

# **Economic partnership agreements (EPAs): the ACP regions and their relations with the EU**

**Dr Sanoussi Bilal**

European Centre for Development Policy Management  
Onze Lieve Vrouweplein 21, NL-6211 HE Maastricht, The Netherlands  
Tel. +31-43-350 29 23, Fax +31-43-350 29 02, E-mail: sb@ecdpm.org  
www.ecdpm.org, www.acp-eu-trade.org

## **Abstract**

In line with the Cotonou Agreement, the African, Caribbean and Pacific (ACP) countries have engaged, along regional configurations, in trade negotiations with the EU with a view to establish, by 2008, economic partnership agreements (EPAs). These new agreements will have far reaching consequences for the regional integration of the ACP countries, in particular in the 4 Sub-Saharan regions (ECOWAS, CEMAC, ESA and SADC). They will also set a new paradigm for the relationship between the EU and its former colonies, which could lead to a substantial revision of the framework for development and political relations currently embodied in the Cotonou Agreement.

The purpose of this paper is to review of principles and process of EPA negotiations, taking into the regional dimension of these new trading arrangements. The paper discusses the coherence between the EPA process, its development dimension and the regional integration agenda of ACP regions, in particular in Africa where overlapping membership to regional groupings is common. In doing so, it also attempt to assess how the EU is trying to support and influence ACP regionalism. Finally, the paper argues that the entry into force of EPAs might be the first step to an irreversible dismantlement of the ACP Group and the various provisions of the Cotonou Agreement.

***Paper to be presented at the 3rd ECPR Conference,  
Section Number: 22 Title: Developing States in International Politics  
Panel 22 – 5: Sub-Saharan Africa  
Budapest, 8-10 September 2005***

## Table of contents

<b>1</b>	<b>North-South Agreement: best or worst case scenario?.....</b>	<b>3</b>
<b>2</b>	<b>The Cotonou Agreement and EPAs: key principles .....</b>	<b>4</b>
<b>3</b>	<b>The EPA negotiations process: key features .....</b>	<b>5</b>
3.1	EPA negotiations: a 2-phase process .....	5
3.2	Recent developments on the EPA negotiations process .....	7
<b>4</b>	<b>EPAs: a regional focus .....</b>	<b>9</b>
4.1	EU support to regional integration principles and initiatives.....	9
4.2	The regional dimension of EPAs .....	10
4.3	Overlapping membership or the “spaghetti bowl” nightmare .....	11
4.4	Asymmetry of integration, development or interest within a region.....	12
4.5	Other Criticisms of the EC’s EPAs .....	14
	<b>References.....</b>	<b>15</b>

## 1 North-South Agreement: best or worst case scenario?

Imagine two regions: one rich, the other poor. The rich one, which likes to consider itself free trader, had traditionally kept its market open to imports from the less fortunate region. Yet, the poor region had developed little capacity to export products beyond a few primary commodities.

Conscious of the moral imperative to strive for a more equitable world, and hence to foster the development of the poorer, the rich region decides to make a generous offer. It proposes to elaborate a joint partnership with the poor region to promote its economic development. The principles are simple. Let stimulate private sector investment by creating a large market among the poor countries. Let this market be open to foreign investment and exports from the rich, so as to benefit the local economy (consumers and industry) in the poor region. By enshrining their domestic trade(-related) policy and regional integration efforts in a formal agreement with the rich region, governments in the poor region would increase the credibility of their reform process. This pro-development approach would be reinforced by removing not only tariffs in goods, but also on trade in services, as well as other technical barriers to trade (TBTs) and behind-the-border restrictive measures. Last, but not least, the institutional and productive-capacity development, domestic policy reforms and adjustments measures needed to accompany the economic liberalisation would be supported by appropriate development assistance from the rich.

Consider now two other similar blocks, where this time the rich region, having granted for decades almost free access to its market to products from the poor region, realises that charity does not pay off: it is costly for the rich while it fails to boost the economies of the poor. It therefore put the following deal on the table: either the poor countries loose their preferential market access to the rich region, or they open their own market to capital, goods and services from the rich, under the conditions dictated by the rich region. Besides, rich entrepreneurs having little to no interest in a tiny underdeveloped market in a poor country, the poor countries are summoned to come together, adopt common external and internal economic policies so as to create an effective, large integrated internal market. To sell their iniquitous programme to the poor, the rich region flexes its muscles while wrapping its arguments in the politically correct development language. Promising development aid that it fails to deliver at any significant level, the rich region ravel in a paternalistic approach, claiming to promote the interests that the poor region has been unable to effectively defend.

These two scenarios, of the good North-South partnership and the shroud cold-hearted free trade agreement, are perhaps just the two sides of the same coin. Call the rich region the European Union (EU), and the poor one the group (or any sub-regional grouping) of African, Caribbean and Pacific (ACP) countries.

The two regions have, since the creation of the European Economic Community in 1957 and the decolonisation process, established privileged relationship. These have been enshrined in the so-called Yaoundé agreements (1963-1969; and 1969-1975), followed by the four successive Lomé Conventions (1975-2000), under which the EU has granted, on a non-reciprocal basis, a preferential (almost free) market access to ACP imports, accompanied by a substantial development (aid) component. With the signing, in 2000, of the successor to Lomé IVbis Convention, the Cotonou Agreement, the ACP and the EU agreed to enter negotiations on economic partnership agreements (EPAs), which are envisaged as deep free trade agreements (FTAs) between the EU and ACP regions. The negotiations, which started in September 2002, should lead to the entry into force, by 1 January 2008, of EPAs between the EU and six ACP regions (Central Africa, East and Southern Africa, Southern Africa, West Africa, the Caribbean and the Pacific region).

Now, depending on whether or not one considers this initiative as conducive to the pro-poor sustainable development of ACP economies, one will characterize EPAs as an example of the first (best-case) scenario, or the second (worst-case) scenario, or perhaps more likely somewhere in between.

The European Commission, and in particular its Directorate General (DG) for Trade, heartedly subscribes to the best-case scenario. At the other end of the spectrum, some actors have denounced the newly envisaged EPAs as a unilateral initiative by the EU to impose on the ACP a new trade regime ultimately detrimental for their development.

