



## TRADE AND GOVERNANCE

Does governance matter  
for trade ?

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**APRODEV Background Paper on the link between  
trade and governance - two important aspects of the  
current development framework.**

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**< Aussi longtemps que les lions n'auront pas leur historien, les récits de chasse tourneront toujours a la gloire du chasseur >**

*African proverb \**

This background paper on the links between trade and governance identifies the main areas of interaction between the two, and some gaps in current understanding.

With imminent bilateral and regional trade negotiations between developed and developing countries and regions, as well as ongoing multilateral negotiations, we believe it is vital to take into account impacts on governance during the process of negotiations, and in the negotiated agreements themselves.

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\* Quoted in <Le Poulet de la discorde: plaidoyer et lobbying>  
B. Njonga, Yaoundé 2008

## Preface

This paper is intended as a contribution to understanding of relationship between trade and development, and to question some aspects of current thinking and practice in EU trade negotiations, and the parallel promotion of 'good governance'. The EU's commitment to policy coherence for development should translate into scrutinising trade deals to ensure their outcomes match EU development objectives, including governance impacts.

Trade agreements can in practice undermine responsive governance in developing countries, and this paper suggests that development benchmarks may prove the best foundation for a more transparent and evidence-based trade policy. Whatever disagreements exist about the detail of policy, there is consensus about the need for this to be responsive to citizens' rights and broader societal interests.

How to achieve this? One way is simply to be more inclusive. Most social and economic groups are quite simply excluded from trade negotiations, and always have been. They have no say or bargaining power over trade deals. This is to ignore the fact that the informal and rural economies are the main source of livelihoods, of above all of food, for most people in developing countries. This is particularly glaring in the case of women, who play such a central part in developing countries. Their absence from the table no doubt helps explain why national and international commitments to achieve gender equality have been consistently neglected in trade negotiations.

Moreover the monopoly exacted by the EU for 'professional expert advice' blocks out consideration of alternative policy options, even though the "Global Europe" template mostly fails the development test. The risk is one of a "deadly combination"\* of imposed policy prescriptions and developing countries lacking the political will or simply capacity to implement reforms. The result, as we have seen, is liable to poor policy choices and ineffective implementation; the price, as often, is paid by the poor and voiceless.

November 2008

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\* *Norwegian Church Aid (2007), Deadly Combination: The role of Southern Governments and the World Bank in the Rise of Hunger.*

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## Executive Summary

Knowing how governance and trade policies interrelate is important. But what do we know really about how trade reforms affect governance?

Governance matters, not only because effective governments mean better development prospects, but because it brings back into focus the importance of how policy happens and what this means for its success and its impact on different groups, especially poor men and women.

Poor governance as a result of the trade negotiations makes it more likely that the wrong trade-related policies are put in place and/or that implementation of them will be unsuccessful.

The governance of trade agreements has been neglected and needs reform in order for the potential benefits of these deals to be realised. Trade agreements cannot guarantee successful implementation and security of policy commitment if the majority of citizens were not represented in the policy formulation and are subsequently negatively affected by it.

Trade agreements also matter for governance. Current conventional thinking around this relationship is largely untested and based on assumption rather than experience. For example, evidence of several developing countries shows that under some circumstances liberalisation

of trade and investment increases corruption and that trade agreements undermine institutional capacity.

Changes in approach to trade agreements are needed to ensure a more constructive relationship between trade and governance.

The EU must:

- include aspects of governance in impact assessments, mandates and objectives of trade agreements, so that trade agreements are tested against their impacts on governance, not based on assumptions, for example that liberalisation will reduce corruption.
- increase participation and transparency of the negotiating process to increase responsiveness to citizens' rights and needs, to rebalance accountability and to improve policy commitment and effectiveness.

Benchmarking is one way forward to improve the relationship between trade and governance with respect to trade agreements. It is a tool that can improve the governance of the process of negotiating trade deals and that allows evidence-based review of their implementation.

# Trade and governance

## 1. Introduction

Two of the most important features of the current development framework are putting in place the right economic policies, including an open trade regime and a favourable investment climate, and achieving good governance.

Surprisingly the links between the two have been little examined and are instead the subject of some large assumptions. This is most clearly demonstrated by the fact that a good investment climate and open trade are themselves used as indicators of good governance.<sup>1</sup>

But what do we know really about how trade reforms affect governance? Does liberalisation help fight corruption? Do trade deals make governments more effective and transparent? Or do they make them more accountable to big business and foreign governments rather than their poorest citizens?

To improve our understanding of how trade and governance interrelate, this paper will begin by looking critically at current thinking, with a particular focus on trade agreements.

It will look at the negotiation process itself and what this means for elements of governance such as accountability, policy commitment and responsiveness to citizens.

Then it will examine the policies that trade agreements tend to put into place and what we know of their effects on governance, before turning to look at the institutional impacts of trade agreements and whether or not they make governments more effective, committed to policies and likely to implement them well.

Finally, it will explore benchmarking as an emerging idea for ensuring that trade reforms have a positive impact on governance and to improve trade policy-making and trade negotiations.

Knowing how these two sets of policies interrelate is important. If we assume that trade agreements and certain trade policies are good for governance, and this is not necessarily and at all times the case, then we risk undermining progress towards improved governance. We might pursue inappropriate responses to critical issues such

as corruption and divert attention from other measures that might be more important and effective.

Conversely, poor governance as a result of the trade negotiations makes it more likely that the wrong trade-related policies are put in place and/or that implementation of them will be unsuccessful. The poorest groups are most likely to be negatively affected by this as their interests are quickest sidelined and they are least able to cope with poorly conceived and implemented trade reforms.

Before we begin to examine the impact of trade agreements on governance – it is worth looking in more detail at why governance should matter.

## 2. What is good governance and why does it matter?

According to the World Bank:

*“Governance consists of the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.”*

Countries' performance on governance are scored by the bank according to six criteria:<sup>2</sup>

1. Voice and Accountability – the extent to which a country's citizens are able to participate in selecting their government, freedom of expression, freedom of association, and a free media.
2. Political Stability and Absence of Violence – the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically-motivated violence and terrorism.
3. Government Effectiveness – the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
4. Regulatory Quality – the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
5. Rule of Law – the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.
6. Control of Corruption – the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.<sup>3</sup>

Whilst the World Bank is a dominant influence in this area, other definitions do exist, for example, it is worth considering an interpretation of governance used by the UK's Department for International Development (DFID).

