



Regional Implications for the ACP-EU: Economic Partnership Agreements

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Abstract

Enhancing regional integration between the members of the African, Caribbean and Pacific (ACP) Group of States of the one part, and the European Community and its Member States of the other part, poses a significant challenge. Whether such efforts focus first on inter-regional integration or intra-regional integration remains debatable. What is clear, however, is that the Economic Partnership Agreements aim to eradicate poverty and to integrate the ACP countries into the global economy. This paper takes a step back to analyse the regional implications for the ACP-EU Economic Partnership Agreements and whether their aims are realizable. More specifically, the paper assesses whether the complex web of regional agreements can foster economic and social integration or whether they will impede the ACP partner countries on their path to development, increasing marginalisation and fragmentation of global trade.

Introduction

The “Cotonou Agreement”, the Partnership Agreement between the Members of the African, Caribbean and Pacific (ACP) Group of States of the one part, and the European Community and its Member States of the other part, signed on 23 June 2000 affirms two central objectives: to eradicate poverty and to enhance global integration¹. Both objectives pose a significant challenge for the Member States. The majority of ACP countries are poor and vulnerable, forty are LDC’s (least developed countries)²; and despite persistent efforts, they are yet to integrate into the world economy. This is evidenced in the ACP share in world exports, “which fell from 3.4 % in 1976 to 1.9 % in 2000 and their share in developing countries exports, which fell from 13.3 % in 1976 to 3.7 % in 2000. Evolution of trade with the Community has followed a similar pattern: the share of Community imports from the ACP in total Community imports decreased, falling from 6.7% in 1976 to 2.8% in 2000, and the share of imports

¹ General Secretariat of the African, Caribbean and Pacific Group of States, <http://www.acpsec.org>, viewed at 22 August 2003. Directorate-General European Commission, “Trade & Development”: <http://europa.eu.int/comm/trade>, and <http://europa.eu.int/comm/development>. To receive the latest updates on trade and development policies, you can subscribe to the EU Trade News: <http://europa.eu.int/comm/trade/misc/register.htm>. For information on the EU-ACP bilateral Trade relations: <http://europa.eu.int/comm/trade/bilateral/acp/acp.htm>, viewed at 21 August 2003. “The Cotonou Agreement”. Article 1: Objectives of the partnership.

² “There are currently 49 countries considered to be the least developed countries (LDCs), 39 of which are ACP countries ... This category of countries is distinguished by the level of poverty of the population and the lack of economic, institutional and human resources”, <http://europa.eu.int/scadplus/leg/en/lvb/r12400.htm>, viewed at 21 August 2003. Stefania Bianchi, *German and EU Development Policy, Poor Countries Concerned over EU Enlargement*, “Of the 79 ACP states, 40 are considered to be least developed countries (LDC)”, http://www.ips-cic-kommunikationsprojekt.net/d_eu_ewipol/uk/artikel_104.html, Brussels, May 20 (IPS), viewed at 21 August 2003.



from the ACP in total imports from developing countries (excluding countries in transition) has fallen from 14.8 % in 1976 to 6% in 2000³.

Success has been disparate. Although EU trade with the ACP countries totalled over €58 billion in 2001, there has been a heavy weighting towards the more developed African economies⁴. Nigeria (21% of ACP exports), Ivory Coast (7%), Angola (6%) and Cameroon (6%) are the EU's most important exporters⁵.

Diversification of trade is rare and "cream-skimming" of raw materials remains rife. In 2001, 10 products accounted for 60 % of total ACP exports to the Community. Petroleum oil was the most important ACP export (29% of total ACP exports or €9.25 billion). Exports in diamonds (10%), cocoa (4%), wood (4%), sugar (3%), aluminium (2%), coffee (2%), tobacco (2%), and bananas (2%) followed. Raw materials represented the bulk of all exports with finished goods making up 21% of ACP exports to the EU⁶.

All in all the results have not lived up to expectations: "trade preferences have not prevented the ACP from being increasingly marginalized in world trade, they have not prevented the continued decrease in the ACP's share in total EU imports nor have they overcome the high dependence of the ACP on a few commodities"⁷. The ebb and flow of multilateralism and universalism of trade has meant, for the most part, that the poorest ACP countries continue to be marginalized, enduring only as spectators to the global stage.

This backdrop leads one to ask whether the EPA's will be successful where preceding negotiations and Conventions, principally economic structural reforms, have failed to integrate the ACP states into the global economy. Closer economic relationships between the African, Caribbean and Pacific States and the European Union have evolved over a fifty-year period. They were incorporated into the Treaty of Rome in 1957 (Article 131), and cemented by a series of other conventions: Yaounde I & II (1963 and 1969 respectively), and the Lomé Conventions (1975 – 1995).

The conventions enlarged the ACP pact and focused on progressive market liberalization initiatives. Today, 79 ACP countries are signatories to the ACP-EU Partnership Agreement. Yet, the majority continue to linger on the fringe of global trade.

