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The Lisbon Treaty – Implications for ACP-EU Relations¹

Eleonora Koeb

Following the positive result of the referendum in Ireland on 2 October 2009 – but pending ratification by one EU member state, the Czech Republic – the Lisbon Treaty is widely expected to enter into force before the end of the year.

Despite a great deal of uncertainty on the interpretation and implementation of some of the new provisions under Lisbon, ACP-EU relations in general and ACP-EU trade relations in particular are expected to be affected in a number of areas. This article looks at a selected number of key issues, in particular the stronger profile the EU is expected to play on the world scene, the more politically driven yet more consistent EU external action under the guidance of the new High Representative of the Union for Foreign Affairs and Security Policy (EUHR), as well as more unified EU external commercial and migration policies.

Overall changes in ACP-EU institutional relationship

The Lisbon Treaty will change the way the EU will relate to its international partners through the two new leading figures in external relations: the EUHR – as the Vice-President of the European Commission (EC), with its diplomatic staff, the European External Action Service (EEAS) – and the President of the European Council. Those two figures are expected to guide a more politically driven EU external action, in which a multitude of EU external policies and instruments, including trade and development cooperation, are to be used in a complementary and consistent manner. The EUHR will coordinate the interplay of the intergovernmental EU Common Foreign and Security Policy and the European Security and Defence Policy with the European Commission's external action areas applied to address a widening agenda of global challenges. This widening agenda is well illustrated by the expansion of the set of overarching objectives of EU foreign relations under the Lisbon Treaty, which now include

the eradication of poverty as well as global trade integration.

In this new set-up of EU external relations, the special traditional institutional relationship of the EU with the ACP cannot be taken for granted anymore. The implementation of the EEAS will lead to a restructuring of the EC internal arrangements, with uncertain implications for relations with developing countries. The Treaty has the potential to streamline and rationalise the EC development architecture. There are various options of how to address the current multiplicity of instruments with thematically and regionally overlapping coverage managed by fragmented structures.

The main question for the ACP is whether the geographical desks for ACP countries, where the allocation and programming of Official Development Assistance is currently conducted in DG Development, will be partly integrated into the EEAS and hence be brought under the control of the EUHR. The scenario at the other end of the spectrum of options for EC architectural change would be a strengthened DG Development, uniting all EU development policy under one Commissioner, merging at least the current DG DEV, the development-relevant part of DG RELEX and DG Europeaid. Other hybrid models for the architectural reform are being discussed. The two options sketched represent the two extreme measures, which would bring an end to the current special treatment of the ACP manifested in the traditional geographic identification of DG Development with the ACP.

In this context, it is noteworthy that the reference to the ACP – in place since the

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International Centre for Trade
and Sustainable Development



Editorial

News and publications

In brief

Among the many events that have attracted media coverage this month, Ireland's 'yes' to the EU's Lisbon Treaty stands head-and-shoulders above the rest. The implementation of this treaty will have major consequences for the institutional and legal structures of the EU, impacting directly on its external relations and development co-operation. In this month's lead article, ECDPM's Eleonora Koeb analyses the implications for ACP countries.

As EPA negotiations continue in the East African Community (EAC) and Eastern and Southern African (ESA) countries towards 'comprehensive' deals, African stakeholders are weary of the implications of making commitments in trade in services with the EU before they have made substantial commitments in the WTO and among themselves at the regional level. With services representing more than half of the gross national income of most developing countries, Fabien Gehl of the Directorate General of Trade at the European Commission argues that, contrary to frequent allegations, services liberalisation can be an effective way to contribute to development and regional integration.

Giovanni Anania aims to challenge commonplace assumptions in his article "Bananas, Economic Partnership Agreements, and the WTO." Although it is true that the conclusion of the Doha Round or an agreement to end the banana dispute would reduce the preferential margins ACP countries enjoy under the EPAs, Anania argues that it is not always a zero-sum game.

The EU's import regime for bananas was a critical issue in the run-up to the finalisation of negotiations on the CARIFORUM-EU EPA. Following a political economy approach, Norman Girvan draws lessons that can be learnt from the process that led to the signature of this comprehensive partnership agreement – a process which the author says suffered from a "Technification-Sweetification-Treatyfication" syndrome.

For those countries that have concluded an agreement, the critical issue is to look at how they can best benefit from the implementation of the EPAs. One possible way could be to draw lessons from existing initiatives such as the Southern Africa Trade Hub. In the final article of this edition, Amanda Hilligas shows how this initiative – by linking producers to buyers and investors in the US – acts as a facilitator of new trade and market information in the processed and specialty food sector.

As always, comments are welcome and can be addressed to md@ecdpm.org

EU Agrees to Simplify CAP

The EU Council has agreed to discuss simplification of Europe's Common Agricultural Policy and has adopted an action plan on competitiveness in the agro-food industry. While discussing the issues faced by EU dairy farmers last year, most delegations welcomed the analysis brought forth by the European Commission, and the measures undertaken, but they had differing opinions on the best means to solve these issues. The Council also took note of the work done by the High Level Group on the Competitiveness of the Agro-Food Industry. Of the recommendations presented by the group, Member-States generally welcomed those making better use of available instruments that support competitiveness, facilitate technology innovation and development, and avoid anti-competitive activities.

Report of the Commission on the Measurement of Economic Performance and Social Progress

This Commission on the Measurement of Economic Performance and Social Progress report reflects concerns over the adequacy of current measures of economic performance, in particular those based on Gross Domestic Product (GDP) figures. Containing views from renowned experts from universities, governmental, and intergovernmental organisations, the report aims to identify the limits of GDP as an indicator of economic performance and social progress, to consider additional information required for the production of a more relevant picture, to discuss how to present this information in the most appropriate way, and to check the feasibility of measurement tools proposed by the Commission. To achieve this, the authors recommend measuring consumption and income rather than production, and considering those jointly with wealth, emphasising the household perspective in measurements, and broadening income measures to non-market activities. In order to better measure sustainability, the authors recommend factoring physical and economic indicators of sustainability into current measures of economic performance. The Commission says it hopes this report will open discussions on progressively improving economic performance measurement systems.

To view this report in full, see "Report by the Commission on the Measurement of Economic Performance and Social Progress", at www.stiglitz-sen-fitoussi.fr/documents/rapport_anglais.pdf

UNCTAD Trade and Development Report 2009

Even before the international financial turmoil turned into a full-blown crisis in September 2008, growth of gross domestic product (GDP) had come to a halt in most developed countries. Moreover, almost all developing countries have experienced a sharp slowdown of economic

growth since mid-2008, while many have also slipped into recession. With global trade expected to decline and the sharp fall in international prices for primary commodities, exporting offers no easy way out of this crisis, especially for developing countries. The UN Conference on Trade and Development (UNCTAD) claims that years of significant "disequilibria" within and among major national economies made the economic crisis predictable. After discussing the monetary policy responses and financial rescue operations in all types of economies, this report suggests numerous methods of alleviating the crisis and preventing such disasters in the future. These include financial support for developing countries; creating more stringent financial regulations; and the reformation of international monetary, financial, and exchange-rate systems. Much emphasis is also placed on the adaptation and mitigation of climate change and how such policies can be integrated into industrial strategies.

To view this report, see "Trade and Development Report 2009", at http://www.unctad.org/en/docs/trd2009_en.pdf

Researchers say Protectionism Rampant

Protectionism shows no sign of slowing down, according to a new report prepared by an independent group of researchers and analysts located around the globe. The second Global Trade Alert report is based on over 400 investigations of state measures that have been implemented since the first G20 crisis-related meeting in November 2008. The report says that almost every nation has now been harmed by another's protectionist policy and fewer than 5 percent of product categories have escaped being hit by some type of protectionist measure. The report, aimed to coincide with the meeting of the G20 in Pittsburgh, chastises the G20 for failing to keep its no-protectionism pledge, arguing that every three days a G20 government has broken their no-protectionist pledge. The authors acknowledge that there is some comfort in the fact that the scale of protectionism is much less than that seen in the 1930s. However, they say significant protectionist plans are currently in the pipeline and there is growing pressure on politicians due to rising unemployment which could harm exports and hamper economy recovery efforts.

