



Institute of  
Development Studies

CARIS

Centre for the Analysis of  
Regional Integration at Sussex

## **EPA Review Report**

**by**

**Institute of Development Studies (IDS)**

**and**

**Centre for the Analysis of Regional Integration  
at Sussex (CARIS)  
(University of Sussex)**

## **Acknowledgement**

This report has been elaborated by a team of researchers from the Institute of Development Studies and The Centre for Analysis of Regional Integration (CARIS) at the University of Sussex. The team has been managed by Xavier Cirera, Jim Rollo and Zhen Kun Wang, and included Michael Gasiorek, Spencer Henson, Peter Holmes, Javier Lopez Gonzalez, Giulia Mascagni, Maximiliano Mendez-Parra and Anirudh Shingal. The case studies have been carried out by a team of country consultants: Geremew Ayalew for Ethiopia, Abiodun Bankole for Nigeria and Roberto Despradel for the Dominican Republic.

We would like to thank the Department for International Development (DFID) for financial assistance to carry out this study. Also, the crucial input provided for the case studies by the staff from the Ministry of Industry and Trade in Ethiopia, the Department of Trade of the Federal Ministry of Commerce and Industry in Nigeria, SEREX in the Dominican Republic and other individuals interviewed is greatly appreciated. Finally, we would like to thank Vivienne Benson for administrative support.

# 1. Introduction

The Economic Partnership Agreements (EPAs) between the European Union (EU) and African, Caribbean and Pacific (ACP) countries have become some of the most ambitious trade negotiations exercises in recent years. The EPAs aimed to replace unilateral preferences with reciprocal WTO-compatible Free Trade Agreements (FTAs) in 2008, after the end of the WTO waiver for Cotonou preferences. The agreements are very comprehensive, and in addition to EU-ACP trade integration, involve additional objectives, such as: strengthening existing South-South Regional Trade Agreements (RTAs); including specific development objectives; and incorporating trade in services and other non-trade issues.

After a decade of intense negotiations between all the parties involved, the results have been disappointing. Only CARIFORUM countries have signed a fully fledged agreement with the EU. In Africa, 19 countries have initialled an interim agreement, as well as two countries in the Pacific.<sup>1</sup> The remaining countries, while still negotiating an agreement, export to the EU under the existing Generalised System of Preferences (GSP) agreement, or in the case of LDCs, under the Everything but Arms (EBA) agreement.<sup>2</sup>

The purpose of this study is to review this lengthy process by evaluating two elements of the negotiations; the resource costs associated with the negotiations and the development objectives of the EPAs. A better understanding of the lessons of the process is an important element that can help in formulating alternatives to conclude the negotiations and guide future strategies of assistance to negotiations in a way that prioritises development.

Existing analysis in relation to EPAs has largely focused on the expected impact of the EPAs on ACP economies, and more recently the focus has shifted towards monitoring existing agreements.<sup>3</sup> However, to our knowledge, little emphasis has been directed towards assessing the resource constraints arising when negotiating trade agreements, and how existing constraints have impacted on the process and outcome of the negotiations.

Negotiations are costly financially, but more so in terms of the human capacity diverted from other domestic or external policy goals, and these costs need to be accounted for and compared with expected benefits of both, the negotiations as well as of the displaced activity. Moreover, the costs and benefits arising from EPAs need to be compared with alternative trade policy options when they exist. Ultimately, trade policy choices depend on different economic and political factors. Nevertheless, only accurate cost-benefit analysis of the different policy options, including the resource costs from negotiating the different options, can determine whether decisions make economic sense and financial support to the negotiating option is justified.

In order to carry out this review, we used a methodology based on qualitative analysis, desk quantification and country case studies. The report is structured as follows. Part two

---

<sup>1</sup> These countries are: Cameroon, Ghana, Cote d'Ivoire, Botswana, Lesotho, Namibia, Mozambique, Swaziland, Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe, Zambia, Burundi, Kenya, Rwanda, Tanzania, Uganda; and Fiji and Papua New Guinea in the Pacific.

<sup>2</sup> The exception is South Africa, which exports under the existing FTA with the EU – the Trade and Development Cooperation Agreement (TDCA).

<sup>3</sup> GDI and ECDPM (2008), *Monitoring Economic Partnership Agreements Inputs to the Negotiations and Beyond Studies*, Deutsches Institut für Entwicklungspolitik 37, German Development Institute.

documents the EPA negotiating process for the ACP regions. It highlights the main controversies and different negotiating dynamics between regions. It also includes a very selective survey of the existing evidence regarding the likely impact of the EPAs. These results will be used to infer the potential benefits of the agreements for the country case studies.

Part three carries out the review of the EPA process. It starts by describing the methodology to be used for the review. It then uses three country case studies to carry out a detailed description of the negotiating structure, quantification of the resource costs used for EPA negotiations and a description of the main perceptions about the EPA process for each country. This detailed costing exercise undertaken for the case studies is then used to try to estimate an overall cost of negotiating the EPAs for the ACP region. Finally, the last section of the review describes how the main proposed components of the EPAs have impacted on the negotiations and their likely impact on development in ACP countries.

The last part of the report analyses the main lessons from the review of the EPA process and suggests some policy options as a way forward to conclude the negotiations.

This report summarises the main findings of the project. However, the accompanying document annexes provide full detail on the different case studies and evaluations of the different sections of the report. The reader is referred to this accompanying documentation for a richer and more detailed description.

Asking questions about the resources used for negotiations has been a challenging task. While working on this report, we have encountered an unwillingness to cooperate from the European Commission in pursuing some of the original questions of the TORs, mainly calculation of the overall costs of negotiation. In part this resistance relates to the cost of reconstructing data that was not collected at all or not in a way that easily relates to the questions we asked. In our view, asking questions about the resources required to negotiate a trade agreement should be a standard component of any assessment, especially when we consider the significant skill constraints that exist in developing countries. But, more importantly, it allows consideration of five very important questions that any trade negotiations, especially with developing countries, should answer: Do the expected benefits of the agreement outweigh the costs of negotiation? Can the same objectives be achieved with fewer resources? How realistic is it to negotiate very comprehensive agreements with developing countries? What is the amount of technical assistance required for doing so? Is this type of donor support to trade negotiations the best return on aid for trade money? We hope that this report provides valuable information to answering some of these questions and begin opening this field of research.

## 2. The EPA process

### 2.1 Overview of the EPA process

The costs of any negotiations depend largely on how these are structured and how difficult it is to reach an agreement according to existing expectations. This section reviews the main developments and obstacles encountered during the negotiating process.<sup>4</sup>

The EPA process arises from a need for a new partnership with ACP countries, as stated in the 1997 Green Paper.<sup>5</sup> When the Green Paper was launched, several options regarding the shape of the agreement were left open to negotiation. These included: status quo, integration into GSP, uniform reciprocity, differentiated reciprocity, differentiation under a single framework, and differentiation leading to a variety of agreements. However, early on in the negotiations, it was agreed to negotiate regionally under a template of a comprehensive agreement that included trade and non-trade components.

The negotiations were organised in two phases. Phase I started in September 2002 and the European Commission (EC) negotiated with the entire ACP Group to set the basis for negotiation. Progress during this phase was slow, and from very early on there was clear disagreement in several areas. The most important and key disagreement was in the area of development finance. As soon as negotiations started the ACP countries raised the issue of financial assistance and support to accomplish the objectives established by the EPAs, including specific commitments for restructuring domestic sectors, compensation for losses in tax revenue and establishing policies for diversification. This contrasted with the opposition of the EC, which argued that any financial assistance matter had to be discussed within the existing Cotonou financial instruments, rather than with the EPAs. In addition, there were disagreements on the depth of the agreement and the inclusion of services and other trade-related issues. Table 2.1 summarises the main negotiating positions during this phase.

**Table 2.1 Main negotiating positions during Phase I**

Issue	EU position	ACP countries' position
Phase I binding commitments	No commitments. Both phases could be negotiated independently and Phase I should be a clarification of issues. Cotonou Agreement is an adequate legal basis.	Phase I should be an ACP-EU general agreement on the issues negotiated before commencing regional negotiations.
Development funding	Development cooperation is dealt with adequately in the Cotonou Agreements. Financial window already open through EDF. It should not be part of EPA.	Specific commitments in terms of financial support to overcome supply-side constraints, restructuring and compensating for loss of tariff earnings.
Services	Not willing to negotiate substantially on Mode 4 (movement of natural persons).	Particularly interested in getting access on Mode 4. Access to distribution channels and information networks.
Labour standards	Initial attempts to make some provisions.	Not part of EPAs (should be discussed at ILO).
Rules of origin	Not clear initially. The discussion will continue during Phase II.	The only way to improve their access to the EU will be more favourable rules of origin.
Non-execution clause	Sanctions will be applied only on bilateral basis. No link between cooperation and the non-execution clause.	Fear that individual country violations to human rights, democracy or rule of law, could affect access to the whole region.

Source: Elaborated from various *Trade Negotiations Insights* by ECDPM

<sup>4</sup> A more detailed overview can be found on the Annex

<sup>5</sup> 'Relations between the European Union and the ACP countries on the eve of the 21st century: Challenges and options for a new partnership'.