Earlier efforts indicate that an appreciation of the regional implications for the ACP-EU Economic Partnership Agreements (EPA's) is imperative. One feature of these implications revolves around the argument of whether global economic integration is best put forward from an "inter-regional" or from an "intra-regional" basis. This paper

³ Bilateral Trade Relations; Africa, Caribbean, Pacific, *I. Historical Background and trade agreements*, http://europa.eu.int/comm/trade/issues/bilateral/regions/acp/index_en.htm, viewed at 21 August 2003.

European Commission Directorate-General for Trade Directorate-General for Development, Economic Partnership Agreements, Start of negotiations - A new approach in the relations between the European Union and the ACP Countries, ©European Communities, 2002, Production:Mostra!Communication, Printed in Belgium, September 2002.

⁴ Bilateral Trade Relations; Africa, Caribbean, Pacific, *I. Historical Background and trade agreements*, "the EU importing some €31 billion and exporting some €27 billion" http://europa.eu.int/comm/trade/issues/bilateral/regions/acp/index_en.htm, viewed at 21 August 2003.

⁵ IBID.

⁶ IBID.

⁷ European Commission Directorate-General for Trade Directorate-General for Development, Economic Partnership Agreements, Start of negotiations - A new approach in the relations between the European Union and the ACP Countries, ©European Communities, 2002, Production: Mostra! Communication, Printed in Belgium, September 2002, at page 2.



opens the debate on such issues, first by exploring the nature of the EPA's from an inter-regional perspective and then by evaluating the plethora of intra-regional agreements. More precisely, what are the regional implications for the Economic Partnership Agreements, and can the EPA's be used as a catalyst for sustained change? As a starting point, four important dimensions emerge from the regional trade liberalization roadmap. First, the EPA's are partnership agreements. They imply rights and obligations for both sides. Second, negotiation rounds must fit with relevant WTO rules. Negotiations must be attuned to multilateral trade developments. Third, the EPA's must consider the development and the socio-economic impact of trade measures on ACP countries. This includes an assessment of special treatment for least-developed ACP countries, which would include duty-free and quota-free treatment for their exports. Fourth, alternative arrangements need to be established where EPA's are not possible. This paper explores such regional implications for the ACP-EU Economic Partnership Agreements and extracts a number of concerns.

In practice, the EPA's adopt a two-pronged policy approach: trade liberalization between the ACP and the EU, or *inter-regional integration*, and trade liberalization within the ACP regional grouping, or *intra-regional integration*. In doing so, the EPA's aim to "establish the timetable for the progressive removal of barriers to trade between the Parties, in accordance with the relevant WTO rules"⁸.

EPA dialogue officially started on the 27th September 2002 and the negotiations are to be concluded by 31 December 2007. The regional EPA's will therefore be set in place from 1 January 2008⁹. In the interim period, non-reciprocal Lomé IV trade preferences will continue to apply (2000-2007). This will meet with the WTO waiver for LDC's.¹⁰ Within the preceding context, the five-year timeline for EPA negotiations may seem ambitious. Concerns over the slow progress in achieving the objectives of the Phase I EPA negotiations, which includes concluding on principles and objectives as well as issues of common interest to the entire Group, have already emerged. Accordingly, the ACP Council of Ministers has planned a special review session before the end of September 2003 and in preparation for the 2nd ACP-EU Ministerial Meeting on the EPA Negotiation round¹¹. Similarly, the EU recognizes the importance of the regional trade liberalization roadmap: "in preparing for EPA's, we will put a strong accent on

⁸ Article 37.7 of the Cotonou Agreement.

⁹ "The Cotonou Agreement": Article 36.3 Modalities: "In order to facilitate the transition to the new trading arrangements, the non-reciprocal trade preferences applied under the Fourth ACP-EC Convention shall be maintained during the preparatory period for all ACP countries, under the conditions defined in Annex V". Article 37.1 Procedures: "EPA's shall be negotiated during the preparatory period which shall end by 31 December 2007 at the latest. Formal negotiations of the new trading arrangements shall start in September 2002 and the new trading arrangements shall enter into force by 1 January 2008, unless earlier dates are agreed between the Parties".

¹⁰ Legal Texts: Marrakech Agreement, *Preferential Tariff treatment for Least-Developed Countries, Decision on Waiver*, Adopted on 15 June 1999(1), "Members, acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement, Decide that: 1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 30 June 2009, to the extent necessary to allow developing country Members to provide preferential tariff treatment to products of least-developed countries, designated as such by the United Nations, without being required to extend the same tariff rates to like products of any other Member". http://www.wto.org/english/docs_e/legal_e/waiver1999_e.htm, viewed at 21 August 2003.

¹¹ General Secretariat of the African, Caribbean and Pacific Group of States, Press release, (Brussels 15 May 2003), <http://www.acpsec.org/gb/press/decrease.htm>, viewed at 21 August 2003.



the strengthening and deepening of regional economic integration within the different ACP sub-regions. The current situation of market fragmentation often discourages investment and hinders trade. The aim of EPA's will be to create larger, more attractive markets for local and foreign investors"¹².