*“Good governance requires three things: State capability – the extent to which leaders and governments are able to get things done. Responsiveness – whether public policies and institutions respond to the needs of citizens and uphold their rights. Accountability – the ability of citizens, civil society and the private sector to scrutinise public institutions and governments and hold them to account.”*  
DFID White Paper, Making Governance Work for the Poor, 2006

This definition easily can capture all the elements of the World Bank's ranking. However, as well as being simpler, the emphasis of DFID's definition is interesting on two counts. First that it leaves open more policy options, for example allowing a more active economic role for the state than simply promoting the private sector, as well as allowing different, more informal approaches to contracting or property rights.

It also places more emphasis on responsiveness to citizens. Although not explicitly mentioned as a category in the World Bank's list, responsiveness is an underlying prerequisite for the success of others. For example government effectiveness: If a government is to be able to formulate appropriate policies and be committed to them, this depends on that government being able to tap into the demands of its citizens.

Although all aspects of governance are potentially affected by trade agreements, even political stability (see box below), some are obviously more directly and significantly affected. Based on this assessment as well as DFID's and the World Bank's definitions of good governance, the following elements will be used in this report to assess the impact of trade deals on governance:

**State capability, government effectiveness and regulatory quality:** According to DFID's definition, this is simply the state's ability to "get things done". The World Bank refers to the quality of policy formulation and implementation, including the credibility of commitment to policies. In the case of trade deals, this would correspond to governments signing up to deals that respond to the needs of the majority of their citizens and long-term development objectives, as well as deals that they are genuinely committed to and able to implement well. The World Bank also specifies the role of the state in ensuring quality public services. This is particularly relevant to trade agreements that can shift the provision of some public services to the private sector and place and change the nature of regulatory requirements on the state to ensure their continued successful provision.

**Responsiveness:** According to DFID responsiveness is the ability of the state to respond to citizens' needs and uphold their rights. In the context of trade negotiations, this means the state must represent the majority of its citizens – workers, consumers, private sector – rather than a narrow range of (vested) interests. It must negotiate deals that are appropriate to the local context and that do not undermine inappropriately its ability to respond to citizens' needs. It must also ensure that trade deals are consistent with, or indeed reinforce citizens' rights.

**Accountability & anti-corruption –** According to DFID, accountability corresponds to citizens' and private sector's ability to scrutinize and hold to account public authorities. Trade deals can play a role by creating mechanisms for transparency, for consultation or rights for redress of grievances. Trade deals can also affect opportunities for corruption, or provide measures to help combat it.

### **Big Mac peace and the Tortilla riots: Trade and political stability**

There is a significant but largely inconclusive literature on the impact of trade on the propensity for conflict between states. Put crudely, the debate is divided between:

- those that believe that trade openness can reduce political conflict mainly through increased familiarity and shared interests – the so-called “Big Mac theory” that no two countries with a MacDonald’s have ever fought a war against each other.
- those that believe that trade has a marginal impact on conflict and it is perhaps more pertinent to talk of trade increasing or decreasing because of cooperation or conflict
- and finally those that believe that trade has the potential to increase conflict over commercial interests or through increasing inequality, environmental damage or other externalities.

The first of these camps is currently dominant with politicians often alluding to the political benefits of increasingly open international trade. Political stability is also a feature of many regional integration initiatives that include or build on creating common markets or trade regimes.

It is clear that other conditions are critical to how increased cross-border trade will affect conflict. A rival theory to the Big Mac (backed up by empirical studies) is that political similarities are more important: no two democracies have ever fought each other. Newer thinking is beginning to look more directly at the role of private sector actors – after all it is firms and not states that trade. Others point to the fact that it is what type of conflict or what type of trade that is important. It is obvious that trade in the materials for war, including arms, can facilitate conflict<sup>i</sup>, but there are also cases where trade in high-value goods has financed conflict – for example diamonds, timber and drugs trade in Angola, Sierra Leone and Liberia. It is clear that we are not yet in a position to assume that any opening of markets will always result in a dividend for peace.

There is a less extensive literature on the effects of trade and trade reforms on political stability within states. Again the unsatisfying conclusion seems to be that “it depends”. Where trade increases wealth, then this can support political stability.

However, this has not been the experience of many developing countries. There are numerous examples where trade has increased inequality, diminished social cohesion and generated competition for resources, such as land or water. Greater openness to trade also increases vulnerability to external shocks that can trigger problems of social instability and conflict.<sup>i</sup> For example, greater exposure to higher international corn prices was a factor behind the so-called Tortilla riots in Mexico in 2007<sup>ii</sup>.

Yet even in trade negotiations involving countries that are involved in or emerging from conflict, such as the Economic Partnership Agreements (EPAs) between the EU and African, Caribbean and Pacific (ACP) countries, consideration of impacts on conflict sensitivity does not guide negotiations, and is not even seriously explored in impact assessments or consultations.

### 3. Why is governance important for development?

It is straightforward that effective states are an important part of promoting development. A well-functioning state can design and implement sound policies, support economic growth, protect citizen's rights and provide essential services such as education and health<sup>4</sup>.

In the Philippines, for example, corruption in state procurement of school text books was depriving students of education opportunities. Books simply never arrived as funding for educational materials was siphoned off by corrupt officials and unqualified bidders put in inflated bids to deliver them. An anti-corruption drive began in 2002 and there is now almost complete coverage of delivery of textbooks to primary schools.<sup>5</sup>

The contrasting examples of Botswana and Zimbabwe show some of the effects of a government that upholds rule of law, responsiveness to citizens and anti-corruption and one whose effectiveness is undermined by lack of accountability and political instability. Botswana's policies are based on community consultation, upholding citizens' rights and combating corruption and have helped it achieve a nearly 8% growth rate for the last few decades. In Zimbabwe, on the other hand, where the state is not upholding rule of law, human rights, political accountability and sound public management, the economy is in crisis, there are chronic food shortages and drastic consequences for human development.<sup>6</sup>

Whilst these examples show the importance of a sound state, it is not obvious how to reach the point of state effectiveness, nor do they demonstrate what form the state should take or what kinds of policies it should implement. These are still open questions in the governance debate.

For example, some studies show that better governance leads to better development outcomes.<sup>7</sup> Others argue that, whilst the objectives of fighting corruption, government accountability and rule of law are laudable, these factors might be a result of, rather than precondition for, development – and that other elements of state capacity and activity might be more important.<sup>8</sup>

Governance failures were diagnosed as a root cause of the failures of the policy prescriptions of the World Bank and International Monetary Fund in developing countries in the 1980s and 1990s. The policies were essentially the right ones, this thinking goes, but ineffective, corrupt or weak states could not properly implement them, resulting in diminished positive and even some negative impacts.