Phase II started in 2004, with the EC negotiating specific agreements separately with different regional groups in each of the ACP regions. From very early on it was clear it would be difficult to reach an agreement by the end of the WTO waiver in 2007. In many regions, disagreement on development finance was the main obstacle to reaching an agreement but there were also important difficulties attached to establishing common positions in the different ACP regions and negotiating the agreement regionally. Table 2.2 shows the main areas of conflict for the different regional groupings.

**Table 2.2 Main problems and divergences for not achieving a full EPA**

Area	Problem/divergences
West Africa	<ul style="list-style-type: none"> <li>- Insufficient liberalisation coverage and long timeframe on its offer</li> <li>- Unfinished negotiation on the ECOWAS CET</li> <li>- Rejection of non-execution clause</li> </ul>
Central Africa	<ul style="list-style-type: none"> <li>- Firm position in terms of funding commitments</li> <li>- Insufficient liberalisation coverage and long timeframe on its offer</li> <li>- Limited offer in services on the CEMAC side</li> </ul>
East and Southern Africa (ESA)	<ul style="list-style-type: none"> <li>- Exports tariffs</li> <li>- Standstill and MFN clauses</li> <li>- S&amp;D</li> <li>- TRIPS</li> </ul>
EAC <sup>a</sup>	<ul style="list-style-type: none"> <li>- Divergences within the region and slow integration process</li> <li>- Export tariffs</li> <li>- Standstill clause</li> </ul>
SADC	<ul style="list-style-type: none"> <li>- Overlapping regional agreements</li> <li>- Incompatibilities between EPA and previous agreements (TDCA)</li> <li>- South Africa has its own agenda for the region</li> </ul>
Pacific	<ul style="list-style-type: none"> <li>- No important trade between the region and the EU</li> <li>- MFN clause problematic. Effects on other negotiated agreements (PACER)</li> <li>- Without a broad agreement in services, especially Mode 4, the region might not be interested in an agreement.</li> </ul>

<sup>a</sup> EAC was part of the ESA configuration until the last minute where they decided to negotiate separately

Source: Elaborated from various *Trade Negotiations Insights* by ECDPM

Negotiations were accelerated in 2006 and especially in 2007 in order to reach an agreement before the end of the WTO waiver. Only CARIFORUM signed a full agreement, while in the other regions interim EPAs (IEPAs), covering mainly trade in goods and a road map for concluding negotiations, were initialled. For IEPA countries, only the full EAC region initialled, while the other regions were split between countries that initialled and countries that remained under EBA/GSP.<sup>6 7</sup> Judging by the outcome in 2008, the agreements are relatively differentiated, with different provisions, and more importantly with different liberalisation commitments in terms of transition periods and product coverage. The main differences between the different agreements can be found in Table 2.3. Regarding services and other trade-related issues, negotiations are still ongoing to conclude fully fledged agreements, so existing IEPAs are quite “shallow” and involve mainly market access.

<sup>6</sup> A detailed review of the IEPAs can be found at: Bilal, S. and C. Stevens, (eds) (2009) *The Interim Economic Partnership Agreements between the EU and African States: Contents, challenges and prospects*, Policy Management Report 17, Maastricht, ECDPM. Also available at [http://www.ecdpm.org/Web\\_ECDPM/Web/Content/Content.nsf/0/AB9BF36A0439E143C12576170029077F?OpenDocument](http://www.ecdpm.org/Web_ECDPM/Web/Content/Navigation.nsf/index2?readform&http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/0/AB9BF36A0439E143C12576170029077F?OpenDocument)

<sup>7</sup> The share of exports under the Cotonou Agreement in 2007 appears to be positively correlated with the probability that an ACP country initialled an IEPA in 2008. Clearly, for some countries such as Ghana and Cote d'Ivoire, the potential loss of preferences in key products as a result of the removal of Cotonou preferences seems to be a driving force to sign the EPAs. However, other countries, especially some LDCs, have agreed to sign EPAs without a direct threat on their export preferences.

Despite the intrinsic difficulties in achieving an agreement with such a large number of countries on a substantial number of issues, two elements stand out as key obstacles during the negotiations; provisions on development finance and adoption and formulation of regional positions. From very early on, it was clear the difficulty to reach an agreement when expectations are so divergent, with one side's main objective being a comprehensive trade agreement while the other is focused on development finance.

**Table 2.3 Main differences in provisions between CARIFORUM EPA and IEPAs**

	<b>CARIFORUM</b>	<b>CEMAC(Cameroon)</b>	<b>Ghana</b>	<b>Cote d'Ivoire</b>
<b>Trade in goods</b>				
Export tariffs	Elimination in 3 years	No new introduction or increase	No new introduction or increase	No new introduction or increase
Standstill provision	No	Yes	Yes	Yes
New Rules of Origin	Yes	No. Cotonou applies	No. Cotonou applies	No. Cotonou applies
MFN clause	Yes	Yes	Yes	Yes
<b>Services</b>				
Scope	Some provisions. Commitment to re-enter negotiations in 5 years	No provisions yet	No provisions yet	No provisions yet
MFN clause	Yes. Not applicable if both parties agree	No provisions yet	No provisions yet	No provisions yet
Standstill clause	No	No provisions yet	No provisions yet	No provisions yet
	<b>PACP (Fiji and PNG)</b>	<b>ESA</b>	<b>EAC</b>	<b>SADC minus</b>
<b>Trade in goods</b>				
Export tariffs	Eliminated with exceptions.	No new introduction or increase	No new introduction or increase	No new introduction or increase
Standstill provision	Yes. Only in products liberalised	Yes	Yes	Yes. Only in products liberalised.
New Rules of Origin	Yes	Yes	Yes	Yes
MFN clause	Yes. Escape clause	Yes	Yes	Yes, except South Africa
<b>Services</b>				
Scope	No provisions yet	No provisions yet	No provisions yet	No provisions yet
MFN Clause	No provisions yet	No provisions yet	No provisions yet	No provisions yet
Standstill clause	No provisions yet	No provisions yet	No provisions yet	No provisions yet

Source: Elaborated from various *Trade Negotiations Insights* by ECDPM

## 2.2 Selective survey of the evidence on the impact of the EPAs

The analysis of negotiating costs needs to be compared with the expected benefits from an EPA agreement, since a costly negotiation could be justified if large benefits are expected. There have been a significant number of studies analysing the expected impact of the EPAs (see survey in the Annex), with sometimes opposing results. These studies have faced significant difficulties in attempting to calculate the expected impact. First, when performing the simulations, the studies did not have the complete list of excluded product/sectors. In some cases the IEPAs exclude a significant number of products, which implies that some simulations may overestimate the impact of trade and trade adjustment. Second, often no impact on exports has been modelled, but the counterfactual regime for exports, especially under GSP, could imply significant loss of preferences that needs to be estimated. Third, due to agreed long periods of liberalisation, EPA implementation will overlap with regional integration processes in many regions. This simultaneous liberalisation process needs to be modelled because it may create additional distortions, when tariff liberalisation with the EU is different within regions, or potentially reduce trade diversion when both commitments are implemented simultaneously. Fourth, existing evidence has focused on modelling the impact of liberalising goods, but full EPAs also include other elements that are likely to have an impact on ACP countries. The content of existing IEPAs does not clearly state the degree of

coverage of other issues and, therefore, does not facilitate the design of the liberalisation scenario to be simulated.

Keeping in mind all these challenges, one can broadly identify the elements that are likely to drive the results of the empirical estimations.<sup>8</sup> These can be summarised as follows:

- The higher the initial tariffs, the greater the scope for trade creation, trade diversion and fiscal losses.
- The higher the initial percentage of trade with the EU, the more likely trade creation is to predominate over trade diversion.
- The greater the amount of multilateral or unilateral liberalisation, the lower the magnitude of trade diversion effects.
- The higher the preference margin received from unilateral preferences (GSP, GSP+ or EBA) the lower the static benefit from the EPAs.

Hence, the countries that are likely to benefit most from the EPAs are those that trade heavily with the EU with high levels of domestic protection, and that are eligible for GSP preferences only.

In this respect, and *a priori*, the effects should be more pronounced for African countries rather than for the Caribbean or Pacific groupings. In the Sub-Saharan (SSA) region, studies concur that the EPAs will be net trade-creating, however they note that negative fiscal effects due to loss of tariff revenue could be a challenge requiring action from SSA governments. In terms of the overall effect of the EPAs on ACP countries, Fontagne *et al.* (2008) estimate an increase of 10 per cent in exports to the EU and 17 per cent in imports from the EU (by 2020). These estimates take as base scenario the replacement of Cotonou preferences with other preferential access for developing countries into the EU. The regions that are most likely to suffer from this switch are COMESA, CARIFORUM and the PACIFIC according to Fontagne *et al.* (2008).

Whilst most studies appear to agree on the overall effects of signing the EPAs, the estimates vary significantly. Furthermore, the different techniques used do not allow direct comparison of the empirical results, which is a problem in assessing the overall impact across the different regions.