Of course, EPAs will have a beneficial effect on ACP countries only if the development dimension is properly integrated in an EPA. Similarly, the impact on the regional integration process of ACP countries will depend on the way the EPA process is formulated and implemented. In any case, EPAs will have far reaching consequences for the regional integration of the ACP countries, in particular in the 4 Sub-Saharan regions (ECOWAS, CEMAC, ESA and SADC). They will also set a new paradigm for the relationship between the EU and its former colonies, which could lead to a substantial revision of the framework for development and political relations currently embodied in the Cotonou Agreement.

The purpose of this paper is to review of principles and process of EPA negotiations, taking into the regional dimension of these new trading arrangements. The paper discusses the coherence between the EPA process, its development dimension and the regional integration agenda of ACP regions, in particular in Africa where overlapping membership to regional groupings is common. In doing so, it also attempt to assess how the EU is trying to support and influence ACP regionalism. Finally, the paper argues that the entry into force of EPAs might be the first step to an irreversible dismantlement of the ACP Group and the various provisions of the Cotonou Agreement.

## **2 The Cotonou Agreement and EPAs: key principles**

The EPAs, following the framework outlined in the Cotonou Agreement, will be trade agreements between the EU and the ACP countries (“in a position to do so” – Art. 37.5) based on the principle of reciprocity, progressively removing barriers to trade between them in a way compatible with the World Trade Organization (WTO) rules. Under the current multilateral trading regime, this implies that EPAs will be free trade agreements in the sense of GATT Article XXIV.

The economic and trade cooperation provisions of the Cotonou Agreement explicitly provide for the coverage of standard market access issues for goods, commodities and services (with specific reference to maritime transport, information and communication technologies and the information society, as well as support to the tourism sector). The Cotonou Agreement also provides for increased cooperation in important trade-related areas, such as competition policy, the protection of intellectual property rights, standardisation and certification, sanitary and phytosanitary measures (SPS), trade and environmental considerations, trade and labour standards, consumer policy and the protection of consumer health, and envisages possible agreements on fisheries and food security.

These Economic Partnership Agreements are thus envisaged a development-oriented free trade agreements (FTAs) between (regional) groups of ACP countries and the EU. Besides trade in goods and agricultural products, they will also cover services, possibly up to an extent that goes beyond the provisions currently negotiated at the multilateral level through the General Agreement on Trade in Services (GATS). For some ACP countries, this is of key importance because services constitute an increasingly significant sector of their economies, and present a possible engine for further economic growth in the future. Moreover, a whole range of trade facilitation and trade related matters would be covered under EPAs. Among them, the European Commission would like EPAs to cover issues such as competition policy, investment, sanitary and phytosanitary measures (SPS), standards and certification, protection of intellectual property rights, anti-dumping and anti-subsidy measures, customs procedures, rules of origin, public procurement, trade and environment, trade and labour

standards and health and safety regulations (Articles 45-54). ACP countries, however, have expressed mixed reactions to the heavy agenda on trade-related issues, which they generally would like to see narrowed down to some key issues, subject to their own regional integration agenda.

The Cotonou Agreement sets out four main principles along which EPAs should be formed:

**Development.** EPAs negotiations must be placed in the context of the overall development objectives of ACP countries and the objectives as defined in the Cotonou Partnership Agreement. To be of benefit to the ACP, EPAs must be 'economically meaningful, politically sustainable, and socially acceptable'. Hence, EPAs are not common agreements on trade. Instead, they should be development-oriented trade arrangements that ensure sustainable development and economic growth in ACP countries that contribute to poverty eradication.

**Reciprocity.** The most important element of an EPA is the establishment of a Free Trade Agreement, which will progressively abolish substantially all trade restrictions between both parties (Art 37.7). This is a radically new element in ACP-EU trade relations. For the first time, ACP countries will have to open up, on a reciprocal basis, their own markets to EU products in order to retain their preferential access to the EU market. The rationale for reciprocity rests on the principle that liberalisation of ACP markets towards the EU will increase competition within ACP economies, thereby stimulating (EU) investment and the necessary adjustments of their economies, leading to growth and development.

**Differentiation.** Considerable weight is given to differentiation and special treatment, which affirms the North-South character of the relationship. The Cotonou Agreement states that EPAs to be concluded will take into account the different levels of development of the contracting parties (Art 35.3). Hence, EPAs should provide sufficient scope for flexibility, special and differential treatment and asymmetry. In particular LDCs, small and vulnerable economies, landlocked countries and small islands should be able to benefit from special and differential treatment.

**Regionalism.** The EU clearly envisages negotiations with ACP regional groupings which will be in a position to do so, though it has not ruled out the possibility of concluding agreements with single countries, in exceptional cases. The principle of basing the future trade cooperation on regional integration initiatives stems from the conviction that regional integration is a key stepping stone towards further integration into the world economy, as well as a main instrument to stimulate investment and to lock in the necessary trade reforms (Art 35.2).

The regional dimension is elaborated in section 4 below.

## 3 The EPA negotiations process: key features

### 3.1 EPA negotiations: a 2-phase process

The EPA negotiations were officially launched on 27 September 2002. These new trade agreements, which should enter into force by January 2008, should build upon ACP regional integration initiatives and aim to facilitate the gradual integration of the ACP countries into the world economy. If concluded, the EPAs will have a profound impact on the ACP economies and fundamentally change the relationship between the world's largest single market and some of the poorest regions in the world.

The EPA negotiations have been structured around two phases, which somewhat overlap. The first phase of the negotiations, which started on 27 September 2002, has taken place between the European Commission (EC) and the ACP Group as a whole. The objectives were to define the format, structure and principles for the negotiations.

The second phase of regional negotiations has started from October 2003, between the EU and the six self-determined ACP negotiating groupings:

- CEMAC (Communauté Economique et Monétaire de l'Afrique Centrale), since 3 October 2003 ;
- ECOWAS (Economic Community of West African States), since 6 October 2003;
- ESA (Eastern and Southern Africa) since 7 February 2004;
- CARIFORUM (Caribbean Forum of ACP States) since 16 April 2004;
- SADC: Southern African Development Community, since 8 July 2004; and
- Pacific ACP States (PACP) since 10 September 2004.