To support these partnership obligations, the EU has assigned significant financial aid to the process. The 9th European Development Fund covers up to €13.5 billion, and examples of EU assistance for ACP trade policy include: €10 and €20 million for ACP, WTO and EPA support programmes; €1.4 million in support for ACP countries to be present in Geneva where WTO activities take place; and a €50 million facility for the integration of ACP countries into the global economy¹³. In the course of the recent programming of funds for the next five years, some €350 million have been earmarked for regional integration and trade related technical assistance and capacity building¹⁴.

Even so, a number of tactical questions remain unanswered. To work, the dynamics of this policy framework must reflect not only the traditional thinking on market access but it must adopt potential growth strategies that will facilitate the effective integration of the ACP Member States into the global economy. How exactly will the transition proceed? What is the appropriate mix of *inter-regional* and *intra-regional* agreements? What are the political, economical, cultural and social aspects of managing change and how does one reduce the associated negative externalities? How will the potential for derogations ensure that fragmentation between the ACP states and the EU does not increase?¹⁵

In the absence of a more defined program of change, the answer to these questions remains nebulous. It necessitates appraisal within the institutional framework of the WTO, the EU and the ACP, and from both inter-regional and intra-regional trade perspectives.

The Complexity of Inter-regional Trade: Fitting the EPA's to the WTO Rules

The fundamental aim of the EPA's is to fit with the relevant WTO rules¹⁶. In this sense, the *Cotonou Agreement* and the principal WTO Accords are compatible: eradicate poverty and integrate the ACP member states into the global economy by adopting a series of initiatives that will path the way to trade liberalization (removal of barriers to trade, improvement of market access, partnership in goods and services, and the protection and promotion of investment, for example). In principle, these

¹² European Commission Directorate-General for Trade Directorate-General for Development, Economic Partnership Agreements, Start of negotiations - A new approach in the relations between the European Union and the ACP Countries, ©European Communities, 2002, Production:Mostra!Communication, Printed in Belgium, September 2002, at Page 1 (Poul Nielson, Member of the European Commission in charge of Development and Humanitarian Aid and Pascal Lamy, Member of the European Commission in charge of Trade).

¹³ IBID at Page 9.

¹⁴ IBID at Page 11.

¹⁵ "The Cotonou Agreement": Article 37.6 Procedures: In 2004, "the Community will assess the situation of the non-LDC which, after consultations with the Community decide that they are not in a position to enter into economic partnership agreements and will examine all alternative possibilities, 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".

¹⁶ Bonapas Onguglo & Taisuke Ito, *How to make EPA's WTO compatible? Reforming the rules on regional trade agreements*, Discussion Paper No.40, European Centre for Development Policy Management, Centre européen de gestion des politiques de développement, July 2003.



initiatives are universal, and they are founded on the two cornerstones of WTO trade law: non-discrimination and reciprocity.

National treatment, the first pillar to the multilateral trading system, condemns discrimination between foreign and national goods or services and service suppliers or between foreign and national holders of intellectual property rights. (Article III of the 1994 GATT for trade in goods, Article XVII GATS in relation to trade in services, and Article 3 TRIPS with respect to the protection of intellectual property). Whereas the second pillar, the *Most-Favoured-Nation* clause (MFN), assures that *all nations are equal and treated equally* (Article I of the 1994 GATT, Article II GATS and Article 4 TRIPs).

Nonetheless, these rules are not supreme. Certain derogations are acknowledged, mainly to ensure equitable participation in global trade. To do otherwise, would mean that the majority of developing countries would be inflicted with disproportionate adjustment costs. This would hold true for a large number of ACP member states.

To some extent, however, the derogations are controversial. Added to this is that they are integrated within a complex mesh of legal texts, of which a few examples are illustrated.

Interpretation of Article XXIV¹⁷ of the 1994 GATT on *Regional Trade Agreements*, and the Uruguay Understanding on that Article,¹⁸ is but one case in point. One may argue that Article XXIV does not contain adequate Special and Differential Treatment (SDT) for developing countries. In fact, it is silent on the specific nature of such provisions. However, this is not to say that such provisions are entirely absent from the WTO Accords.

The need for additional flexibility in GATT obligations for the developing countries, albeit limited, was first recognized at the 1954-1955 Review Session. Article XVIII was revised to recognise the structural nature of the balance-of-payments problem in developing countries¹⁹. It was here that the concept of Special and Differential Treatment was introduced.

The 1979 revision of Part IV of the GATT on *Trade and Development*, now known as the *Enabling Clause*, consolidated the concept of *differential and more favourable treatment* enabling Members to derogate from the MFN Clause. It stipulates: "notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries, without according such treatment to other contracting parties". In other words, developed contracting parties may accord preferential tariff treatment to products

¹⁷ WTO legal texts, http://www.wto.org/english/docs_e/legal_e/legal_e.htm, viewed at 21 August 2003.