---

<sup>8</sup> Table 2 in document survey in the Annex summarises the existing evidence on the impact of EPAs for the different regions and countries.



## 3. EPA Review

### 3.1 Methodology

In order to measure the resource costs used during the negotiations, we have followed a methodology that combines detailed calculations from three case studies with an estimate based on desk reviews of the overall costs of negotiating EPAs. In the case of the evaluation of the EPAs' development objectives, the methodology used is based on comparing the objectives stated in the 1997 Green Paper and DFID EPA position paper with the EPA process, while providing an extensive discussion of the main constraints that the different provisions in the full CARIFORUM EPA (as a template for other agreements) may face in order to make a significant impact on development.

The case studies section has been carried out by *in-country* consultants, using their knowledge based on their involvement during the negotiations, working with the relevant ministries and interviews with the main actors of the process. The case studies attempt to give full details of the negotiating capacity of these countries, as well as the resources used for the negotiations. One essential element of the analysis has been a focus on the opportunity costs arising from negotiating the EPAs, by looking at the costs of potential counterfactuals and also the allocation of resources in relation to other trade areas. Finally, interviews have been conducted in order to gather country perceptions around the negotiation process experience and their negotiating constraints.

Regarding the estimation of the total amount of resources required for negotiating EPAs, this has been the most challenging part of the project, mainly due to the resistance we have encountered in attempting to obtain the relevant information. The case studies reveal that, in poorer countries, a substantial portion of the negotiation costs associated with travelling and elaboration of studies for preparation of negotiating positions were covered by donor funds, mainly EU funds. Therefore, the most direct way to calculate the overall costs of negotiations would be to account for all the projects related to the negotiations. Unfortunately, we have not been able to access the relevant information and, therefore, we cannot get the whole picture of negotiation costs.

### 3.2 Case studies

This section is a central part of this report. It describes the trade negotiating resource capacity, the costs of negotiating EPAs and the experience of the process of three different ACP countries: Ethiopia, Nigeria and the Dominican Republic. Despite the fact that we analyse only three out of the 75 ACP countries engaged in negotiations, the sample is indicative of the relative diversity and heterogeneity of ACP countries: two Sub-Saharan African countries and one Caribbean country; one LDC and two developing countries; one EPA signatory – the Dominican Republic, and two countries that have not yet agreed to sign. Therefore, although generalisations from case studies are always risky, we believe that the sample shed some light on the different resource capacities available in ACP countries. Furthermore, some common elements and lessons that apply to the other ACP countries arise from analysing the case studies. The detailed case studies, including a larger case study section and the reports for the three countries, can be found in the Annex. This section summarises the main findings.

#### 3.2.1 Trade negotiating resources

The case studies suggest two different pictures regarding trade negotiating resources and their allocation. On the one hand, the review of the Dominican Republic shows the presence

of an experienced inter-ministerial team that has been negotiating previous complex and demanding trade agreements. On the other hand, Ethiopia and Nigeria show a different picture, with few staff in the relevant ministry, but large numbers of staff for other negotiations or trade ministry tasks.

Table 3.1 summarises the trade negotiating capacity and the allocation of resources across agreements. In the case of Ethiopia, the country has engaged in a very large number of trade negotiations at bilateral, trilateral, regional and multilateral levels. The EPAs negotiation process is happening at the same time as Ethiopia's WTO membership process. These two negotiating processes clearly stretch currently insufficient human resources. Nevertheless, the allocation of staff does not reflect the potential impact of each of the agreements. The clearest example is the fact that the same number of technical staff are deployed to cover an array of bilateral and trilateral 'shallow' agreements with a variety of countries such as Turkey or Yemen, as are deployed to deal with more comprehensive regional agreements such as EPAs and COMESA, which are likely to have larger impacts on the economy. In addition, it is important to highlight the fact that Ethiopia has still not signed EPAs and WTO membership, or joined the COMESA FTA or Customs Union.

Regarding Nigeria, the analysis suggests a large bias of resources allocated to WTO issues as compared with EPA and ECOWAS negotiations. This is due mainly to inherited ministry structures, as well as political priorities, since the EPAs did not seem a priority until a later stage of negotiations. In addition to the scarcity of technical staff dealing with EPA negotiations, the lack of economics-trained staff is striking. Regarding budget allocation, the lack of priority associated with EPAs is reflected in very small earmarked budgets, requiring additional donor support, mainly directed to the formulation of evaluation studies.

The Dominican Republic (D.R.) case study presents a very different resource capacity picture. The allocation of human and financial resources for negotiation has benefited from the political will to economic reform that started in the mid-1990s. This is clearly translated into better qualified and paid staff, with levels similar to that of a developed country, and with larger numbers of staff than in many other more populated ACP countries. The existing negotiating structure has also benefited from the accumulated expertise in previous negotiating experiences; especially CAFTA-US negotiations, which improved understanding of negotiations and facilitated the design of a more capable and rolling structure to prepare negotiating positions. For the D.R., the main challenge faced during the EPA process by the negotiating structure was in agreeing a common regional position with CARICOM; this was largely facilitated by the assistance of the Caribbean Regional Negotiating Machinery (CRNM).

One way ACP countries have tended to reduce resource constraint problems has been through the creation of inter-ministerial teams and regional preparatory tasks. Despite the fact that sometimes the participation of members from other ministries has been difficult due to lack of incentives, these inter-ministerial teams are perceived as a positive enhancement of their trade negotiating capacity (see pp.84 in Annex).

### **3.2.2 The costs of EPAs**

#### *Estimated total costs*

The case studies provide calculations of the costs of negotiating EPAs for the three countries. These costs are based mainly on travelling costs for meetings, training and the elaboration of impact studies. The costs, therefore, do not include manpower for preparation of negotiations and attendance at meetings, and represent a lower-bound

**Table 3.1 Summary of trade negotiating resources and their allocation**

	Staff for EPAs in relevant ministry	Staff for other areas	Negotiating Commitments	Inter-ministerial team for EPAs	Skills	Earnings
Ethiopia	<b>3 experts for EPA, COMESA and IGAD</b>	<ul style="list-style-type: none"> <li>experts for bilateral and trilateral agreements</li> <li>More than 6 experts for WTO</li> </ul>	<ul style="list-style-type: none"> <li>14 bilateral Trade Agreements and 2 trilateral</li> <li>COMESA – but not implementing either FTA or CU</li> <li>WTO membership – only one working party meeting in 2008</li> </ul>	29 experts and senior officials from 26 institutions	From first degree to a PhD in, among other fields, economics, development, law and political science	\$274 to \$587
Nigeria	<b>8 staff for EPA, ECOWAS and GSP</b>	<ul style="list-style-type: none"> <li>28 for WTO</li> <li>14 for bilateral issues</li> <li>7 for UNCTAD</li> <li>43 for trade promotion</li> </ul>	<ul style="list-style-type: none"> <li>Some bilateral agreements</li> <li>ECOWAS</li> <li>WTO</li> </ul>	12 members from different ministries, including private sector and trade unions	Six have basic degrees in social sciences and business administration, two have additional degrees in law and one a higher degree in political science. <b>None has an economics degree.</b>	\$248 to \$545
Dominican Republic	<b>4 staff for EPAs</b>	D.R. does one negotiation at a time and uses same team + WTO delegation	<ul style="list-style-type: none"> <li>CAFTA-DR</li> <li>CARIFORUM</li> <li>WTO</li> <li>application for CARICOM</li> </ul>	24 members from different ministries	From MA to PhD level in relevant areas of economics and law	\$2000 to \$5000

Source: Authors' own elaboration from case studies

estimate of the real costs. In order to do the calculations, the consultants compiled the list of EPA-related meetings and trainings, and the list of preparatory studies. To this list a *per diem*, average air travel cost, number of days and average number of staff attending the meetings was applied. The estimated total costs are the following:

- *Ethiopia: \$1.2 million* – mainly financed by donors and a lower share by NGOs
- *Nigeria: \$0.29 million* - mainly financed by donors and a lower share by NGOs
- *Dominican Republic: \$2 million* – including participation from the private sector travelling to the negotiations. Financed from the D.R. internal budget

The estimated costs clearly reveal different degrees of engagement. While Ethiopia and the Dominican Republic have been very involved since the early stages of negotiations, the very low figure for Nigeria reveals its preference in pursuing the option of GSP+, at the same time as leaving the weight of the negotiating role to the ECOWAS secretariat.

#### *Cost-benefit analysis of counterfactual costs*

A proper account of the resources required for the EPA negotiations requires taking into consideration the expected benefits from the process, as well as the costs and benefits of alternative options. This is an extremely challenging task, since for some of the benefits and costs we have detailed calculations from existing evidence and the case studies, while for other elements, such as the impact of liberalising services under EPAs or intangible elements such as enhancing or worsening regional integration, quantification may be extremely complex. As a result, we aim to provide some indicative values for the expected benefits and costs of the different options, rather than a precise figure. Neither does this include the cost of withdrawing officials from domestic economic policy to deal with the EPA negotiations.