The joint declaration<sup>1</sup> and report<sup>2</sup> on the progress of the all-ACP level discussions adopted at the ACP-EU Ministerial Negotiating meeting on 2 October 2003 were the result of compromise solutions worked out at the highest political levels. This started with the ACP Council of Ministers agreeing on the follow up mechanisms for linkages between the all-ACP Phase I and the regional Phase II of the negotiations, and followed with the ACP Ministerial Chairman and then EU Trade Commissioner Pascal Lamy agreeing on the form, wording and status of the document and further mechanisms which would relate the progress in Phase I to negotiations in Phase II. The ACP had sought to have a legally binding agreement on the issues agreed in Phase I to provide guidelines for Phase II regional negotiations. The European Commission had maintained all along that the objective of all-ACP level discussions was clarification of issues and that the Cotonou Agreement served as a sufficient legal basis for negotiations. By way of compromise, it was finally agreed that the joint report would "serve as a point of reference, and provide guidance, for the negotiations to be conducted at regional level".

On the substance of what has been agreed to date, the joint declaration stresses the "satisfactory" results of Phase I "with regard to the high degree of convergence reached". A detailed examination of the report however, reveals that convergence was reached mainly in reaffirming existing principles and objectives, and not in areas of substance in addition to the existing commitments of the Cotonou Agreement. Even where there is convergence, differences in interpretation often remain. For instance, the ACP and the EU agree that access to the EU market should be maintained and improved under EPAs. However, in the context of increasing trade liberalisation and diminishing preferential treatment, improved market access can only stem from more favourable rules of origin and comprehensive treatment of non-tariff barriers. The EU's commitment to tackling issues of this nature remains unclear.

In the end, both sides agreed that the discussions on remaining divergences on issues of all-ACP interest could continue at that level in parallel with regional level negotiations. Three follow-up mechanisms were agreed:

- *The Joint ACP-EC Ministerial Trade Committee (JMTC)* will be responsible for ensuring mutual understanding on horizontal issues of all-ACP interest in discussions at that level and should make recommendations to ensure coherence of the negotiations. ACP Ministers and DG Trade will meet as appropriate to take stock of the discussions.
- *An ACP Follow-up Mechanism for the regional Phase II of the Negotiations.* The mandate of this body is to ensure circulation of information among the regions and coherence in the various negotiating processes and to give non-binding advice on issues or approaches in the negotiations should there be a need for this. It will comprise the chief technical negotiator for each region; a representative from each of the six ACP regions; a representative of the regional organisations; the Secretary-General of the ACP Group; the *Troika* of the Committee of Ambassadors; and a representative of the High Level Group of Experts. At the political level, the ACP Council of Ministers, with due regard to the Committee of Ambassadors' report and possible recommendations from the

---

<sup>1</sup> [www.acpsec.org/gb/press/jtdecla2oct.htm](http://www.acpsec.org/gb/press/jtdecla2oct.htm).

<sup>2</sup> [www.acpsec.org/gb/sed/acp0011803-e.htm](http://www.acpsec.org/gb/sed/acp0011803-e.htm).

Ministerial Trade Committee, will review the state of advancement of the negotiations to ensure coherence between the various processes.

- *An all-ACP-EC Technical Monitoring Committee.* The main purpose of this mechanism will be to ensure a free flow of information and to promote dialogue between the different ACP regional groupings, on the one hand, and between them and the European Commission (EC), on the other. The committee will be composed of representatives of the ACP follow-up mechanism and EC officials.

On the whole, the first-phase of all-ACP negotiations can be seen as a failure for the ACP and somewhat of a victory for the EU. Indeed, the ACP Group claimed to keep its cohesion, and defend common interests throughout these negotiations. Yet, they reach no substantive agreement with the EU after one year of “negotiations”, that were in fact closer to discussion of clarification. The ambitious of a grand ACP unity was further dented by the eagerness of some regions (notable Central and West Africa) to start negotiations with the EU at the regional level, as soon as possible. It is worth noting that they (like other ACP regions) were strongly encouraged to do so by the European Commission. The then Trade Commissioner Pascal Lamy had even publicly invited ACP regional organisations to start informal discussion on EPAs during the course of this first all-ACP phase of negotiations, allegedly undermining any attempt to an ACP common front.

### **3.2 Recent developments on the EPA negotiations process**

After the official launching of all six regional negotiations in 2003-2004, technical negotiations and discussions have effectively started (or are about to start) in most ACP regions on the determination of the policies, instruments and capacity building support necessary for EPAs. EPAs could, if designed and implemented well, have a positive impact on ACP development. As such, the ACP, the EU and other non-state actors will be assessing all negotiators' proposals and their response in these negotiations in light of the fundamental development objectives of EPAs.

Despite their capacity constraints<sup>3</sup>, what proposals will the ACP put on the negotiating table? Will they be based on well defined national development objectives, a real assessment of the potential impact of EPAs on these and a sophisticated negotiating strategy to address them? Will they go so far as to identify the specific costs associated with EPAs and include specific proposals on the way the EU can support the ACP through EPA or WTO trade policies and rules, as well as through financial support via other instruments to enhance production, supply and trading capacity and offset adjustment costs? Or do national and regional level capacity constraints and the apparent end of 2007 deadline to conclude EPAs mean that the ACP members with the main constraints to identify and defend their development needs (and which are also the neediest in terms of development) are not and will continue not to be able to be fully involved in the preparations for negotiations, thus preventing the ACP from putting forward proposals which can ensure the true development potential of EPAs is realised?