To view this publication in full, see Evenett, S (2009) "Broken Promises: a G20 Summit Report by Global Trade Alert", at http://www.globaltradealert.org/sites/default/files/Broken_promises_GTA_second_report.pdf

News Sources

- 1 Press Release, Council of the European Union, 2959th Council meeting, "Agriculture and Fisheries", 7 September 2009.

Services and EPA: A Difficult but Vital Relationship

Fabien Gehl

The Economic Partnership Agreement (EPA) negotiations intend to foster the gradual integration of the ACP countries into the global economy on the basis of an open, transparent, and predictable framework for goods and services. So far, a full and comprehensive EPA including services has been concluded with the Caribbean countries, while negotiations on this topic continue with all other African and Pacific partners. These EPA services negotiations have been attracting much attention, especially from civil society, and are often subject to criticism. However, the scope of these negotiations and the impact of the liberalisation of trade in services that could derive from them are often poorly understood. This article attempts to explore some key features of services liberalisation within the context of the EPAs and explain why services should be treated as a priority by the EU's ACP partners in these negotiations.



Why include services in the EPA negotiations?

As a starting point for the inclusion of services in the EPA negotiations, there is firstly the acknowledgment that services have become the backbone of the economy. Beyond being an economic activity on its own, services also support the competitiveness of the agriculture and manufacturing industries, which are dependant on services for their output (the most obvious examples being transport, banking, telecommunication, accountancy, and research and development – all of which are key inputs for industrial or agricultural production). Additionally, in most developing countries, services represent more than 50 percent of Gross National Income. Considering the centrality of services to economic growth and competitiveness, one can hardly envisage building a deep and comprehensive trade relationship without including services.

Secondly, many advantages can derive from services liberalisation. Trade in services leads to a greater transfer of know-how and management, especially when foreign services suppliers establish themselves in the host country and hire locals. Services liberalisation also benefits the consumer by providing wider choice at a lower price through increased competition. Moreover, services liberalisation will boost trade itself, as you cannot trade efficiently without a competitive distribution, transport, telecoms and banking industry. And the 2009 UN Conference on Trade and Development's Economic Development in Africa report rightly underlined the significance of the sector. "Services are an important source of export earnings for a large number of African economies and a factor of their competitiveness," the report reads. "Yet the

development of service industries may require financial, human and technological resources that are not available locally".¹

Thirdly, in this context, trade agreements covering services have a specific added-value. These agreements will provide ACP countries with greater access to the European market. Finally, services agreements, especially when introducing some regulatory common principles, will increase legal certainty and predictability, both of which are key factors in stimulating foreign direct investment.

Trade in services: what it is and what it is not

Much has been said about the implications of services liberalisation through trade agreements. A frequent allegation is that the so-called 'policy space' of governments would be adversely affected by services liberalisation, as would be the capacity of sovereign states to provide public services such as education, health or access to water.

To address this concern, one should first clarify what countries are actually committing to in a trade agreement covering services. When undertaking services commitments, countries are free to select the individual sectors for which they wish to liberalise market access and/or national treatment. In the context of the EPAs, despite them being negotiated on a regional basis, this remains valid and commitments are taken on an individual basis, respectful of each country's level of development and public policy priorities.

This is further enhanced by following a 'positive list' approach, thus inscribing only those sectors that are being liberalised in the agreement (in the so-called "schedules of commitments") by each respective country

that is part of the agreement. For each country and each of the sectors it has chosen to liberalise, the commitment indicates the level of market access and national treatment that is granted to foreign services suppliers. Each commitment can therefore be proportionate, reflecting the specific situation in each country for every sector.

For example, construction services are treated very differently by Caribbean countries in the framework of the EC-Cariforum EPA. The Dominican Republic and Jamaica have taken commitments for construction services but have limited them to hotels in excess of 100 rooms, thereby helping to preserve small local businesses. Antigua and Barbuda added a joint venture requirement, whereas Suriname introduced a transition period until 2013. As these examples demonstrate, possibilities of variations in commitments are unlimited.

Secondly, liberalisation of trade in services does not equal deregulation. Indeed, liberalisation of trade in services as understood in the framework of the EPA negotiations is precisely defined and strictly limited to the concepts of market access and national treatment as defined by the GATS.² Beyond those elements of market access and national treatment (which can be – as described above – only partially committed by a country), each party to a services agreement remains free to enact domestic regulation as it sees fit. For example, a commitment on market access for telecommunication services creates the obligation for the given country to accept the establishment of foreign services suppliers under the conditions set out in its schedules of commitments (with or without capital limitation, within a limited number of licences, etc). However, this commitment does not create any obligation with regard to regulatory questions such as

universal service (regarding both its scope, definition and financing) or licensing procedures.

Equally, liberalisation of architectural services does not prevent a country from defining the professional requirements and diplomas necessary for providing such services. Finally, it must be stressed that services supplied in the exercise of governmental authority as well as subsidies are excluded from the scope of the services part of the EPAs, thereby leaving that area of public policy untouched. Services liberalisation therefore provides a powerful and flexible tool to enhance trade while preserving a country's ability to regulate its market and pursue national policy objectives.

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Investment: a challenge for the negotiations

The EU proposed to its ACP partners to extend the negotiations to include investment as it is related to the establishment of an economic activity. Establishment is already covered by the GATS through the so-called “mode 3,” which is the mode of supply of services that implies the establishment of the services provider in the country where the service is provided (i.e. a bank establishes a subsidiary in a foreign country). Starting from there, the EU proposes to extend the very same concept to non-services sectors – such as manufacturing, agriculture, or forestry – which would cover the establishment for those economic activities in the EPA. Indeed, if a services agreement can cover services incidental to manufacturing, why not include the establishment of manufacturing activities?

The EU's proposal concentrates on ‘productive investments’ (or foreign direct investment) linked with the maintenance or the creation of a real economic activity and does not cover portfolio investments. In the proposed framework, investment



commitments would be subject to the caveats explained above and applicable to services. This would therefore inject the necessary flexibility to commitments for investment in non-services sectors.

Although this subject has attracted much attention and has been dropped from the multilateral agenda, the approach proposed by the EU demonstrates a strong development component. The combination of services and non-services sectors under the heading ‘establishment’ constitutes probably the tool with the greatest development potential. Indeed, creating an open, transparent and predictable environment that delivers enhanced legal certainty would reduce the current perceived risk to invest in many of the ACP economies. It would boost investor confidence and lead to increased investment flows, both North-South and South-South.

Regional integration as a prerequisite?

Regional integration is of paramount importance for Africa's development, which is the reason why EPAs are intended to consolidate regional integration initiatives within the ACP countries. In the services area, liberalisation commitments enshrined in a trade and development agreement can contribute to regional integration. Indeed, the EU proposed that services commitments ACP countries take vis-à-vis the EU are also taken vis-à-vis their regional partners. Enhancing the provision of services in key sectors such as transport between neighbours is essential, especially for landlocked countries. At the same time, the pre-existence

of a fully integrated regional market in services is not necessary to enter into or to pursue negotiations with the EU – since commitments are taken on a country-by-country basis – and should not constitute a barrier or an excuse to those negotiations. EPAs can be a stepping stone for fostering regional integration rather than a stumbling block and should not be postponed until regional integration has been completed.

Conclusion

Services liberalisation as well as more open frameworks for investment can make a strong contribution to development. We should not let misconception or misunderstanding stand in the way of an agreement covering services. Far from acting as a straightjacket on countries' policy space, the EU's approach is flexible and allows services liberalisation to be tailored to each country's needs and national policy objectives, thus boosting domestic reform efforts and the regional integration process among regional partners of the ACP countries.

Author

Fabien Gehl is an official in the Directorate-General of External Trade at the European Commission and is in charge of the coordination of EPA negotiations on services. Views and opinions expressed in this article are solely those of the author.

Notes

- 1 Economic Development in Africa: Strengthening Regional Economic Integration for Africa's Development, UNCTAD, 2009.
- 2 See GATS article XVI and XVII.

Bananas, Economic Partnership Agreements, and the WTO

Giovanni Anania

The conclusion of the Doha Round or an agreement to end the banana dispute at the WTO would significantly reduce the preferential margins that African, Caribbean and Pacific banana exporters enjoy under their Economic Partnership Agreements with the European Union.