#### *Ethiopia*

In the case of Ethiopia, we consider the main counterfactual option to EPAs being to remain on EBA without further engaging in EPA negotiations. In practice, however, the Ethiopian government considers that Cotonou/EBA preferences have not helped promoting exports or diversification. As a result, it expected that to make the EPA more attractive to the LDCs the EU would provide financial resources in the EPA agreement to enhance the competitiveness of different sectors of ESA member countries.

Although no counterfactual option was considered *de facto*, it is important to compare both regimes, EPA and EBA, to have an idea of the benefits and costs, especially considering the uncertainty around signing an agreement. Table 3.2 summarises the calculations. It is important to highlight that EBA preferences were cost-free as far as negotiation is concerned (no negotiation needed) and have not occupied any of the Ethiopian trade negotiators' time. Regarding the impact on exports, we may not expect any changes due to EPA coverage. Exports under the Cotonou regime could shift to the EBA regime in 2008. Trade creation is likely to be considerable, since Ethiopia is a relatively closed economy. Therefore, the key to determining the final impact lies in the extent of adjustment, revenue loss and trade diversion, and also on the content of the final EPA. Trade diversion may be significant, although its extent depends on whether Ethiopia will liberalise with COMESA and the rest of the world during the same period. Revenue loss has been estimated in some studies at between \$97 and \$60 millions, and Milner (2006) estimates employment adjustment to be around \$69 million. Thus, according to the existing evidence there are clear and large adjustment costs that could outweigh the benefits of trade creation.

**Table 3.2 Counterfactual costs (millions)- Ethiopia**

	EPA	EBA
Negotiating costs <sup>a</sup>	\$1.2	0
Impact on exports	0	0
Trade creation <sup>b</sup>	(\$120)	0
Revenue loss <sup>c</sup>	\$97-\$60	0
Employment adjustment <sup>d</sup>	\$69	0
Other issues	Potentially large benefits especially in services	0

Source : <sup>a</sup> Own calculations; <sup>b</sup> Karingi *et al.* (2005); <sup>c</sup> Milner (2006) and Fontagne *et al.* (2007); <sup>d</sup> Milner (2006)<sup>9</sup> Benefits ()

A key issue that could potentially make the EPAs a better option than EBA is the inclusion of a binding agreement on services liberalisation. This could provide large benefits for the Ethiopian economy (see pp.188 in the Annex for a detailed analysis of the potential benefits of services liberalisation). This impact would be enhanced further still if the EC would agree to negotiate Mode 4 services. Given the uncertainty regarding these issues, the fact that Ethiopia has not even initialled an IEPA, and according to existing evidence, remaining at EBA without engaging with the EPA process may have been a less costly option, and \$1.2 million could have been saved, unless specific funds will be included in EPAs to compensate for those adjustment losses.

### Nigeria

Unlike Ethiopia, the lack of engagement in EPAs by Nigeria suggests that other options mainly GPS+ were seriously considered and pursued.<sup>10</sup> There were four meetings related to GSP+ application; all of them were sponsored by private sector organisations, with technical assistance from international trade lawyers and an NGO. Although we do not have a cost figure for these activities, the final cost appears to be negligible. This, however, could be misleading because the implementation and ratification of the different treaties required for GSP+ could have significant costs, and the fact that Nigeria has not gone through all these costs may explain its lack of success with GSP+. In this case, we can only quantify what was spent in reality, but we should keep in mind the lack of success, which implies that we are underestimating the costs for GSP+.

Table 3.3 compares the different options – EPA, GSP+ and doing nothing (remaining in GSP). Due to the existing high tariffs in Nigeria, trade creation appears to be very large and would offset adjustment costs. Regarding exports under EPAs, Fontagne *et al.* (2008) estimate for ECOWAS an increase of 4 per cent in the volume of exports compared to GSP. These gains of increasing exports from EPAs would be enhanced by services liberalisation if included in the agreement.

<sup>9</sup> Karingi. S, Lang. R, Oulmane. N, Perez. R, Jallab. M. S, and Hammouda. H. B. (2005), *Economic and Welfare Impacts of the EU-Africa Economic Partnership Agreements*, African Trade Policy Centre, Work in Progress no. 10, UN Economic Commission for Africa; Milner. C (2006) 'An Assessment of the Overall Implementation and Adjustment Costs for the ACP Countries of Economic Partnership Agreements with the EU', in A. Clarke and R. Grynberg (eds), *The European Development Fund and Economic Partnership Agreements*, Commonwealth Secretariat, Economic Papers Series 75; Fontagne. L, Laborde. D and Mitaritonna. C (2008) *An Impact Study of the EU-ACP Economic Partnership Agreement in the six ACP regions*, CEPII 2008-04.

<sup>10</sup> Given Nigeria the largest country in ECOWAS, it has enjoyed substantial influence within the Secretariat. However, its initial lukewarm (or lack) of engagements and commitments towards the ECOWAS and the Secretariat with regards to EPA negotiations as a group may reflect its focus on pursuing its domestic rather than regional agenda.

Since domestic constituencies tend to care more about immediate adjustment costs than long-term trade creation, a key issue in the short run for policymakers is the impact on exports from losing Cotonou. This is difficult to calculate because it depends on the amount of exports that were effectively using Cotonou and whether certain exports would cease due to the loss of preferences. Regarding GSP+, publicly available data from COMEXT suggests that only 3.5 per cent of Nigeria exports used preferences in 2007, and therefore the improvement of preferences would impact mainly these products by having better access.<sup>11</sup> Also, the case study reveals specific interest in GSP+ for exporters of textiles, tuna, cocoa, cocoa products, hides and skins of goats and lambs, shrimps and prawns, crabs, leather, rubber. COMEXT data suggests that while Nigeria exports increased substantially to the EU from 2007 to 2008 as a result of increasing exports of the products with zero MFN rates. At the same time, the share of exports under preferential access was reduced to 1.9 per cent from 3.5 per cent. This reduction in exports is equal to around \$90 million, which is likely to have impact on employment. Some of the Cotonou “preferential” products will continue to be exported to the EU and pay MFN duties, assuming full pass-through of preference margins to exporters, with a rough preference average margin of 8 per cent, this can be translated into around \$7 million of preference loss.

**Table 3.3 Counterfactual costs (millions)- Nigeria**

	<b>EPA</b>	<b>GSP+</b>	<b>GSP</b>
Negotiating costs <sup>a</sup>	\$0.287	0	0
Impact on exports <sup>d</sup>	(+4% of export volume) <sup>b</sup>	(+3.5% of exports)	\$7
Trade creation <sup>b</sup>	(\$617)	0	0
Revenue loss <sup>c</sup>	\$214	0	0
Employment adjustment <sup>c</sup>	\$138	0	Employment loss in preference loss sectors
Other issues	Potentially large benefits especially in services	0	0

Source:<sup>a</sup> Own calculations; <sup>b</sup> Karingi *et al.* (2005); <sup>c</sup> Milner (2006); <sup>d</sup> Fontagne *et al.* (2007); Benefits ( )

Overall, the potential benefits arising from EPAs are much larger than for any other options, especially when compared with the costs of staying only with GSP. In addition, when focusing only on negotiating costs, it is striking to compare the allocation of resources between WTO and EPA negotiations. The costs for 2009 of maintaining the office in Geneva were \$2.4 million. Directly comparable to the EPA costs are the personnel costs which are \$0.787 million, three times more than the EPA costs so far.

### *Dominican Republic*

The Dominican Republic had a very definite interest from the beginning of the process in obtaining market access for some agricultural commodities and better rules of origin for apparel exports. Specifically, banana, cigars, rum, textiles, footwear, cocoa and some vegetables were exported under the Cotonou agreement, accounting for \$273 million, and not covered by GSP preferences. Assuming, as for the case of Nigeria, that some of these exports would have continued in 2008 paying MFN tariffs and that full preference margins are transmitted to export prices, we can approximate the preference loss by their value. Assuming an average preference margin for D.R. exports under Cotonou of 9.65 per cent based on EU TARIC data, the total amount is \$26 million. In addition, extensive liberalisation under CAFTA-US (its main trade partner) reduced the impact not only on trade diversion but also revenue dependence on import tariffs. Fontagne *et al.* (2008) and Milner (2006) estimate revenue loss

<sup>11</sup> It is possible that a better preference margin under GSP+ may create exports of new products. However, this is impossible to clarify with the existing data.

at around \$69 million. However, the case study reflects a lower dependency on tariff revenues once accounted for by CAFTA-US, from 16.4 per cent in Fontagne *et al.* (2008) to 8 per cent, bringing the estimated loss to less than \$33 million. Therefore, for the Dominican Republic the expected benefits from EPAs once accounted for trade creation<sup>12</sup> clearly outweigh the costs of GSP.