Whether or not you accept this interpretation<sup>9</sup>, it is clear that a focus on the “how” of government and policy-making is as important as the “what”. The best-designed policies, if inadequately implemented or subverted by corrupt practices, will not work well, and policies are unlikely to be well-designed if the process to reach them is not a good one.

Whilst the governance agenda does not and should not provide a recipe for development of itself, it matters because it redresses a lack of focus on the actors, processes and power involved in achieving change, including in developing and implementing policy. This leads to a better understanding of how to influence policy-making, for example in favour of poor citizens, and how to increase the chances of successful policy-making and implementation. Governance is critical to ensuring that there are positive impacts of policies as well as in determining who benefits from them.

While Zimbabwe is subject to suspension of EDF under article 96 of the Cotonou Agreement, and subject to sanctions under the CFSP consisting of visa ban for a list of people, the EU has willingly accepted Zimbabwe's initialling of the interim EPA.

#### 4. Does governance matter for trade?

There are no significant studies on the impact of governance on trade flows. Some studies point to the importance of governance for attracting investment.<sup>10</sup> Others link governance to economic growth.<sup>11</sup>

The logic is that better governance – by providing a more stable and effective environment – must be good for trade and investment. For example, corruption is likely to negatively affect trade and investment as it reduces public revenue, public investment and its productivity, it interferes with regulation to correct market failures, and acts as a tax on investment.

Again, however, other studies suggest that this relationship might not be so straightforward. As Chang points out, some countries that would score very badly on the good governance scale are doing better than their more respectable counterparts<sup>12</sup>. Indonesia, for example, experienced significant growth under the corrupt dictatorship of Suharto and China has attracted significant foreign investment despite notoriously persistent corruption.

This suggests that the focus on governance to promote trade, investment and growth is not necessarily correct.

It need not be problematic as tackling both governance and growth problems can be local development priorities and both are important and laudable objectives.

However, the assumed positive, causal connection between governance and trade, investment and growth is concerning because it is used to promote a particular reform agenda, whose success is under question and which closes off other policy options and priorities.

“Good” governance is a commonly used concept that is in fact quite normative, particularly with respect to the organisation of the economy. It promotes formal rules and institutions in markets, a particular role of the state in relation to markets (a facilitating role rather than direct intervention) and even a particular set of economic rules.

The emphasis within “economic governance” is on providing formal rules and bodies, especially property rights. Yet, these might not always be best options in all conditions. For example, Dixit<sup>13</sup> cites work by Li which demonstrates that, since formal rules have high fixed costs and low marginal costs, and informal systems the reverse, it makes sense to use informal institutions where the volume and scope of trade is limited – and that a mix of the two systems might be optimum in some circumstances. Work with the Orma tribe in Kenya showed that formal title registration of land interacted dysfunctionally with traditional arrangements. Dixit concludes that:

*“different governance institutions are optimal for different societies, for different kinds of economic activity and at different times.”*

As Europe's trade commissioner, Peter Mandelson, was even more prescriptive in his interpretation of “economic governance”, interpreting it as the kind of rules on trade-related issues put in place by free trade agreements (FTAs). Referring to controversy surrounding EU proposals to include these topics within the Economic Partnership Agreements between the EU and Africa, he noted that:

*“Investment, public procurement, trade facilitation and competition policy are essential parts of successful economic governance. They are inherently good for development because they provide the stable and predictable framework and*

*climate for investment to grow.”*

*Address by Peter Mandelson, EU Trade Commissioner, to ACP-EU Joint Parliamentary Assembly, Bamako, Mali, 19 April 2005*

The reluctance of developing countries to include negotiation of rules on these topics within WTO trade talks is well known. The opposition of developing countries derived mainly from their hesitancy to adopt policies which were far reaching for the organisation of their economies but whose appropriateness was untested.

*‘We, the Ministers of Trade of the Member States of the African Union (AU).. recognize the complexity and importance of the Singapore issues<sup>14</sup> and note that WTO Members do not have a common understanding on how these issues should be dealt with procedurally and substantively. Taking into account the potential serious implications of these issues on our economies, we call for the process of clarification to be continued.’*

*African Union trade ministers’ meeting, Grand Baie, Mauritius, 19-20 June 2003*

As well as uncertain economic impacts<sup>15</sup> – as will be discussed later in this paper – the impact of these kinds of regimes on governance is also unknown.<sup>16</sup>

Applying a normative interpretation of “good governance” is especially unhelpful, not just because the recipe might be wrong but because the definition of such a recipe is in itself counter-productive. It mutes, for example, responsiveness to citizens’ needs and interests, where these might conflict with the accepted norms, and it undermines the ability to tailor policies and regulations to local conditions.

Although it is a mistake to use the governance agenda to promote an agenda of preferred reforms, our general conclusion is that governance does matter – the “how” of policy is important to its success and positive impacts. Understanding the power and politics of policy is important to determining who benefits (or suffers) from the positive (or negative) impacts of those policies. This applies to trade and the other policies included in trade agreements.

## **5. The trade negotiation process and governance**

How trade negotiations happen matters because this will determine whose interests are taken into account in final outcomes, how appropriate policies might be and therefore how successfully they might be implemented.

The negotiations themselves are therefore an important part of the trade-governance equation.

Conventionally negotiations are felt to be beneficial to the process of trade policy-making. Negotiations are believed to be a process that can reach optimum policy outcomes better than governments acting in isolation influenced by powerful vested interests. Instead negotiations provide an opportunity for governments to go against these interests and put in place policies that will suit the majority.

However, the “governance” of trade deals has come in for much criticism on several grounds.

In order to analyse how trade negotiations work, it is useful to understand them in the context of policy-making as an “interactive process among institutions and groups (who stand to lose and gain) and ideas (including arguments and evidence)” rather than a “rational search for truth”.<sup>17</sup>

Using this definition, political economists are able to develop hypotheses about the process of trade talks and why governments might not pursue optimum policies during them (i.e. those that maximise welfare gains).

Some hypotheses relevant to these discussions are that rationally optimum results are not pursued by governments because they are influenced by:

- pressure groups
- impacts on voters and revenue
- foreign repercussions
- ideological preferences

Unfortunately, many of the existing studies around the political economy of trade policy are made less useful by the assumption that liberalisation is always the optimum policy. Their focus has therefore been to explain “welfare paradoxes” when the government deviates from this optimum policy of liberalisation. Again this assumption that liberalisation will serve the interests of the majority deserves greater scrutiny, particularly in economies dominated by small-scale farmers who are likely to suffer from increased competition in their domestic market.