On 1 January 2008, the EU implemented the Economic Partnership Agreements (EPAs) it had negotiated with many African, Caribbean and Pacific (ACP) countries. All agricultural exports from ACP countries that had successfully concluded the negotiations – most on an interim basis – are now allowed duty- and quota-free access to the EU. Bananas, along with sugar and rice, are widely recognised as the three agricultural commodities that would bring the greatest export benefits to ACP countries under the EPAs (for sugar and rice, however, the agreements call for a progressive removal of EU market protection by 2010).

In July 2008, eleven Latin American countries, the US and the EU appeared to have reached a provisional agreement to bring to an end the long-standing banana dispute at the WTO. However, the failure of the Geneva mini-ministerial to conclude a Doha Round 'modalities' deal left the issue unresolved'. Since then, the EU and banana producers that export under the EU's €176 per tonne most-favoured-nation (MFN) tariff have continued to negotiate in order to try to find a solution to the dispute.

Market access simulations

Recent research commissioned by ICTSD assessed the expected benefits for ACP banana exporters from the elimination, as a result of the EPAs, of the EU preferential import quota for ACP banana exports in place until the end of 2007. The study also examined how these benefits would be affected due to the erosion of preferential margins deriving from the conclusion of current WTO negotiations.

Six different policy scenarios were modelled. All simulations were generated with respect to 2016 and include the implementation of the EPAs. Differences in the scenarios relate to assumptions made with regard to the conclusion of multilateral and 'bilateral' (EU, on one hand, and MFN banana exporters and the US, on the other) WTO negotiations and the consequent reductions in banana tariffs (see Box 1). The table below shows some of the key findings.



Minor Effects on EU, but Major on ACP and MFN Exporters

Due to its current domestic policies, banana production within the EU is largely independent of changes in trade policies. However, producers' incomes will be affected by policy changes through the effect they could have on domestic prices.

The Economic Partnership Agreements are likely to have only a minor impact on the internal EU market, but a very significant one on ACP and MFN exports of bananas to the EU. As a result of the EPAs, ACP exports in 2016 are forecast to increase by 84 percent (from 970,000 tonnes to 1,800,000 tonnes) at the expense of MFN exports, which are expected to drop by 5 percent overall, but see a 24 percent decline in the EU. The EU's MFN tariff would have to be reduced to €60/tonne, everything else held constant, to leave MFN exports unchanged compared to level they would be likely to reach if the EPAs were not implemented.

Effects of the EU import regime for bananas extend to other markets as well. The more open to MFN imports the EU market becomes, the higher the price of bananas in other importing countries would climb, and thus the lower their imports. However, when import tariffs in importing countries other than the EU are reduced or set at zero as a result of the conclusion of the Doha Round and the implementation of its provisions on tropical products, then, everything else held constant, US imports are expected to decrease rather than increase. This is because the tariff the US imposes on its banana imports is much lower than those of other major importers. For the US, the 'trade diversion' effect of tariff reductions in countries other than the EU prevails over 'trade creation'. MFN exports to the US (the second largest banana importer) decrease, while those directed to other net-importers, which currently impose larger tariffs, expand significantly.

If the July 2008 tentative agreement between the EU, MFN countries and the US were to be implemented, it would affect both the EU's imports of bananas and its domestic price. ACP banana exports would remain well above pre-EPA levels, while MFN exports (although they would increase by almost 400,000 tonnes) would remain below pre-EPA levels.

If the Doha Round is concluded and includes the tentative July 2008 agreement on bananas, it would not affect the EU market much with respect to the scenario in which only this agreement is implemented. Both MFN and ACP exporters would benefit from the liberalisation of banana trade in countries other than the EU.

MFN vs ACP interests

For MFN exporters the issue is trade liberalisation: the more liberalised banana trade becomes, the higher will be export prices, exports and export revenue. The conclusion of the Doha Round is more beneficial to them than the July 2008 agreement with the EU, as long as the multilateral agreement includes the provisional July 2008 deal, or the provisions for tropical products are those on which consensus seems to have emerged in July 2008 in Geneva.

The most favourable scenario for ACP countries would be to retain quota- and duty-free access to the EU market without the conclusion of the Doha Round or the implementation of the tentative July 2008 agreement. Should the latter alternative occur, it would imply the erosion of one-third of the benefits resulting from the preferences granted by the EU within the EPA context. If the EU MFN tariff were to be reduced, it would be better for ACP countries if it takes place within the Doha Round framework since that would bring an increase in market access in non-EU countries and a partial diversion of MFN exports towards such markets, increasing ACP competitiveness in the EU market, as well as the EU import price.

MFN and ACP banana exporters thus share at least one common interest: if a WTO agreement is to be reached, this should be the conclusion of the Doha Round rather than a deal between MFN countries and the EU alone, along the lines of the tentative July 2008 accord.

The modelling exercise suggests that by 2016 least-developed countries (LDCs) will not be

able to compete with MFN and ACP countries in the EU banana market. Moreover, this would be the case regardless of the trade policy regimes in place, i.e. even without the implementation of the EPAs. Nevertheless, the conclusion of the EPAs implies an erosion of the preferences granted to LDCs under the EU's Everything but Arms initiative. With regard to the possible outcomes of the Doha Round negotiations, the more open the EU becomes to MFN banana exports, the harder it will be for LDCs to compete in this profitable market.

Finally, while the results presented appear robust enough to withstand changes in a number of the assumptions made in the modelling exercise, they are relatively sensitive to the hypotheses regarding expected changes in yields. Because ACP exporters are, generally speaking, less efficient in producing and marketing bananas than their MFN rivals, this finding suggests that aid targeted at improving efficiency in banana production in ACP and LDC countries may be as beneficial as granting them preferential market access, and that the negative effects of preference erosion can be offset by providing financial and in-kind resources needed to improve the logistic infrastructure and technical efficiency of their banana industry. This result is consistent with ACP countries' request for additional technical and financial aid from the EU aimed at improving the market competitiveness of their bananas as a condition for their acceptance of the tentative July 2008 agreement.

Modelling of the different policy scenarios

Two scenarios were based on the hypothesis that no Doha Round agreement would be reached. The first of these also assumed that bilateral negotiations on the current WTO dispute would fail to achieve a mutually acceptable solution. This scenario thus simulates the impact of the implementation of the EPAs only (see the column on 'No EU-MFN deal' in the table below).

In contrast, the second projection period assumed that the EU, MFN countries and the US would agree to implement the tentative agreement reached in July 2008, i.e. by 2016, the EU would replace its current applied €176/t MFN tariff by a €114/t import duty. Since there would be no Doha agreement, tariffs imposed by other net-importing countries would remain unchanged (see the first of the two columns on 'EU-MFN deal' in the table below).

The other projections were predicated on a Doha Round agreement and the completion of the implementation period by 2016.

One of the scenarios (second to last column in the table) assumed that the final deal on agriculture would include the tentative agreement reached by the EU and the MFN countries in July 2008. Bananas would be included in the list of 'tropical products'. Based on the convergence that seems to have emerged during the July 2008 meeting in Geneva, the simulation assumed (with the exception of the tariff imposed by the EU) that WTO Members would eliminate tariffs below 20 percent and reduce all those above 20 percent by 80 percent.

The last column in the table presents the implications of no separate agreement between the EU and MFN exporters. All bananas would be considered tropical 'tropical products', and the EU would have to cut the €176/tonne MFN tariff it introduced in 2006 by 80 percent, which would mean a post-Doha tariff of €35.2 per tonne.

Two other, much less likely, possibilities were also modelled in the study (these are not included in the table on page 9).

The first would be a total liberalisation of banana trade by 2016, which would present the worst outcome for ACP countries and the best for MFN exporters. The other assumed no separate agreement on bananas. The EU would cut its scheduled €680/t MFN duty by 80 percent, resulting in a 2016 tariff of €136/tonne. Using the applied MFN tariff (€176/t) as a baseline would reduce the import duty to €35.2/t. These alternatives probably represent the boundaries for any decision on the EU MFN banana tariff in a Doha agreement.