Regarding the negotiating process, it is interesting to compare the EPA experience with Dominican Republic-CAFTA negotiations, despite the fact that the content of the CAFTA agreement was already established, while the EPA content needed to be developed. During the D.R.-CAFTA agreement, time was the primary factor, therefore for a period of a year all negotiating resources were allocated to this process. Between each of the three negotiating rounds of the D.R.-CAFTA a lot of time and effort was allocated in both the public and the private sectors. After the third and final round, a process lasting six months followed and demanded equal amounts of time and resources in order to harmonise the agreed commitments between the D.R. and the Central American countries, and to conduct the legal scrub of the agreement. In contrast, the EPA negotiation was less intense, taking three times as long as the D.R.-CAFTA, and with a steep learning curve on how to formulate regional positions that had to be climbed by D.R. negotiators. Due to the timeframe of the EPA, as well as the requirement to coordinate a regional position, the actual time allocated to the negotiations was much greater in the EPA than in the D.R.-CAFTA.

**Table 3.4 Counterfactual costs (millions)- Dominican Republic**

	<b>EPA</b>	<b>GSP</b>
Negotiating costs <sup>a</sup>	\$2	0
Impact on exports	( \$26) <sup>a</sup>	\$26
Trade creation	positive	0
Revenue loss <sup>a b c</sup>	\$69–\$33	0
Employment adjustment <sup>b</sup>	\$33	Positive costs on preference loss sectors
Other issues	Positive benefits – tourism, investment	0

Source: <sup>a</sup> Own calculations; <sup>b</sup> Milner (2006); <sup>c</sup> Fontagne *et al.* (2007)

### **3.2.3 Perceptions of the process**

This section summarises the main perceptions of the process in the case study countries. A common perception for both Nigeria and Ethiopia is the expectation of including binding financial assistance for supply capacity and adjustment in the agreements. Achieving this objective is perceived in these countries as the main obstacle to signing the agreement.

In the case of the D.R., the expectations of EPAs were based on obtaining market access in certain key products. Prior to the start of negotiations only about 10 per cent of Dominican exports were directed to the European Union, concentrated in a few sectors. For banana and rum producers, the EU market was the primary export market, and these and other sectors such as cigars, textiles, footwear, cocoa and vegetable producers had no preferential treatment under GSP. From a defensive point of view, after implementing the D.R.-CAFTA, the protectionist constituency was already very eroded and the D.R. position was always less defensive than that of its regional partners.

Regarding regional integration, we found different perceptions. While the Ethiopian case study suggests a negative perception of the outcome of the negotiation on the regional integration

<sup>12</sup> We did not find estimates of trade creation and diversion as a result of the EPAs in the D.R. However, trade diversion is likely to be very small since the DR has already liberalised with its main trade partners, and trade creation is likely to be larger than adjustment costs

prospects, especially after some ESA members initialled IEPAs, the perceptions for Nigeria and the D.R. are that regional integration is being strengthened as a result of the EPA process

### **3.2.4 Main lessons from the case studies**

We can summarise the lessons arising from the three case studies as follows:

#### *Lack of human resources is a significant negotiating constraint*

As expected, poorer countries faced larger resource constraints during the negotiations. Specifically, two main gaps are identified. The first gap is the lack of trained trade negotiators, especially regarding other trade-related issues. This is very significant in Ethiopia, and to a lesser extent in Nigeria. A second gap, and perhaps more important, is the lack of capacity to conduct impact studies in both Ethiopia and Nigeria, which affects the capacity to prepare negotiating positions.

#### *Other trade negotiations may have equal/ better allocation of resources*

Despite existing resource constraints some interesting elements emerged around the allocation of relevant ministry staff. The most interesting resource allocation was in Nigeria, where most ministry staff dedicated to trade negotiations were allocated to the WTO area. Also, Ethiopia allocates significant numbers of staff to bilateral and trilateral trade agreements. While these choices surely reflect domestic trade policy preferences, they do not necessarily imply deeper commitment in these areas.

#### *EPAs: A very resource-intensive process*

Despite some disparities, the EPAs forced countries to use significant resources for travel and preparation of the different negotiating rounds. The level of resources required is much larger than for any other trade negotiating process, although varies from country to country according to their degree of engagement. Funding of these meetings often came from EU funds, bilateral donors and NGOs.

#### *Incentives arising from donor assistance*

Donor assistance has been crucial to complement scarce or non-existent budget allocations for trade negotiations in Ethiopia and Nigeria, both for travel and for preparation of impact studies. While the importance of this assistance is recognised, there is some suspicion in some cases related to the ownership of negotiations when using these funds, especially in Nigeria. Despite this suspicion, the main view is that national interests always prevail. In addition, we find no evidence that the level of assistance has changed the level and degree of engagement in the process by these countries.

#### *A more comprehensive negotiating team and strengthened negotiating capacity*

In addition to financial resources, the broader scope of the EPAs has forced the expansion of traditional negotiating teams to other ministries and stakeholders. Although some coordination difficulties have arisen in Ethiopia, these larger technical teams are regarded as a positive development by all countries, and as a more effective way of conducting trade negotiations. Also perceived as positive, has been the integration of civil society in the process in a more structured and effective way. Overall the negotiating capacity has been strengthened as a result of the EPA process



### *Strength of the regional secretariat is the key for reaching an agreement*

The case studies show that the strength of the regional secretariat is crucial to an EPA agreement. For example, in the case of CARIFORUM, a strong secretariat supported by the CRNM was crucial in driving the process and reaching an agreement. On the other hand, the Ethiopian case study shows significant discontent with the lack of positive input from the regional secretariat, and in Nigeria there has not been sufficient coordination and engagement with the ECOWAS secretariat.

### *Impact on regional integration*

A positive element of the EPAs is that it has pushed existing regional groupings to consider their regional integration processes more seriously, as for example in the Nigerian case study. However, the post-EPAs impact on regional integration is unclear and the signing of interim agreements by only some members of some regional groupings has created some tension, as manifested in the Ethiopian case study. Nevertheless, it would not be reasonable to attribute these tensions uniquely to the EPA process. More likely, the EPA experience only shows the serious underlying problems faced by some regional groupings in credibly implementing their regional commitments and advancing their regional integration processes.

### *Cost-benefit analysis of counterfactual options*

The analysis of the case studies gives us a diverse picture. Where trade diversion may be large and the expectations of the process mainly focus on development assistance, the opportunity costs of negotiating EPAs are large and other options should be considered.

### *Perceptions of trade and non-trade content of the EPAs*

There is a quite striking perception for Ethiopia and Nigeria that trade and non-trade provisions in EPAs will not bring any significant additional benefits, which raise questions about the comprehensive nature of these negotiations.

### *Staff incentives for travelling*

Without doubting the commitment of trade negotiators towards defending their own policy objectives, low salaries in some countries implies the existence of large financial incentives for travelling to negotiations or training courses due to large *per diems* compared to their average monthly salaries. This may be reinforced in the case of EPAs when negotiations are so travel-intensive.

## **3.3 Overall costs of EPA negotiations**

### **3.3.1 UK expenditure**

As suggested by the case studies, donor assistance has played an important role in financing some of the EPA-related activities. Table 3.5 shows an estimate of these activities for the UK government, which are mainly concentrated on training, impact studies and regional support. The overall estimate, which excludes expenditure from one regional programme, and is, therefore, an underestimate of the total figure, is around £7.5 million.

Despite this being only a small fraction of the UK government *Aid for Trade*,<sup>13</sup> it is important to question whether this £7.5 million (probably more) has had the expected impact and represents a good use of resources. The answer to this question depends critically on the different objectives of each of the activities. Regarding the objective of facilitating an agreement, the evidence from the case studies is mixed. The D.R. case study suggests a critical role of the CRNM to facilitate a deal, and, therefore, this can be interpreted as an effective use of some of the UK assistance to the Caribbean. The Nigerian case study, in contrast, suggests a positive role of assistance complementing the scarce resources allocated for the process, but in any case enough to have an impact given the lack of interest in the process and the different expectations of the country.

The UK government has not been the only bilateral donor funding EPA related activities, although probably it may have been among the more active in this area. Other bilateral donors such as Germany, Netherlands, Sweden or Denmark have been also active in providing technical assistance for EPAs. Unfortunately we have not been able to contact these countries to obtain the similar data as from UK, and, it is difficult to extrapolate the total figure from UK government expenditure alone. Assuming that these countries have spent half of UK's resources, the total figure would add to \$36 million (including UK).

**Table 3.5 EPA-related activities – UK Government.**

<b>EPA-related activities</b>	<b>Cost (£)</b>
<b>TPU-funded project</b>	
TA on trade negotiations, including agriculture and regional initiatives	150,000
TA to African countries on Mode 4	200,000
ECDPM website	200,000
Caribbean EPA training	161,000
Research to help African countries get the most out of investment instruments under EPAs	144,000
Impact of EPAs on gender equality	90,000
Capacity building to help ACP countries prepare for adjustment under EPAs	21,000
Seminar on EPAs	3,000
Pan-African democratisation of debate on EPAs	300,000
TA to COMESA	60,000
ECDPM funding	585,000
Gender and women's rights analysis	237,000
<b>Sub-total</b>	<b>2,151,000</b>
<b>TPU Admin costs (indicative)</b>	
Salary based on average of 3.5 FTE staff	518,500
Travel and other costs	60,000
<b>Total</b>	<b>578,000</b>
<b>Regional funding</b>	
Caribbean	2,000,000
SADC	2,100,000
ECOWAS	850,000
<b>Total</b>	<b>7,679,500</b>

Source: DFID

However, the biggest source of assistance for the EPAs is the EU. Unfortunately we could not obtain any information directly from the Commission related to the EU expenditures on EPA

<sup>13</sup> According to *DFID Aid for Trade strategy* less than £100 a year was spent on trade policy, regulation and development, which implies that the sum of EPA related expenditure is small, but not insignificant

and unable to build a full picture of the total costs of EPA negotiations and EPA process. Early in the process of EPA, the EU established a \$27 million (€20 million) facility for assistance to the negotiations. It is very likely that other facilities may have been made available; however, we could not obtain this information from the EU. All in all, adding the above estimated \$36 million from bilateral donors to the \$27 million EU initial facility, the amount available for negotiations would be a lower estimate of \$63 million.