Nevertheless the general framework for analysis is useful.

For example the role of ideology.

ODI discusses the role of discourses and de-politicisation of choices in policy-making. Governments often like to present their chosen policy as the only rational option. This obviously avoids blame, if they had no choice but to pursue this particular policy. This dynamic can be seen at play in trade talks. Peter Mandelson, as the EU's trade commissioner, insisted on observing the 2007 deadline for concluding goods deals with ACP countries despite their protests that they were unprepared, as there was “no plan B” available.<sup>18</sup>

ODI refers to the influence of dominant discourses resulting in the “urge to simplify”. This means that governments do not consider all options or interests of all the groups. The role of a dominant ideology and side-lining of unpopular views is also very obvious in trade talks.

*“Unfortunately, some European commentators, NGOs and others, continue to create false expectations that some such alternative exists. No legally viable alternative is possible and they must know it does not. What they are really arguing for - but are not prepared to say - is that the EU should ignore its multilateral obligations, go back on its commitments, to other developing countries and defy the WTO membership.”*

*Comments by Peter Mandelson to the European Parliament Development Committee on EPAs, Doha trade talks, Brussels, 5 November 2007*

This role of dominant discourses in trade policy clearly undermines responsiveness of governments and their ability to choose optimum policies – as all views are not heard and all options are not considered.

The dominance of ideology is reinforced by the influence of foreign donors and major trading partners over developing countries in trade talks. Wariness of foreign repercussions has been a major factor in the EU's talks with ACP countries to establish Economic Partnership Agreements. Recent research by ICCO demonstrates that ACP countries have felt under-prepared and ill-equipped to steer negotiations in the direction of their own interests, but have instead been influenced by the views and the aid

“buying power” of the European Union.

*“The balance of power in terms of economic clout and resources – meaning experts – is horribly tilted against the ACP. So it's very hard to see how to have a balanced negotiation in the circumstances. So it's neither a partnership nor a negotiation.”*

*ACP negotiator cited by ICCO<sup>19</sup>*

EPAs are not unique in demonstrating the damaging combination of unequal capacity and imbalanced political power resulting in poor outcomes for developing countries in trade negotiations. In the report “The Future of the WTO”, the panel of 'eminent persons' nominated by the multilateral trade body recommended structural changes to the process of negotiations to tilt the process back in favour of developing countries.<sup>20</sup>

Yet even if developing country governments were better able to hold their own at the negotiating table, the domestic processes feeding into trade talks – in developed and developing countries alike – are so flawed that they would be unlikely to be representing majority views.

Within countries there are imbalances regarding whose interests are represented in trade talks. A general criticism of the dynamic of trade negotiations is that governments tend to over emphasize the interests of their exporters and underplay other interests such as those who trade domestically, consumers and so-called non-trade concerns that might be affected, such as environmental impacts.

A recent study demonstrates that EU negotiating positions in trade talks, for example, have tended to follow commercial interests, whilst another has demonstrated that other civil society groups, representing for example environmental interests, appear to have had little impact.<sup>21</sup>

It is clear that the industry lobby tends to be well-organised in comparison to other interests. However, it is also true that their positions tend to chime better with preferences of policy makers and there is evidence that the latter not only lend more attention to their views, but actively encourage lobbying by these groups.<sup>22</sup>

Imperfect procedures further erode the influence of marginalised interest groups. In many countries there are no functioning mechanisms for wide consultation on trade policies<sup>23</sup>, despite their broad impacts. In some countries, even parliaments are not allowed adequate scrutiny of trade deals.

Even in regions with highly developed systems of accountability and consultation – such as the EU – mechanisms for consultation on trade policy have been criticized as being inadequate and tokenistic. The European Commission's “Civil Society Dialogue” on trade, which provides the main forum for interaction on trade policy and negotiations – does not allow for proper debate with officials, serves to debrief groups on developments rather than allow them to feed into decision-making, and provides no mechanism or compulsion to ensure officials take into account any concerns expressed within that forum.

Even in negotiations that give a formal role to civil society – such as the Economic Partnership Agreements, the engagement of non-governmental organisations (NGOs) and even the private sector has been far from satisfactory. Interviews with interested parties in the Caribbean region concluded that:

*“..the system of national consultations was weak, which undermined the goal of achieving negotiation strategies that were informed by the interests of a wide cross section of society. ..interviewees felt that the pool of representatives at*

*these consultations was small.. The nature of negotiating processes, ..absence of public scrutiny, does not facilitate the dissemination of information which would be a necessary condition for groups to exert meaningful influence in shaping negotiations.”*

*Formulating sustainable development benchmarks for an EU-CARIFORUM EPA  
J. Byron and P. Lewis, University of the West Indies, 2007<sup>24</sup>*

Public opinion on trade talks need not be restricted to formal consultations. The media, informal lobbying and public demonstrations or debates can also play a role. However, the opportunity for influence via these channels is vastly diminished by the lack of transparency that frequently surrounds negotiations. This has been a particularly frequent criticism of EU trade policy making by civil society groups, as most discussions and decisions are taken within the closed and secretive Article 133 Committee, away from public scrutiny and accountability.

This situation clearly undermines the potentially useful impact of trade agreements in terms of governance – overcoming powerful vested interests.

In fact, the lack of transparency in talks means that governments cannot be held accountable for the positions that they take and the lack of consultation means that governments are not responsive to concerns of groups generally marginalised from policy discussions. This also stacks the odds against policy effectiveness – as governments are more likely to make sub-optimal policy choices and face more resistance to reforms in these circumstances, affecting their successful implementation. European officials admitted in private meetings that they feared EPAs would only be “paper agreements” if broader ownership of the deals was not achieved.

Far from giving governments the opportunity to choose optimum policies to maximise welfare gains, there is evidence that outcomes of trade negotiations are determined by dominant discourse, foreign influence and unequal negotiating power.

The ability of governments to respond to the “greater good” during the negotiating process is particularly important as international agreements, once signed, by definition carry a trade-off between a government's ability to respond to citizens and its commitment to fulfil its international obligations.

The implications of this trade-off is discussed in greater detail in the next section, which examines the implications of trade agreements for governance, once the negotiations are over.

## 6. How do trade agreements affect governance?

Despite the doubtful governance credentials of the negotiation process, great claims are made of the role of trade agreements, once they have been signed, in improving governance.