¹⁸ Uruguay Round Agreement, Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994, http://www.wto.org/english/docs_e/legal_e/10-24_e.htm, viewed at 21 August 2003.

¹⁹ Constantine Michalopoulos; *The Role Of Special And Differential Treatment For Developing Countries In GATT And The World Trade Organization*, Three main provisions were agreed, two of them relating to Article XVIII. Article XVIII (B) was revised to include a specific provision to allow countries at 'an early stage of their development' to adopt quantitative restrictions on imports whenever monetary reserves were deemed to be inadequate in terms of the country's long term development strategy. Article XVIII (C) was revised to allow for the imposition of trade restrictions (both tariffs and quantitative restrictions) to support infant industries with a view to raising living standards. And a provision granting the right of veto to certain affected contracting parties was deleted, thus making the imposition of quantitative restrictions easier (GATT, 1954), at page 4, <http://www.econ.worldbank.org/docs/1143.pdf>, viewed at 21 August 2003.



originating in developing countries in accordance with the Generalized System of Preferences.

While the Enabling Clause formally embodied the concept of special and differential treatment, it continued to do so discretionally, rather than in legally binding terms. The 1994 Uruguay interpretation on these derogations kept matters murky: the specific needs of the LDCs were to stay “under review”²⁰.

Future drafting did little to clear the haze. Part IV of the 1994 GATT on Trade and Development is emblematic. Article XXXVI²¹ mooted the principle of non-reciprocity again but still allowed for broad interpretation. As a result, definitional and contextual arguments have arisen. To illustrate, Article XXXVI.8 provides that “the developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties”. Whereas it is argued that the intended context of Article XXXVI.8 is multilateral and not regional.

On the contrary, where services are concerned, Economic Integration in GATS Article V: 3 (a) explicitly provides flexibility for developing countries to meet conditions regarding substantial sectoral coverage and with respect to eliminating discriminatory measures in accordance with the level of development²². In addition, Article V: 3 (b) explicitly makes a difference between regional trade agreements. It differentiates between developed and developing countries by providing treatment that is more favourable to LDC’s²³.

In view of this, fitting the EPA’s to WTO laws remains open to interpretation. To presuppose compatibility, regional integration accords have often gone beyond the WTO provisions.

The *Cotonou Agreement* provides for the consideration of development and socio-economic impacts of trade measures on the ACP countries, and their capacity to adapt and adjust their economies to the liberalization process. For instance, Part 5 of the *Cotonou Agreement* provides for special treatment for the least developed, landlocked and island ACP states (LDLICS)²⁴. Article 84.1. (Chapter 1) stipulates: “to enable LDLICs to take full advantage of the opportunities offered by the Agreement so as to step up their respective rates of development, cooperation shall ensure special treatment for the least developed ACP countries and take due account of the vulnerability of landlocked and island ACP countries. It shall also take into

²⁰ Uruguay Round, Ministerial Decisions adopted by the Trade Negotiations Committee on 15 December 1993 and 14 April 1994, Measures in favour of least-developed countries, “Reaffirming their commitment to implement fully the provisions concerning the least-developed countries contained in paragraphs 2(d), 6 and 8 of the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; 3. Agree to keep under review the specific needs of the least-developed countries and to continue to seek the adoption of positive measures which facilitate the expansion of trading opportunities in favour of these countries”.

²¹ http://www.wto.org/english/docs_e/legal_e/31-dlldc_e.htm#31, viewed at 21 August 2003.

²² http://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm, viewed at 21 August 2003.

²³ Article V: 3. (a) and (b), http://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm, viewed at 22 August 2003.

²⁴ “General Provisions for the Least-Developed, Landlocked and Island ACP States (LDLICs), Chapter 1: General Provisions.



consideration the needs of countries in post-conflict situations”. Article 85.1. (Chapter 2, Least Developed ACP States) goes further: “the least-developed ACP States shall be accorded a special treatment in order to enable them to overcome the serious economic and social difficulties hindering their development so as to step up their respective rates of development”.

By the same token, the EU has acknowledged the importance of SDT. As referenced by EU Trade Commission Pascal Lamy on 31 July 2003 at the 6th Meeting of African, Caribbean and Pacific (ACP) Trade Ministers: “Both the EU and ACP countries consider the development dimension as the key element of the Doha Agenda. Whether on agriculture, on industrial tariffs, or on access to medicines we must ensure that we respond to the concerns and expectations of developing countries”²⁵. Again, the statement is political. It is left to interpretation.

Admittedly, some advances have been made on the DDA front; both parties agreed to:

- Work together to ensure that the DDA maintains a fair and important level of preferences for industrial and agricultural products for ACP countries and that trade opening takes place in a gradual and flexible manner;
- Call for an urgent solution to the issue of access to medicines for countries with no manufacturing capacity in accordance with the Doha mandate;
- Work together to establish rules giving developing countries special and differential treatment to help them better integrate into the world trading system;
- Support accession to the WTO of Least Developed Countries, most of which are ACP countries;
- Underline the importance of trade related assistance and capacity building measures to allow developing countries to better benefit from international trade²⁶.