### 3.3.2 Overall cost figure

The best way to arrive at an approximate of the total costs of the negotiations is to use the list of donor projects with EPA-related activities. Since we have not been able to obtain this information, a first approximation to this figure has been to account for all the relevant EPA-related meetings listed at ECDPM 'Trade negotiations Insights' since 2002. According to this source, a total of 299 events were related to EPAs. This included negotiating meetings and some training and civil society discussions. Using this list, we have applied the *per diems*, travel costs and number of people attending according to the information from the case studies for ECOWAS, ESA and CARIFORUM. For the other regions, an average of their *per diems* and travel costs between two cities of the region and one city and Brussels was assumed; and when the meeting was for all the ACP countries, we considered only one person per delegation. The rough estimate of these costs is \$14.6 million, which does not include the costs for EU negotiators. Using, similar assumptions for an average EC delegation of four persons, we will increase this figure to \$16.4 million.

Clearly, this figure is well below what we obtained from the case studies. In fact, if the average from the case studies, around \$1.2 million per country, is applied to the 75 countries that actively engaged in negotiations plus the estimated above for the EU, the total amount is around \$92 million. These costs would still underestimate the true costs since there have been a large number of activities outside ACP countries, also for EU member states and civil society, and more importantly, the figure does not account for all the technical assistance provided for negotiation in terms of funding studies or external support. If all these costs were included the total figure is likely to be above \$100 million.

### 3.4 Evaluation of EPAs development objectives

A starting point to assess the development objectives of the EPAs is to compare the only completed agreement, the CARIFORUM-EPA, with the 1997 EC Green Paper and DFID Position Paper on EPAs.

The EPA process stems from a need for a new partnership with ACP countries, as stated in the 1997 Green Paper<sup>14</sup>. It is difficult to assess whether the objectives laid out in the Green Paper have been met or not, due to their rather general nature, but the CARIFORUM-EPA has provisions in line with all the objectives of the Green Paper.

Regarding DFIDs Position Paper, Table 3.6 summarises the comparison of the objectives according to the DFIDs Position Paper with the CARIFORUM-EPA. While there is a good mapping for most of these objectives, there are two clear elements of mismatch: **additional funds and rules of origin (RoO)**. Regarding the former, the EU has been reluctant to recognise the fact that binding provisions should be in the EPA agreements, and more importantly, the need for additional funds. However, concrete development finance proposals are being discussed in the Central Africa and ECOWAS regions. In relation to RoOs, despite the insistence from ACP countries, the EU still has not finished its proposal to reform RoOs.

---

<sup>14</sup> "Relations between the European Union and the ACP countries on the eve of the 21st century: Challenges and options for a new partnership"

Interestingly, lack of progress in both issues, but especially regarding development finance has been one of the main impediments for an agreement in many countries, as we have documented throughout this review.

**Table 3.6 Comparison of DFID Position Paper objectives with CARIFORUM EPA**

<b>DFID Position Paper</b>	<b>CARIFORUM-EPA</b>
20 years for market opening, unconditional	10 years period in which customs duties can still be applied on products originating in the EU (art 16)
Duty free and quota free market access to ACP regional groups, unconditional; simplify and liberalise rules of origin	Commitment to review and simplify concepts and method of rules of origin within 5 years (art 10)
Effective safeguard against subsidised EU imports	The safeguard clause provides for suspension of reduction of import duty, increase in the customs duty and introduction of tariff quotas in cases where a product is imported in such increased quantity and in such condition as to cause or threaten to cause: 1) injury to the domestic industry producing like or directly competitive products; 2) disturbances in a sector of the economy; 3) disturbances in the markets of like or directly competitive agricultural products or in the mechanism regulating those markets. This is only possible within 10 years since the date of entry into force of the Agreement and for a period of two years. (see art 25 for further details)
Additional financial assistance for infrastructure, capacity building, support to institutions and the cost of transition in general	Art 121 on cooperation recognises the importance of support in these areas but do not provide for additional financial assistance. Art 8 states the cooperation priorities and provides for assistance without specifying financial commitments.
Investment, Competition and government procurement should be included only under request of the ACP part; Government procurement provisions should be limited to transparency	The chapter on Government procurement (starting at art 165) seems to go beyond the only issue of transparency.
Review mechanism for EPA	Reviews are provided for in specific areas such as investment (art 74), mutual recognition (art 85), procurement (art 181), compliance (art 212 and 214), cooperation issues (art 230). A revision clause for the Agreement is provided for in art. 246.
Availability of an alternative to EPA that is no worse than market access under Cotonou	n.a.
EU proposal to WTO to review art XXIV of GATT	n.a.

Source: Authors' own elaboration

Another interesting element in the comparison of objectives relates to the optional inclusion of investment, competition and government procurement chapters in the agreement only as a request from ACP countries. Despite the fact that this is the case for the CARIFORUM-EPA, the interim EPAs have clauses to continue negotiating these issues, although there has not been a request from ACP countries to do so.

The remainder of this section analyse the main elements of the agreements and how some of the provisions should look like in order to have a positive development impact.

### 3.4.1 EPA as Instruments for Development

From the Green Paper of 1997 a key intention of the EPAs that manifested was that they contribute to economic development as well as being in accordance with GATT Article XXIV and GATS Article 5. The understanding of EPAs as Instruments for Development was largely predicated on more open trade being development friendly in itself by keeping EU markets open to ACP exports and vice versa; by enhancing regional agreements and increasing intra regional trade among groups of ACP member states; and by lowering MFN tariffs towards third parties as part of the process. Market access to the EU and vice versa for the EU to ACP countries would be increased by including elements of deep integration beyond the tariff concessions. This deep integration embraced:

- **Services Trade** (given the importance of regulatory frameworks to the openness of services trade);
- **Other trade-related rules issues** notably on intellectual policy, investment, competition policy which were seen as offering means towards deep integration;
- Technical barriers to trade (TBT) and **Sanitary and Phyto-Sanitary Standards (SPS)** to address the difficulties that ACP country food exporters in meeting such barriers;
- The way in which the **Rules of Origin** make it difficult for ACP countries to take full advantage of EU preferences when dependent on imported inputs especially non ACP states;
- The degree to which EPAs interact with **WTO rules** notably on the question of coverage of trade liberalisation and period for implementation and the implications for development;
- Impetus given to **regional integration** among ACP member states and impetus for many ACP countries to go further to trade liberalisation among themselves, towards the EU and to the third parties

Finally there is the contested question of **development assistance** specifically attached to EPA, which as suggested by the case studies has been a key element in pursuing and signing EPA for many ACP countries.

The following section summarises the results of desk studies on the main instruments for development and their likely impact.

#### *Services*

Services are crucial for the development of ACP economies and the EPAs to provide an opportunity to catalyse the growth of this sector. While there has been an effort to include services in the EPA negotiations, with the exception of the CARIFORUM-EU agreement, the actual outcome in all other cases falls short on the triple criteria of coverage, relevance and feasibility. A key problem saddling services negotiations has been the inherent diversity of these regional groupings and of countries within each group. This has translated into differences in negotiating objectives and in approaches. There were also concerns about the EPAs and the regional integration processes itself. In addition, political dynamics and the lack of institutional capacity have also meant that a positive development outcome has been hard to achieve.

Looking forward to any services agreement between the EU and ACP countries, they should take the lessons of the CARIFORUM-EU agreement. Many ACP countries do not seem ready for wide ranging negotiations on services. That suggests that there should be a specific focus on services sectors which promise early and high benefit outcomes. Likely core sectors for negotiators to concentrate on are tourism, air transport (passenger as well as cargo), distribution channels for market access and telecommunication, negotiators should also be open to variable geometry approaches to each sector both within and across regions to

ensure a pro-development outcome. Such agreements need to include explicit disciplines on regulatory frameworks, mutual recognition and cooperation and financing for development which is specifically targeted to help governments and market participants take full advantage of the negotiated opening of both domestic and EU markets.

From a policy perspective negotiators need to appreciate that marked differences in the economic profiles of African and Pacific countries on one hand and CARIFORUM countries on the other means that services and investment chapters in African and Pacific EPAs are unlikely to be as extensive as those in the CARIFORUM-EU EPA. Moreover, the availability of appropriate development assistance would continue to have a bearing on the final shape and outcome of these negotiations.