Trade agreements are said to improve predictability and legal security of rules and regulations by “locking” them into legally binding agreements. Trade agreements guard against arbitrary actions by states, and provide recourse mechanisms for economic actors should they be affected by such actions. Trade agreements also introduce policies that are deemed to be good for governance, for example wide-scale liberalisation rules out the opportunities for cronyism and corruption that protectionism can offer. Finally, trade agreements can stimulate institutional development, even providing promises of funding and training to achieve this, and also by removing the state from unnecessary roles and interventions in markets.

To summarize, trade agreements interact with governance in three main ways:

- Their impacts on policy and regulation: Trade deals put in place a set of policies including trade liberalisation, investment liberalisation and investor protection and non-discriminatory competition and procurement rules.
- Their impacts on institutions: For example, trade agreements can put new demands on institutions, demand creation of new institutions or contain provisions to help with institution building.
- Their impacts on state relations: During the trade negotiating process a government needs to respond to competing interests of different stakeholders. The trade agreement sets up new elements of accountability to other signatory governments and also foreign traders and investors.

The next three sections examine the thinking behind these and other assumptions, dealing in turn with each of the types of impact trade agreements can have on governance.

### 6.1 Do trade agreements help governance by installing the right policies?

As governance is about the “how” of policy and has an emphasis on local accountability, the ability to formulate appropriate policies and successfully implement them, it might seem odd to think that the propensity of trade agreements to lock in a particular set of reforms might score highly on governance rankings.

But as we have seen, governance, at least as conceived by the World Bank, is not neutral in policy terms. The “Regulatory Quality” dimension of the World Bank definition relies on the “ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development”. The indicators by which this dimension is judged include policies whose treatment in trade deals is still controversial between developed and developing countries, for example:

- Protectionism in your country negatively affects the conduct of business
- Foreign investors are free to acquire control in domestic companies
- Public sector contracts are sufficiently open to foreign bidders
- Regulations hinder business activities

It could be argued that these are general areas of policy and that the indicators are neutral with respect to degree or path taken within them. This is when *who* does the scoring becomes interesting. Governments cannot decide themselves that they have

just the right level of protectionism or sufficiently open public procurement markets and give themselves full marks— these subjective decisions are externally decided according to a set of criteria that are skewed towards particular policy choices. In its list of rankings used to inform the final WGI score, the Bank lists its own Country Policy Institutional Assessments (CPIA), Doing Business rankings and Freedom House's index of economic freedoms as tools to score governments on regulatory quality. These score governments highly on trade openness, openness to investors, liberalisation of procurement and “light” regulation.

This makes it difficult to judge objectively, at least using the World Bank's tools, whether the kinds of policies introduced in trade deals are good or bad for governance. If you have already included them in your definition of good governance, the odds that you will find a strong link are somewhat stacked in your favour: A government that liberalises its trade will score highly in terms of governance, if you have defined as an element of good governance an open trade regime.

So what do we really know about how policies such as trade openness relate to governance? The answer is very little! The assumption that orthodox trade reforms dovetail with better governance appears to be such a dominant one that few studies have tested its validity.

For example, most studies examining investment and corruption (almost exclusively the dimension of governance analysed in relation to trade policies) tend to focus on whether an absence of corruption helps attract foreign investors, not whether allowing in foreign investors and changing the nature of the state's regulatory powers over them increases or decreases levels of corruption within a country.

One research in this direction suggests that when states are corrupt, corrupt investors are likely to establish (or investors that establish themselves are likely to behave corruptly) whereas the reverse is true in uncorrupted states. This suggests that openness to investors is not the determining factor.<sup>25</sup>

Anecdotal evidence suggests that selecting the right type of investor, and having the capacity to manage the terms on which they enter is critical for determining impacts. This has been most starkly illustrated by experiences of developing countries with investors in the extractives sector.<sup>26</sup>

Foreign investors can encourage better governance by being more demanding of governments or by demonstration effect, for example, but they can also continue or exacerbate corruption, they can over-stretch or bypass institutions and they can distort governments' policy and spending choices (in order to encourage or keep investors) thus reducing responsiveness.

Regional trade agreements, however, tend to reduce the governments' options to manage investors. They also give investors the right to invest and challenge new regulations, without putting in place provisions to encourage greater cooperation to tackle cross-border corruption and other abuses.

Trade agreements also require substantial levels of trade liberalisation. The accepted logic is that liberalisation improves governance as it reduces opportunities for corruption and pandering to vested interests. However, the evidence is not clear cut and further investigation into this dynamic seems necessary. Empirical studies find that the effect of trade openness on levels of corruption is “surprisingly small” and that direction of causality is also unclear.<sup>27</sup>

In some cases liberalisation has increased corruption.<sup>28</sup>

Infamously, liberalising state-owned enterprises and privatisation of publicly owned utilities in the transition economies of the ex-soviet union has had this opposite effect<sup>29</sup> where privatisation provided new opportunities for corruption. New private sector actors were not necessarily any less corrupt than their public sector counterparts, to the extent that in South Korea observers have commented that corruption was simply “privatised”.<sup>30</sup>

Similar experiences in China and India where corrupt relationships simply changed in nature, and in some cases increased, rather than diminished during economic liberalisation programmes, suggest that greater attention should be paid to establishing the appropriate regulatory capacity of the state and direct measures to combat private sector corruption before positive effects of liberalisation will be experienced.<sup>31</sup>

Trade agreements also tend to reduce the role of the state in direct intervention in markets and curb its regulatory scope. According to mainstream thinking this will improve governance, as the state is ineffective in such roles, compared with the private sector and that such intervention in economic activities provides opportunities for corruption. Freeing up the state from these activities frees up capacity to focus on more appropriate public services and goods and helps to combat corruption.

Some empirical studies do show that high levels of government intervention in the economy are linked to higher levels of corruption<sup>32</sup>, yet some of the world's least corrupt nations, for example Singapore, have a large and interventionist public sector.<sup>33</sup>

Neither did the private sector necessarily prove any less corrupt or any more effective in delivering services. For example, in 1993 a consortium including European companies took over state provision of water services in Buenos Aires, Argentina, resulting in an 88% rise in consumer prices, and a failure to honour a commitment to improve services to customers. In fact the company was sued by local municipalities for pollution of the Rio de la Plata and ordered to pay fines for cutting services and failing to implement construction plans for infrastructure upkeep.

In many cases, liberalisation has increased the need for stronger regulation in order to ensure good functioning of markets and an absence of corruption. Yet trade agreements can make it harder for governments to introduce new regulations and can limit their regulatory choices.