Selected simulation results for banana trade in 2016

	Base 2016 w/out EPAs	EPAs			
		No Doha Round Agreement		Doha Round Agreement	
		No EU-MFN Deal ²	July 2008 EU-MFN Deal ³	July 2008 EU-MFN Deal ⁴	Trop. product tariff reduction ⁵
Imports (1,000 tonnes)					
EU-27	4850,8	4893,2	5165,7	5126,3	5471,7
– from ACP countries	775,0	1784,1	1541,5	1576,6	1269,0
– from MFN countries	4075,8	3109,1	3624,2	3549,7	4202,7
– from LDC countries	0	0	0	0	0
US	4412,0	4475,0	4433,1	4388,4	4334,2
Rest of the world (net imports)	4496,6	4620,2	4538,0	5170,7	5080,8
Exports (1,000 tonnes)					
Total ACP	967,1	1784,1	1541,5	1576,6	1269,0
Total MFN	12792,3	12204,3	12595,3	13108,9	13617,7
LDCs	0	0	0	0	0
Export revenue (US\$1 million)					
– ACP countries	382,7	1213,0	918,4	958,4	636,0
– MFN countries	4703,3	4321,4	4573,6	4915,0	5266,0

Author

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Notes

- 1 Bridges 2008, Vol. 12, No. 4, Page 6
- 2 MFN tariffs would remain at their present levels: €176/tonne for the EU; 0.5 percent for the US, and 18.9 percent for the rest of the world. ACP countries would have duty- and quota-free access to the EU.
- 3 If the tentative agreement of July 2008 is implemented without an overall Doha accord, the EU's MFN tariff would drop to €114/tonne, while other countries' tariffs would remain at their present levels.
- 4 If the July 2008 agreement is implemented as part of an overall Doha deal, the EU's MFN tariff would come down to €114/tonne. Other countries would eliminate import duties below 20 percent and reduce those above 20 percent by 80 percent, as envisaged in the draft text on the liberalisation of tropical products.
- 5 This scenario assumes that the July 2008 agreement is rejected by WTO Members. The EU, and others with tariffs exceeding 20 percent, would apply an 80 percent cut to their MFN duties.

Some Lessons of the CARIFORUM-EU EPA

Norman Girvan

The CARIFORUM-EU EPA, which was initialled in December 2007 and signed in October 2008, precipitated one of the most intense public debates in the recent history of the Caribbean Community (Caricom). At the core of the controversy lay differing views amongst Caribbean elites on development strategy, trade policy, regional integration, and the manner of engaging with globalisation. This paper suggests some 'lessons learnt' from the negotiation process itself and from the efforts of civil society to secure review and renegotiation of the initialled text. It employs a political economy approach that considers issues of ideology, power, governance and politics.



The CARIFORUM EPA controversy summarised

Take note of Box 1, which lists the main shortcomings of the CARIFORUM EPA identified by critics. These concerns relate to both process and content. We might summarise the process concerns as arguing inadequate public involvement in the negotiations process, given the wide ranging, legally binding and indefinite term of the EPA. On content, the bulk of criticism charged that the EPA was inadequately crafted as an instrument of sustainable development and regional integration that unnecessarily compromised the Caribbean's future negotiating positions in bilateral FTAs and the WTO. Defenders of the agreement argued that there had been widespread public consultation, that it contained several advantageous features for the CARIFORUM region and that it was the best deal possible under the circumstances.

The majority of the controversy within Caricom countries occurred in two phases: in the run-up to the finalisation of negotiations and initialling of the EPA in December 2007; and the following period leading up to the ministerial signature of the EPA in October 2008. The critics included at least one head of government, senior academics, former senior Caribbean officials, civil society representatives, labour unions, several parliamentary opposition parties, media commentators, and several international NGOs, think tanks and experts¹. Defenders included officials of the Caribbean Regional Negotiating Machinery (CRNM), heads and ministers of regional governments, other government officials, export industry representatives, media commentators, and senior European Commission officials².

Criticisms of the EPA developed into a protest movement with objectives coalescing around (a) postponing the initialling – and, later, the signing of the agreement – to permit greater public consultation and review and (b)

renegotiating the agreement with aim of removing its objectionable features and improving its development impact. Initiated by an open letter to Caricom leaders from academic and civil society representatives calling for extension of the time period of negotiations, it received a boost when the President of Guyana broke ranks with his fellow heads of government by declaring "we got nothing from the EPA" shortly after the agreement was initialled. An online petition by a group of 'concerned citizens' calling for a public explanation and review of the EPA garnered support from over 100 academics, civil society leaders, businesspersons and the Caribbean diaspora. Critiques of the EPA were published by academics and concerns on the process were voiced by the Caricom Council for Trade and Economic Development (COTED). As a result, the Caricom Secretariat was tasked with commissioning a review of the process³.

In March 2008, three of the EPA's most prominent critics publicly petitioned the governments to 'renegotiate the EPA'⁴; this was strongly critiqued by the CRNM⁵. The governments gave no official response. By June 2008, the call for renegotiation was being supported by a regional network of civil society organisations⁶ and by the Caribbean Congress of Labour, a regional network of labour organisations. By August, Parliamentary Opposition Parties in Jamaica, Trinidad and Tobago, Antigua and Barbuda, St. Lucia and Dominica had come out against the agreement in its existing form. At Caricom's July Summit the governments agreed to a request from the President of Guyana for an extension of the date for Ministerial signing in order to conduct a public consultation. At Guyana's consultation – held in August – the private sector, civil society and the parliamentary opposition agreed to support Guyana's position in favour of renegotiation to limit the scope of the EPA to a so-called 'goods only' agreement. However, this was not supported by other

CARIFORUM governments, some of which saw export opportunities in services, and most of which were vulnerable to threats from European officials to withdraw duty free market access to their exports. The governments may also have been influenced by the fact that national and regional negotiations on the 10th European Development Fund (EDF) were being finalised at the time.

Guyana therefore joined the other CARIFORUM countries in signing the negotiated EPA in October 2008 with one important caveat. A joint declaration was adopted, providing for a mandatory review of the agreement within the first five years and thereafter at five-yearly intervals. The mandatory review opens the possibility of an assessment of the developmental and socio-economic impact of the EPA and of a comprehensive renegotiation by 2013.

Lessons learnt

The protests helped to move the EPA into the domain of public debate and to expose it to wider scrutiny. Civil society organisations became involved; cracks in elite consensus were exposed; at least one government broke ranks; and the mandatory review undertaking provides an opportunity for future renegotiation. However, the major objective of renegotiation before ministerial signing was not achieved. What lessons can be learnt?

First, a major problem for the protest movement lay in the fact that it was going against the cumulative weight of decisions taken over the entire prior course of the negotiations; decisions which established the contours and content of the agreement and set up a process which the principal actors had a strong interest in bringing to its predetermined conclusion. Thus, the all-ACP phase of the EPA negotiations (2001-2003), when ACP bargaining power was greatest, concluded without firm commitments from

Main criticisms of the CARIFORUM-EU EPA

1. Inadequate public consultation
2. Development cooperation in EPA not quantified and time-bound
3. Absence of concrete programmes to equip Caribbean firms to cope with competition
4. 'National treatment' limits ability of governments to foster development
5. Market presence not just market access – other barriers to exporting to EU not addressed
6. Stringent eligibility requirements for services exports.
7. 'WTO-plus' – inclusion of services, investment, intellectual property, public procurement, competition policy
 - unnecessary for WTO-compatibility
 - limits 'policy space' of Caribbean governments
 - pre-empts Caricom Single Market and Economy (CSME)
 - compromises negotiating position of ACP and G77 in the WTO
 - compromises Caricom negotiations with US and Canada
8. MFN Clause inhibits South-South trade cooperation
9. Regional Preference Clause
 - abolishes special treatment of Caricom's LDCs
 - merges CSME with Dominican Republic (DR)
10. Supranational governance machinery stronger than Caricom's
11. Caricom not a Party to the Agreement – promotes regional fragmentation
12. Despite EPA, sugar and bananas still under pressure
13. Aid for Trade (Aft) is highly uncertain in quantity, timing and allocation

the EU on key issues such as the operationalisation of the 'development dimension', additionality of development assistance, addressing non-tariff barriers, exclusion of WTO-plus rules that restrict ACP 'policy space' and provision of acceptable non-EPA alternatives for exporting to the EU. Failure to maintain ACP unity on these issues meant that they would be addressed in the regional EPA negotiations, where bargaining power was much weaker and they were resolved mainly in favour of the EU. The ACP also failed to build political alliances with individual EU member states and civil society which might have acted as a counterweight to the European Commission Trade Directorate.

