2002.

²⁰ SIA of Trade Negotiations of the EU–ACP Economic Partnership Agreement, Mid-Term Report Working Draft, 1 October 2003. www.sia-gcc.org/acp/download/summarised_mid-term_report_final_doc_light.pdf.

²¹ 'Why Developing Countries Need Tariffs: How WTO NAMA negotiations could deny developing countries' right to a future', South Centre, Geneva and Oxfam International, Oxford 2005.

²² 'The WTO Negotiations on Industrial Tariffs: What is At Stake for Developing Countries', Yilmaz Akyuz, Third World Network, Malaysia, 2005.

²² This directly contradicts the principles of GATS, negotiated at the WTO, that services liberalisation is to be agreed on a case-by-case opt-in basis (or positive list), rather than on a blanket basis.

²⁴ 'Recommendations authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions'. Agreed by the EU General Affairs Council 17/06/02

²⁵ ACP Declaration on the Fifth Ministerial Conference of the WTO, Brussels, 1 August 2003.

²⁶ Joint Report on the all-ACP–EC phase of the negotiations, October 2003, Paragraph 25: 'For the ACP side, the rules aspects of the trade-related areas should not be the subject of EPA negotiations before agreement is reached on how to treat these issues at a multilateral level, particularly in the WTO.'

²⁷ Nairobi Declaration on Economic Partnership Agreements. African Union Conference of Ministers of Trade, April 2006.

²⁸ Karl Falkenberg, Deputy Director-General of Trade at the European Commission, Accra, Ghana, 29 June 2006.

²⁹ 'Competition Policy and Development in Developing Countries', Singh, A. (1999) South Centre, Working Paper No 7.

³⁰ 'Implementation of the Uruguay Round Commitments: The Development Challenge', M. Finger and P. Schuller (2000), *World Economy* 23.

³¹ Joint Report On The All ACP-EC Phase Of EPA Negotiations, Brussels, 2/10/2003

³² 'Global Economic Prospects And Developing Countries 2003: Investing to Unlock Global Opportunities' World Bank, Washington DC, 2003

³³ 'World Development Report 2005: A Better Investment Climate for Everyone', World Bank 2004.

³⁴ Karl Falkenberg, *op. cit.*

³⁵ The Agreement states that 'economic and trade co-operation shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument

of ACP countries into the world economy' (Article 35 (2)), and that negotiations will take 'into account the regional integration process within the ACP' (Article 37 (5)).

³⁶ EC EPAs Negotiating Guidelines, Article 35 (2), 2002.

³⁷ *Ibid.*, Article 37 (5).

³⁸ For example, it is treating Haiti - the region's only least-developed country – more sensitively than non-LDCs in terms of market opening demands.

³⁹ The regional EPA negotiating bodies of the sub-Saharan Africa countries are the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), and the Central African Economic and Monetary Community (CEMAC). The Caribbean Forum (CARIFORUM) is the regional integration body for the Caribbean states, while the Pacific ACP Group represents countries in the Pacific region.

⁴⁰ C. Stevens (2006) 'The EU, Africa, and Economic Partnership Agreements: unintended consequences of policy leverage', *Journal of Modern African Studies*, 44 (3) pp.1-18.

⁴¹ C. Grant (2006) 'Southern Africa and the European Union: The TDCA and SADC EPA', TRALAC Trade Brief, No. 1/2006.

⁴² See, for example, Kenya Institute for Public Policy Research and Analysis (August 2004), 'Agenda for Development of Negotiating Position under Economic Partnership Agreements: Kenya's Agricultural Trade with the EU (Draft Report)'; 'Study of the Impact and Sustainability of EPAs for the Economy of Uganda', Harare, Zimbabwe; Caribbean Policy Development Centre (April 2004) 'REPAs or RIP OFF: An Initial Advocacy Position of the Caribbean Reference Group on the EPA Negotiations', Bridgetown, Barbados.

⁴³ C. Milner 'An assessment of the overall implementation and adjustment costs for the ACP countries of Economic Partnership Agreements with the EU', in Grynberg, R. and A. Clarke (2006) *The European Development Fund and Economic Partnership Agreements*, Commonwealth Secretariat Economic Affairs Division.

⁴⁴ At Port Moresby ACP Council of Ministers, May 2006.

⁴⁵ R. Grynberg and A. Clarke (2006) 'The European Development Fund and Economic Partnership Agreements', Commonwealth Secretariat Economic Affairs Division

⁴⁶ Nairobi Declaration on Economic Partnership Agreements, African Union Conference of Ministers of Trade, April 2006.

⁴⁷ Trade Negotiations Insights, Volume 5, No.2, March–April, ECDPM, Geneva 2006

⁴⁸ At Port Moresby ACP Council of Ministers, May 2006.

⁴⁹ Draft ACP–EC Statement on EPA review, 9 June 2006.

⁵⁰ Joint ACP/EU Declaration on the Review of the Economic Partnership Agreements (EPAs) Negotiations, July 2006.

⁵¹ Under the Cotonou Agreement, the ACP and EU blocs were required to negotiate the EPA framework from 2002. Article 37 (6) (postponed from 2004, as requested by the ACP at the Gaborone Council of Ministers meeting, May 2004) states that in 2006 'the Community will assess the situation of the non-LDC [ACP countries] which decide they are not in a position to enter an EPA and will examine all possible alternatives in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules'. LDCs can remain, if they choose, with the duty-free access they are granted under the Everything But Arms (EBA) initiative.

⁵² See Bilal and Rampa, *op. cit.* This position is supported by Oxfam International.

⁵³ In 2001, with the expiry of the Lomé IV Convention, the EU requested for a WTO waiver under the Cotonou Agreement for the extension of unilateral preferences for ACP countries to continue until December 2007.

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