### *Trade Rules*

As with services, the absence of any substantive provisions on **trade-related rules** in any EPA other than the CARIFORUM EPA is very striking. It is not clear, however, to simply assert that the EU wanted deeper integration provisions and the partners other than the CARIFORUM resisted. It appears that the CARIFORUM states had a pro-active agenda which they, to a considerable extent, succeeded in implementing. Even the more controversial elements such as intellectual property rights (IPR) had their roots in interests within CARIFORUM itself. Clearly the advocates of a further advance in the Caribbean Single Market were able to position themselves favourably, even though there may have been conflicting views among member states. It is evident that these negotiations served an internal purpose as well as an external one and the record suggests that there were even areas, such as services and investment,<sup>15</sup> where CARIFORUM wished to go further than the EU.

On the other hand the other regions did not have any clear internal agendas that they wished to drive forward. There was no consensus that this was an occasion to liberalise services collectively for example. It does seem that there was an agenda in the **SPS** area where some ACP countries were keen to use the process as a way to alleviate what they saw as the burden of EU SPS requirements. Many of these aspirations were arguably unrealistic given the existing rights of the EU under the WTO Agreement on SPS, the political and economic realities in which the European Commission operates and the prevailing compliance capacities of most ACP states. Most of the ACP states do not have the capacity that would allow the EU to move significantly in the direction of mutual recognition of testing and certification. Indeed even if this were conceded, producer compliance capacity might be limited. Mutual recognition has proved a delicate issue for the EU even with the US, let alone with ACP countries.

With regards to other areas of trade rules where there are agreements they have largely been limited to so called “rendez-vous” clauses which set dates for eventual future negotiations. There has not been a simple cut and paste in every case; it is not easy for an outsider to see the rationales for differences. Given the vagueness of the provisions it is perhaps surprising to see the frequency though not total uniformity of dispute settlement provisions even in the interim EPAs. One can only infer that the partners felt that even a soft law dispute settlement procedure would be in their interest in creating in effect a future negotiating channel.

### *Rules of Origin*

Striking the balance between avoiding trade deflection and unnecessarily restricting trade flows is key to the effectiveness of a RoO regime. In this respect, the EU (EC 2005, TAXUD

---

<sup>15</sup> See for example “EPA Negotiations - Services and investment” (Digital Library: Negotiation Arenas/CARIFORUM-EC EPA/EPA Related Workshops/Regional EPA Media Workshop/Media Workshop Presentations) Tuesday, 28 July 2009” at <http://www.crn.org>

2007 and 2009) has opted for the value added (VA) method arguing that, although not a panacea, simplicity and predictability should reduce uncertainty which would feed through to the intended development goals. However, ODI (2006) and Harris (2008) suggest that little is known on the appropriate VA thresholds that should be applied. Too high, or too low a threshold is likely to be damaging (Harris 2008) and evidence does not support any proposition that a common threshold would be appropriate for all countries concerned (ODI 2006). Bearing this in mind, the VA rule appears to be the one that offers the highest degree of simplicity and flexibility.<sup>16</sup>

Even if reaching an optimal development friendly RoO is unlikely, there are a few lessons to be drawn from the EPA experience. The first is that applying different RoO regimes to different groups of countries is likely to result in increased complexity for ACP firms trying to achieve originating status. This clearly hinders the development goals of the EPAs by unnecessarily restricting trade. Many ACP countries are now party to at least two different EU regimes (be it the GSP regime or the EPA regime) which carry different 'originating status' requirements. In addition ACP firms may be already overwhelmed by the complexity of the varying non-EU RoO regimes. Furthermore, the EPAs/IEPAs have also reduced the potential for cumulation by excluding countries which have not signed/initialled the agreement. This has resulted in a significant worsening of the conditions that prevailed under the Cotonou Agreement. This is further exacerbated by the revision clauses in the EPA/IEPA agreements which feed uncertainty into the future applicable regime.

The EU has yet to deliver a simple and compatible RoO regime for ACP countries, and whilst we will not enter into the guess-work of what the new GSP regime might look like, we draw certain lessons and preliminary recommendations from the ACP experience. The first recommendation would be to apply an MFN principle to RoO. This would serve the purpose of reducing complexity and enhancing compatibility in the EU regime. It would entail creating one set of rules for *all* preferential partners which would be product specific and non-discriminatory in origin. As way of example, an MFN RoO would imply extending the lowest VA threshold (minimum requirement) offered to one country for a given product to all preferential partners no matter what preferential regimes under which the partners are operating. This would serve the purpose of simplifying procedures. It then follows that cumulation should be extended to all countries that face the same tariff in the EU regardless of the regime of entry (this proposition would be greatly facilitated if the MFN principle were applied). The trade deflection avoidance purpose of RoO is not served by restricting cumulation across regimes if all countries concerned face the same entry tariff in the EU market.<sup>17 18</sup>

### *Regionalism*

The key conclusion on the strategy of using **regional integration and accelerating regional integration** as a focus for negotiating EPAs, is that it only works where regional institutions

---

<sup>16</sup> Bearing in mind that using VA for RoO has two inherited shortcomings. First, VA percentage can be easily affected by the movement of exchange rates for the finished products that have imported raw materials. Second, VA may deter manufacturing to invest in more efficient plant and machinery as this may reduce the cost of processing.

<sup>17</sup> If country A and country B, which are not party to the same regional agreement, both face duty free access in the EU for a given product, then allowing them to cumulate would not result in any trade deflection (as there are no incentives to tranship products by either country) and would serve development goals by reducing any negative trade diversion effects induced by restrictive cumulation with non-natural partners.

<sup>18</sup> If country A and country B, which are not party to the same regional agreement, both face duty free access in the EU for a given product, then allowing them to cumulate would not result in any trade deflection (as there are no incentives to tranship products by either country) and would serve development goals by reducing any negative trade diversion effects induced by restrictive cumulation with non-natural partners.

and structures already existed and were strong and there was ownership of the approach within the region. In reality this was only true in the case of CARIFORUM and to a much lesser extent SACU (with the complication of South Africa as an observer) and ECOWAS (with the divergence of interests and differences). It is difficult to detect any additional impetus to regional integration among the ACP countries arising from EPA negotiations *per se* apart from forcing the members of existing regional agreements to face their problems and focus. EPA could help accelerate regional trade integration by using targeted development aid to support trade facilitation and capacity building for making and implementing open trade policies and by assisting and financing the development of regional infrastructure. However, most interim EPAs will do little to advance regional integration, particularly in Africa with the possible exception of EAC.

Any international agreement or treaty could potentially have effects of lock-in and enhancing credibility of reforms. In this sense, the EPA is no exception. But given the diversity of policy preferences, any programme of intra-regional trade liberalisation has to be driven from within the region. The incentives that EU offered in terms of increased market access were too limited to drive such a process. The increased access for EU goods and services to ACP markets under the EPA also threatens intra-regional integration and ACP integration with the rest of the world because of the potential trade diversion (more imports from the EU at the expense of regional partners and third parties). To that degree the development impact of EPAs will depend partly on avoiding excessive discrimination in favour of EU goods and services, and to the extent they support open and competitive markets.

#### *WTO compatibility and MFN clause*

The lack of **WTO compatibility** in the Lome and Cotonou Trade Agreements was the original reason for the negotiation of EPAs. However, it has been hard to make the ACP countries perception of their own development priorities compatible with the WTO provisions on reciprocity of liberalisation, coverage of substantially all trade and implementation timetables. Despite the EU offering some flexibility in the interpretation of these conditions, not all ACP countries have been persuaded that reciprocal liberalisation consistent with WTO rules is consistent with their development goals (particularly true among LDCs).

In general the EU has given the ACP relatively long periods to implement the EPA (exceeding 20 years in some cases) and quite large allowances for sensitive products – 20 per cent on average. Arguably these are too flexible to ensure swift or substantial benefit from liberalisation.

The **MFN clause** in EPA and IEPA could, eventually, boost trade liberalisation by extending to the EU more favourable preferences granted by ACP countries to third countries and vice versa. However, it could also harm the integration and liberalisation process of ACP countries since for fear of extending preferences in sensitive sectors excluded from EPAs to the EU they avoid opening up to third countries even when it would be beneficial to competition, efficiency and in turn development. We found evidence from the D.R. case study that EPA commitments will be the most likely ceiling for future market opening agreements due to the MFN clause. Moreover, the fact that the EU has excluded some provisions from the scope of the MFN clause gives a route for a more flexible approach when the MFN clause affects ACP countries. Some flexibility could be introduced when an ACP country negotiates an FTA with a non-ACP developing country, when the included products in the new agreement (excluded in EPAs) do not represent a serious threat of unfair treatment to the EU or when an ACP country is negotiating an agreement where some provisions, not included in EPAs, such as Mode 4, are present.