Second, the failure of Caricom governments to politically educate the public on the implications of EPAs weakened their negotiating position with the EU and increased their vulnerability to domestic pressures. Third, CARIFORUM's agreement to negotiate a 'full' EPA broke ranks with the rest of the ACP and with the developing country bloc in the WTO, undermining international alliances.

Fourth, the EPA protests came too late, were too 'technical', and too lacking in political support to persuade the governments to reopen negotiations. To have succeeded in this objective they would have had to command widespread political and popular support – such as mass demonstrations, strong parliamentary opposition, and business lobbying – which did not happen.

Fifth, the relatively amorphous character of governance in CARIFORUM and Caricom complicated the challenges for citizen advocacy. There is no institutional mechanism

for citizen involvement at the regional level, such as, for example, a regional parliament. There are also overlapping structures of decision-making in Caricom on trade and economic integration and the CRNM is perceived to have operated with a significant degree of autonomy in the negotiations process⁷. CRNM dependence on donor funding may have been a contributing factor. Language differences also posed difficulties for cross-CARIFORUM political collaboration among civil society organisations.



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Conclusion: a Technification-Sweetification-Treatyfication Syndrome?

The EPA and similar negotiations may be characterised by what we call a 'Technification-Sweetification-Treatyfication' (TST) syndrome. *Technification* refers both to the issues that are the subject of negotiations – *issue technification* – and to the language that is employed to explain the issues to decision-makers, stakeholders, and the general public – *discourse technification*. Whereas *issue technification* is intrinsic to the substance of trade agreements – rules and obligations have to be formulated in precise legal and technical language – we would argue that *discourse technification* is the result of a (conscious or unconscious) political decision to restrict participation in decision-

making by employing language that renders the substantive issues inaccessible to non-specialists. Negotiators also have an incentive to retain a monopoly over understanding the technical aspects of the agreement, as this maximises their leverage and provides a means of rebutting critics.

Sweetification is the exaggeration of potential benefits and minimisation of potential costs in 'selling' the EPA – such as inclusion of promises for development assistance and export opportunities in terms that render them difficult or impossible to legally enforce. The full implications of the agreement only become apparent in the implementation stage and over an extended period of time.

Hence the crucial role of *Treatyfication* – endowing the EPA with the force of international treaty law, buttressed by binding arbitration that is enforced by the threat of trade sanctions in the event of disputes. *Treatyfication* therefore subverts democratic governance and national sovereignty. The way to counter this TST syndrome is by a programme of technical demystification, popular education, and political organisation.

Note may also be taken of the 'participation dilemma' that affects civil society in trade negotiations. Mechanisms for CSO involvement in negotiations provide an opportunity to impact outcomes and they can be a device for political co-optation and of legitimisation of bad outcomes. The answer to the dilemma is simultaneous participation at both the technical and political level and both within the negotiations process and in the public domain.

Notes

- 1 Media tracking of the debate by this writer at <http://www.normangirvan.info/epa-in-the-media/> shows a total of nearly 400 items between January 2008 and April 2009.
- 2 The summary which follows draws on the numerous documents related to the CARIFORUM EPA on the website of the CRNM www.crnmm.org, and at <http://www.normangirvan.info/CARIFORUM-economic-partnership-agreement-epa/>
- 3 One eventual result was that in 2009 the Caricom Heads of Government decided to abolish the quasi-autonomous status of the CRNM and to bring it under the aegis of the Caricom Secretariat as the Office of Trade Negotiations.
- 4 See "Renegotiate the EPA" by Havelock Brewster, Norman Girvan and Vaughan Lewis, <http://www.normangirvan.info/renegotiate-epa/>
- 5 CRNM: the Caribbean Regional Negotiating Machinery, the technical body responsible for the CARIFORUM EPA negotiations.
- 6 Caribbean Policy Development Centre, "Renegotiate the EPA Petition" <http://www.normangirvan.info/renegotiate-the-epa-petition-cpdc/>.
- 7 Brewster, Havelock (2008). "Political and Policy Lessons from the Cariforum EPA: Note Prepared for the Caricom Secretariat". Available at <http://www.normangirvan.info/political-and-policy-lessons-from-the-epa-negotiations-havelock-brewster/> and Thomas, Clive (2008) - "Guyana and the Wider World", Stabroek News, 24 February. <http://www.stabroeknews.com/2008/features/sunday/02/24/guyana-and-the-wider-world-13/>

Specialty Food Products from Southern Africa: Aid that views Africa as a Commercial Partner

Amanda Hilligas

Competitiveness is a necessary condition for reaping the benefits of a given EPA. For many ACP producers, accessing the EU market is an intimidating and unrealistic expectation, despite the duty-free quota-free arrangement secured by the EPA. Challenges include meeting the high standards for agricultural products and competing with like products on the supermarket shelf. In this piece, Amanda Hilligas shows how with the right knowledge and an innovative approach, exporters in Southern Africa have successfully penetrated the US market. TNI hopes the article will help stimulate debate on what meaningful measures ACP producers can take to access the EU market.

The US specialty food market is valued at more than US\$40 billion per year, and is growing rapidly. While taking the step to export to the US is a big one for small to medium sized processed food companies from Southern Africa, producers can achieve success by focusing on a niche and capturing a small part of this growing market.

Africa is becoming a surprise source for brokers, importers, distributors, and retailers because the continent is presenting itself in new and sophisticated ways. Examples include spicy kosher sea salt, tuna medallions with lemon and balsamic oil splashes, and vanilla paste for baking. Discerning gourmet food consumers can discover unique rooibos jam flavours from South Africa, fiery hot chili sauce from Malawi, and specialty sugars from Mauritius.

While there are significant opportunities for trade between Southern Africa and the US in processed foods, there are also challenges. Companies need to understand the market, select the right importer and distributor, and be prepared to spend money to be successful. Southern African companies face challenges in their proximity to the US market, the lack of familiarity and stigma US buyers have about African products, and regulatory obstacles to trade in Southern Africa.

Reaz Gunga knows the overwhelming potential of his unique gourmet food products in the US market. He recently participated in the National Fancy Food Show in New York City in June 2009 as part of a USAID-funded "Taste of Africa Pavilion" that brought together exciting gourmet food producing companies from across the African continent¹. The Africa Pavilion featured more than 35 companies funded by the West and

The Southern Africa Trade Hub works in the processed and specialty food sector, fostering market linkages and networking, assisting companies meet the regulatory and labelling requirements for the U.S. market, fostering investment in processed food companies, and facilitating new trade deals for Southern African companies.

The USAID-funded Trade Hub in Gaborone is one of the four Trade Hubs in Africa that implements USAID's African Global Competitiveness Initiative (AGCI). The Trade Competitiveness Project at the Hub – which fosters links between African producers and US buyers – works specifically to make African products more competitive in the global marketplace.

One of the core functions of the Hub's support program for processed food companies is to improve market knowledge, skills and abilities of private sector enterprises to trade. This is driven by US policy objectives of the African Growth and Opportunity Act (AGOA), a tariff preference program allowing the duty-free entry of goods into the US market. Southern African producers enjoy a cost savings and a competitive edge because of tariff preferences under AGOA.

Southern Africa Trade Hub (SATH) at the premier national gourmet food show in the US.

SATH's Trade Competitiveness Project – managed by CARANA Corporation – sponsored part of the Taste of Africa Pavilion to promote new exports to the US. The Pavilion featured Southern African companies from Swaziland, Zambia, Mauritius, and South Africa. Since July 2007, participating companies have received millions of dollars in new orders, which has resulted in a surge of US-bound containers of African food products.

Gunga's company, Labourdonnais, produces natural fruit pastes and jams from the Indian Ocean island of Mauritius. His booth at the Fancy Food Show in July 2007 generated so much interest that Labourdonnais products were featured in the New York Times and have generated interest from big-name US gourmet food retailers.

Gunga has been working closely with the Gaborone, Botswana-based Trade Hub on preparation for the New York Show, and meeting the marketing, packaging and regulatory requirements for the US market. While the African company has faced challenges related to the recession, Gunga says he remains confident that he can penetrate the US market which will mean new employment and will support his recent costly factory upgrades that meet US regulatory requirements and standards.