Intent to impart derogations to the developing countries is clear. Derogations are provided for both within the WTO legal texts and within the Cotonou Agreement. Even so, there exists an important *legal lacuna* with respect to WTO trade law and the integration of special and differentiated treatment into the EPA’s.

Article XXIV of the 1994 GATT on *Regional Trade Agreements* that would apply to EPA’s between developed and developing countries is silent on SDT and Part IV on *Trade and Development* has been mostly applied to intra-regional agreements, i.e., agreements between developing countries. These issues may be addressed collectively through the Doha Development Agenda either through the reform of Article XXIV or through the reform of Part IV. For all intents and purposes, the WTO needs to consider both platforms to ensure harmony between *Regional Agreements* and *Trade and Development*.

The upcoming WTO Ministerial meeting²⁷, which will take place in Cancun (Mexico), will provide a unique juncture for the ACP Group of States to actively engage in

²⁵ Africa, Caribbean, Pacific, Working together on the Road to Cancun, Brussels, 1 August 2003, http://europa.eu.int/comm/trade/issues/bilateral/regions/acp/pr010803_en.htm, viewed at 21 August 2003.

²⁶ The Doha Declaration explained, http://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm#ldc, viewed at 25 August 2003.

²⁷ The Fifth WTO Ministerial Conference, Cancun, Mexico, 10 to 14 September 2003. The main task will be to take stock of progress in negotiations and other work under the Doha



ensuring that the EPA's are compatible with WTO rules²⁸. Special and differentiated treatment for least-developed ACP countries may result in heated debate, but this is healthy. At the same time, the ACP pact should table specific trade related issues for developing countries including the nature of competition policy and subsidies, particularly with relation to petroleum exports and agriculture. Concerted practices, the abuse of dominant positions and "cream-skimming" can critically challenge the productivity and efficiency gains potentially generated by trade liberalization.

The liberalisation of agriculture, which constitutes 37% of ACP exports to the EU²⁹, should also be given a high priority in any EPA. Consequently, the effects of the Common Agriculture Policy on ACP structural reforms are significant. The WTO forum may deal with such issues, but they too remain sensitive.

The issue of sanitary and phytosanitary standards, and the technical and financial difficulties faced by the ACP countries in meeting these standards, is also a critical link to the liberalization of agricultural trade. Divergent marketing rules or product regulations (e.g. standards, sanitary, veterinary or phytosanitary rules, rules for the protection of the environment or the protection of consumers) and costly compliance requirements can act as practical barriers to trade or result in high cost and inefficiencies³⁰. Barring the ACP countries from trade on standards issues needs to be raised within regional integration, trade and development and competition forums.

The EU may argue that they have committed to support the ACP members in meeting standards in certain domains, for example, horticulture and fisheries. "The EU earmarked €29 million for horticultural assistance in July 2001 and €42.7 million for the fishery program in December 2002"³¹. Nonetheless, the benchmarks for success still need to tie to poverty and global integration. After all, these are the umbrella objectives.

This is equally true for the liberalization of trade in services, which is acknowledged in the WTO Accords and the Cotonou Agreement. Article 41.4 of the Cotonou Agreement stipulates that: "the Parties further agree on the objective of extending under the economic partnership agreements ... to encompass the liberalization of services ...". This will include the substantial domains of tourism and restructuring within the banking and insurance sectors.

Furthermore, liberalization of capital remains as important as liberalization in goods and services and will have diverse implications for inter-regional integration and the EPA negotiation rounds. Global integration demands a greater availability of credit,

Development Agenda. http://www.wto.org/english/thewto_e/minist_e/min03_e/min03_e.htm, viewed at 25 August 2003.

²⁸ Pacific ACP Trade Ministers Meeting, Media Statement, "Pacific ACP Trade Ministers met in Nadi, Fiji, on 4 July 2003 to discuss the current state of negotiations between the African, Caribbean and Pacific (ACP) Group and the European Union (EU) on Economic Partnership Agreements (EPA's) under the Cotonou Agreement and the preparations for future regional EPA negotiations. The Ministers also agreed on Forum Island Country (FIC) positions in preparation for the World Trade Organisation (WTO) Ministerial Conference to take place in Cancun in September 2003", Forum Secretariat, Nadi, 4 July 2003, <http://www.forumsec.org.fj/news/2003/July%2002.htm>, viewed at 22 August 2003.

²⁹ EU-ACP bilateral Trade relations, <http://europa.eu.int/comm/trade/bilateral/acp/acp.htm>, viewed at 21 August 2003.

³⁰ European Commission Directorate-General for Trade Directorate-General for Development, *Economic Partnership Agreements*, Start of negotiations - A new approach in the relations between the European Union and the ACP Countries, ©European Communities, 2002, Production:Mostra!Communication, Printed in Belgium, September 2002, at page 6.