All eyes will be on the European Commission's (EC) response to the ACP's proposals. At the highest levels, the EC has been reaffirming the central development objective of EPAs, stating its willingness to be flexible in allowing the ACP to define trade provisions and support needs and promising to ensure coherence in EU and WTO policies and rules to work in the interest of ACP countries.<sup>4</sup> The specific reaction of the EC to the ACP proposals will be measured in relation to these statements. Will DG Trade ensure that their response is based on sound development assessments and make concessions or change the rules in EPAs or the WTO if necessary? Will they ensure that other parts of the EC and EU Member States move with the same urgency as trade negotiators vis-à-vis the end of 2007 deadline to ensure

---

<sup>3</sup> See Julian (2005) TNI Vol 4, No. 1, January 2005, [www.acp-eu-trade.org/tni.html](http://www.acp-eu-trade.org/tni.html)

<sup>4</sup> <http://trade-info.cec.eu.int/doclib/html/121094.htm> and [http://europa.eu.int/comm/commission\\_barroso/mandelson/speeches\\_articles/temp\\_mandels\\_speeches\\_en.cfm?temp=sppm013\\_en](http://europa.eu.int/comm/commission_barroso/mandelson/speeches_articles/temp_mandels_speeches_en.cfm?temp=sppm013_en) and <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmintdev/uc390-i/uc39002.htm>

the necessary changes in policies and the effective and timely delivery of support to increase production/competitiveness? Regardless of whether the issues are dealt with within or outside the formal EPA negotiations, they will determine the development success of EPAs.

In an encouraging move, the European Commissioner for development Louis Michel recently convinced EU Member States to at least maintain the current levels of ACP funding in the next financial envelope. He could usefully continue to press EU Member States to deliver an adequate final amount in light of EPA needs identified. The EC will revise its Financial Regulation this year, thus providing an opportunity to create the conditions for a better implementation of EU funding over the period of the next financial perspectives (2007-2013). EuropeAid could also push for changes in the rules to allow timely support to be provided for EPAs.

Time and capacity constraints have so far often resulted in insufficiently elaborated ACP proposals which have not identified specific measures that would ensure that EPAs truly become development tools. How will the EC ensure more urgent and timely capacity support is provided? And in view of the heavy agenda, is more time needed? Some innovative ideas which deserve the serious EU's consideration have been suggested on how to deal with the WTO waiver expiry time constraint, set for the end of 2007. For instance, the Pacific region proposed a series of subsidiary EPA agreements approach designed to provide WTO compatibility and sufficient time and support for regional integration capacity building.

EU Member States are increasing pressure on the EC to ensure the development objectives of EPAs can be realised. In March, the UK government issued a statement calling for EPAs to be designed to deliver long-term development, economic growth and poverty reduction in ACP countries and challenging the EC's negotiating positions in several areas.<sup>5</sup> The statement draws heavily on the UK Commission for Africa Report's recommendations on trade and EPAs.<sup>6</sup> It calls, *inter alia*, on the EU to ensure that the ACP makes its own decisions on the timing, pace, sequencing, and product coverage of market opening. There are indications that other EU Member States are working on similar positions and that there may be a like minded group of EU Member States which will work to increase the development scrutiny of the EPA negotiations.

There has been no official EC or EU Member State response to this UK government paper challenging several of the EC's EPA negotiating positions (in fact the paper was never formally presented for discussion). Unofficially, EC and EU Member States officials suggest that the paper was intended more for domestic use to appease NGOs during the recent UK elections. Many feel the proposals are quite radical, even WTO incompatible, and contrary to the EC's EPA mandate agreed by all EU Member States and may jeopardise the UK's credibility on EPAs in the run up to its sixth month EU Presidency starting in July (another reason perhaps the UK itself did not push the paper further). However, it would be incorrect to dismiss this as only one EU Member States' election tactic. There are other EU Member States who are also increasingly concerned about the possible negative consequences of EPAs and how these are being addressed within EPA negotiations and in parallel to them. There are several upcoming meetings which will provide an opportunity for Member States to discuss the EC approach and Member States views on EPAs and provide an opportunity to discuss how to provide a more effective flow of useful information to Member States.

---

<sup>5</sup>Economic Partnership Agreements : Making EPAs Deliver for Development, UK Department of Trade and Industry, 22 March 2005 <http://www.dti.gov.uk/>

<sup>6</sup> Our Common Interest-Report of the Commission for Africa <http://213.225.140.43/english/report/thereport/cfafullreport.pdf>

## 4 EPAs: a regional focus

A common characteristic of all six regional EPA negotiations is that they have, in their initial stage, focused on the regional integration process of each EPA region. Indeed, the European Commission has undertaken to review with its ACP regional partners the state and of regional integration in all six ACP regions and their future agenda. Arguably, this approach comes from the need for EPAs to build upon and reinforce the regional integration process of ACP regions. But it can also be traced back in a broader favourable approach towards regionalism adopted by the European Union.

### 4.1 EU support to regional integration principles and initiatives

The European Commission strongly believes in the merits of regional integration, including as a tool for development (Bilal, 2005). According to the Commission, regional integration among developing countries, if carried out in a transparent and open manner (i.e. open regionalism), contribute to their integration in the world economy and plays a key role in conflict prevention and peace consolidation (European Commission, 1995, 2002). Therefore, the EU, "in light of its experience and of the instruments at its disposal", provides support to developing countries in their regional initiative (Council of the European Union and European Commission, 2000).

The European Parliament also shares the view of the European Commission and Council on the important role that regional integration and free trade agreements can play "in the establishment of a more equitable world trade system" and therefore fully support and encourage regional integration among developing countries (European Parliament, 2002, p.14).

This support to regional integration initiatives takes various forms. It is part a political support on the principles of regional integration. That is, the EU should embrace and facilitate open regional integration initiatives among developing countries, which are perceived as a complement to multilateral trade integration. In this context, the EU is also willing to share its experience on regional integration matters with developing countries, acknowledging that each region has its specificities.

Besides this 'political support' and experience sharing, the EU has also committed a sizeable share of its development aid and technical assistance to regional support, which is one of the six priority areas of its development assistance. In the framework of its partnership with the ACP states (the Cotonou Partnership Agreement) and the Mediterranean countries (MEDA), the EU has jointly elaborated regional indicative programmes in complement of its national support.