Gunga is not alone in his successful entry into the US market with the assistance of SATH. Several other agro-processing companies

from Southern Africa fared well at the Fancy Food show with targeted matchmaking and support.

Swaziland-based Eswatini Kitchen produces a range of jams, marmalades, chutneys, sauces, and atchars naturally made with no preservatives, added colours or flavours. New orders make a significant difference to the mainly female local producers and farmers, who rely on the company as a source of income. Eswatini started as an income generating project to provide employment to disadvantaged rural women in Swaziland. With new orders in hand as a result of the Fancy Food Show, Eswatini claims that they are "changing lives through trade."

Despite the challenges, companies like those profiled above prove that achieving exports into the multi-billion dollar US gourmet food market are possible, with targeted marketing and networking. While making plans to export to the US gourmet food market is a big step, the Southern Africa Trade Hub is assisting these successful Southern African companies achieve their goals of appearing on the shelves of high-end American supermarkets.

Author

Amanda Hilligas is Senior Manager for the Africa Region of the CARANA Corporation.

Notes

- 1 See www.tasteafricanow.com for more information.

WTO

Roundup

Delhi Meeting 'Breaks Impasse' in Doha Talks

A meeting of trade ministers from more than 30 countries held in New Delhi, India produced a 'unanimous' resolve to push ahead in the negotiations, but the officials shied away from discussing the technicalities of the talks, where the real work remains to be done.

The meeting, held on 3 and 4 September, was meant to inject momentum into the talks of the G20 summit hosted by the US in Pittsburgh on 24 and 25 September. Trade ministers said the negotiations will have to maintain some of the momentum they picked up at the Delhi meeting if negotiators are to finalise a global trade deal before the end of 2010.

The Delhi meeting marked the most important Doha Round gathering of trade ministers since the collapse of high-level talks at WTO headquarters in Geneva in July 2008.

The technicalities of the talks were officially off the agenda at the Delhi meeting; the ministers instead focused on overcoming political hurdles to progress toward a deal. Judging from the officials' public pronouncements, that objective seemed to have been achieved.

But whether any progress will be made in the talks depends on whether political support for a deal can be sustained, and how easily trade ministers can sell a potential agreement back home.

While the downturn in the global economy could make it more difficult for ministers to sell an agreement at home, some observers argue that it also makes a deal that much more imperative.

Russia, with US Backing, Hopes to Enter WTO Next Year

Russia hopes to finalise its membership in the WTO before the end of 2010, and the US will support Moscow's bid, senior officials from the two countries said after a meeting in Washington.

Igor Shugalov, Russia's First Deputy Prime Minister, discussed Moscow's bid with US Trade Representative Ron Kirk on 21 September. Both men said the meeting went well.

Vladimir Putin, Russia's prime minister, caused a minor skirmish among trade observers

when he announced in June that the country would abandon its unilateral bid to join the WTO and instead pursue membership as a customs union, jointly with former Soviet states Belarus and Kazakhstan. Such an approach is unheard of in the Organization's nearly 15-year history.

Russia seems to be sticking by its customs-union approach, although Shugalov conceded that heads of state can always change their minds.

Russia, by far the largest economy outside the WTO, has been trying to negotiate its entry into the organisation for 16 years. The accession talks proceeded for more than a decade, and stalled in August 2008 when conflict broke out between Russia and Georgia. Angered by what it considered Russian aggression against a smaller neighbour, the US threatened to block Moscow's bid to join the global trade body. Russia hit back, vowing to drop some of the commitments it had already made in the accession talks.

WTO Hears Out Civil Society at Annual Public Forum

The WTO opened its doors to civil society, welcoming more than a thousand participants to its annual Public Forum, held this year from 28 to 30 September at the organisation's headquarters.

The high-level plenary debate that kicked off the three-day conference saw a lively discussion among Thabo Mbeki, former president of South Africa; Gro Harlem Brundtland, UN special envoy on climate change; and Uruguayan Senator Sergio Abreu. WTO Director-General Pascal Lamy also took part in the two-hour discussion, which centred on how governance can be improved at the global level.

Upon leaving the auditorium, participants broke off to attend concurrent sessions that were organised by NGOs, businesses, academic institutions and international organisations. A total of 44 such sessions were offered over the course of the three-day forum.

As in years past, forum participants heard a wide range of views on food security and trade. At one extreme, Swiss farmers defended a world in which countries protect local production for local consumption; at another, trade negotiators from the Cairns Group of agriculture-exporting countries

called for faster and deeper farm trade liberalisation. Multinational agribusiness firms argued for stronger intellectual property protection, while Olivier de Schutter, the UN Special Rapporteur on the Right to Food, critiqued the agricultural trading system from a human rights perspective.

A session on Tuesday morning was devoted to the linkages between climate change and trade, an issue that is getting particular attention in the run-up to a major meeting in Copenhagen later this year, when climate negotiators will try to hammer out a global deal to reduce carbon emissions.

The session, which was co-organised by Friends of the Earth Europe and the Centre for International Environmental Law, focussed on the question of whether WTO law could be considered a barrier to effective responses to climate change. The panellists generally agreed that current world trade law is not blocking the implementation of effective climate-change measures.

The panellists noted that one major area of contention concerns the possible unilateral implementation of Border Carbon Adjustment (BCA) policies, whereby a country that strictly regulates its carbon emissions would impose charges on goods imported from countries whose policies it considered to be less stringent. Experts continue to disagree over whether BCAs might be justified, and how they might impact international trade flows.

Trade finance was the subject of a session that brought together Korean Trade Minister Jong-Hoon Kim; Jean Rozwadowski, the Secretary General of the International Chamber of Commerce; Raoul Ascari, Chief Operating Officer of the South African export agency SACE; and Lamy, among others.

Developing countries rely heavily on trade finance to help fund their participation in the global market. But many banks have been short on cash since the onset of the financial crisis last year, and exporters have struggled to obtain the loans they need to ship their goods overseas.

This information has been summarised from ICTSD's Bridges Weekly Trade News Digest.

EPA Update

Melissa Julian

Efforts underway to unblock Central Africa's stalled EPA negotiations

Discussions on how to re-launch stalled Central Africa-EU EPA negotiations were held at a high level EC- Economic and Monetary Community of Central Africa (CEMAC) seminar on the finalisation of the European Development Fund's 10th regional cooperation strategy and indicative programme. The meeting took place from 30 September to 1 October in Brussels.

At an earlier meeting, CEMAC experts met in Douala, Cameroon from 15-17 September to discuss ways of strengthening the trade expertise and capacities of the CEMAC Commission to improve the formulation and implementation of trade policies at national and regional levels. The initiative is aimed at increasing the competitiveness of its exports and strengthening participation in international trade negotiations¹. Notably, discussions focused on how EPAs could be used to further integrate the region into the sub-regional and international economies. Participants considered a study by the African Capacity Building Foundation, which says there is a lack of capacity in member states to apply WTO rules and finds that the volume of CEMAC exports is only 0.28 percent of overall trade volumes per year. Results could be improved with better organisation of the regional economy and a focus on good governance, the study says.

West Africa EPA deadline to be further extended

The October 2009 deadline to conclude West African-EU EPA negotiations has been further extended following the latest round of expert and senior official level negotiations held in Brussels from 21-25 September. Negotiators focused on the numerous remaining points of divergence in the draft joint EPA text. There was some convergence of views on the EPA Development Programme, with the two parties agreeing that the EC will absorb the net fiscal impact of the EPA in conjunction with pertinent fiscal reforms in the region. A compromise was also agreed which will allow West Africa to take appropriate measures if complaints on implementation of EU support taken to the Joint EPA Council are not addressed within six months. The EC, however, rejected West Africa's proposal to establish a specific legal link in the EPA text between the implementation of EPA trade liberalisation commitments and the provision of EU support for improvements in competitiveness and productive capacities, but agreed to examine the synergy between

these. West Africa is seeking the possibility to temporarily postpone trade liberalisation in order to collect regional levies if EU development support has not materialised. The EC, however, says this would not be WTO-compatible and would, therefore, remove the legal certainty of the EPA. A joint legal study will be undertaken to determine appropriate wording for the text of the agreement. West Africa also proposed a new formulation where the EC and its Member States are committed to providing "the financing necessary" (instead of "additional financing") to the implementation of the development dimension of the EPA.