There is very little evidence then to support the enthusiasm for policies conventionally introduced via trade deals because of their impacts on governance. There is also evidence to suggest that causality operates in the other direction – whether these reforms work well is dependent on the quality of the state, absence of corruption and so on. Trade agreements might play a role as a stimulus for improving government capacity (something that will be explored in the next section), but it needs to be recognised that in the wrong environment these policies can be a distraction from more important measures and can have a *negative* impact on governance.

## **6.2 What do trade agreements mean for institutional quality?**

Institutional quality is being used in this context to refer to the different aspects of governance that relate to government effectiveness – quality of policy formulation, regulatory capacity to ensure successful implementation and commitment to reforms. It also includes aspects to do with government conduct, such as accountability, transparency and predictability.

Trade agreements can require developing country governments to put in place new

institutional arrangements or enhance existing ones. For example, as signatories to the TRIPS<sup>34</sup> agreement, many developing countries had to develop new bodies from scratch (patent offices, for instance) and develop the capacity of others (for example the judiciary).

There are two competing effects as to whether this might have a positive overall impact on institutional capacity. On one hand, trade agreements can provide a stimulus to improve institutional capacity. On the other hand, they can divert limited resources or overstretch them. For example recent intellectual property provisions in EPA draft texts were criticized as potentially using up valuable court time to hear infringement cases.

Many trade agreements contain provisions to provide resources and assistance to help developing countries attain the capacity they need to implement deals effectively. However, the track record in delivering this assistance is at best mixed. ICCO examined the delivery of programmes by the EU to Botswana, Namibia, Lesotho and Swaziland to help with adjustment brought about by the EU's trade deal with neighbouring South Africa. Delays in funding, over-use of foreign consultants and shifts in donor priorities all undermined the usefulness of that assistance, for example in building the capacity of local fiscal institutions to cope with adjustments brought about by drops in revenue from trade taxes.<sup>35</sup>

A more complex question is the extent to which trade agreements propagate appropriate institutions. As has already been noted, by definition trade agreements put in place formal institutions and these are not always most apt or efficient. They also put in place standardised regulatory frameworks based on developed country models, whose appropriateness in a developing country context is untested. For example in the field of competition, it is open to question whether standard regimes will help to generate competition in developing country markets and they fail to adequately address the problems experienced by developing countries within vertically integrated supply chains and in tackling secondary effects of foreign mergers and acquisitions.

As we have already seen, trade deals are felt to be good for governance as they achieve transparency, predictability and accountability of rules and reforms to give confidence to economic actors – domestic and foreign. This can, of course, be the case and has been used by countries, for example China, to show their seriousness about market reforms and respect of rule of law.

However, as will be discussed below, accountability can be skewed in favour of particular actors, and predictability can come at the expense of responsiveness to citizens.

### **6.3 How do trade deals affect state relations?**

State relations – that is responsiveness to the needs of citizens and domestic private sector, upholding their rights and being subject to their scrutiny by and accountability to them – make up two thirds of the governance equation according to the definition used by DFID cited earlier in this paper.

By introducing binding obligations to foreign governments and economic actors, it is inevitable that trade deals affect state relations.

Trade deals increase accountability to foreign economic actors and governments. They introduce obligations to foreign investors, for example, that can be upheld through dispute settlement mechanisms<sup>36</sup>. They also contain consultation and review mechanisms to deal with any problems in implementation. These provide recourse for

### **Uneasy bed fellows? Trade and human rights**

According to the World Bank:

“A key indicator of the quality of governance is whether a government is committed to the rule of law and human rights.” iii

The relationship of trade agreements with governments' commitments to uphold human rights is not straightforward.

Although, UNHCR has concluded that there is no intrinsic conflict between trade law and human rights law, other commentators have pointed to less encouraging experiences in reality.

For example Argentina's attempts to ensure affordable access to generic medicines for its citizens was challenged by the US as a violation of its commitments at the WTO using that organisation's dispute settlement mechanism. Argentina changed its legislation and restricted national production of generic medicines in 2002 iv.

Others point to the impacts of trade agreements on farmers' livelihoods and food security, on accessibility of essential services and on employment conditions or unemployment as further examples of the potential for trade liberalisation as a result of trade deals to undermine human rights.

It is almost inevitable that trade deals will have an effect on human rights, particularly in developing countries. There is also potential for conflict between trade agreements and human rights conventions, partly because the objectives differ. Trade deals seek to achieve aggregate benefits and do not focus on individual rights and benefits. Trade deals will inevitably result in loss of livelihood for some individuals, even if overall welfare prospects might improve.

This does not mean that trade deals should not happen – governments can for example provide social safety nets and retraining to help with the adjustment process. It does mean, however, that awareness of impacts on human rights must improve and appropriate adjustment to trade agreements must be made – to amend provisions where these are shown to undermine rights and to ensure that adequate accompanying measures are taken.

With uncertain outcomes for individual human rights from trade deals, there are increasing calls for assessments of the implications of trade deals, so-called human rights impact assessments.v

In 2007, the National Human Rights Commission of Thailand concluded that a year-long review of the human rights effects of an FTA with the US should be taken before negotiations should continue. Their own human rights impact assessment of the FTA raised concerns in respect of impacts on agriculture, environment, intellectual property and services.

The EU's solution to coherence between trade and human rights commitments is via its three pillar approach to trade agreements. The political cooperation pillar contains a “human rights clause” that gives the EU the option to impose trade sanctions on countries that do not respect human rights. This clearly falls far short of ensuring coherence as it does not address the impact of trade relations themselves on human rights.

The EU has a responsibility to ensure that the trade deals its partner governments sign do not result in violation of human rights. This could be interpreted much more broadly than simply imposing sanctions in the case of a clear violation. It could involve more positive measures such as including human rights within impact assessments and monitoring provisions, to include within trade deals commitments to ensure rights - for example by assisting with employment adjustment - and to enable partner governments to readjust trade deals in the light of their impacts on human rights.

foreign governments or foreign economic actors to take action against the state and even seek redress for any failure to fulfil commitments or arbitrary actions that might go against their interest as set out in the agreement.

Domestic economic actors, however, do not have access to these mechanisms. Moreover, the predictability provided by trade deals comes at the expense of limitations on responsiveness to citizens: if liberalisation commitments adversely affect domestic producers, for example, the state does not have the right to roll back commitments in order to respond to their needs.

This need not be problematic, provided that citizens have had sufficient input into the agreement, so that their views are already accommodated. As we have already seen, this is frequently not the case.

This can have direct consequences for the success of trade agreements. It increases the likelihood of negative local impacts and resistance to implementation of reforms. This can undermine any benefits of predictability that a trade agreement purports to provide.