In parallel, the EU also believe that, in complement to regionalism among developing countries, regional integration between developed and developing countries and regions can also be beneficial. The EU therefore promotes both North-South agreements, and building on Southern regional integration, what it calls South-South-North free trade agreements (European Commission, 2002).

In that respect, the EU has also shown greater interest to regions that are following regional integration processes close to its own. This is the case for instance with Mercosur, where historical and cultural links and a shared vision have contributed to bring the two regions closer together. Mercosur agenda led to the prospect of a European-type of integration. Combined to significant EU interests in the region and the prospect of the FTAA, this has led the EU to support the regional integration of Mercosur and open negotiations on a bi-regional trade agreement (see Tenier, 2004).

The EU has also been pursuing regional agreements with strategic partners, such as its neighbouring Mediterranean countries. In Northern Africa, the EU has signed several free trade agreements (notably with Algeria, Egypt, Tunisia and Morocco). This integration of the

Mediterranean region with the EU is part of the so-called *Barcelona process* which seeks deeper partnership among and with the MEDA countries which should lead toward the completion of the Euro-Mediterranean Free Trade Agreement. Beyond the objective of furthering the ties with the EU, the Barcelona process seeks to reinforce the cooperation and integration among Northern African countries. In this respect, the conclusion on 11 January 2003 of the negotiations of the Egypt, Jordan, Morocco and Tunisia regional free trade agreement (the Agadir Agreement) can be seen as one further step towards this Euro-Med FTA.

## 4.2 The regional dimension of EPAs

The ACP countries also enjoy a special privileged relationship with the EU in the context of the EU partnership agreement with the ACP countries (under successive Lomé Conventions and since 2000 the Cotonou Agreement). This partnership is due to be enhanced with the current negotiations of EPAs, leading to enhanced economic integration among the EU and the ACP regional groupings.

A basic principle of EPAs contained in the Cotonou Agreement is that they should build on and reinforce the regional integration process of the ACP. Article 37.5, mentioned above, states that the negotiations of EPAs shall 'tak[e] into account regional integration process within the ACP'. The regional integration process is a recurrent theme in the Cotonou Agreement and appears in numerous articles.<sup>7</sup> According to the European Commission, by building on larger well-integrated regional markets, regional EPAs should contribute to foster the integration of the ACP in the world economy, provide for economies of scale, stimulate investment and contribute to lock in the necessary trade reforms.

It is on this ground that the EC considered negotiating with existing ACP regional groupings. This conception was presented in its 1996 Green Paper, which developed the notion of the then Regional Economic Partnership Agreements (REPAs), the equivalent of today's EPAs. The emphasis on regions is based on the Commission's view that regional integration is a stepping stone toward further trade liberalisation and thus integration into the world economy.

The principle advocated by the European Commission is that economic integration at the regional level with the EU should reinforce the respective integration process of regional groupings. It should enhance the benefits from regional integration among developing countries, in the form of enhanced trade and investment flows for instance, from Europe and within the developing regions. This will provide stronger incentives to the members of regional groupings to commit to the objectives of the region (and not opt out from a grouping which is tied to the EU). This regional partnership with the EU should hence help to increase the credibility of regional integration processes, in particular in Africa.

In this respect, the EU is also perceived as an 'external guarantor' to avoid economic and integration policy reversal and create a lock-in effect through cooperation with the EU and possible bi-regional agreement (Lee, 2003).

The EPAs will also benefit from deeper integration within the regions, so that better integrated regions can concluded more comprehensive agreements with the EU, which, in the views of the European Commission, can only be beneficial to them. The more the better! Stronger regional groupings will in turn be able to provide stronger support to the AU process. Moreover, the different regional EPAs should be based on a similar framework. So, while the

---

<sup>7</sup> Article 1(4) states that 'Regional and sub-regional integration processes which foster the integration of the ACP countries into the world economy in terms of trade and private investment shall be encouraged and supported'. Article 2 mentions regionalisation as one of the fundamental principles, noting that 'Particular emphasis shall be placed on the regional dimension'. This can be found in many aspects of the Cotonou Agreement not directly related to the negotiation of EPAs. With respect to economic and trade cooperation, Article 35.2 stipulates that 'Economic and trade cooperation shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy'.

European Commission envisages differentiated specific provisions for each EPA, their general structure should be common. Ultimately, as explicitly indicated in the Commission negotiating mandate from the EU member states, EPAs could over time be merge among regions in Africa to become larger entities. Hence, a common EPA for all African ACP countries could be envisaged in the long run. This would then be compatible, and perhaps in fact reinforce, the integration process of the African Union (AU). Or so goes the global vision of the European Commission.

In a document produced prior to the opening of the EPA negotiations, the Commission also stressed that negotiations on EPAs with ACP groupings should rely on and further enhance 'functioning' and 'effective' regional integration processes among ACP countries (European Commission, 2001). In view of the poor record of some ACP regional groupings, the Commission was obviously concerned to enter into negotiations on EPAs with groupings whose existence is more than purely formal, and which pursue or have achieved substantial economic integration in practice. However, the determination of criteria to distinguish between an 'effective' and an 'ineffective' regional integration initiative is likely to prove controversial.<sup>8</sup> In fact, one may wonder whether some of the regions self-determined for an EPA, such as CEMAC, the PACP, or the ill-defined SADC-EPA configuration (which excludes key members of SADC) do constitute effective regional groupings with functioning regional integration mechanisms.

The European Commission can also be quite prescriptive in what it considers key elements for effective integration. For instance, the European Commission (2004) outlined a 'toolbox' for EPAs which highlights key elements for successful regional integration, to be considered by the ACP, but which also reflects the broader thrust of the European Commission on what credible regional integration processes should entail. It identifies five components. The first two relate to trade in goods (boiling down to the creation of a customs union) and trade in services (with the liberalisation of the four modes of supplies and the development of a simplified and harmonised regulatory system). A third category covers trade (related) rules which affect effective regional integration. These include SPS and technical regulations which need to be harmonised at regional level through the setting up of regional bodies. A regional authority must be created to enforce competition and subsidy rules. Similarly, regional policies must be established on intellectual property rights, investment, public procurement, environmental, labour and consumer rules. To ensure appropriate and credible implementation of regional policies, enforcement mechanisms must also be put in place (e.g. regional appeal courts, regional binding arbitration, etc.). Finally, regional groupings may consider fiscal and macro-economic harmonisation, creation of monetary union, and the development of appropriate regional bodies "to be the motor of integration".