West Africa proposed the establishment of a legal assistance fund to support its LDC Member States in dispute settlement. The EC did not accept this proposal and insists that this assistance must come from within the normal framework of development co-operation. West Africa also proposed to include a peace clause of 10 years in which the parties renounce dispute settlement rules and prioritise consultation and arrangement.

West Africa accepted the inclusion of the MFN clause in the EPA, but only if it is applied to Europe in accordance to WTO rules, thus rejecting the EC proposal to introduce the notion of "major trade partner."

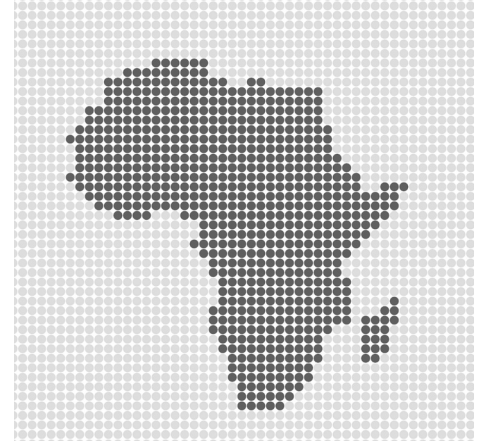
West Africa also proposed an article calling for the elimination of market distorting EU agricultural subsidies in the specific framework of the EPA. The EC maintains that this is an issue to be dealt with at the WTO level.

West Africa submitted a revised market access goods offer which maintains the 60-70 percent opening, but re-categorises products. The EC says the offer could be further improved due to the nature and the low importance of the trade between the two areas, the international context, questions of competitiveness, and the goods being sought.

Because the October deadline cannot be met, the ministerial meeting scheduled to be held in Bamako, Mali from 19-20 October has been postponed to a later date.

East and Southern Africa (ESA)-EC agree to harmonise EDF programmes

European Development Fund (EDF) programmes in the Eastern and Southern Africa and the Indian Ocean (ESA-IO) regions will be harmonised in order to improve aid



effectiveness in support of regionally owned strategies and to ensure coherence between regional and national policies. The Joint High level ESA-IO-EC declaration was adopted following a meeting of Ministers and NAOs of the Member States of the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Intergovernmental Authority on Development in Eastern Africa (IGAD) and Indian Ocean Commission (IOC), and the high officials from European Commission which was held from 14-15 September².

The declaration states that the Regional Organisation of the ESA-IO will, through the inter-regional coordination committee (IRCC), present a concrete schedule of the priority actions to be taken to implement the regional indicative programme, identifying concrete needs for regional integration and cooperation, including EPA related issues to the EC by the end of November 2009. It was also agreed to set up an IRCC Aid Effectiveness Task Force to intensify and structure the ongoing work on aid delivery instruments specifically targeted towards support for regional integration. The declaration also stated that the parties recognised that the Joint Africa-EU Strategy continues to be the broad overall framework for the cooperation between Africa and the EU.

RECs will participate in the proposed 'Resource Seminar' that has been scheduled for 5-6 October in Addis Ababa, Ethiopia to clarify and assess the issue of financial needs and resources.

The Common Market for Eastern and Southern Africa (COMESA) held the First meeting of the Committee on Trade in Services in Victoria Falls, Zimbabwe on 1-4 September 2009. The objectives of the

(Continued on page 13)

meeting were to adopt the rules of procedure of the Committee, to consider and adopt the negotiating guidelines on Trade in Services, to map out a road map for the negotiations, and to consider other pertinent issues relating to the initiation and conduct of the negotiations.

The meeting adopted its Rules of Procedure which provide for the composition of the committee, the conduct of meetings of the Committee and other matters incidental thereto. The meeting also adopted the guidelines for the negotiation of trade in services which would guide countries in the preparation of schedules for specific commitments and operationalisation of the regulations on trade in services. In addition, the meeting agreed on an indicative list of priority services sectors in which each member state is expected to make commitments. These indicative sectors will be confirmed once member states complete national consultations by the middle of December 2009. The indicative priority sectors which have been identified due to their central infrastructural functions and their role in the competitiveness of economies are: financial, communication, business, transport, tourism, energy and construction, and related engineering services. A roadmap was adopted according to which the Committee would convene in May 2010 to commence services negotiations after countries have prepared their requests and offers³.

EAC likely to request extension to EPA deadline

The East African Community (EAC) is expected to request an extension of the envisaged deadline for completing framework EPA negotiations with the EC to complete pending work – which is reportedly still enormous – following regional meetings held in September 2009 at the experts, senior, and ministerial levels. The EAC region is contemplating signing the framework EPA as soon as they agree with the EC on the way forward regarding contentious/outstanding issues (MFN, export taxes, issues of translation of the market access offer/tariff schedules, development cooperation, etc).

Ways and means of improving trade facilitation along the Northern Corridor is the focus of a meeting of the Northern Transit Transport Corridor Authority, EAC, the Kenya Ports Authority, and the East African Business Council that was held from 30 September to 1 October in Nairobi, Kenya. A similar

meeting will be held in Tanzania next year to examine the challenges of the central corridor. The aim in both cases is to determine the structural changes to be effected with particular focus on how to replicate the COMESA-EAC-SADC North-South Corridor aid for trade pilot projects in the northern and central corridors in the EAC region⁴.

Consultations on the establishment of the East African Monetary Union (EAMU) were held in EAC Member States from 7-25 September to inform the EAC Secretariat's study on the proposed EAC monetary union. The study is expected to be finalised later this month⁵.

Despite a decade of economic reforms and efforts to harmonise regional trade policies, the East African region is still plagued by non-tariff barriers (NTBs) to interstate trade, which countries have used to advance domestic protectionist policies, which make the EAC unable to reap benefits from regional trade, according to a study commissioned by the Makerere University-based Economic Policy Research Centre⁶.

Tanzania hinted it may moderate objections that have stalled full integration of the five-nation East African Community (EAC) bloc. "I'm aware there are a few doubts here and there but these should not stop us from moving forward," said Tanzanian Prime Minister Mizengo Pinda on a visit to the Kenyan bourse. "These problems will be sorted out⁷."

SADC-EC EPA negotiations postponed

The Southern African Development Community (SADC)-EC EPA negotiations scheduled for the first week of October 2009 in Brussels have been postponed to allow SADC more time to prepare. Following the signing of the interim EPA by four of the SADC EPA States in June 2009, a lot of mudslinging has taken place – especially amongst SACU Member States.

SADC EPA technical officials met on several occasions in September 2009 to continue with the technical work on market access, the unresolved negotiating issues (previously called ANSA concerns) and services and investment. Part of this technical work included a workshop to consider what needs to be done with respect to the alignment between the IEPA market access provisions and the provisions contained in the SA-EU TDCA, as proposed by the EC. This is



necessary to ensure the integrity of the SACU Common External Tariff. Substantial progress was made. However, it was realised that the alignment has to extend to the rules of origin as well. Differing rules of origin could still lead to a circumvention of tariffs, especially where such rules are more lenient in one agreement than in the other. Although the technical work in this area is making progress, it is still not clear whether South Africa actually agrees to such a step. They have not made any commitment in this regard. This will show the extent to which they are actually committed to maintaining the unity of SACU and, for that matter, the SADC EPA Group.

SACU Trade and Finance Ministers agreed to redouble their collective efforts to resolve the outstanding issues in the SADC-EC Interim EPA and Final Economic Partnership Agreement (EPA) negotiations at a special Council meeting on 17 September in Ezulwini, Swaziland. Ministers directed the SACU Commission to develop a common SACU vision, strategy, and work-plan with timelines in respect to priority areas including strengthening capacity in the secretariat and developing the necessary policies and procedures to conclude the establishment of institutions⁸.

South Africa and the EC discussed the implications of EPA negotiations, at all its stages, on current processes of regional integration in Southern Africa at their Summit meeting on 11 September⁹. The two sides agreed to urgently pursue the negotiation and resolution of all outstanding issues with a view to a prompt and mutually satisfactory conclusion that supports regional integration and development in Southern Africa.