³¹ EU-ACP bilateral Trade relations, <http://europa.eu.int/comm/trade/bilateral/acp/acp.htm>, viewed at 21 August 2003.



which goes hand in hand with access for, and protection of, the private sector. Article 78.3 of the Cotonou Agreement, *Investment Protection*, stipulates that: “The Parties also agree to introduce, within the economic partnership agreements ... general principles on protection and promotion of investments, which will endorse the best results agreed in the competent international fora or bilaterally”. Likewise, the EPA’s will need to ensure adequate protection of intellectual capital and property rights.

Be that as it may, freeing up factors of production and adopting a competitive framework are not enough to eradicate poverty and to integrate the ACPs into the global economy. An increased focus needs to be placed on complementary implications of intra-regional ACP trade.

Intra-regional Trade and Regional Institutional Reform

Conventionally, intra-regional integration may be thought of with respect to four main models: free trade zones, custom unions, an EU type common market model with its four freedoms of goods, services, people and capital, and that of an economic and monetary union. Within this framework, the ACP countries are always one step behind the more developed nations.

As a consequence, whether the EU model of regional integration is appropriate for the ACP countries is questionable. This is not to say that advances in EU integration cannot provide useful insights into advancing ACP intra-regional integration. The European Commission has gone some way in setting out *Orientations on the Qualification of ACP Regions for the Negotiation of EPA’s*³². However, the structures and sequencing of intra-regionalization may be different, and will certainly depend upon unique political and cultural factors within the ACP regions. Fundamentally, intra-regional trade demands ACP countries to integrate deeply and to establish good governance, and these issues need to be linked to the EPA negotiations.

Harmonizing certain trade policies may proceed more quickly at an intra-regional level. Provisions already stipulated in the *Cotonou Agreement* include Competition Policy (Article 45), Protection of Intellectual Property Rights (Article 46), Standardization and Certification (Article 47), Sanitary and Phytosanitary Measures (Article 48), Trade and Environment (Article 49), Trade and Labour Standards (Article 50) and Consumer Policy and Protection of Consumer Health (Article 51).

Furthermore, enforcement mechanisms are integrated within the strategies on economic and trade cooperation (Part 3 of the Cotonou Agreement). Whether in the form of the European Court of Justice, or through binding arbitration, integration initiatives within the ACP region must be supported by credible enforcement mechanisms. This will aid global alignment.

Priority setting is another intra-regional implication with respect to the trade liberalization roadmap. On the one hand, the EU is concentrated on its expansion program: ten new countries will join the EU in 2004³³. Admittedly, this will open a broader market to the ACP countries. However, there is little indication that the EU will have the resources available to assist the ACP countries with their own agendas for intra-regional integration. On the other hand, harmonization with the ACP countries is particularly complex. Market structures are completely different. Efficient

³² EPA Watch, <http://www.epawatch.net/general/menupage.php?menuID=5>, viewed at 23 August 2003.

³³ The current 15-member EU is set to enlarge in May 2004 with the introduction of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia.



competitive markets are the exception rather than the rule, capacity building in the ACP regions is in its infancy, and a large and heterogeneous private sector will be unable to bear the consequences of liberal reform, such as privatisation, and the resulting retrenchment in education and jobs.

All these factors raise the questions of whether inter-regional trade liberalization will be unshielded leaving the LDCs exposed to powerful industrial economies and a well-established trading pact. The implications for the ACP countries are considerable.

Not opening the ACP countries to trade may have adverse effects with the possibility of the EU withdrawing from financial aid and trade related technical assistance. Firstly, without aid it is questionable as to whether trade diversification can really occur. Secondly, the ACP countries are all highly dependant on technology transfer from developed regions, notably from the EU, but also from the US. Accordingly, intra-regional market integration is important for the attraction of foreign direct investment (FDI).

Intra-regional implications are thus as equally important as inter-regional implications, and it is within this context that intra-regional bodies have to be the motor for change. Will there be time for this transition or will the ACP countries remain marginalized resulting in an ongoing fragmentation of global trade? The answer to this question will be driven by the Doha Round and the decision making process at the heart of the WTO.

Added to this are two further questions. First, will the DDA promote differentiated levels of trade liberalization? Second, will the WTO support intra-regional market development? These are the supplementary questions that the 79 strong ACP block will need to position on the policy agenda at Cancun in September. Within the superfluity of intra-regional accords, a number of intra-regional implications may be highlighted. Three concrete examples follow: the NEPAD³⁴ in Africa, the CARICOM³⁵ in the Caribbean, and the PICTA/PACER Accords in the Pacific³⁶.

Regional integration in Africa has been gradual³⁷. The West African Economic and Monetary Union³⁸ (WAEMU) made progress with the entry into effect of the customs union in 2000. The Central African Economic and Monetary Community³⁹ (CEMAC) has focused on establishing a single market. The NEPAD, the “New Partnership for Africa’s Development”, however, is an African owned initiative based on a common vision and shared conviction to reduce poverty, to accelerate growth and to end increasing marginalisation on the continent⁴⁰. It encourages participation in the Doha Development Agenda (DDA) and conforms to WTO Accords.