### **4.3 Overlapping membership or the "spaghetti bowl" nightmare**

Many ACP countries belong to more than one regional groupings, some of which with overlapping membership and in some cases conflicting objectives and obligations. This is the case for instance in east and southern Africa with COMESA/SADC/EAC whose integration processes and agenda are still not consistent.

---

<sup>8</sup> Section 4.1.1 of the Commission's paper on orientation (European Commission, 2001) states that 'Regional economic integration initiatives based on the objective to establish a customs union or a free trade area, which have not been implemented and for which legally binding interim agreements do not exist or are not effectively implemented in accordance with their schedule, should not be considered for the negotiations of EPAs' (emphasis added). Effective implementation could however sometimes be difficult to assess in practice. Besides, some ACP regional economic integration initiatives, in particular in Africa, have failed to meet self-determined timetables, and legally binding agreements are in no way sufficient to ensure effective implementation. Finally, such a strict interpretation could, at least in principle, also penalise more ambitious regional initiatives that have set somewhat over-ambitious timetables.

For instance, most SADC members belong to at least one other regional grouping. This is perfectly consistent with the principles of a free trade agreement, where each member remains in charge of its own trade policy towards non-members. A country can thus belong to several different free trade agreements, as it is often the case. However, in the case of customs unions, where members adopt a common external tariff/policy, a lack of coherence leads to conflicting obligations. SADC includes a subgroup of countries, South Africa and the BLNS (Botswana, Lesotho, Namibia and Swaziland) countries, which have formed the Southern African Customs Union (SACU). A possible SADC customs union (proposed by 2010) will thus require the alignment of SACU and SADC common external tariff. To complicate matters further, several SADC members also belong to the Common Market of Eastern and Southern Africa (COMESA), which is set to become a customs union in the very near future<sup>9</sup>. In addition, Tanzania, besides its SADC membership, is also part of the East African Cooperation (EAC), which became a customs union in 2004, but not of COMESA, contrary to its two other union partners, Kenya and Uganda. This leads to unavoidable conflicting economic integration commitments and objectives.

South Africa, which was only a qualified member of the ACP, already concluded a free trade agreement with the EU in 2000 (i.e. the TDCA) and will not therefore be part of the EPA negotiations. SADC membership often overlaps with other regional arrangements, which have different (and sometimes conflicting) integration and trade programmes, and whose members are also expected to negotiate EPAs with the EU. Currently, Angola, Botswana, Lesotho, Namibia, Mozambique, Swaziland and Tanzania have chosen to negotiate EPAs under the SADC banner, the SADC-EPA group. South Africa will participate as an observer. Other SADC Members will negotiate EPAs under the banner of other regional arrangements, notably the East and Southern Africa (ESA) EPA configuration, which regroup COMESA countries. Tanzania is a case in point, as its two other EAC partners, which are members of COMESA unlike Tanzania, have joined the ESA-EPA, while Tanzania negotiates an EPA under the SADC (minus) configuration.

Unless the SADC-EPA and COMESA-EPA end up being identical agreements, which can be merged into one broad SADC-ESA EPA, the regional integration processes in the region could be seriously compromised. Similarly, BLNS countries are de facto part of the TDCA, since they belong to SACU, a custom union with South Africa. How can then BLNS countries negotiate a separate EPA with Angola, Mozambique and Tanzania under the SADC banner? Again, this is doomed to split the region or lead to conflicting obligations.

EPA negotiations force countries to choose one region over another, in the case of multiple memberships. While this may be arguable as a desirable outcome, the danger is that considerations about the relationship with the EU take precedent over regional concerns. That is, external considerations driven by the EU may prevail over domestic (national and regional) concerns. The issue is whether the regional integration process can be driven, or supported, by foreign forces (in this case the EU), or whether the process, to be sustainable, should not be endogenous. This is a question which ultimately can only be resolved by the ACP countries themselves.

#### **4.4 Asymmetry of integration, development or interest within a region**

Alternatively, EPA negotiations with the Caribbean have been undertaken with CARIFORUM, that includes CARICOM (which moves towards an effective customs union and the completion of its single market) and the Dominican Republic, in a free trade area. The EPA agenda, which ambitions according to the EC to address “behind-the-border” policy matters, suggests deep integration, more in line with the CARICOM agenda of integration than the shallower CARIFORM FTA. By pushing for a more substantive regional integration agenda to

---

<sup>9</sup> Initially, COMESA planned to establish a customs union by 2004, but implementation has been postponed.

fit the EPA process, the European Commission creates tensions in the CARIFORUM region, which might undermine, rather than promote, regionalism in the Caribbean.

The level of integration of a region plays therefore a key role in the pursuit of an EPA. Varying degrees of integration within a region may create tensions among regional partners, which may ultimately undermine the claimed objective of EPAs to build upon and strengthen regional integration. Such fears have been raised in the context of West Africa, with UEMOA experiencing a deeper form of integration than the encompassing ECOWAS. The current process of convergence between the UEMOA and ECOWAS regional integration process would appear to remedy such possible tensions. Yet, a failure to comply in time the implementation of an ECOWAS common external tariff could endanger the EPA negotiations process, and result in a split region. This led some West African officials to complain that the European Commission, by pushing for a comprehensive EPA agenda, was forcing the speed of integration of the region in an excessive way.

Another potential source of tension within a region due to EPA is the presence of least developing countries (LDCs), whose interests are likely to differ for other ACP countries. Reciprocity is the cornerstone of the Commission's approach to the negotiations of EPAs. However, this raises questions about its consistency with the implications of the 'Everything but Arms' (EBA) initiative, where the EU grants non-reciprocal market access to all LDCs. At issue is the ACP LDCs non-reciprocal trade preferences with the EU under an EBA, which they would have to forfeit by entering into an EPA. This of course raises the question of whether ACP LDCs (40 out of the 77 ACP countries) have any serious incentive to join an EPA. The Commission's informal argument appears to be that EPAs will encompass much more than standard market access measures, and will include trade-related measures as well. Yet, the superiority of an EPA over EBA, in terms of the benefits for ACP countries, has yet to be formally demonstrated.