### *Development Assistance*

Development cooperation is becoming an accepted element of Preferential Trade Agreements (PTAs) when developing countries are involved. The TDCA is a clear example. The perception of the ACP countries that development assistance should play an intrinsic role in the negotiations was not without basis. In particular, given that the EPAs did not open up the EU market in goods very significantly beyond the Cotonou and EBA agreements and demanded in return significant opening of ACP domestic markets as well as regulatory reforms, the potential loss of revenues from import tariffs as well, for some, export taxes, it is hardly surprising that the reluctance by the EU to include binding commitments on additional funds on the EPAs was a major source of tension and contributed to the lack of progress during the negotiating process. However, from EU point of view, there are clear legal obstacles to linking the European Development Fund (EDF) spending to EPAs and indeed including specific aid provisions.

The final outcome of this negotiation process appears to include specific development cooperation chapters but without specific financing commitments; these are left for the traditional instrument - the EDF, specific country donor programmes, and the new EU Aid for Trade (AfT) strategy. Whether through specific provisions in the agreements or via the EDF, the important thing is that EPAs create specific export opportunities that should be targeted for assistance. More focus should be established on how to identify these priorities and how to develop effective programmes which help to take advantage of these opportunities. This is the case not only for goods, but perhaps more importantly for SPS agreements and services liberalisation. The targets should not just be infrastructure and regulatory reform. Help should also be made available to firms in order for them to meet SPS and other standards as well as complex RoOs and other regulatory barriers into EU and explore opportunities in regional markets.

## 4. The way forward

### 4.1 Lessons learned

Several general lessons can be learnt from this retrospective review, some of which should be used to shape future negotiations and the strategy to support to trade capacity in ACP countries.

#### *Negotiating trade agreements has substantial resource costs*

Although this is not surprising, this review has shown that the costs of EPA negotiations are sometimes considerable. On average, and without considering the manpower costs of preparing negotiations, the case studies show a resource cost of \$1.2 million per country. In addition, very comprehensive and broad agreements in objectives and scope come at the expense of larger resource costs, which in the case of developing countries often need to be financed by donor assistance.

#### *Resource costs are small compared to trade effects, but still important*

Despite the fact that negotiating costs may be small in magnitude compared to the potential impact on the economy when implementing these agreements, negotiating costs matter, especially when compared with alternative options that may achieve similar results (i.e. EBA in Ethiopia). This also applies to other trade agreements, especially ACP regional integration processes, which while being much less resource-intensive than EPAs, have achieved very little tangible benefits whilst occupying a significant amount of time and a large number of trade officials and their colleagues from domestic economic and foreign ministries.

#### *Providing assistance to negotiations does not necessarily translate into an increased likelihood of a positive outcome*

One of the main questions of the project is how effective EPAs have been as a use of UK public funds. The answer to this question depends on the objective of the support; building capacity of negotiation and/or reaching an agreement. Regarding the first, the case studies suggest a positive impact of assistance on building negotiation capacity, although how effective this has been is out of the scope of the study. Regarding the latter, the Ethiopia and Nigeria case studies illustrate how technical assistance does not guarantee a positive EPA outcome, while the evidence from the D.R. is that the support to the CRNM may have helped to reach the agreement. Again, this not only applies to EPAs, but also to existing ACP regional processes, some of which are being shaken by the EPA process, but that have enjoyed donor assistance during many years with little *de facto* impact.

#### *Difficult to achieve an agreement when expectations are too divergent*

Divergence in expectations of the process explains the lack of an agreement for many ACP countries. While the EU focused on trade issues and argued that it had no mandate to integrate development finance in the agreement, trade issues were not the reason for most ACP countries to negotiate. In these conditions, it is difficult to reconcile the expected outcomes and reach an agreement (i.e. Ethiopia and Nigeria). In addition, the Dominican Republic case study suggests that the CRNM proved to be an important tool for managing expectations on both sides and reached an agreement between CARIFORUM and the EU.

### *Mismatch between trade and development*

The previous point illustrates an underlying problem of the EPA process, which is the mismatch between trade and development during the negotiations. Most ACP countries continue linking their development with external finance, with little preference for trade liberalisation and integration as a tool for development. This might be partly justified by the limited impact that existing preferences have had on ACP exports. However, the EU is also partly responsible for this mismatch by conducting the negotiations in the same way as if with other developed countries. One clear example is fact that most of the non-trade provisions being negotiated do not recognise the lack of capacity of developing countries in these areas. This suggests that if development assistance is to be part of the agreement, it should be targeted at delivering the objectives of the agreement - strengthening capacity of governments and regulators to implement agreements and helping producers and exporters to take advantage of better market access.

### *A less comprehensive agreement may have a better chance*

The review of some of the non-trade provisions shows that some elements may have a potentially significant impact on development. However, a less comprehensive agreement that focuses on fewer non-trade areas is likely to better manage the diversity of expectations about the process. This is especially the case when agreements need to be negotiated regionally. Trying to include provisions in several non-trade areas prior to developing domestic constituencies that can support reform and implement these specific areas is likely to result in more resource-intensive negotiations and uncertain outcomes.

### *Regional integration cannot be imposed externally*

Where regional integration is de facto not making progress, little impact can be expected from the EPAs. ACP countries have been engaging in regional integration for decades, and in many cases there has been little progress. Probably a positive aspect of the EPAs is the fact that they have forced existing RTAs to confront their problems especially for many African countries regarding regional integration. However, there is little evidence that the outcome of the EPA negotiations so far has strengthened regional integration processes. This can only come from ACP countries' own willingness to consolidate their regional integration processes.

## **4.2 Alternative policy options**

A key aspect of this study is to make policy recommendations based on the lessons learned. A first and maybe, the most urgent policy recommendation relates to how to successfully conclude the ongoing EPA process. A continued insistence on a comprehensive agreement by the EU could prolong the negotiations for some considerable time. Once Cotonou preferences have been removed, and countries have opted for either IEPAs or EBA/GSP, there are no additional incentives in terms of enhanced market access to the EU to conclude the agreement soon. This suggests that the way to reach an agreement that leaves the door open to future integration would be to agree on an initially less comprehensive agreement mainly based on goods market access and development finance. This agreement, although initially 'shallow' in nature, could also integrate provisions pointing to future extensions on 'deep' integration issues, especially services.

Existing IEPAs have shown a high degree of flexibility regarding market access and sensitive sectors, so the final element for an agreement lies in development finance. In this regard, recent proposals for Central Africa and ECOWAS to create specific provisions for adjustment and enhancing exports show that progress is being made and a successful agreement could

be reached soon. In addition, this process could be enormously facilitated if the EU would finalise its long-promised proposal to make RoOs significantly more development-friendly.

An equally important policy question is how the lessons from this review should shape the Trade Policy Unit of DBIS/DFID, UK future strategy in this area. More than £7 million have been spent on supporting EPA negotiations, but there is no evidence of a significant impact on the outcome of the negotiations, with the exception of the Caribbean. It is difficult to suggest what could have been done differently, since some of the assistance is given through existing regional programmes in response to demand from ACP countries. However, the lessons from this review suggest that perhaps some specific areas should be prioritised. Specifically:

1. There is an urgent need to assess the real progress in regional integration before investing in more regional assistance – engagement in negotiations has not generally translated into actual integration.
2. TPU should try to convince the Commission and partners that development assistance should be included in the package to the extent that it helps ACP governments and regulators deliver the objectives of the agreement. It should also stress the importance that this needs to go beyond traditional trade facilitation (i.e. in SPS it is certainly not enough to improve testing and certification procedures and facilities. Farmers and food processors need access to services that can advise and train them how to meet EU standards).
3. In these cases where there is little progress in regional integration, the opportunity costs of trade officials not working on domestic policies are large. Therefore, more resources should be prioritised for domestic economic and sectoral policies.
4. Where progress is being made, more support to regional secretariats can have significant benefit. The CRNM has proven a very effective tool in the CARICOM for facilitating negotiations and regional integration. However, at the same time, the problems arising regarding its ownership by CARIFORUM countries during the negotiations indicate the importance of investing in capacity within existing secretariats.
5. There may be a higher return from investing more in educating domestic constituencies and actors around services, competition and other non-trade issues, than in additional assistance for comprehensive trade negotiations. There is no clear evidence from this study that training a trade official in non-trade issues or incurring additional resources in preparing negotiations in these areas has any impact on the outcome of the negotiation. Therefore, it is probably a better investment to train regulators and officials to first implement effectively the existing policies in the domestic market.
6. The creation of inter-ministerial teams has been a positive element of the EPA process. These coordinated teams should be the standard approach to conducting trade policy; however, this has not been the case for some countries. Therefore, it is important to support the functioning of these teams particularly in countries with fewer negotiating resources since it is likely to strengthen the formulation of trade policy.
7. The UK government should continue to ask the EU Commission to justify the purpose of any trade negotiation and whether other, less resource-intensive, trade policy options are feasible where developing country partners are involved. Overall, if the final outcome of EPAs for most ACP regions is a mixture of non-signatory countries and countries with 'shallow' agreements, one has to ask if spending more than \$100 million<sup>19</sup> to support the process is justified.

---

<sup>19</sup> Bearing in mind that \$100 million is certainly an under-estimate, given it does not include all consultant studies or all the internal staff time, let alone the attention the EPAs have drawn!