Trade agreements do contain some flexibility within exceptions clauses and so-called “special and differential treatment” provisions, to take account of the special circumstances that face developing country governments.

These have, however, proven to be weak and inadequate tools in helping countries to cope with unexpected negative impacts of trade deals and have been insufficient to guarantee that, for example, human rights obligations are not undermined by trade deals.

Improving the trade negotiation process to ensure that trade deals take a wide range of interests more fully into account and taking steps to institutionalise better flexibilities for developing country governments will improve the effectiveness of trade deals. They are likely to be more appropriate, better implemented but also more predictable since any deviation from implementation in order to allow developing country governments to uphold the interests and rights of their citizens can be done in a transparent, pre-arranged and legal manner.

## **7. Benchmarks as a route forward?**

The findings of this paper are that:

- The governance of the trade negotiation process itself must be improved if governments are to select the best policies, implement them well, be responsive to citizens and use trade agreements to provide predictability, transparency and accountability for economic actors. This change is essential especially for poor men and women whose interests are more easily marginalised.
- Although trade agreements have clear implications for governance, it cannot be assumed that the kind of rules and conditions put in place by a trade agreement will always and automatically have a positive effect. For example, if corruption is to be reduced – simply liberalising within a trade deal is not sufficient and can even accentuate the problem if regulatory capacity of the state and private sector corruption are not tackled at the same time.

A range of actions are needed to ensure a more constructive relationship between trade and governance:

The process of trade negotiations needs to be improved to increase transparency and responsiveness, especially to marginalised groups.

- More scope for evidence-based policy making (and flexibility to adjust in the face of the evidence) needs to be incorporated into trade negotiations and agreements. Trade agreements need to be better sequenced with necessary preconditions and accompanying reforms for success, such as institution building and increased regulatory capacity.
- The delivery on aid commitments within trade deals needs to be improved so that countries can be more confident that they are able to put in place necessary conditions to ensure positive impacts.

The following sections will explore how benchmarks, a recent innovation being discussed within the context of EPAs, might contribute to these necessary improvements.<sup>37</sup>

### **7.1 What are benchmarks for trade deals?**

The concept of benchmarks was developed in the context of EU negotiations with African, Caribbean and Pacific countries to establish trade deals called “Economic Partnership Agreements” (EPAs). EPAs had explicit over-arching objectives of contributing to poverty reduction and sustainable development in ACP countries. Although less prominently displayed, arguably all EU trade deals with developing countries share these objectives given the EU's policy of development coherence.<sup>38</sup>

EPAs (and other EU FTAs) would achieve this by introducing reforms that would be pro-development, accompanied by financial and technical assistance to help provide the necessary conditions for success of those reforms.

Neither of these elements is straightforward, however and many have argued that trade deals are poorly equipped to deliver them:

- Most observers now agree that trade reforms are unpredictable, that their impacts are dependent on local conditions and that their successful implementation relies on local commitment to reform. Standardised trade deals that rely on external obligations and lock-in of reform processes are not designed to deliver these.
- Trade deals do not provide binding aid commitments to ensure that necessary assistance for successful implementation is provided. Past delivery has been inadequate, unpredictable and driven by donor preferences rather than recipient priorities.
- Trade agreements generally lack sufficient flexibility or “escape clauses” for developing countries to delay or reverse implementation should conditions not be propitious.
- Concerns of poor men and women are frequently not heard during negotiations and are easily marginalised in favour of more active lobby of export interests.

Benchmarks are seen as a way to tackle these problems.

Benchmarks are agreed, measurable outcomes of trade deals that can guide negotiations and be monitored to guide implementation of trade agreements.

They move towards more inclusive and evidence based policy-making – both at the

formulation and monitoring/implementation/review stages – and have been adopted as an approach by the joint EU-ACP parliamentary assembly and ACP Ministers.<sup>39</sup>

## 7.2 Improving the process of trade talks through benchmarking

Previous experiences of “benchmarking” in developing countries have not been encouraging. Too often the term has been used to apply externally imposed frameworks or standards - for example, the EU's proposed approach to services liberalisation at the WTO.

In order to avoid these problems, the proposal within the EPA negotiations was that benchmarks would be based on an inclusive and consultative exercise that could feed into negotiations. EPA benchmarks take as their starting point the shared development goals set out in the EPA mandate for negotiations contained in the Cotonou Partnership Agreement:

- that the EPAs will help to achieve goals of sustainable development and poverty eradication;
- that the EPAs will contribute to ACP private sector competitiveness and development;
- that the EPAs will respect ACP countries' sovereignty and be consistent with their development strategies;
- that the EPAs will be accompanied by support to build private sector competitiveness and state capacity.

Moving from these general statements of intent to proposed language for texts is not an easy process – particularly when the negotiating parties (and different constituencies within them) do not necessarily share the same interpretations of these goals or the means to achieve them.

During the negotiation phase, impact assessments based on consultations with a broad range of affected groups would identify priorities within the range of objectives as well as views on what outcomes in negotiations would be necessary in order to achieve them. Negotiators would then report back on progress in talks, and their conduct would be judged according to these “benchmarks”.

Citizens groups would also be involved during the implementation phase in monitoring correct implementation of the agreement, the impacts of these reforms and the necessary deployment of accompanying assistance. This would be backed up by an amended review clause within the agreement that would allow governments to respond to any concerns raised by amending implementation.

Including broad-based participation within trade agreements is not without inherent difficulties – groups will have competing interests in ways that they do not in project design where such consultation traditionally takes place. However these problems are not insurmountable – different parties are exposed to opposing views and governments retain the ability to broker interests. Moreover, it is not acceptable that trade talks continue to exclude many interested parties.

### Lessons from previous experiences of participation

Participation was first introduced to development projects to achieve better-informed, more appropriate and effective, more legitimate and broadly owned decision-making.

It has become more widespread in application to public service delivery and policy-making as part of a response to the perceived “crisis in governance” highlighted by the World Bank in its Voices of the Poor initiative in 2001: *“From the perspectives of poor people world wide there is a crisis in governance.. State institutions.. are neither responsive nor accountable to the poor, rather the reports detail the arrogance and disdain with which poor people are treated.”*

*Voices of the poor: Crying out for change, Narayan et al, World Bank 2001*

The report sees participation not only as an instrument to improve decision-making, but also as an end in itself, achieving transfer of power to poor men and women as an objective of development progress.