Implementation details are still sketchy but the aim is to promote regional integration as an engine of economic growth and development. Emphasis is on trade and market

³⁴ NEPAD, the “New Partnership for Africa’s Development”, October 2001, <http://www.nepad.org/>, viewed at 21 August 2003.

³⁵ CARICOM, <http://www.caricom.org/>, viewed at 21 August 2003.

³⁶ Pacific Islands Secretariat Forum, <http://www.forumsec.org.fj/>, viewed at 21 August 2003.

³⁷ Zubair Iqbal & Mohsin Khan; *Trade Reform and Regional Integration in Africa*; IMF, Washington, 1998.

³⁸ Union Economique et Monetaire Ouest Africaine (UEMOA) <http://www.uemoa.int/Index.htm>, viewed at 21 August 2003.

³⁹ Communauté Économique et Monétaire de l’Afrique Centrale (CEMAC), Site Internet: <http://www.cemac.org>, viewed at 21 August 2003.

⁴⁰ Norbert Funke & Saleh M Nsouli; *New Partnership for Africa’s Development: Opportunities and Challenges*; IMF Institute, IMF Working Paper WP/03/69, April 2003.



access, dismantling non-tariff barriers and export diversification, which taken as a whole, should strengthen both inter-regional trade and intra-African trade.

To promote growth, the NEPAD's action plan focuses on three key priorities. First is capacity building for trade policy, market access strategies, trade negotiations skills and related institutional development. Second is regulatory compliance and strengthening the institutional and administrative framework. Third is overcoming supply-side impediments, like market diversification (in such areas as sustainable tourism and professional services) and in meeting relevant environmental and sanitary and phytosanitary standards.

Another priority for the NEPAD will be increasing transparency through the integration of the informal sector⁴¹. This sector constitutes between 20% and 37% of the total GDP in Benin, Burkina Faso, Chad, Mali, Mauritania, Niger, Senegal and Tunisia⁴². To exacerbate the problem "at least 65 percent of Africa's working population works without legislation, insurance, employee protection or rules"⁴³; and the sector is growing. In Zambia, the informal sector is growing faster than the formal sector in terms of business⁴⁴. In Zimbabwe, the informal sector is the country's biggest employer⁴⁵.

These issues are complex, and they will influence EPA negotiations. The voice of the private sector will need to be harnessed not only for equitable participation in the global multilateral trading system but to influence the EPA negotiating rounds. The rationale is to ensure that the private sector is able to capitalize on opportunities from liberalized markets.

Likewise, in the Caribbean, fostering trust in intra-regional institutions such as the Caribbean Community (CARICOM) is difficult. Many members continue to act in their own self-interest. In 2002, Jamaica went outside of CARICOMs collective negotiations to sign an air services agreement with the US Federal Aviation Administration⁴⁶. For the Bahamas, with its lower unemployment rate and higher per capita GDP, the problem is one of unregulated migration⁴⁷. Evidently, implementing a proposed regional free trade zone allowing for the free movement of labour and

⁴¹ Teresa Thorp, *Enterprise Development in Africa; The African Informal Sector - A Factor Neglected by the NEPAD?* International Conference, Entrepreneurship in Africa: Towards Economic Independence, Namibia Polytechnic, 17-18 September 2003.

⁴² Jacques Charmes, Director of Research, French Scientific Research Institute for Development and Co-operation, (ORSTOM. Paris), *Women Working in the Informal Sector in Africa; New Methods and New Data*; Paper prepared for the United Nations Statistics Division, the Gender and Development Programme of the United Nations Development Programme (UNDP) and the project "Women in Informal Employment: Globalizing and Organizing" (WIEGO). An earlier version was presented at the Delhi Group Meeting on Informal Sector Statistics, Ankara, 28-30 April 1998.

⁴³ Ulla Kindenberg, *Most work in Africa is in the informal sector*, Newsletter from the National Institute for Working Life SE-112 78 Stockholm, Sweden, Newsletter number 2, 2002.

⁴⁴ The Times of Zambia (NDOLA), "The Central Statistics Office (CSO) says the informal sector is growing faster than the formal sector in Zambia in terms of business"; 26 June, 2003.

⁴⁵ Doris Kumbawa, Financial Gazette, Zimbabwe, Harare, 12 June 2002.

⁴⁶ US Department of Transportation, DOT 99-02, Wednesday, October 30, 2002, United States, Jamaica Reach Open-Skies Aviation Agreement, <http://www.dot.gov/affairs/dot09902.htm>, viewed at 22 August 2003.

⁴⁷ Address By The Rt. Hon. Hubert A. Ingraham, Prime Minister, Commonwealth Of The Bahamas, And Chairman Of The Conference Of Heads Of Government Of The Caribbean Community, At The Opening Ceremony Of The Twenty Second Meeting Of Conference Of Heads Of Government Of The Caribbean Community, 3 July, 2001, Nassau, The Bahamas http://www.caricom.org/pressreleases/pres93_01.htm, viewed at 21 August 2003.



capital, common external tariffs and a single monetary standard is challenging; and the Caribbean Single Market Economy (CSME) will evolve over time. This is where enforcement mechanisms and institutional and administrative reform are necessary.