More crucial for regional integration, the question is what would happen should an ACP LDC decide not to sign an EPA and retain instead its EBA non-reciprocal market access to the EU? Clearly, this would seriously undermine the regional integration process. Indeed, either the LDC is excluded from the region and the regional EPA is signed, or the LDC remains a member of the regional grouping and EPAs are concluded with the other individual members of the region. In the latter case, EPAs will force the region to maintain borders' controls, so as to determine the origin of the products traded with the EU, not to mention the possible consequences on trade-related issues which would not be covering the whole region.

Note that the same problem would arise should any member of a regional grouping (LDC or not) should decide to opt out alone from an EPA. In such an event, an EPA could lead to the disintegration (rather than integration) of a region. For the sake of illustration, what would happen to ECOWAS were Nigeria unwilling to sign a common regional EPA with the EU. Would the integration process of ECOWAS, due to become a customs union, be reinforced? This is an hypothetical example which could be repeated with most countries in the various African regions. The point is that unless all countries of a region can agree on a common EPA, the partnership with the EU may seriously disrupt the regional integration process. How, in these conditions, would the regional economic communities (RECs) be able to be the building blocks to the African Union (AU) integration process?

Each ACP regional grouping is also put in the difficult position of having to speak with one voice during the negotiations with the EU. While this is to be expected from a customs union with a common external policy, it is unusual for a free trade area where member countries retain full sovereignty in the determination of the external trade policy. A common position by an FTA requires therefore a strong, well-developed coordination process among the member countries. In any case, any regional agreement involving an FTA as one of the partners will have to be notified individually to the WTO by each members of the FTA.

Political will may be insufficient. Conflicting interests may generate tensions within the region. Even in the presence of explicit commitment to negotiate as a group, weak institutional capacity may prevent many groupings from effectively defend the interests of their members during the negotiations with the EU.

## 4.5 Other Criticisms of the EC's EPAs

The European Commission's approach to EPAs has raised many criticisms.<sup>10</sup> From an economic point of view (see Szepesi, 2004), it has been noted that the European Commission tends to ignore the potentially negative effects of regional integration agreements, in particular among developing countries, and of EPAs based on reciprocal regional free trade agreements. ACP regional groupings, particularly in Africa, are characterised by large differences in the size of their economies and levels of development, as well as in the structure of their tariff rates. As a result, preferential trade liberalisation is likely to generate significant trade diversion and transfers of resources, through the loss of revenues from import duties, in favour of the dominant country in the regional grouping which is often more industrialised and imposes higher tariffs on industrial goods.<sup>11</sup> Regional integration among poor countries with different sizes and levels of development could lead to income divergences among the partners (see Schiff and Winters, 2003).

For the ACP countries, preferential liberalisation to imports from the EU could lead to severe loss of fiscal revenues resulting from the abolition of customs duties and may require significant adjustments to domestic production because of competition from EU products. These elements could destabilise the ACP regional integration process that the EU seeks to reinforce.

Negotiating EPAs may result not only in trade diversion, but may also divert the attention of ACP countries away from other regions and multilateral considerations. The danger of 'EPA-centrism' is reinforced by the limited negotiating capacity of ACP countries and regions. This is likely to be over-stretched during the EPA negotiations, and may not allow ACP countries to devote enough efforts to the WTO negotiations (see Bilal, 2003, 2004).

Many observers note that the Commission's approach may lead to a split in the ACP Group. The EBA initiative has already divided the Group into two distinct categories, the LDCs (which benefit from the EBA) and non-LDCs. The danger is therefore looming that the ACP Group will lose its coherence and may end up divided into regional entities. Raffer (2001) argues that this is indeed the EU's objective. It had already attempted to pursue such divisive objectives in 1975, when it wanted reciprocal trade agreements with several associated countries, before conceding, under US pressure, non-reciprocal preferences under the Lomé Convention.<sup>12</sup> The negotiation of separate EPAs with each regional ACP grouping would further divide the ACP Group. By negotiating with a subset of ACP countries, the EU could reinforce its bargaining position *vis-à-vis* the ACP countries. It is indeed easier to negotiate with a smaller partner or group of partners.

---

<sup>10</sup> See notably ActionAid (2004); ChristianAid (2005); UNECA (2005); [www.epawatch.net](http://www.epawatch.net); and [www.stopepa.org](http://www.stopepa.org)

<sup>11</sup> This is the case for instance for Ivory Coast in UEMOA or to some extent for Kenya in EAC. See Cadot *et al.* (2000).

<sup>12</sup> Raffer's assessment of the Cotonou Agreement leads him to conclude that: 'The present 'partnership' is an Orwellian relation where one partner has no rights at all, the other perfect arbitrariness. It is not a horse and rider relation, as the rider also depends on the horse as a means of transport while the ACP countries appear to be a historical burden the EU might not be unhappy to get rid of' (Raffer, 2001, p.8).

## References

[www.acp-eu-trade.org](http://www.acp-eu-trade.org)

ActionAid (2004), *Trade Traps: why EU-ACP Economic Partnership Agreements pose a threat to Africa's development*, ActionAid International, [www.actionaid.org.uk/wps/content/documents/Trade%20traps\\_3182005\\_201854.pdf](http://www.actionaid.org.uk/wps/content/documents/Trade%20traps_3182005_201854.pdf)

Cadot, Olivier, Jaime de Melo and Marcelo Olarreaga (2000), 'L'Intégration régionale en Afrique: où en sommes-nous?', *Revue d'économie du développement*, 1/2, 247-261.