Transferring participatory techniques to policy-making is difficult. Whilst projects are discrete, with a limited group of stakeholders and a shorter time horizon for impacts, policy processes are much more complex with far-reaching, long-term, frequently uncertain consequences and often a range of competing interests. Introducing participation into policy-making is expensive, time-consuming and requires a shift in practice and attitude for policy-makers.

Indeed, some past experiences of introducing participation to negotiated agreements is not encouraging. Article 23 of the Biosafety Protocol required the parties to “consult the public in the decision-making process regarding living modified organisms”.

The first hurdle to effectively implementing this requirement is that compliance is unlikely to be enforced by other contracting parties but relies on the willingness of each state to comply.<sup>vi</sup> Citizens would have little recourse to enforce the provisions. Introducing participation would require state officials to significantly change practice and attitudes – to improve coordination and transparency, to give up some authority and power of decision-making and to adopt an attitude of serving majority interests.

In some countries, the consultation process was used only to “cure public ignorance”<sup>vii</sup> rather than to take on board views. Expert scientists were brought together with other groups to explain and create acceptance for decisions rather than to listen. This problem is particularly prevalent when groups are considered to lack technical capacity, including areas of economic policy, such as trade.

Consultations can be used to legitimise decisions, even when representativeness is poor. Powerful and well-resourced or well-connected groups can easily dominate debates. Consultations were also used to marginalise some groups. The concept of “stakeholders” was used to exclude some non-governmental organisations as extremist or unrepresentative.<sup>viii</sup>

Information to properly participate in debates can be difficult to obtain. This is a particular problem when information is disseminated in a manner (for example, the internet) or language inappropriate or inaccessible to all groups.

Some important lessons have been learned from previous experiences of participation in project design and policy making that can be summarized as:

- Attention needs to be paid to building the voice of citizens as well as increasing responsiveness of the state.
- Groups benefit from a formal recognition of their right to participation, that in some countries such as Bolivia has been enshrined in law.
- Groups need a right to information and access to decision making.
- Groups need a right to seek redress.

Guidelines to ensure consistency in dissemination of documents, involvement of diverse groups, sufficient time to react to proposals, etc need to be established.

### 7.3. Improving evidence-based policy through benchmarks

Trade agreements have traditionally been made up of a combination of binding commitments to specific reforms within specific timetables and general statements of objectives.

This can become problematic when the reforms in question do not achieve the intended outcomes. As has been noted, the impact of trade reforms is highly dependent on local circumstances and the sequencing of reforms with preconditions or accompanying policies. This approach can also be problematic when expectations of the degree to which they will be achieved or the timeframe within which they will be achieved differ between the parties.

Benchmarks introduce the idea that qualitative and quantitative indicators can be agreed and used so that monitoring of trade agreements can judge not only implementation but also *outcomes* of trade agreements in reaching agreed objectives.

These indicators might be difficult to definitively identify and agree at the negotiation stage, but introducing the idea that trade deals can be assessed, reviewed and adjusted according to their impacts is an important innovation. Previous trade agreements have only held reviews to ascertain that parties were sticking to their commitments and to decide whether further commitments to liberalise trade bilaterally were feasible. Using benchmarks it is also possible to track whether effective assistance has been delivered, or that reforms are able to be properly sequenced. Benchmarks will give legal (and practical) weight to what have been declaratory statements of intended outcomes and promises of assistance in trade deals. This will require a difficult but necessary shift in mindset of trade negotiators.

Despite all these potential hurdles, introducing benchmarks into trade talks is worthwhile from the point of view of improving prospects for a mutually beneficial relationship with governance.

Such a mechanism would reinstate governments' responsiveness to citizens during trade negotiations, identified as a key need in this report. It would also enhance policy effectiveness and commitment, as public support for reforms would be enhanced and local conditions would be factored in from an early stage.

Accountability within trade agreements would be rebalanced – governments are held to account for the successful implementation and expected impacts of trade deals on their own citizens, not simply held accountable for commitments to foreign governments and economic actors.

Governments would also retain appropriate flexibility to be responsive to citizens concerns, since the possibility would exist to amend implementation based on impacts upon them.

Finally, reforms introduced by trade agreements would be adopted based on evidence of their real impacts, for example, on governance and not simply based on assumptions that current mainstream policies were the best or only option.

## 8. Conclusion

Governance matters, not only because effective governments mean better development prospects, but because it brings back into focus the importance of how policy happens and what this means for its success and impacts on different groups, especially poor men and women.

The governance of trade agreements has been neglected and needs reform in order that the potential benefits of these deals – for governance and beyond – are realised. Trade agreements, for example, cannot guarantee successful implementation and security of policy commitment if the majority of citizens did not feel represented in the formulation of this policy and are subsequently negatively affected by it.

Trade agreements also matter for governance. Current conventional thinking around this relationship is largely untested and based on assumption rather than experience. It is possible, and has been the experience of several developing countries, that in some circumstances liberalisation of trade and investment increases corruption and that trade agreements undermine institutional capacity.

Changes in approach to trade agreements are needed to ensure a more constructive relationship between trade and governance. The EU must:

- include aspects of governance in impact assessments, mandates and objectives of trade agreements, so that trade agreements are tested against their impacts on governance, not based on assumptions that, for example, liberalisation will reduce corruption.
- increase participation and transparency of the negotiating process to increase responsiveness to citizens' rights and needs, to rebalance accountability and to improve policy commitment and effectiveness.

Benchmarking is one way forward to improve the relationship between trade and governance with respect to trade agreements. It is a tool that can improve the governance of the process of negotiating trade deals and that allows evidence-based reviews of their implementation.

## Endnotes

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- 37 APRODEV and ICTSD (2005), The EPAs and sustainable development: Benchmarks for pro-development monitoring of the negotiations, Brussels and Geneva.
- 38 Two principles are meant to guide the interaction between the EC’s activities on trade and development:  
 Policy coherence for development: The EC Treaty (Article 178) states that Community policy in the sphere of development co-operation shall be complementary to the policies pursued by the member states and shall foster:  
 - the sustainable and economic development of developing countries, particularly the most disadvantaged;  
 - smooth and gradual integration of developing countries into the world economy;  
 - poverty eradication in developing countries.  
 Consistency principle: The Treaty of Amsterdam (1997) states that the EU’s development policy should not be subordinated to other external policies, including trade.
- 39 See EU ACP Joint Parliamentary Assembly Cape Town Resolution, 2002

## Endnotes (Boxes)

- i See for example examples of the so-called “IMF riots” in Walton & Seddon (1994), Free markets and food riots: the politics of global adjustment, Wiley-Blackwell
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