Unfettered financial markets in the Caribbean also deter legitimate enterprise development and impede intra-regional integration. Some of these issues could be addressed by the WTO from a demand-side perspective.

Governance in the South Pacific poses similar issues, though the context is slightly different. The aim remains one of reducing poverty and integrating LDCs within the global economy.

For the most part, the Pacific Island countries are in a state of transition moving from subsistence economies to industrial economies. They are open to manipulation due to their relatively fragile economies and the curbing of financial loopholes in Europe and the Caribbean's. Until recently, offshore financial centre income has been a major source of foreign exchange revenue for many⁴⁸, which otherwise have very little or no resources to export⁴⁹. Again, transparency and the eradication of money laundering and corruption provide the base to improved governance, whilst regional unification is essential to development and integration in the global arena. Sanctions are not the answer.

Delicate issues persist. Increased intra-regional trading with the more wealthy Pacific states of Australia and New Zealand, and the implications of integrating the French Territories, such as New Caledonia, French Polynesia and Wallis and Fatuna, in Intra-regional Trading Accords must be explored. Failure to do this will mean that the least developed countries will continue to act on an *uneven playing field*. They will continue to be exploited by offshore cartels, and non-competitive market liberalization will ruin havoc on their economies. Curbing transnational crime and improving economic integration need to be encouraged from within the regions, and trade needs to focus on increasing economic social welfare.

The PACER⁵⁰ and PICTA⁵¹ agreements have gone some way towards addressing these issues. The PACER, *Pacific Agreement on Closer Economic Relations*, establishes a framework agreement setting out the basis for the future development of trade relations among all 16 Pacific Forum members. Whereas, the *Pacific Island Countries Trade Agreement* (PICTA) also devised at Nauru, 18 August 2001, is a free trade Agreement among the FICs (Pacific Forum Island Countries). It will be introduced gradually, over the next 10 years, and lead to the establishment of a free trade area. It is within these Accords that the Pacific acknowledges the indispensability of intra-regional integration.

Overview

⁴⁸ Kalinga Seneviratne, Online Asia Times, June 29, 2000 atimes.com, Oceania, Pressure on Pacific to stop money-laundering, <http://www.atimes.com/oceania/BF29Ah01.html>, viewed at 21 August 2003.

⁴⁹ Senator the Hon Chris Ellison, Minister for Justice and Customs, Opening Address of the Asia/Pacific Group on Money Laundering, Fifth Annual Meeting at the Brisbane Convention Centre on Tuesday 5 June 2002 at 9.30am, <http://www.ag.gov.au/www/justiceministerHome.nsf/0/C1A7F0F4094851C9CA256BD0000B503E?OpenDocument>, viewed at 21 August 2003.

⁵⁰ Pacific Islands Secretariat Forum, <http://www.forumsec.org/fj/>, viewed at 21 August 2003.

⁵¹ IBID.



Are Economic Partnership Agreements in themselves sufficient to sustain growth and eradicate poverty? Or, is there a need for deeper *intra-regional* integration within a political and cultural policy framework?

It is doubtful whether in the absence of such integration that the economic welfare of the ACP countries can improve greatly. Handpicking of the leading economies, such as Nigeria, the Ivory Coast, Angola and Cameroon, will continue; and it is within this context that a potential fragmentation of the *Cotonou Agreement* will occur. Intra-regional institutional reform is an essential stepping-stone to trade liberalization.

One needs to reconsider the premise that all are created equal and can trade equally. Leveraging the EU's commitment to reform is therefore an issue for the joint ACP - EC Ministerial Trade Committee. If the WTO is to play an active part in eradicating poverty and integrating the LDC's into the global economy then it too will need to play a stronger role in the establishment of intra-regional accords. The direction for the ACP countries will be to table their requirements for special and differentiated treatment within the WTO forum. In this light, the capacity of the ACP Pact to engage in collective bargaining will be its strongpoint.

The *Cotonou Agreement* provides a defined window of opportunity for the ACP region to leverage into the global economy through the future Economic Partnership Agreements. As such, one of the major tests will be the proclivity of the *Cotonou Agreement* to act as a catalyst in forming intra-regional alliances as one step towards global integration. If done in isolation, these arrangements will result in more of the same, that is, continued fragmentation. Alternatively, a co-ordinated and dynamic roadmap should lead to success on three fronts: inter-regional trade, intra-regional trade, and global integration.

The WTO is perhaps best positioned to lead these initiatives, its role: to act as the coordinator of this complex global trade web and to thereby assure the successful implementation of the Economic Partnership Agreements. In this sense, the ACP partner countries will not be impeded on their path to development, marginalisation and fragmentation of global trade will reduce, and the EPA's will serve as a catalyst to harmonizing global trade.