Christian Aid (2005), *For Richer or Poorer: Transforming economic partnership agreements between Europe and Africa*, April 2005, [www.christianaid.org.uk](http://www.christianaid.org.uk)

Bilal, San (2005), 'Can the EU Be a Model of Regional Integration? Risks and challenges for developing countries', paper presented at the CODESRIA - Globalisation Studies Network (GSN) Second International Conference on Globalisation: Overcoming Exclusion, Strengthening Inclusion, Dakar, Senegal, 29 August to 31 August, 2005.

Bilal, San (2004), 'The Coherence of Multi-Level Negotiations: Challenges for developing countries', UNU-CRIS e-Working Papers W-2004/11, November 2004, [www.cris.unu.edu/pdf/WP%20BILAL%20SANOUSI.pdf](http://www.cris.unu.edu/pdf/WP%20BILAL%20SANOUSI.pdf)

Bilal, San (2003), 'Preparing for the Negotiation of Preferential Trade Agreements with the EU: Preliminary lessons from some developing countries', paper presented at the *Meeting of Officials and Ambassadors from the Eastern and Southern Africa Region on Developing an Economic Partnership Agreement Negotiating Mandate for the Region*, 22-23 May 2003, Nairobi, Kenya. [www.acp-eu-trade.org](http://www.acp-eu-trade.org)

Bilal, San (2002), 'The Future of ACP-EU Trade Relations: An Overview of the Forthcoming Negotiations', ECDPM-ODI Discussion Paper No.1, February 2002. [www.acp-eu-trade.org](http://www.acp-eu-trade.org)

Bilal, San and Melissa Julian (2005), 'Reviewing the EPA Negotiations Process', paper prepared for the Commonwealth Secretariat/SADC Workshop on *SADC-EU EPA Negotiations*, Maputo- Mozambique, 21-22 June 2005.

Bilal, San, Junior Lodge and Stefan Szepesi (2003), 'The Caribbean-EU Relations: Towards an Enhanced Partnership?', paper presented at the BID/Bocconi Workshop *Europa y América Latina en la Economía Global: Cómo intensificar sus relaciones económicas*, Bocconi University, Milan, 15-16 January 2003. [www.acp-eu-trade.org](http://www.acp-eu-trade.org)

Bilal, San and Kathleen van Hove (2002), 'An Overview of the ACP-EU Negotiations: Issues and timeframe', paper presented at the CTA conference on *Effective agricultural trade negotiations*, Brussels, 27-29 September 2002. [www.acp-eu-trade.org](http://www.acp-eu-trade.org)

Bilal, San and with Stefan Szepesi (2003), 'EPA Impact Studies: SADC and the Regional Coherence', *ECDPM InBrief* No 2B, September 2003. [www.ecdpm.org](http://www.ecdpm.org)

Commission for Africa (2005), *Our Common Interest*, Report, <http://213.225.140.43/english/report/thereport/cfafullreport.pdf>

Council of the European Union and European Commission (2000), 'The European Community's Development Policy', Statement by the Council and the Commission.

DFID-DTI (2005), *Economic Partnership Agreements: Making EPAs Deliver for Development*, UK Department for International Development and UK Department of Trade and Industry, 22 March 2005 [www.dti.gov.uk](http://www.dti.gov.uk)

European Commission (2004), 'EPA Negotiations: Toolbox', [http://europa.eu.int/comm/trade/issues/bilateral/regions/acp/toolbox\\_en.htm](http://europa.eu.int/comm/trade/issues/bilateral/regions/acp/toolbox_en.htm)

European Commission (2002), *Trade and Development: Assisting Developing Countries to Benefit from Trade*, Communication from the Commission to the Council and the European Parliament, COM(2002) 513 final, 18 September.

European Commission (2001), 'Orientations on the Qualification of ACP Regions for the Negotiation of Economic Partnership Agreements', Brussels: European Commission. [www.epawatch.net/general/text.php?itemID=24&menuID=5](http://www.epawatch.net/general/text.php?itemID=24&menuID=5)

European Commission (1995), *European Community Support for Regional Economic Integration Efforts among Developing Countries*, Communication from the Commission, COM (95) 219, <http://europa.eu.int/comm/development/body/legislation/recueil/en/en13/en131.htm>

European Parliament (2002), *Report on Trade and Development for Poverty Reduction and Food Security*, Committee on Development and Cooperation, Final A5-0230/2002, 13 June.

Julian, Melissa (2005), 'EPA Negotiations Update', *Trade Negotiations Insights*, Vol 4, No. 1, January 2005, [www.acp-eu-trade.org/tni.html](http://www.acp-eu-trade.org/tni.html)

Lee, Margaret C. (2003), *The Political Economy of Regionalism in Southern Africa*, Lansdowne: University of Cape Town Press, and Boulder, Colorado: Lynne Rienner Publishers.

Raffer, Kunibert (2001), 'Cotonou: Slowly Undoing Lomé's Concept of Partnership', DSA European Development Policy Study Group Discussion Paper 21, October, Department of Economics, Manchester Metropolitan University. [www.edpsg.org/Documents/Dp21.doc](http://www.edpsg.org/Documents/Dp21.doc)

Schiff, Maurice and L. Alan Winters (2003), *Regional Integration and Development*, Oxford University Press.

Szepesi, Stefan (2004), 'Coercion or Engagement? Economics and Institutions in ACP-EU Trade Negotiations', ECDPM Discussion Paper 56, Maastricht: ECDPM, [www.ecdpm.org/dp56](http://www.ecdpm.org/dp56).

Tenier, Jacques (2004), "Les relations entre l'Amérique du sud et l'Union européenne", *La Chronique des Amériques*, No. 7, February, Observatoire des Amériques. [http://www.ameriques.uqam.ca/pdf/Chro\\_0407\\_UE-amsud.pdf](http://www.ameriques.uqam.ca/pdf/Chro_0407_UE-amsud.pdf)

UNECA (2005), *Economic and Welfare Impacts of the EU-Africa EPAs*, United Nations Economic Commission for Africa, March 2005 [www.uneca.org/eca\\_programmes/trade\\_and\\_regional\\_integration/documents/KAringi.pdf](http://www.uneca.org/eca_programmes/trade_and_regional_integration/documents/KAringi.pdf)