Continued from page 13

South Africa's deputy director-general for trade and industry, Xavier Carim, has sought to place the current dispute with the EU over specific provisions in the IEPAs in a much wider policy framework. ¹⁰Addressing the SADC Southern African Forum on Trade in mid-September, Carim highlighted the fact that EPAs in their current form "limit the SADC region's policy space to promote industrial and agricultural development, would hamper efforts to promote trade diversification, and would undermine regional integration processes." However, he reiterated South Africa's commitment to "addressing these issues with the EU and other members in the SADC and the Southern African Customs Union." For this to happen, however, it was held that the EC needed to move beyond "broad declaratory statements" to address the "detailed outcomes of the negotiating processes."

Trudi Hartzenberg of Tralac, however, notes that there are only 53 goods lines which include tariff differences between the South Africa-EU Trade, Development and Cooperation Agreement and the EPA. "This is such a red herring," she said¹¹.

The SADC Ministerial Task Force on Regional Economic Integration was urged to ensure that outstanding EPA issues are effectively addressed following a SADC Summit held in Kinshasa, Democratic Republic of the Congo on 7-8 September¹². Leaders also noted that the Task Force will meet in a Strategic Forum before the end of 2009 to further examine the regional economic integration agenda. The summit also signed a Memorandum of Understanding on Regional Cooperation and Integration among the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC).

It is of importance to the agricultural value chain that the integrity of the SACU is maintained and a satisfactory conclusion to the IEPA negotiations achieved, according to a statement by the Joint President's Committee, comprising the Namibia National Farmers Union, Namibia Agricultural Union and Namibia Emerging Commercial Farmers Union to the Namibian Minister of Trade and Industry adopted on 8 September. The statement sets out the detailed impact on key industries. The organisations do not think the EU will increase tariffs on Namibia as long as they are negotiating the EPA.

Caribbean

CORRECTION: Early electronic versions of the September issue of TNI erroneously stated that Barbados is finalising its EPA services offer. It is not Barbados, but the Bahamas which is to complete its services offer. Our apologies.

Implementation of Caribbean agriculture decisions need to be pursued vigorously as time is not on the side of the region, according to the conclusions of the Special Meeting of the Caribbean Community (CARICOM) Council for Trade and Economic Development (COTED) on Agriculture held in Guyana on 18 September¹³. Systems need to be established to assist with dealing with constraints and to identify bottlenecks to implementation and the necessary action that needs to be taken, the Special Meeting concluded.

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Following the signing of the interim EPA by four of the SADC EPA States in June 2009, a lot of mudslinging has taken place – especially amongst SACU Member States.

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The CARICOM Development Fund commenced full operations on 24 August¹⁴. The fund will provide technical and financial assistance to disadvantaged countries, regions, and sectors and will promote business development, among other areas. The economic integration process will determine the priority allocations in the form of loans, grants, and interest subsidy grants.

Pacific

A Joint Technical Working Group Meeting (JTWG) between the Pacific ACP (PACP) Trade and Legal Officials, European Commission Officials, and senior officials was held in Brussels from 23 September to 3 October¹⁵. The objective of the meeting was to advance discussions on a range of technical issues relating to a comprehensive EPA between the PACP region and the EU. Officials sought to resolve outstanding issues so that the EU and the region can move forward as soon as possible to the task of actually building the partnership through a comprehensive EPA.

The resolution of a range of important outstanding issues – including export taxes, infant industry provisions, and Most-Favoured-Nation provisions that will constrain these negotiations, the non-execution clause and inclusion in the EPA of duty-free access for fisheries products (including quota-free access and improved rules of origin for fresh chilled and frozen fish) – were being discussed at the meeting as we went to press. The officials also discussed the market access offers, conditional on the resolution of a number of issues under the trade in goods component of the EPA that some of the PACP states have made. PACP trade officials will report back to PACP trade ministers at their next meeting.

At least four countries from the region have shown a renewed interest in negotiating an EPA with the EU, tabling goods offers at the JTWG negotiations. Indications are that the PACP countries are continuing to lobby the EC as a regional grouping for a comprehensive EPA that contains a rendezvous clause for negotiating trade in services, investment rules, and other trade-related measures. They are also lobbying to see improvements in the provisions relating to trade in goods that have been included in Papua New Guinea's interim EPA (removal of MFN provisions, improvement of the infant industry rules, removal of restrictions on export taxes and quotas, more flexibility in the definition of 'substantially all trade', improved Rules of Origin for fisheries, etc.).

PACER Plus trade negotiations between the Pacific, Australia and New Zealand were triggered as a consequence of Forum Island countries concluding the interim EPA agreement with the EU.

New Zealand will contribute NZ\$1.95 million toward the establishment of the Office of Chief Trade Advisor (OCTA) to support Forum Island Countries' preparations for, and participation in, PACER Plus. To ensure the independence of OCTA's advice and assistance to Forum Island Countries, it will operate separately from the Forum Secretariat with a Board of Governors made up of Forum Island Country representatives. OCTA will provide Forum Island Countries the technical assistance necessary to support their engagement in PACER Plus-related activities and negotiations. Its four key functions are advice and facilitation of capacity building, coordination, facilitation and representation.



Author

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TNI is published by

The International Centre for Trade and Sustainable Development

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The House London Ltd.
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This monthly publication is made possible through the financial contribution of the Government of the United Kingdom (DFID) and the Dutch Ministry of Foreign affairs (DGIS).

The opinions expressed in the signed contributions to TNI are the authors' and do not necessarily reflect the views of ICTSD or ECDPM. Manuscripts offered for publication are expected to respect good journalistic practice and be compatible with our mission. Guidelines for contributors are available on request.

Material from TNI can be used in other publications with full academic citation.

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ISSN 1682-6744

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Trade Negotiations Insights

Calendar and resources

ACP-EU Events

October		November	
5-7	Africa-EU Workshop on Resources for the implementation of the Joint Africa- EU Strategy, Addis Ababa, Ethiopia	2-4	COMESA Trade and Customs Committee meeting, Mombasa, Kenya
8-9	Joint Africa-EU Strategy: Africa-EU Joint Task Force in enlarged format, Addis Ababa, Ethiopia 8 th Meeting of the CARICOM Council for Trade and Economic Development, Barbados	2-6	West Africa: experts, senior officials and chief negotiators meeting (venue TBC)
9-10	Convocation of leading stakeholder representatives on the CARICOM Single Market and Economy, Bridgetown, Barbados	9-10	3 rd ACP Civil Society Forum, Brussels, Belgium
12	DG Trade Civil Society Dialogue on development aspects of Economic Partnership Agreements, Brussels, Belgium	13	1 st meeting of the Joint Council of the CARIFORUM-EC EPA (venue TBC)
12-13	EPA Chief Regional Negotiators meetings, ACP Secretariat, Brussels, Belgium	23-27	90 th Session of the ACP Council of Ministers, Brussels, Belgium Commonwealth Business Forum, Port of Spain, Trinidad and Tobago
12-14	Joint Africa-EU Strategy: experts and senior officials meeting and 13 th Africa-EU Ministerial Troika meeting, Addis Ababa, Ethiopia	25-3	SADC round of experts, senior officials, and ministerial negotiations, Brussels, Belgium.
15-16	ECOWAS-EU ministerial meeting, Abuja, Nigeria		18th Session of the ACP - EU Joint Parliamentary Assembly, Luanda, Angola
19-23	Aid for Trade roundtable and Pacific ACP trade officials meeting, Rarotonga, Cook Islands		Commonwealth Heads of Government meeting, Port of Spain, Trinidad and Tobago
19-24	Meeting of experts on the market access offer of the EU-West Africa EPA, Abidjan, Nigeria (venue TBC)		
22-24	European Development Days, Stockholm, Sweden		
26-28	Pacific Forum economic ministers meeting, Rarotonga, Cook Islands		
28-30	4 th ACP-EU Joint Regional Parliamentary meeting, Ouagadougou, Burkina Faso		

WTO Events

October		November	
7-9	Trade Policy Review Body – Chile	4-6	Trade Policy Review Body – Southern African Customs Union (SACU)
20-21	General Council Meeting	11-13	Trade Policy Review Body – Senegal and Niger
26-28	Trade Policy Review Body – Maldives	30	November – 2 December Seventh WTO Ministerial Conference

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